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10 *Attorney for Cochise County and Lisa Marra, in her official capacity as Cochise County*  
11 *Elections Director*

12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE DISTRICT OF ARIZONA, TUCSON DIVISION**

14 Kathleen Hoffard,	)	<b>No. 4:20-CV-00243-SHR</b>
	)	
15 Plaintiff,	)	
	)	<b>DEFENDANTS ANSWER TO</b>
16 v.	)	<b>PLAINTIFF’S FIRST AMENDED</b>
	)	<b>COMPLAINT FOR INJUNCTIVE</b>
17 Cochise County, Arizona; Lisa Marra	)	<b>AND DECLARATORY RELIEF</b>
In her official capacity as Director of	)	
	)	
18 Cochise County Elections Department	)	(Jury Trial Demanded)
	)	
19 Defendants.	)	<b>(Assigned to the Hon. Scott H. Rash)</b>
	)	

20 Defendants Cochise County (the “County”) and Lisa Marra, in her official capacity  
21 as Director of the Cochise County Elections (collectively “Defendants”), through  
22 undersigned counsel, and in response to Plaintiff’s First Amended Complaint for  
23 Injunctive and Declaratory Relief (“FAC”) admit, deny, and allege as follows:  
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25

1 **JURISDICTION AND VENUE**

2 1. As to the allegations contained in Paragraph 1 of the FAC, Defendants admit  
3 that jurisdiction and venue are proper.  
4

5 2. As to the allegations contained in Paragraph 2 of the FAC, Defendants admit  
6 that venue is proper.

7 **PARTIES**

8 3. As to the allegations in Paragraph 3 of the FAC, Defendants admit the  
9 allegations.  
10

11 4. As to the allegations in Paragraph 4 of the FAC, Defendants admit the  
12 allegations.  
13

14 5. As to the allegations in Paragraph 5 of the FAC, Defendants admit that Lisa  
15 Marra is the Director of Elections for Cochise County, she administers, prepares, and  
16 conducts elections within Cochise County. Defendants deny the remaining allegations in  
17 Paragraph 5.

18 **STATEMENT OF FACTS**

19 6. As to the allegations in Paragraph 6 of the FAC, Defendants do not have  
20 sufficient information at this time to form a belief about the truth of the allegations, and  
21 so denies them at this time.  
22

23 7. As to the allegations in Paragraph 7 of the FAC, Defendants do not have  
24 sufficient information at this time to form a belief about the truth of the allegations, and  
25 so denies them at this time.

1           8.     As to the allegations in Paragraph 8 of the FAC, Defendants do not have  
2 sufficient information at this time to form a belief about the truth of the allegations, and  
3 so denies them at this time.  
4

5           9.     As to the allegations in Paragraph 9 of the FAC, Defendants admit the  
6 allegations.  
7

8           10.    As to the allegations in Paragraph 10 of the FAC, Defendants do not have  
9 sufficient information at this time to form a belief about the truth of the allegations, and  
10 so denies them at this time.  
11

12           11.    As to the allegations in Paragraph 11 of the FAC, Defendants admit that a  
13 mid-term election was held across the United States, and in Cochise County, on November  
14 6, 2018. Defendants do not have sufficient information at this time to form a belief about  
15 the truth of the remaining allegations, and so denies them at this time.  
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17           12.    As to the allegations in Paragraph 12 of the FAC, Defendants deny the  
18 allegation that Plaintiff was faced with a choice of being disenfranchised or struggling to  
19 exit her vehicle and navigate the polling location. Defendants do not have sufficient  
20 information at this time to form a belief about the truth of the remaining allegations, and  
21 so denies them at this time.  
22

23           13.    As to the allegations in Paragraph 13 of the FAC, defendants deny that the  
24 pavement in the parking lot and the rugs in the interior of the Vote Center posed trip  
25 hazards. Defendants do not have sufficient information at this time to form a belief about  
the truth of the remaining allegations, and so denies them at this time.

1           14. As to the allegations in Paragraph 14 of the FAC, Defendants admit that  
2 Plaintiff cast her ballot at a Vote Center on November 6, 2018. Defendants deny the  
3 remaining allegations.  
4

5           15. As to the allegations in Paragraph 15 of the FAC, Defendants do not have  
6 sufficient information at this time to form a belief about the truth of the remaining  
7 allegations, and so denies them at this time.

8           16. As to the allegations in Paragraph 16 of the FAC, Defendants deny the  
9 allegations.  
10

11           17. As to the allegations in Paragraph 17 of the FAC , Defendants deny the  
12 allegations.

13           18. As to the allegations in Paragraph 18 of the FAC, Defendants admit the  
14 allegations.  
15

16           19. As to the allegations in Paragraph 19 of the FAC, Defendants admit the  
17 allegations.  
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19           20. As to the allegations in Paragraph 20 of the FAC, Defendants admit the  
20 allegations.  
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22           21. As to the allegations in Paragraph 21 of the FAC, Defendants admit the  
23 allegations.  
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25           22. As to the allegations in Paragraph 22 of the FAC, Defendants admit the  
allegations.

**DECLARATORY AND INJUNCTIVE RELIEF ALLEGATIONS**

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23. As to the allegations in Paragraph 23 of the FAC, Defendants deny the allegations.

24. As to the allegations in Paragraph 24 of the FAC, Defendants deny the allegations.

25. As to the allegations in Paragraph 25 of the FAC, Defendants deny the allegations.

26. As to the allegations in Paragraph 26 of the FAC, Defendants deny the allegations.

27. As to the allegations in Paragraph 27 of the FAC, Defendants deny the allegations.

28. As to the allegations in Paragraph 28 of the FAC, Defendants deny the allegations.

**STATEMENT OF CLAIMS**

**COUNT 1**

**[Discrimination on the Basis of Disability in Violation of Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131, et seq.]**

29. As to the allegations in Paragraph 29 of the FAC, Defendants reassert and incorporate Defendants’ responses to Paragraphs 1-28, above.

30. As to the Allegations in Paragraph 30 of the FAC, no response is required as this is a statement of law and not a factual allegation.

1           31. As to the allegations in Paragraph 31 of the FAC, no response is required as  
2 this is a statement of law and not a factual allegation.

3           32. As to the allegations in Paragraph 32 of the FAC, no response is required as  
4 this is a statement of law and not a factual allegation.

5           33. As to allegations in Paragraph 33 of the FAC, no response is required as this  
6 is a statement of law and not a factual allegation.

7           34. As to the allegations in Paragraph 34 of the FAC, no response is required as  
8 this is a statement of law and not a factual allegation.

9           35. As to the allegations in Paragraph 35 of the FAC, Defendants do not have  
10 sufficient information at this time to form a belief about the truth of Plaintiff's physical  
11 impairments and limitations and whether she qualifies as an individual with a disability  
12 as defined by the ADA and so, at this time denies the remaining allegations.

13           36. As to the allegations in Paragraph 36 of the FAC, Defendants admit that  
14 Plaintiff is a duly qualified and registered elector in Cochise County. Defendants have  
15 insufficient information at this time to form a belief about the truth of Plaintiff's physical  
16 impairments and whether she qualifies as an individual with a disability, and so, at this  
17 time, denies the remaining allegations.

18           37. As to the allegations in Paragraph 37 of the FAC, no response is required as  
19 this is a statement of law and not a factual allegation.

20           38. As to allegations in Paragraph 38 of the FAC, Defendants admit the  
21 allegations.

1           39.     As to the allegations in Paragraph 39 of the FAC, no response is required as  
2 this is a statement of law and not a factual allegation.

3  
4           40.     As to the allegations in Paragraph 40 of the FAC, Defendants admit it must  
5 provide individuals with disabilities with access to the voting process. Defendants deny  
6 the remaining of the allegations.

7           41.     As to the allegations in Paragraph 41 of the FAC, Defendants deny the  
8 allegations.

9           42.     As to the allegations in Paragraph 42, Defendants deny the allegations.  
10 Further, Defendants allege that curbside voting is no longer offered in Cochise County  
11 because all of the County's seventeen (17) Vote Centers are fully ADA accessible and  
12 ADA compliant, all equipment utilized at the Vote Centers are fully ADA accessible, and  
13 the County is not required to offer curbside voting in this circumstance.  
14

15           43.     As to the allegations in Paragraph 43, Defendants deny the allegations.

16           44.     As to the allegations in Paragraph 44, Defendants deny the allegations.

17           45.     As to the allegations in Paragraph 45, this is a conclusion of law that does  
18 not require a response and not a factual allegation. But in any event, Defendants deny the  
19 allegations.  
20

21  
22                           **COUNT II**

23           **[Discrimination on the Basis of Disability in Violation of Section 504 of the**  
24                           **Rehabilitation Act of 1973, 29 U.S.C. § 794]**

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1           46. As to the allegations in Paragraph 46 of the FAC, Defendants reassert and  
2 incorporate Defendants' responses to Paragraphs 1-45, above.

3           47. As to the allegations in Paragraph 47 of the FAC, no response is required as  
4 this is a statement of law and not a factual allegation.

5           48. As to the allegations in Paragraph 48 of the FAC, no response is required as  
6 this is a statement of law and not a factual allegation.

7           49. As to the allegations in Paragraph 49 of the FAC, no response is required as  
8 this is a statement of law and not a factual allegation.

9           50. As to the allegations in Paragraph 50 of the FAC, no response is required as  
10 this is a statement of law and not a factual allegation.

11           51. As to the allegations in Paragraph 51 of the FAC, no response is required as  
12 this is a statement of law and not a factual allegation.

13           52. As to the allegations in Paragraph 52, Defendants have insufficient  
14 information at this time to form a belief about the truth of Plaintiff's physical impairments  
15 and whether she qualifies as an individual with a disability, and so, at this time, denies the  
16 remaining allegations.

17           53. As to the allegations in Paragraph 53 of the FAC, Defendants admit that  
18 Plaintiff is a duly qualified and registered elector in Cochise County. Defendants deny  
19 the remaining allegations.

20           54. As to the allegations in Paragraph 54 of the FAC, Defendants admit the  
21 allegations.  
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1           64. As to the allegations in Paragraph 64, Defendants have insufficient  
2 information at this time to form a belief about the truth of Plaintiff’s physical impairments  
3 and whether she qualifies as an individual with a disability and/or a qualified individual  
4 with disabilities under A.R.S. § 41-1421(E), and so, at this time, denies the remaining  
5 allegations  
6

7           65. As to the allegations in Paragraph 65, Defendants deny that Plaintiff  
8 requested a *reasonable* modification and denies all remaining allegations. Defendants  
9 allege that curbside voting is not a reasonable modification in Cochise County because its  
10 implementation is unduly burdensome.  
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12           66. As to the allegations in Paragraph 66, this is a conclusion of law that does  
13 not require a response and not a factual allegation. But in any event, Defendants deny the  
14 allegations.  
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16           67. As to the allegations in Paragraph 67, this is a conclusion of law that does  
17 not require a response and not a factual allegation. But in any event, Defendants deny the  
18 allegations.  
19

**RELIEF REQUESTED**

20           As to Paragraphs A through G of the Relief Requested Section of the FAC,  
21 Defendants deny that Plaintiff is entitled to any injunctions (especially, positive  
22 injunctions), declaratory judgments, orders, damages, costs, any fees, or any other relief.  
23  
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**AFFIRMATIVE DEFENSES**

1. Any allegation not specifically admitted is hereby denied.
2. Defendants assert that they acted lawfully at all times under both state and federal law.
3. Defendants reserve their right to raise any other form of defense or avoidance and to affirmatively assert the defenses listed in Federal Rules of Civil Procedure 8(c) and 12(b) should future discovery show that any of these defenses are applicable to this case.

**PRAYER FOR RELIEF**

WHEREFORE, having fully answered Plaintiff's FAC, Defendants respectfully requests that this Court enter the following relief in their favor:

1. An Order that Plaintiff fails to state a claim upon which relief may be granted;
2. Dismissal of the allegations against the Defendants with prejudice;
3. An award of costs and fees, including attorneys' fees if applicable, incurred in defending against Plaintiff's claims;
4. Trial by jury on all issues; and
5. Any further and additional relief that this Court deems just and appropriate under the circumstances.

**JURY DEMAND**

Defendants, pursuant to F.R.C.P, Rule 38, respectfully request a trial by jury on all issues.

RESPECTFULLY SUBMITTED this 13th day of July, 2021.

BRIAN M. MCINTYRE,  
COCHISE COUNTY ATTORNEY

By: /s/ Christine J. Roberts  
Christine J. Roberts  
Chief Civil Deputy County Attorney

I hereby certify that on July 13, 2021,  
I electronically transmitted the attached  
Document to the Clerk's Office using the  
CM/ECF System for filing and transmittal  
of Notice of Electronic Filing to those  
attorneys registered with CM/ECF.

A copy of the foregoing emailed  
this 13th day of July, 2021, to:

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