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19 **UNITED STATES DISTRICT COURT**  
20 **DISTRICT OF ARIZONA**

21 Mi Familia Vota, Arizona Coalition for  
22 Change, Living United for Change in Arizona,  
23 and League of Conservation Voters, Inc. d/b/a  
24 Chispa AZ,

25 Plaintiffs,

26 and

27 DSCC, and DCCC,

28 [Proposed] Plaintiff-  
Intervenors,

Case No. 21-CV-01423-DWL

**DSCC'S AND DCCC'S**  
**[PROPOSED] COMPLAINT IN**  
**INTERVENTION**

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v.

Katie Hobbs, in her official capacity as Arizona Secretary of State, Mark Brnovich, in his official capacity as Arizona Attorney General, and the County Recorder Defendants, Apache County Recorder Larry Noble, Cochise County Recorder David W. Stevens, Coconino County Recorder Patty Hansen, Gila County Recorder Sadie Jo Bingham, Graham County Recorder Wendy John, Greenlee County Recorder Sharie Milheiro, La Paz County Recorder Richard Garcia, Maricopa County Recorder Stephen Richer, Mohave County Recorder Kristi Blair; Navajo County Recorder Michael Sample, Pima County Recorder Gabriella Cázares-Kelly, Pinal County Recorder Virginia Ross, Santa Cruz County Recorder Suzanne Sainz, Yavapai County Recorder Leslie M. Hoffman, and Yuma County Recorder Robyn S. Pouquette, in their official capacities,

Defendants.

Plaintiffs, DSCC and DCCC, by and through their undersigned attorneys, file this Complaint for Injunctive and Declaratory Relief against Defendant Katie Hobbs, in her official capacity as the Secretary of State of Arizona, and the above captioned County Recorder Defendants, each named in their official capacities. In support, DSCC and DCCC allege the following:

**NATURE OF THE CASE**

1. This is an action brought under the U.S. Constitution and the Voting Rights Act of 1965 to vindicate and safeguard the fundamental right to vote. “No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are

1 illusory if the right to vote is undermined.” *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964). In  
2 this action, Plaintiffs challenge two of the newest efforts to undermine that most precious  
3 right: Arizona’s recently enacted S.B. 1003 and S.B. 1485—both enacted with  
4 discriminatory purpose in violation of the Voting Rights Act and the Fourteenth and  
5 Fifteenth Amendments, and which severely burden the right to vote and threaten to  
6 disenfranchise countless eligible, lawful voters in violation of the First and Fourteenth  
7 Amendments.

8         2. The new challenged laws impose burdensome and unjustifiable restrictions  
9 on early mail voting in Arizona that can only be rationally explained as a retributory and  
10 discriminatory response to record turnout, particularly among voters of color, and their  
11 support for Democratic candidates, in 2020. Arizona has long induced its voters to exercise  
12 their right to vote using the state’s early voting by mail system, reducing in-person voting  
13 opportunities as more voters were convinced to participate in the franchise using a mail  
14 ballot, including in particular by signing up for the state’s permanent early voting list  
15 (“PEVL”). There have been no serious or credible allegations that Arizona’s election  
16 system resulted in anything but secure, accurate, and reliable results. State officials and  
17 courts have repeatedly rejected baseless claims to the contrary. However, as Arizona’s  
18 electorate has become more diverse, and more Latinx and Native American voters in  
19 particular have sought to exercise their right to the franchise, there has been a marked effort  
20 by Republicans in Arizona to restrict the franchise and impose unjustifiable impediments  
21 to the right to vote.

22         3. In 2020, a record 3.4 million voters, or 80 percent of the state’s registered  
23 voters, cast a ballot in the general election. In comparison, in both 2012 and 2016, about  
24 74 percent voted. Turnout in 2020 increased most greatly in areas heavily populated by the  
25 state’s communities of color. For example, while turnout statewide increased by a little  
26 over 5 percentage points compared to 2016 and 2012, several precincts in South Phoenix,  
27 home to large numbers of Black and Latinx residents, saw increases in turnout of about 10  
28 percent, and large precincts on the state’s Native American reservations saw increases of

1 about 12-13 percent. Even with these increases, though, turnout among the state’s minority  
2 voters remains significantly suppressed; for example, turnout on reservations in 2020 was  
3 around 65 percent, compared to nearly 80 percent statewide.

4 4. This progress in increasing turnout was facilitated by the state’s early voting  
5 by mail system. Since 1991, Arizonans have had a right to vote by mail, and voters may  
6 sign up to receive a mail ballot for any reason. *See* A.R.S. § 16-541. Since 2007, voters  
7 have also been able to sign up for the PEVL, through which they can automatically receive  
8 a mail ballot in every election without having to make repetitive requests. *Id.* § 16-544(A).  
9 In 2020, 88 percent of voters used Arizona’s early voting system to cast their ballots, a  
10 record. But, even before the pandemic, early voting had grown to be the most common  
11 form of voting in the state. In 2016, over 2 million—or about 75 percent of voters—used  
12 early voting. Even in 2008, more than a million voters, or close to half, used early voting.  
13 As more voters have turned to early voting by mail, Arizona’s in-person voting facilities  
14 and opportunities have decreased.

15 5. In other words, even before the pandemic, Arizona’s voting system was  
16 oriented toward supporting and facilitating early mail voters. It was well-tested and well-  
17 established. Governor Doug Ducey and Secretary Hobbs have each repeatedly assured the  
18 public and the nation that Arizona’s 2020 election was secure and fraud-free, and that the  
19 results should be trusted. As Governor Ducey explained, in dismissing attacks on the  
20 integrity of the 2020 election: “We’ve been doing early voting since 1992,” and claims  
21 about problems with the system or the election were unfounded. Despite these assurances,  
22 multiple lawsuits and contests brought by the Republican Party, former President Donald  
23 Trump’s campaign, and their supporters have sought to cast doubt on the outcome of the  
24 election. Arizona’s state and federal courts responded by rejecting those suits and  
25 repudiated their champions for their striking lack of evidence. For example, in a case  
26 brought by the state Republican Party to challenge the legitimacy of Maricopa County’s  
27 audit, the Superior Court ordered the party to pay attorney’s fees to the Secretary of State  
28 under A.R.S. § 12-349 because the lawsuit was “groundless,” brought in “bad faith,” and

1 served only to “cast false shadows on the election’s legitimacy.” *Arizona Republican Party*  
2 *v. Fontes*, No. CV-2021014553, Order (Mar. 12, 2021).

3 6. The Republican majority in the Legislature responded by doubling down.  
4 Rather than celebrating the historic turnout in 2020, or working to ensure that all of  
5 Arizona’s voters (including the Latinx and Native American voters who turned out in  
6 record numbers in 2020) retained full and fair access to the franchise, the Legislature  
7 weaponized conspiracy theories and baseless claims of fraud (often dressed up in a vague  
8 and bald claim that election “integrity” was at stake), through needless and restrictive  
9 election legislation designed to suppress voting. After several election bills that would have  
10 made it harder to vote were introduced during the spring, the majority in May finally  
11 coalesced around two proposals, S.B. 1003 and S.B. 1485, which target access to the state’s  
12 immensely popular early voting by mail system.

13 7. S.B. 1003, signed by the Governor on May 7, prohibits voters whose mail  
14 ballots are flagged for rejection based on a missing signature from curing that deficiency  
15 after 7 p.m. on Election Day (the “Cure Period Law”), denying them the same opportunity  
16 to cure an identity-related deficiency that is granted to Arizona voters whose ballots are  
17 flagged for a mismatched signature, or who forget to bring an acceptable form of voter  
18 identification with them to the polls when they vote in person. Both of the latter groups are  
19 entitled to a five-day post-election cure period. *See* A.R.S. §§ 16-550(A), 16-579(A). In  
20 passing S.B. 1003, the Legislature explicitly approved and codified a mismatched cure  
21 period previously imposed by the Arizona Attorney General, which a federal district court  
22 judge had found unconstitutional.

23 8. S.B. 1485, signed by the Governor on May 11, does away with the state’s  
24 immensely popular PEVL—which the new legislation rebrands as the Active Early Voting  
25 List (“AEVL”)— by requiring election officials to purge from the list any voter who has  
26 not voted an early ballot “for two consecutive election cycles” (the “Voter Purge Law”).  
27 The law requires only that the counties mail a notice to such voters, and if they do not  
28 respond in writing within 90 days, they will no longer receive a mail ballot before future

1 elections. The law applies to a voter who has not cast such a ballot even if the voter has  
2 voted in person on election day within the two-cycle period.

3 9. Republicans forced the Cure Period Law and Voter Purge Law (together, the  
4 “Challenged Provisions”) through the Legislature over intense opposition from the public,  
5 whose pleas about the devastating impact the laws will have—in particular, on  
6 communities of color in the state—were ignored.

7 10. As manifested by state officials’ full-throated defense of Arizona’s election  
8 system in the immediate aftermath of the November 2020 election, as well as multiple court  
9 decisions related to the same, there are no state interests, much less compelling ones, to  
10 justify the new imposition of these unjustifiable and disparate burdens, which embody  
11 purposeful discrimination against voters of color in the state. For these reasons and those  
12 detailed below, Plaintiffs respectfully request a declaration that the Voter Purge Law and  
13 the Cure Period Law are each unconstitutional and an order enjoining their enforcement.

#### 14 **JURISDICTION AND VENUE**

15 11. Plaintiffs bring this action pursuant to 42 U.S.C. §§ 1983 and 1988 to redress  
16 the deprivation of rights under the color of state law of their rights under the First,  
17 Fourteenth, and Fifteenth Amendments to the U.S. Constitution, and the Voting Rights Act  
18 of 1965.

19 12. This Court has subject matter jurisdiction to hear Plaintiffs’ claims pursuant  
20 to 28 U.S.C. §§ 1331, 1343, and 1357.

21 13. This Court has jurisdiction over the Secretary of State, as she is sued in her  
22 official capacity as an elected official in Arizona. Further, the Secretary works and resides  
23 in the State of Arizona.

24 14. This Court has jurisdiction over the Attorney General, as he is sued in his  
25 official capacity as an elected official in Arizona. Further, the Attorney General works and  
26 resides in the State of Arizona.

27 15. This Court has jurisdiction over the County Recorder Defendants, as they are  
28 sued in their official capacities as elected officials in Arizona, and they work or reside in

1 Arizona.

2 16. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the  
3 events or omissions giving rise to the claims occurred in this judicial district and in this  
4 division.

5 17. This Court has the authority to grant declaratory and injunctive relief  
6 pursuant to 28 U.S.C. §§ 2201 and 2202. Further, this Court has the authority to enter a  
7 declaratory judgment and to provide preliminary and permanent injunctive relief pursuant  
8 to Rules 57 and 65 of the Federal Rules of Civil Procedure.

9 **PARTIES**

10 18. Plaintiff DSCC, or Democratic Senatorial Campaign Committee, is the  
11 national senatorial committee of the Democratic Party, as defined by 52 U.S.C. §  
12 30101(14). Its mission is to elect Democratic candidates to the U.S. Senate, including in  
13 Arizona. DSCC works to accomplish its mission by, among other things, making  
14 expenditures for, and contributions to, Democratic candidates for U.S. Senate, including in  
15 Arizona. It also assists state parties, including in Arizona, by providing financial support  
16 to support coordinated campaign activities that further shared interest in electing  
17 Democratic candidates for U.S. Senate. In 2020, DSCC made contributions and  
18 expenditures in the tens of millions of dollars to mobilize and persuade voters to support  
19 Democratic Senate candidates, including in Arizona. DSCC intends to do the same in future  
20 elections in the state. DSCC brings this claim on its own behalf, as well on behalf of its  
21 members and constituents.

22 19. Plaintiff DCCC, or Democratic Congressional Campaign Committee, is the  
23 national congressional committee of the Democratic Party, as defined by 52 U.S.C. §  
24 30101(14). Its mission is to elect Democratic candidates to the U.S. House of  
25 Representatives from across the United States, including from Arizona's nine  
26 congressional districts. DCCC works to accomplish its mission by, among other things,  
27 assisting state parties throughout the country, including in Arizona. In 2020, DCCC made  
28 contributions and expenditures in the millions of dollars to persuade and mobilize voters

1 to support Democratic congressional candidates, including in Arizona. DCCC intends to  
2 do the same in future elections in the state. DCCC brings this claim on its own behalf, as  
3 well as on behalf of its member and constituents.

4 20. The Voter Purge Law directly harms DSCC and DCCC. It is inevitable that  
5 Democrats and those who would vote for Democrats, including the members and  
6 constituents of DSCC and DCCC, will be removed from the PEVL through the operation  
7 of the Voter Purge Law: In 2020 alone, nearly 75 percent of the 3.4 million votes submitted  
8 were ballots from voters on the PEVL. Moreover, voters who are removed from PEVL  
9 under the new law are more likely to be Latinx, Native American, or Black, and such voters  
10 are more likely to support Democratic candidates in Arizona. To combat the burdens  
11 imposed by the law on their members and constituents, DSCC and DCCC will each have  
12 to expend and divert significant funds and resources they would otherwise devote to  
13 locating, contacting, persuading, and mobilizing voters in Arizona and elsewhere. As a  
14 result, the Voter Purge Law frustrates each of DSCC's and DCCC's missions of electing  
15 Democratic candidates to the U.S. Senate and U.S. House in Arizona and across the United  
16 States.

17 21. DSCC and DCCC are further directly harmed by the Voter Purge Law  
18 because it threatens their competitive interests in Arizona elections. Voters removed from  
19 the PEVL by the Voter Purge Law are more likely to be Democratic voters, and their  
20 removal and inability to vote without additional burden will make it harder for DSCC,  
21 DCCC, and candidates supported by both committees to compete in elections in Arizona.

22 22. DSCC's and DCCC's members and constituents are directly harmed by the  
23 Voter Purge Law. Given that Democratic Party voters make up a third of the registered  
24 voters in Arizona, and that more than three-quarters of registered voters in the state rely on  
25 the PEVL to receive their ballots, it is virtually certain that some number of DSCC's and  
26 DCCC's members and constituents are to be purged from the list simply for not voting  
27 early for two cycles.

28 23. DSCC's and DCCC's members were further harmed because the Arizona



1 State Legislature acted with the discriminatory purpose in eliminating the PEVL and  
2 replacing it with a system it knew would severely and disproportionately affect voters of  
3 color—including Latinx, Native American, and Black voters. Voters in these groups are  
4 each substantially more likely to be members of or support DSCC and DCCC candidates  
5 than they are any other political party. For example, in the 2020 election, nearly 60 percent  
6 of voters of color in Arizona voted for President Joe Biden and Vice President Kamala  
7 Harris. Among Native Americans, support for Democrats was over twenty points higher,  
8 and included a turnout surge that exceeded the President’s margin of victory in Arizona.

9 24. The Cure Period Law also directly harms DSCC and DCCC. It is inevitable  
10 that Democrats or those who would support Democratic candidates will not have their vote  
11 counted as a result of the law’s burdensome and inconsistent restriction precluding voters  
12 submitting mail in ballots missing signatures from utilizing the same five-day post-election  
13 period to “cure” that deficiency as provided other voters with perceived identity defects  
14 related to their ballots. Not only is this disparate treatment “unreasonable,” as a court in  
15 this district found after careful consideration of the Attorney General’s arguments in favor  
16 of it in a lawsuit in 2020, it guarantees that some voters whose ballots are not received by  
17 elections officials until close to or on Election Day (often due to no fault of the voter) are  
18 provided no cure opportunity at all. If this unjustifiable restriction were to survive, DSCC  
19 and DCCC each would have to expend and divert additional funds and resources on efforts  
20 to educate voters and assist voters whose ballots are missing a signature in curing the ballot  
21 (assuming their ballot is received and flagged for rejection in time to do so) and avoiding  
22 disenfranchisement before the truncated deadline. These are resources DSCC and DCCC  
23 each would expend on other programs or activities in Arizona and elsewhere. This  
24 frustrates DSCC’s and DCCC’s mission of, and efforts in, electing Democratic candidates  
25 to the U.S. Senate and U.S. House in Arizona and nationwide.

26 25. DSCC and DCCC are further directly harmed by the Cure Period Law  
27 because it harms their competitive interests in Arizona elections. It is inevitable that DSCC  
28 and DCCC will be unable to assist some voters who they otherwise could have helped to

1 cure their ballots, and the disenfranchisement of their voters will make it harder for DSCC,  
2 DCCC, and candidates supported by both committees to compete in elections in Arizona.

3 26. DSCC's and DCCC's members and constituents are directly harmed by the  
4 Cure Period Law. Given that Democratic Party voters make up nearly a third of the  
5 registered voters in Arizona and nearly 40 percent of the state's mail voters, and given that  
6 thousands of Arizonans' mail ballots were rejected in recent elections due to a missing  
7 signature, including in 2020, it is certain that some of DSCC's and DCCC's members and  
8 constituents have been harmed by the failure to provide a cure period and that more are  
9 poised to be in future elections. DSCC's and DCCC's members and constituents therefore  
10 continue to face a threat of having their vote denied due to the Cure Period Law.

11 27. Defendant Katie Hobbs is the Secretary of State for the State of Arizona and  
12 is the Chief Elections Officer for Arizona. A.R.S. § 16-142. As Arizona's Chief Elections  
13 Officer, the Secretary is responsible for carrying out the state's election laws and  
14 overseeing the voting process—and is empowered with broad authority to carry out that  
15 responsibility. She is also responsible for prescribing rules related to procedures for, among  
16 other things, mail ballots, which are set forth in the Arizona Election Procedures Manual  
17 (“EPM”). A.R.S. § 16-452. The Secretary is sued in her official capacity for actions taken  
18 under color of state law.

19 28. Defendant Mark Brnovich is the Attorney General of Arizona and  
20 the state's chief legal officer. A.R.S. § 41-192. The Attorney General is authorized to  
21 enforce Arizona's election laws in “any election for state office, members of the legislature,  
22 justices of the supreme court, judges of the court of appeals or statewide initiative or  
23 referendum . . . through civil and criminal actions.” A.R.S. § 16-1021. The  
24 Attorney General is sued in his official capacity for actions taken under color of state law.

25 29. Defendant Larry Noble is the Apache County Recorder and is named as a  
26 defendant in this action solely in his official capacity.

27 30. Defendant David W. Stevens is the Cochise County Recorder and is named  
28 as a defendant in this action solely in his official capacity.



1           44. Early mail voting is immensely popular in Arizona, and for years, the vast  
2 majority of voters have relied on it to cast their ballot. Eligible voters in Arizona since 1991  
3 have been able to vote early by mail without a reason or “excuse” for doing so. *See* A.R.S.  
4 § 16-541. Reliance on early mail voting has steadily grown ever since. In 2008, over one  
5 million, or around half of registered voters, used early mail voting. In 2016, over 2 million  
6 voters, or about 75 percent of voters who participated in the election, used early mail  
7 voting. And in 2020, nearly three million voters, or about 88 percent, used early mail  
8 voting.

9           45. In 2007, Arizona established the PEVL to ensure that voters who rely on  
10 early mail voting receive their ballot without having to repeatedly request it for each  
11 election. If a voter is not on the PEVL and wishes to vote early by mail, the voter must  
12 request a ballot before the election. *See* A.R.S. § 16-542(E). Voters who join the PEVL are  
13 automatically sent an early mail ballot no later than the first day of the 27-day early voting  
14 period. *Id.* § 16-544.

15           46. To maintain the PEVL, Arizona law has long required the counties to follow  
16 certain procedures to regularly verify voters’ addresses and desire to remain on the list, and  
17 to ensure that voters whose registrations are moved to “inactive” status are removed. *See*  
18 A.R.S. §16-544. In fact, prior to each election, county recorders must mail a notice to all  
19 voters on the PEVL. “The notice shall include the dates of the elections that are the subject  
20 of the notice, the dates that the voter’s ballot is expected to be mailed and the address where  
21 the ballot will be mailed,” and provide the voter a means to update their address and the  
22 opportunity to decline to receive a mail ballot for the upcoming election. *Id.* § 16-544(D).  
23 If the notice is returned undeliverable, the county recorder must send a follow up notice,  
24 and if the voter “does not complete and return a new registration form with current  
25 information to the county recorder or make changes to the elector’s voter registration  
26 information that is maintained online within thirty-five days, the elector’s registration  
27 status shall be changed from active to inactive.” *Id.* §§ 16-544(E), 16-166(A). If at any  
28 point a voter’s registration becomes inactive or is cancelled, or if the voter asks to be

1 removed, the voter is removed from the PEVL. *Id.* § 16-544(H).

2 47. The vast majority of Arizona voters rely on the PEVL system to exercise  
3 their right to vote. According to the Secretary of State, in 2020, around 80 percent of  
4 Arizona voters who participated in that election used the PEVL to vote, and at least 75  
5 percent of all registered voters are on the list. Nationally, the share of voters who cast their  
6 ballot by mail is around 21 percent.

7 48. The ever-increasing reliance on early voting by mail in Arizona has led to a  
8 corresponding decrease in the availability of in-person voting options. In fact, one study  
9 found that the state has had the “most widespread reduction” in polling places of any state  
10 over the last decade; the state now has 320 fewer polling places than it did in 2012. While  
11 Arizona’s inducement of voters to use early voting by mail has helped to make voting more  
12 accessible in the state generally and has helped counties preserve resources, fewer polling  
13 places translates to more difficulties for those who must vote in person. This is especially  
14 true in rural places and on the state’s tribal lands, where voters must travel long distances  
15 to their polling place and where public transportation is not available.<sup>1</sup>

16 49. Arizona imposes certain procedures that are meant to enable elections  
17 officials to verify the identification of the voter casting the ballot; that is, to confirm that  
18 the ballot is cast by the voter to whom it was sent. Maricopa and Pima counties—the state’s  
19 two largest counties—imprint each mail-in ballot envelope with an Intelligent Mail  
20 Barcode linked to a specific voter, a system which allows the counties to confirm that the  
21 person voting is the same person who requested the mail-in ballot envelope. Additionally,  
22 the state has implemented a tracking system in which voters can determine if and when  
23 their mail ballot was been sent, received, and counted by the county recorder.<sup>2</sup>

24 50. When mail ballots are returned to elections officials, the signature on an

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25 <sup>1</sup> Democracy Diverted: Polling Place Closures and the Right to Vote (Sept. 2019),  
26 [civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf](https://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf).

27 <sup>2</sup> Arizona Voter Information Portal, Ariz. Sec’y of State (last visited Sept. 17, 2021),  
28 <https://my.arizona.vote/AbsenteeTracker.aspx>.

1 affidavit that must be submitted with the ballot is reviewed by the “county recorder or other  
2 officer in charge of elections” who “shall compare the signatures thereon with the signature  
3 of the elector on the elector’s registration record.” A.R.S. § 16-550(A).

4 51. In 2019, A.R.S. § 16-550 was amended to explicitly establish a cure period  
5 when a voter’s ballot was flagged for rejection due to a perceived mismatch between the  
6 signature on the ballot and the signature on file for the voter. The statute provides that, “[i]f  
7 the signature is inconsistent with the elector’s signature on the elector’s registration record,  
8 the county recorder or other officer in charge of elections shall make reasonable efforts to  
9 contact the voter, advise the voter of the inconsistent signature, and allow the voter to  
10 correct or the county to confirm the inconsistent signature.” *Id.* Of particular relevance to  
11 this litigation, the law also affirmatively provided for a five-day post election cure period  
12 for voters whose ballots were deemed to have a mismatched signature: “The county  
13 recorder or other officer in charge of elections shall allow signatures to be corrected not  
14 later than the fifth business day after a primary, general or special election that includes a  
15 federal office or the third business day after any other election.” *Id.*

16 52. This is the same timeframe permitted voters who vote in person but fail to  
17 provide an acceptable form of identification to cure that identity-related deficiency and  
18 have their ballot counted. Under both A.R.S. § 16-579(A)(2) and the EPM, when a voter  
19 does not provide an ID at the polls, they must be issued a conditional provisional ballot,  
20 which are counted if the voter presents “an acceptable form of identification to the County  
21 Recorder by 5:00 p.m. on the 5th business day following a primary, general, or special  
22 election that includes an election for a federal office, or by 5:00 p.m. on the 3rd business  
23 day following any other election.”<sup>3</sup>

24 53. The 2019 law was silent as to whether ballots flagged for rejection because  
25 of a *missing* signature were subject to the same post-election cure period. To ensure

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26 <sup>3</sup> 2019 Election Procedures Manual, Ariz. Sec’y of State (Dec. 2019),  
27 [https://azsos.gov/sites/default/files/2019\\_ELECTIONS\\_PROCEDURES\\_MANUAL\\_AP  
28 PROVED.pdf](https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf).

1 uniformity in the treatment ballots flagged for rejection due to an identity-related  
2 deficiency, to avoid disenfranchisement of otherwise eligible voters, and to avoid  
3 confusion among voters and elections officials as to what ballots could be cured and in  
4 what timeframe, the Secretary in 2019 drafted the EPM to include a provision that would  
5 bring the cure period for missing signature ballots into line with that for mismatched  
6 signatures and no-ID in-person voters. The county recorders largely agreed with this  
7 approach.

8 54. However, the Attorney General objected to the Secretary's guidance, and  
9 because the EPM requires the Attorney General's approval to go into effect, A.R.S. 16-  
10 452(B), the Secretary ultimately issued a version of the EPM that provided that, when a  
11 ballot without a signature is received, the County Recorder need only make a "reasonable  
12 and meaningful attempt to contact the voter" and explain that the missing signature can be  
13 cured "before 7:00pm on Election Day."<sup>4</sup>

14 55. Arizona is the only state in the country that imposes an inconsistent cure  
15 period for voters, allowing mismatched and no-ID voters to cure for a period post-election,  
16 but forbidding the same of missing-signature voters. Florida used to provide inconsistent  
17 cure periods for missing and mismatched signatures, but that statute was enjoined as  
18 unconstitutional in 2016, *Fla. Democratic Party v. Detzner*, No. 4:16CV607-MW/CAS,  
19 2016 WL 6090943, at \*1 (N.D. Fla. Oct. 16, 2016), and the Florida legislature subsequently  
20 amended the law.

21 56. Concerned about the disenfranchisement that would result if lawful voters  
22 were denied the same opportunity to cure guaranteed these other voters, DSCC, along with  
23 the Arizona Democratic Party ("ADP"), filed an action in this Court in June 2020  
24 challenging the mismatched cure process for voters with identity-related deficiencies.

25 57. That case alleged that the process imposed an undue burden on the right to  
26 vote in violation of the First and Fourteenth Amendments, and separately violated the

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27 <sup>4</sup> *Id.*

1 procedural due process guarantees of the Fourteenth Amendment. *See* Compl., *ADP v.*  
2 *Hobbs*, No. 20-cv-1143-DLR, Dkt. No. 1 (D. Ariz. June 10, 2020).

3 58. The matter was assigned to Judge Douglas L. Rayes who, after careful  
4 consideration of the evidence and arguments presented to him, issued a permanent  
5 injunction forbidding the Secretary and county recorder defendants from rejecting missing  
6 signature ballots without similarly allowing them a five-day post-election opportunity to  
7 cure their ballots. *ADP v. Hobbs*, 485 F. Supp. 3d 1073, 1081 (D. Ariz. 2020).

8 59. The Attorney General, Republican National Committee (“RNC”), and  
9 Arizona Republican Party all sought and were granted intervention as defendants in that  
10 case. Those intervenors appealed Judge Rayes’ decision to the Ninth Circuit where, in the  
11 weeks before the November election, a motions panel granted a stay of the order pending  
12 resolution of the appeal, relying in large part on jurisprudence that cautions federal courts  
13 against issuing rulings that change elections procedures on the eve of an election. *ADP v.*  
14 *Hobbs*, 976 F.3d 1081, 1085 (9th Cir. 2020). That appeal has since been submitted on the  
15 merits and remains pending awaiting a decision.

16 **B. The 2020 election in Arizona was secure and accurate.**

17 60. Despite the significant challenges presented by the COVID-19 pandemic,  
18 Arizona voters turned out in record-setting numbers in 2020. More than 3.4 million of the  
19 state’s 4.3 million voters, or 79.9 percent, cast a ballot. This compares to 74 percent in  
20 2016, 74.2 percent in 2012, 74.3 percent in 2008, and 77.7 percent in 2004, and 71.8 percent  
21 in 2000.<sup>5</sup>

22 61. The security and accuracy of the 2020 election results have been confirmed  
23 and re-confirmed by county and state election officials, as well as the courts.

24 62. County election officials have confirmed and scrutinized the results. For  
25 example, after the election, pursuant to A.R.S. § 16-602, ten of the state’s fifteen counties

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26  
27 <sup>5</sup> Voter Registration and Historical Election Data, Ariz. Sec’y of State (last visited Sept.  
28 13, 2021), <https://azsos.gov/elections/voter-registration-historical-election-data>.



1 performed a hand count of sample ballots to test the equipment, each confirming the  
2 election's initial results.

3 63. Clint Hickman, the chair of the Maricopa County Board of Supervisors,  
4 confirmed that "there is no evidence of fraud or misconduct or malfunction" in a letter that  
5 was sent to all Maricopa County voters.<sup>6</sup>

6 64. In February 2021, the Maricopa County Elections Department further  
7 confirmed its results, hiring two auditing firms to conduct audits of the county's tabulation  
8 system and equipment, which found no evidence of inaccuracies or improprieties.<sup>7</sup>

9 65. State officials have likewise confirmed the results and publicly and  
10 definitively declared their accuracy. Arizona law requires the Secretary, in the Governor's  
11 presence, to certify the statewide canvass. *See* A.R.S. § 16-648. On November 30, 2020,  
12 Secretary of State Katie Hobbs, in the presence of Governor Ducey, did so. The Governor  
13 himself further confirmed and defended the accuracy of the results through his social media  
14 accounts and in a meeting at the White House with former President Trump.

15 66. Additionally, multiple lawsuits that were filed in the aftermath of the election  
16 seeking to overturn its results only served to further confirm that the election was secure.  
17 For example, in *Bowyer v. Ducey*, various Republican officials filed a lawsuit seeking  
18 decertification of the election based on, among other things, allegations of improprieties in  
19 signature matching. The court dismissed the suit on multiple grounds, including a lack of  
20 any evidence. 506 F. Supp. 3d 699, 722 (D. Ariz. Dec. 9, 2020).

21 67. Similarly, in *Ward v. Jackson*, the Arizona Supreme Court concluded that  
22 the Republican challenger failed to "establish any degree of fraud or a sufficient error rate  
23 that would undermine the certainty of the election results." No. CV-20-0343-AP/EL, 2020

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24 <sup>6</sup> Clint Hickman, Letter to Maricopa County Voters, Maricopa Cty Bd. of Supervisors  
25 (Nov. 17, 2020), <https://www.maricopa.gov/DocumentCenter/View/64676/PR69-11-17-20-Letter-to-Voters>.

26 <sup>7</sup> Auditing Elections Equipment in Maricopa County, Maricopa County Government  
27 (Feb. 23, 2021), <https://maricopacountyaz.medium.com/auditing-elections-equipment-in-maricopa-county-3955445c1712>.

1 WL 8617817, at \*2 (Ariz. Dec. 8, 2020), *cert. denied*, No. 20-809, 2021 WL 666437 (U.S.  
2 Feb. 22, 2021).

3 68. Nevertheless, fact-free conspiracy theories have continued to percolate and  
4 efforts to undermine confidence in the elections process have continued to brew. In  
5 particular, these same baseless and repeatedly disproven “concerns” have continued to  
6 animate claims of fraud pushed by many Republican officials in the state.

7 69. Of particular note is an unprecedented effort to discredit the 2020 election  
8 results and locate *some* evidence of fraud, that was launched by Republican Senators in the  
9 Spring of 2021, who insisted on conducting another third-party “audit” of the 2020  
10 election.

11 70. The Senate passed over experienced election auditors in favor of engaging a  
12 corporation based in Florida called “Cyber Ninjas,” which has no experience in the field.

13 71. To make matters worse, Cyber Ninjas’ founder and the leader of the audit,  
14 Doug Logan, has propagated false allegations and demonstrably false conspiracy theories  
15 about how former President Trump in fact won the election.

16 72. Even some Republican officials and legislators who initially supported the  
17 effort have since come to recognize that the audit itself is a “sham,” a “con,” “ridiculous,”  
18 and lacks “integrity.”<sup>8</sup>

19 73. Most recently, the current Maricopa County Auditor Stephen Richer, a  
20 Republican who delivered the Republican Party one of its few wins in Arizona in 2020  
21 when he unseated a Democratic incumbent, released a heavily footnoted letter that sums it  
22 up quite succinctly.

23 74. Richer wrote: Arizona’s 2020 election wasn’t “stolen.” “Governor Doug  
24 Ducey agrees. Former Republican Jan Brewer agrees. Republican Arizona Attorney  
25 General Mark Brnovich agrees, and his office has an election integrity unit that presumably

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26 <sup>8</sup> John Bowden, *GOP-Led Maricopa County Board Decries Election Recount as a*  
27 *‘Sham’*, Hill (May 17, 2021), <https://thehill.com/homenews/state-watch/554016-gop-led-maricopa-county-board-decries-election-recount-at-sham>.  
28

1 receives all evidence of widespread fraud. Former Republican Recorder Helen Purcell  
2 agrees. Election directors in every other Arizona county agree. Former President Trump’s  
3 Department of Justice agrees, including former U.S. Attorney General Bill Barr and former  
4 acting Attorney General Jeff Rosen. Trump’s former director of the Cybersecurity and  
5 Infrastructure Agency, Chris Krebs, agrees. The attorney for the Trump campaign in  
6 Arizona agrees; it was he who responsibly said in court, ‘we are not alleging fraud.’ Even  
7 Sidney Powell herself—progenitor of so much of the Stop the Steal movement—now says  
8 that ‘no reasonable person’ should believe the election was stolen.” And that’s not it: also  
9 in agreement that the election was not stolen or impeded by fraud are “the 14 courts who  
10 heard eight (8!) complaints” all of which failed.<sup>9</sup>

11 75. In sum, after 10 months of repeated (and repeatedly fruitless) efforts to  
12 identify any evidence that Arizona’s system is prone to cheating, or that the 2020 election  
13 was tainted with impropriety, there remains no evidence of significant or widespread voter  
14 fraud in Arizona.

15 76. Nevertheless, the same free-floating and repeatedly debunked contentions  
16 that Arizona’s elections are insecure, plagued by fraud, or somehow lacking “integrity”  
17 lives on, and laid the foundation for the new voting restrictions that the Legislature has  
18 enacted into Arizona law.

19 **C. Arizona enacted the burdensome Cure Period and Voter Purge laws without  
20 any justification; they are pretexts for suppressing minority voting strength.**

21 77. When the 2021 legislative session began, Republicans in the Legislature  
22 moved quickly to introduce several bills to severely restrict access to the franchise in  
23 Arizona.

24 78. After introducing more than two dozen election bills that would have made  
25 it harder to vote throughout the spring, the Republican majority in May finally coalesced

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26 <sup>9</sup> Stephen Richer, *Dear Arizona Republicans: Let’s Do This Right* (Aug. 19, 2021),  
27 [https://recorder.maricopa.gov/pdf/Dear%20Arizona%20Republicans\\_August%202021.pdf](https://recorder.maricopa.gov/pdf/Dear%20Arizona%20Republicans_August%202021.pdf)  
28 f.

1 around the two bills at issue here, both of which target access to the immensely popular  
2 early voting by mail system.

3 79. **The Cure Period Law.** S.B. 1003 modifies a provision of the early voting  
4 cure period law, which as noted above, was revised in 2019 to explicitly provide a post-  
5 election cure period for ballots with mismatched signatures.

6 80. Over the objection of the Secretary and county elections officials, the  
7 Arizona Attorney General had insisted that the same post-election cure period be denied to  
8 voters whose ballots are flagged for rejection because the affidavit is missing a signature.

9 81. S.B. 1003 makes this differential treatment of voters a provision in Arizona  
10 statutory law, such that A.R.S. § 16-550(A) now provides:

11 If the signature is inconsistent with the elector's signature on the elector's  
12 registration record, the county recorder . . . shall allow signatures to be  
13 corrected not later than the fifth business day after a primary, general or  
14 special election that includes a federal office or the third business day after  
15 any other election. *If the signature is missing, the county recorder . . . shall .  
16 . . . allow the elector to add the elector's signature not later than 7:00 p.m. on  
17 election day.*

18 82. This law will directly result in disenfranchisement. Indeed, in recent general  
19 elections a significant number of mail ballots have been rejected for missing signatures.  
20 From 2008 to 2020, for example, at least 20,347 ballots were rejected due to a missing  
21 signature.<sup>10</sup>

22 83. Moreover, election officials may receive ballots up to the same deadline as  
23 the missing signature cure deadline—7 p.m. on election day—so voters whose ballots  
24 arrive in the final days of the election, in full compliance of Arizona law, are denied a cure  
25 period altogether if their ballot is flagged for rejection due to a missing signature. History  
26 shows that, every election, lawful voters' ballots are among this number, often due to mail  
27 delays entirely outside their control.

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28 <sup>10</sup> See U.S. Election Assistance Commission, Surveys and Data (last visited Sept. 13, 2021),  
<https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys>.

1           84. The lack of an adequate cure period for missing signature voters stands in  
2 stark contrast to the process available not just to voters whose ballots are flagged for  
3 rejection due to a supposed signature “mismatch,” but also to voters who neglect to bring  
4 acceptable identification with them to the polls when they vote in person, even on election  
5 day. Those voters are given the same five-day post-election cure period as voters whose  
6 ballots are flagged for rejection due to a perceived mis-matched signature. A.R.S. §§ 16-  
7 550(A), 16-579(A).

8           85. Additionally, the law does not specify what “reasonable efforts” to “contact  
9 the elector” means, or how the voters must be contacted, creating further and disparate  
10 burdens throughout the state and likely disenfranchisement for voters who are given less  
11 or no notice of their missing signature.

12           86. As Judge Rayes found, after careful consideration of the evidence presented  
13 to him in *ADP v. Hobbs*, this system is unconstitutional; indeed, the Attorney General failed  
14 to prove that it reasonably served any of the state interests that he claimed justified it. *ADP*,  
15 485 F. Supp. 3d at 1091.

16           87. To the contrary, Judge Rayes found that the mismatched cure period actually  
17 undermined the state’s interests in the orderly administration of elections and promoting  
18 voter participation in elections. *Id.* at 1090-92.

19           88. The Republican-controlled Legislature ignored these findings and enacted  
20 legislation that would codify the practice struck down in *ADP v. Hobbs*. It is no coincidence  
21 that it did so in the aftermath of the 2020 election, in which record turnout among minority  
22 voters in particular propelled the Democratic presidential and senate candidates to victory.

23           89. **The Voter Purge Law**. As noted above, prior to S.B. 1485, voters on the  
24 PEVL received a ballot no later than the first day of the early voting period without having  
25 to request a ballot for each individual election.

26           90. The new law, which redesignates the list with the misnomer the “active”  
27 early voting list (“AEVL”), to be codified at A.R.S. § 16-544(K)-(M), provides that county  
28 recorders “shall remove” voters from the AEVL if they fail “to vote using an early ballot”

1 for two consecutive election cycles (a four-year period) and do not respond within 90 days  
2 in writing to a notice prescribed by the law, which county recorders must now send to all  
3 voters who did not vote using an early ballot during that period.

4 91. To avoid removal under S.B. 1485, voters “shall do both of the following”:  
5 (1) “confirm in writing the voter’s desire to remain on the active early voting list,” and (2)  
6 “return the completed notice to the county recorder or other officer in charge of elections  
7 within ninety days after the notice is sent to the voter. The notice shall be signed by the  
8 voter and shall contain the voter’s address and date of birth.”

9 92. Under the law, a voter will be removed from the AEVL *even if they vote in*  
10 *person on election day* during the two-cycle period. As such, the list requires the purging  
11 from the active voter list of active voters.

12 93. Indeed, a voter could face removal from the list even if they consistently  
13 voted in each of the elections over the prior two cycles, simply because in those elections  
14 they opted to do so in person. And the onus is on the voter to be on the lookout for and  
15 respond to inquiries by elections officials in order to safeguard that right, despite their  
16 continued active engagement in Arizona’s elections.

17 94. The Voter Purge Law does little more than create more needless  
18 correspondence between the county recorders and voters. As discussed above, Arizona  
19 already requires the counties to perpetually mail notices to voters to determine whether  
20 their registration status should remain active and whether voters who are on the PEVL  
21 would like to remain on the list. *See* A.R.S. § 16-544(E)-(H). Any time a voter’s registration  
22 is moved to inactive, or if the voter would like to be removed, they are taken off of the list.  
23 *Id.* There is no evidence that these maintenance protocols left the PEVL overinflated or  
24 created other problems. Yet, under S.B. 1485, voters who opted to vote to in person or did  
25 not vote in two cycles will be subject to yet another round of notices. Some voters,  
26 especially those who have responded to a previous notice to update their address or provide  
27 other information, will inevitably disregard the PEVL purge notice and will be caught off  
28 guard when they fail to receive their ballot for the next election.

1           95. It is by now well known that purges of voter lists are prone to  
2 disproportionately improperly removing lawful and qualified minority voters from the  
3 voting rolls. There is no reason to anticipate that this law will be any different. To the  
4 contrary, as reflected in early assessments reported by Mi Familia Vota, the same will be  
5 true here.

6           96. Other voters from vulnerable populations, such as low-income voters and  
7 voters experiencing poverty, are also more likely to be removed because they are more  
8 likely to vote intermittently.

9           97. The Voter Purge Law also particularly threatens harm to voters who live on  
10 the state's tribal lands. Such a voter who discovers that they were purged from the AEVL  
11 too late in the election cycle to address the problem and timely receive an early ballot is  
12 likely to face substantial and often insurmountable hurdles in attempting to vote in person,  
13 including but not limited to transportation accessibility issues, and extraordinarily long  
14 distances to travel.

15           98. Young voters are also particularly at risk as a result of the Voter Purge Law.  
16 Younger individuals, such as college students, tend to move around more often and vote  
17 less consistently, putting them at greater risk of being removed under the provision—and  
18 not receiving any notice that may be issued. They are also more likely to be outside of the  
19 county in which they would be permitted to vote in person by the time they realize that  
20 they will not be receiving a mail ballot and thus less likely to be able to exercise their right  
21 to vote by appearing in person to cast their ballot.

22           99. For these voters and many others, the requirement that county recorders send  
23 a notice requirement does not ameliorate the inevitable and unjustifiable burdens of the  
24 Voter Purge Law. For example, voters from low-income backgrounds who are already at  
25 greater risk of being removed often lack stable housing and are unable to receive their mail  
26 on a consistent basis. Others, such as those on the state's tribal reservations, who lack  
27 residential mail service and often have to drive long distances to pick up their mail (a trip  
28 that many do not make regularly) may find it challenging to receive and respond to the

1 notice within the statutory period.

2 100. Moreover, the Voter Purge Law is to take effect even as opportunities to vote  
3 in person diminish in Arizona. As explained above, the state’s successful efforts to induce  
4 voters to rely on the permanent early voting system has directly led to a decrease in the  
5 number of and availability of polling place locations throughout the state. As a result,  
6 voters who must vote in person because the state purges them from the AEVL will face an  
7 even harder time exercising their right to vote.

8 101. **State Interests**. The two new restrictive measures were passed with no  
9 colorable explanation, let alone justification.

10 102. In fact, no legislator identified a single instance of voter fraud or impropriety  
11 in Arizona related to mail-in early voting ballots that would precipitate the need for the  
12 changes at issue.

13 103. Nor can the Voter Purge Law or the Cure Period Law be credibly justified as  
14 a cost-saving measure.

15 104. The Voter Purge Law requires counties to implement a new system to track  
16 and mail additional notices, which will impose further and new costs upon the counties.

17 105. And, with respect to the Cure Period Law, it would impose little to no  
18 administrative burden to extend the same cure period that already exists for mismatched  
19 signatures and missing voter identification for in-person voters to voters who submit a  
20 ballot affidavit with a missing signature. Indeed, this was the testimony of state and county  
21 elections officials in *ADP v. Hobbs*.

22 106. In other words, both revisions to the law impose additional burdens on  
23 elections officials, rather than relieve them.

24 107. Contemporary statements by legislative leaders further demonstrate the  
25 pretextual nature of the proffered “justifications” for the restrictive measures challenged  
26 here.

27 108. For example, the President Pro Tempore of the Arizona Senate Vince Leach  
28 stated that the bill does not remove “voters” but just removes people who have “elected not



1 to participate” or are “dead.” But this was at the time—and remains—demonstrably false:  
2 voters whose registrations go inactive are already removed from PEVL in its prior iteration.

3 109. As described, the only “activity” that the new law recognizes is early voting;  
4 as designed, it will purge even undeniably active voters, who simply change their method  
5 of voting to in-person voting for two election cycles.

6 110. In fact, analysis shows that and nearly *130,000 Arizonans*, if not more, who  
7 *voted* in 2020 would have been removed from the early voting list if the Voter Purge Bill  
8 had become law prior to that election.

9 111. Several additional facts surrounding the enactment of the Voter Purge Law  
10 and the Cure Period Law supply ample context of the discriminatory motivations at play.

11 112. At various points throughout final consideration of the bills, Republican  
12 legislators failed entirely to rebut arguments about the racially discriminatory effects of the  
13 bills.

14 113. Instead, when concerns were raised about the discriminatory impacts of the  
15 bills, Republican legislators tried to *silence* discussion about those discriminatory impacts  
16 altogether, using procedural measures to attempt to prevent other members of the  
17 Legislature from even referring to race or racially based motives.

18 114. For example, after Reginald Bolding, a Black State Representative and  
19 minority leader of the House, said in a speech on the House floor that it would be harder  
20 for “independent voters, seniors, Native Americans, Black, brown and low income people  
21 to vote” under the Voter Purge Law, Republican Representative Travis Grantham, called a  
22 point-of-order, stating, “I feel personally that motives were [attributed to] members,  
23 including myself with regards to colored people, Black people, whatever people this  
24 individual wants to single out and their ability to vote . . . I think he should be sat down  
25 and he shouldn’t be allowed to speak.”<sup>11</sup>

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26 <sup>11</sup> Sanya Mansoor, *Arizona Just Became the Latest State to Approve Mail Voting*  
27 *Restrictions. Here’s What to Know*, Time (May 11, 2021),  
28 <https://time.com/6047696/arizona-mail-voting-restrictions/>.



1 signature by election day. Yet, just to get to their polling place, voters who live on  
 2 reservations must travel long distances in some of the “most remote, challenging, and  
 3 sparsely populated terrain in the country.”<sup>14</sup> The population density on the Navajo Nation  
 4 is 6.3 individuals per square mile, compared to the statewide population density of 56.3.<sup>15</sup>  
 5 No public transportation exists on the state’s reservations and in other remote areas,  
 6 creating significant obstacles for these voters to exercise their right to vote; many, each  
 7 year, are unfortunately disenfranchised.<sup>16</sup>

8 121. Additional factors stemming from Arizona’s long history of discrimination  
 9 against Native Americans make access to voting in person even more difficult for those  
 10 who live on the state’s reservations. For example, extreme poverty on the state’s  
 11 reservations and other socioeconomic factors exacerbate the difficulty obtaining reliable  
 12 transportation to far off polling locations. One-third of people on the Navajo Nation live in  
 13 poverty, and only four percent have a college degree.<sup>17</sup> Despite the Native American  
 14 community’s repeated efforts to achieve change through the political process, these  
 15 suppressive realities remain for precisely the Arizonans who are most harshly targeted and  
 16 impacted by the challenged provisions.

## 17 CLAIMS FOR RELIEF

### 18 COUNT ONE

#### 19 (Unjustifiable Burden on the Right to Vote in Violation of the

20  
 21 <sup>14</sup> *Addressing the Urgent Needs of our Tribal Communities: Hearing Before the Comm. on Energy and Commerce*, 116th Cong. (2020) (testimony of Jonathan Nez, Navajo Nation President).

22  
 23 <sup>15</sup> Navajo Div. of Health, *Navajo Population Profile* (Dec. 2013), <https://www.nec.navajonnsn.gov/Portals/0/Reports/NN2010PopulationProfile.pdf>.

24  
 25 <sup>16</sup> Sydney Page, *Getting To the Polls Can Be Hard in Navajo Nation. This Woman Is Leading Voters on Horseback*, Wash. Post (Nov. 2, 2020), <https://www.washingtonpost.com/lifestyle/2020/11/02/navajo-nation-horse-vote-polls-election/>.

26  
 27 <sup>17</sup> Arizona Rural Policy Institute, *Demographic Analysis of the Navajo Nation Using 2010 Census and 2010 American Community Survey Estimates* 25 tbl. 10 (2010), [https://gotr.azgovernor.gov/sites/default/files/navajo\\_nation\\_0.pdf](https://gotr.azgovernor.gov/sites/default/files/navajo_nation_0.pdf).

**First and Fourteenth Amendments)**

1  
2 122. Plaintiffs reallege and incorporate by reference all prior paragraphs, as if  
3 fully set forth herein.

4 123. A court considering a challenge to a state election law must carefully balance  
5 the character and magnitude of injury to the First and Fourteenth Amendment rights that  
6 the Plaintiff seeks to vindicate against the justifications put forward by the state for the  
7 burdens imposed by the rule. *Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Anderson v.*  
8 *Celebrezze*, 460 U.S. 780, 789 (1983).

9 124. “However slight th[e] burden may appear, . . . it must be justified by relevant  
10 and legitimate state interests sufficiently weighty to justify the limitation.” *Crawford v.*  
11 *Marion Cnty. Election Bd.*, 553 U.S. 181, 191 (2008) (Stevens, J., controlling op.)  
12 (quotations marks omitted).

13 125. The Voter Purge Law imposes a disparate and unjustifiable burden on the  
14 right to vote. Under the Voter Purge Law, voters who simply fail to vote or decide not to  
15 vote using an early mail in ballot in two elections, will be removed from the system upon  
16 which they rely to receive their ballot. Voters of color in Arizona will disproportionately  
17 be purged from that system and are more likely to face more significant barriers in  
18 attempting to remedy improper removal, including by responding to notices of removal in  
19 time, and successfully locating and accessing a location for in-person voting to exercise  
20 their right to vote.

21 126. There is no state interest, much less one that can justify the burdens imposed  
22 on voters by this discriminatory and burdensome system of removals. Every ballot  
23 submitted and counted in every election is checked by election officials and confirmed in  
24 subsequent verification measures. Moreover, the existing PEVL system already had an  
25 effective mechanism for removing inactive voters from its ambit. Under that system, the  
26 state already mailed notices to every PEVL voter in advance to ensure that their address  
27 remains accurate, and voters were immediately removed any time their registration status

1 goes inactive. There is simply no evidence to suggest the discriminatory new purge  
2 provisions are necessary.

3 127. The Voter Purge Law’s true objective is to add hurdles for lawful voters;  
4 hurdles that will be disproportionately placed before Arizona’s voters of color, thereby  
5 severely and disparately burdening their ability to participate in Arizona elections.

6 128. The Cure Period Law also imposes a disparate and unjustifiable burden—  
7 disenfranchisement—on the right to vote. Although voters who submit a mail ballot with  
8 a missing signature or fail to present identification while voting in person have five days  
9 after the election to cure that identity-related deficiency and save their ballot from rejection,  
10 voters who leave off a signature are disenfranchised by the Law at 7 p.m. on election day.

11 129. There is no state interest supporting the Cure Period Law, much less one that  
12 can justify this discriminatory and burdensome system and its injuries to lawful Arizona  
13 voters.

14 130. Indeed, the Secretary and county election officials almost uniformly  
15 advocated for and support a consistent cure period that gives missing signature voters the  
16 same opportunities to cure as other voters whose ballots are flagged for rejection due to  
17 identity-verification related deficiencies.

18 131. The mismatched and inconsistent cure period undermines the integrity of the  
19 state’s elections; it does not promote it. To the extent any interest exists, it certainly cannot  
20 justify disenfranchisement.

21 **COUNT TWO**

22 **(Intentional Racial Discrimination in Violation of**  
23 **Section 2 of the Voting Rights Act, 51 U.S.C. § 10301, et seq.)**

24 132. Plaintiffs reallege and incorporate by reference all prior paragraphs, as if  
25 fully set forth herein.

26 133. Section 2 of the Voting Rights Act prohibits vote denial: the use of voting  
27 laws, policies, or practices, such as mail ballot procedures or qualifications, that deny,  
28 abridge or otherwise limit voters access or increase their burden to exercise the right to

1 vote. 52 U.S.C. 10301.

2 134. Section 2 is violated where the election law or practice being challenged has  
3 either a discriminatory purpose or a discriminatory effect. *See Thornburg v. Gingles*, 478  
4 U.S. 30, 35 (1986).

5 135. Discriminatory purpose may be established by proof that the defendants used  
6 race as a motivating factor in their decisions. *Vill. Of Arlington Heights v. Metro. Hous.*  
7 *Dev. Corp.*, 429 U.S. 252, 265 (1977). Even where challenged legislation appears neutral  
8 on its face, discriminatory intent may be inferred by analyzing the context in which the  
9 challenged provisions were enacted, and by reviewing the challenged provisions'  
10 disproportionate racial impact. *See id.* at 266-68.

11 136. Here, the evidence shows a discriminatory purpose in the passage of the  
12 Voter Purge Law and the Cure Period Law. Contemporary statements during the legislative  
13 session and during consideration of the bills demonstrate racial pretext. Discrimination in  
14 voting persists to this day, and the state's minority population turnout remains  
15 comparatively suppressed. And the bills were passed after the 2020 election demonstrated  
16 record turnout among the state's minority population, and in the face of clear evidence the  
17 bills disproportionately harm and disenfranchise precisely those groups.

18 **COUNT THREE**

19 **(Discriminatory Purpose in Violation of the**  
20 **Fourteenth and Fifteenth Amendments)**

21 137. Plaintiffs reallege and incorporate by reference all prior paragraphs, as if  
22 fully set forth herein.

23 138. The Fourteenth Amendment provides that no state "shall make or enforce  
24 any law which shall abridge the privileges or immunities of citizens of the United States;  
25 no shall any state deprive any person of life, liberty, or property, without due process of  
26 law; nor deny to any person within its jurisdiction equal protection of the laws."

27 139. The Fifteenth Amendment provides that the "right of citizens of the United  
28 States to vote shall not be denied or abridged by the United States or by any State on

1 account of race, color, or previous condition of servitude.”

2 140. Discriminatory intent may be established by proof that the defendants used  
3 race as a motivating factor in their decisions. *Vill. Of Arlington Heights v. Metro. Hous.*  
4 *Dev. Corp.*, 429 U.S. 252, 265 (1977). Even where challenged legislation appears neutral  
5 on its face, discriminatory intent may be inferred by analyzing the context in which the  
6 challenged provisions were enacted, and by reviewing the challenged provisions’  
7 disproportionate racial impact. *See id.* at 266-68.

8 141. All of the relevant indicia demonstrate discriminatory purpose in the passage  
9 of the Voter Purge Law and the Cure Period Law. Contemporary statements during the  
10 legislative session and during consideration of the bills demonstrate racial pretext.  
11 Discrimination in voting persists to this day, and the state’s minority population turnout  
12 remains comparatively suppressed. And the bills were passed after the 2020 election  
13 demonstrated record turnout among the state’s minority population, and in the face of clear  
14 evidence the bills disproportionately harm and disenfranchise precisely those groups.

15 **PRAYER FOR RELIEF**

16 Plaintiffs respectfully request that this Court enter the following judgment:

- 17 A. Declare that the Voter Purge Law (S.B. 1485) violates the First, Fourteenth, and  
18 Fifteenth Amendments, as well as Section 2 of the Voting Rights Act;  
19 B. Declare that the Cure Period Law (S.B. 1003) violates the First, Fourteenth, and  
20 Fifteenth Amendments, as well as Section 2 of the Voting Rights Act;  
21 C. Enjoin Defendants, along with their respective agents, officers, employees, and  
22 successors from enforcing the Voter Purge Law;  
23 D. Enjoin Defendants, along with their respective agents, officers, employees, and  
24 successors from enforcing the Cure Period Law;  
25 E. Award Plaintiffs their costs, expenses, and reasonable attorneys fees, pursuant  
26 to 42 U.S.C. 1988, and any other applicable law;  
27 F. Grant such other and further relief as the Court deems just and proper.

1  
2 Dated: September 24, 2021

Respectfully Submitted,

3  
4 /s/ Daniel A. Arellano

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