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15
16 **UNITED STATES DISTRICT COURT**
17 **DISTRICT OF ARIZONA**

18 Mi Familia Vota, et al.,) No. 2:22-cv-00509-SRB
19)
Plaintiffs,) **DEFENDANT SECRETARY OF**
20) **STATE KATIE HOBBS' ANSWER**
v.) **TO PLAINTIFFS MI FAMILIA**
21) **VOTA AND VOTO LATINO'S**
Katie Hobbs, in her official capacity as) **SECOND AMENDED**
22 Arizona Secretary of State, et al.,) **COMPLAINT**
23 Defendants.)
24
25
26

1 Living United for Change in Arizona, et al.,)
2)
3 Plaintiffs,)
4)
5 v.)
6)
7 Katie Hobbs, in her official capacity as)
8 Arizona Secretary of State, et al.,)
9 Defendants.)

10 Poder Latinx, et al.,)
11)
12 Plaintiffs,)
13)
14 v.)
15)
16 Katie Hobbs, in her official capacity as)
17 Arizona Secretary of State, et al.,)
18 Defendants.)

19 United States of America,)
20)
21 Plaintiff,)
22)
23 v.)
24)
25 Katie Hobbs, in her official capacity as)
26 Arizona Secretary of State, et al.,)
Defendants.)

Democratic National Committee, et al.,)
Plaintiffs,)
v.)
Katie Hobbs, in her official capacity as)
Arizona Secretary of State, et al.,)
Defendants.)

1 Defendant Katie Hobbs, in her official capacity as Arizona Secretary of State
2 (“Secretary”) answers Plaintiffs Mi Familia Vota and Voto Latino (collectively “Plaintiffs”)
3 Second Amended Complaint (“SAC”) [Doc. 65] as follows:

4 **NATURE OF THE CASE**

5 1. Responding to Paragraph 1 of the SAC, the Secretary admits that Plaintiffs quote
6 *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964) and generally describe the nature of their claims
7 in this action. The Secretary lacks knowledge or information sufficient to form a belief about
8 the truth of the remaining allegations in Paragraph 1.

9 2. Responding to Paragraph 2 of the SAC, the Secretary admits that certain of
10 Arizona’s laws have been held in violation of federal law; that the State of Arizona has entered
11 into an ongoing consent decree; that the categories of registered voters in Arizona include the
12 following, among others: (1) those who registered pre-December 2004 and did not have to
13 show documentary proof of citizenship who can vote in all elections, (2) those who registered
14 post-December 2004 using either the state form or the federal form required by the NVRA and
15 did not show documentary proof of citizenship who can vote only in federal elections, and (3)
16 those who registered post-December 2004 and showed adequate proof of citizenship who can
17 vote in all elections; that Arizona has allowed all voters to vote by mail for any reason since
18 1991; and that Plaintiffs describe some of the provisions in the consent decree in *LULAC v.*
19 *Reagan*, No. 2:17-cv-04102-DGC (D. Ariz. June 18, 2018).

20 3. Responding to Paragraph 3 of the SAC, the Secretary admits that H.B. 2492 will
21 prohibit registered voters who have not provided proof of citizenship as defined under Arizona
22 law from voting in presidential elections or receiving an early ballot by mail, except registered
23 voters who qualify as an absent uniformed service voter under UOCAVA. The Secretary also
24 admits that H.B. 2492 requires the Attorney General to investigate and potentially prosecute
25 registered voters who have not provided proof of citizenship; and that H.B. 2492 becomes
26 effective on January 1, 2023. The Secretary lacks knowledge or information sufficient to form

1 a belief about the truth of the remaining allegations in Paragraph 3.

2 4. Responding to Paragraph 4 of the SAC, the Secretary lacks knowledge or
3 information sufficient to form a belief about the truth of the allegations in the first three
4 sentences. Responding to the remaining allegations in Paragraph 4, the Secretary admits that
5 approximately 88% of Arizona voters who voted in the 2020 General Election voted early
6 (either by mail or early in-person); that approximately 2 million voters voted early (either by
7 mail or early in-person) in the 2016 General Election (about 75% of voters who voted in that
8 election); that over one million Arizonans, or around half of the voters who participated in the
9 election, used early mail voting in the 2008 General Election; and that in-person polling places
10 have decreased over the last decade, but the Secretary affirmatively alleges that, while the
11 number of polling places may have decreased, more counties now utilize a “vote center” model,
12 under which larger voting locations are used and voters can vote at any voting location in the
13 county, rather than only at their assigned polling place.

14 5. Responding to Paragraph 5 of the SAC, the Secretary lacks knowledge or
15 information sufficient to form a belief about the truth of the allegations in the first sentence.
16 Responding to the remaining allegations in Paragraph 5, the Secretary admits that Arizona’s
17 early voting system is well tested and well established; that there is no evidence of widespread
18 fraud in Arizona’s elections, including the 2020 General Election; that the Secretary and other
19 elected officials have publicly rejected false claims about the legitimacy of Arizona’s 2020
20 General Election; and that Plaintiffs quote a portion of Governor Ducey’s November 30, 2020
21 tweet.

22 6. Responding to Paragraph 6 of the SAC, the Secretary admits that multiple
23 lawsuits and contests were brought by the Republican Party, former President Donald Trump’s
24 campaign, and their supporters that sought to cast doubt on the outcome of the 2020 General
25 Election; that Arizona’s state and federal courts rejected all those suits for many reasons; and
26 that, in a case brought by the Arizona Republican Party to challenge the legitimacy of Maricopa

1 County's hand count audit, the Maricopa County Superior Court ordered the plaintiff and its
2 counsel to pay the Secretary's attorneys' fees under A.R.S. § 12-349.

3 7. Responding to Paragraph 7 of the SAC, the Secretary admits that after H.B. 2492
4 takes effect many Arizonans will be required to submit additional documentation to continue
5 voting in presidential elections and to continue receiving early ballots by mail; that Arizona
6 already has numerous safeguards in place to limit voting in Arizona to United States citizens
7 and to prevent fraud; and that Plaintiffs generally describe the relief they are seeking in this
8 action. The Secretary lacks knowledge or information sufficient to form a belief about the truth
9 of the remaining allegations in Paragraph 7.

10 **JURISDICTION AND VENUE**

11 8. Responding to Paragraph 8 of the SAC, the Secretary admits that Plaintiffs
12 generally describe the nature of their claims, and lacks knowledge or information sufficient to
13 form a belief about the remaining allegations in Paragraph 8.

14 9. Responding to the allegations in Paragraph 9 of the SAC, The Secretary admits
15 that Plaintiffs sent the Secretary notice of alleged violations of the NVRA on April 7, 2022,
16 and Exhibit A to the SAC contains the notice provided to the Secretary and all correspondence
17 between the parties thereafter.

18 10. The Secretary admits the allegations in Paragraph 10.

19 11. The Secretary admits the allegations in Paragraph 11.

20 12. The Secretary lacks knowledge or information sufficient to form a belief about
21 the truth of the allegations in Paragraph 12.

22 13. The Secretary lacks knowledge or information sufficient to form a belief about
23 the truth of the allegations in Paragraph 13.

24 14. The Secretary admits the allegations in Paragraph 14.

25 15. The Secretary admits the allegations in Paragraph 15.

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PARTIES

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2 16. The Secretary lacks knowledge or information sufficient to form a belief about
3 the truth of the allegations in Paragraph 16.

4 17. The Secretary lacks knowledge or information sufficient to form a belief about
5 the truth of the allegations in Paragraph 17.

6 18. The Secretary lacks knowledge or information sufficient to form a belief about
7 the truth of the allegations in Paragraph 18.

8 19. The Secretary lacks knowledge or information sufficient to form a belief about
9 the truth of the allegations in Paragraph 19.

10 20. The Secretary lacks knowledge or information sufficient to form a belief about
11 the truth of the allegations in Paragraph 20.

12 21. The Secretary lacks knowledge or information sufficient to form a belief about
13 the truth of the allegations in Paragraph 21.

14 22. Responding to Paragraph 22 of the SAC, the Secretary denies that she “is charged
15 with enforcing the new statutory provisions at issue here” and denies that she has taken any
16 unlawful actions under color of state law. The Secretary admits that she is the Secretary of
17 State of Arizona and the Chief Elections Officer for Arizona; that she is “responsible for
18 coordination of state responsibilities under the national voter registration act of 1993”; and that
19 she has the authority to promulgate certain rules and procedures for elections, including rules
20 and regulations pertaining to voter registration through the Elections Procedures Manual,
21 which is subject to approval by the Governor and Attorney General. The Secretary lacks
22 knowledge or information sufficient to form a belief about the truth of the remaining
23 allegations in Paragraph 22.

24 23. The Secretary lacks knowledge or information sufficient to form a belief about
25 the truth of the allegations in Paragraph 23.

26 24. The Secretary lacks knowledge or information sufficient to form a belief about

1 the truth of the allegations in Paragraph 24.

2 25. The Secretary admits the allegations in Paragraph 25.

3 26. Responding to Paragraph 26 of the SAC, the Secretary admits that David W.
4 Stevens is the Cochise County Recorder.

5 27. The Secretary admits the allegations in Paragraph 27.

6 28. The Secretary admits the allegations in Paragraph 28.

7 29. The Secretary admits the allegations in Paragraph 29.

8 30. Responding to Paragraph 30 of the SAC, the Secretary admits that Sharie
9 Milheiro is the Greenlee County Recorder.

10 31. The Secretary admits the allegations in Paragraph 31.

11 32. The Secretary admits the allegations in Paragraph 32.

12 33. The Secretary admits the allegations in Paragraph 33.

13 34. The Secretary admits the allegations in Paragraph 34.

14 35. The Secretary admits the allegations in Paragraph 35.

15 36. The Secretary denies the allegations in Paragraph 36.

16 37. The Secretary admits the allegations in Paragraph 37.

17 38. The Secretary denies the allegations in Paragraph 38.

18 39. The Secretary denies the allegations in Paragraph 39.

19 **STATEMENT OF FACTS**

20 40. Responding to Paragraph 40 of the SAC, the Secretary admits that Arizona has
21 a history of restrictions and impediments on the right to vote and that Arizona's election laws
22 have been the subject of repeated litigation. The Secretary lacks knowledge or information
23 sufficient to form a belief about the truth of the remaining allegations in Paragraph 40.

24 41. Responding to Paragraph 41 of the SAC, the Secretary admits that in 2004
25 Arizona voters adopted Proposition 200, which amended the state's election code to require
26 county recorders to "reject any application for registration that is not accompanied by

1 satisfactory evidence of United States citizenship”; that the U.S. Supreme Court held in 2013
2 that the NVRA precluded Arizona from requiring applicants who used the NVRA’s federal
3 form to submit information beyond that required by the form itself; and that Plaintiffs quote
4 portions of *Purcell v. Gonzalez*, 549 U.S. 1, 2 (2006) and *Arizona v. Inter Tribal Council of*
5 *Ariz., Inc.*, 570 U.S. 1, 15 (2013).

6 42. Responding to Paragraph 42 of the SAC, the Secretary admits the allegations in
7 the first sentence. Responding to the second sentence in Paragraph 42, the Secretary admits
8 that Arizona’s bifurcated voter registration system as implemented by then-Secretary of State
9 Ken Bennett was in place from 2013 until it was modified pursuant to the LULAC consent
10 decree in 2018.

11 43. Responding to Paragraph 43 of the SAC, the Secretary admits that Arizona has
12 the following categories of registered voters, among others: (1) those who registered pre-
13 December 2004 and did not have to show documentary proof of citizenship who can vote in
14 all elections, (2) those who registered post-December 2004 using the state form or the federal
15 form required by the NVRA and did not show documentary proof of citizenship who can vote
16 only in federal elections, and (3) those who registered post-December 2004 and showed
17 adequate proof of citizenship who can vote in all elections. The Secretary also admits that
18 Arizona has allowed all voters to vote by mail for any reason since 1991.

19 44. Responding to Paragraph 44 of the SAC, the Secretary admits that litigation over
20 Arizona’s voter registration laws and procedures was filed in *LULAC v. Reagan*, No. 2:17-cv-
21 04102-DGC, and that Plaintiffs generally describe certain facts set forth in the consent decree
22 in that case. The Secretary lacks knowledge or information sufficient to form a belief about the
23 truth of the remaining allegations in Paragraph 44.

24 45. Responding to Paragraph 45 of the SAC, the Secretary admits the allegations in
25 the first sentence. Responding to the remaining allegations in Paragraph 45, the Secretary
26 admits that the parties in *LULAC v. Reagan*, No. 2:17-cv-04102-DGC entered into a consent

1 decree to end the litigation and that Plaintiffs generally describe some of the terms of the
2 consent decree. The Secretary lacks knowledge or information sufficient to form a belief about
3 the truth of the remaining allegations in Paragraph 45.

4 46. Responding to Paragraph 46 of the SAC, the Secretary admits that, as of August
5 2, 2022, approximately 35,000 Arizonans are registered to vote as “federal-only” voters
6 without having provided documentary proof of citizenship. The Secretary lacks knowledge or
7 information sufficient to form a belief about the truth of the remaining allegations in Paragraph
8 46.

9 47. Responding to Paragraph 47 of the SAC, the Secretary admits that early voting
10 is popular among Arizona voters; that Arizona has allowed all voters to vote early by mail
11 without a reason or “excuse” for doing so since 1991; that over one million Arizonans, or
12 around half of the voters who participated in the election, used early mail voting in the 2008
13 General Election; that approximately 2 million voters voted early (either by mail or early in-
14 person) in the 2016 General Election (about 75% of voters who voted in that election); and that
15 approximately 3 million voters voted early (either by mail or early in-person) in the 2020
16 General Election (about 88% of Arizona voters who voted in that election). The Secretary lacks
17 knowledge or information sufficient to form a belief about the truth of the remaining
18 allegations in Paragraph 47.

19 48. Responding to Paragraph 48 of the SAC, the Secretary admits that Plaintiffs
20 describe the findings in the cited report that Arizona has 320 fewer polling places than it did
21 in 2012 and has had “the most widespread reduction” in polling places. The Secretary notes,
22 however, that while the number of polling places may have decreased, more counties now
23 utilize a “vote center” model, under which larger voting locations are used and voters can vote
24 at any voting location in the county, rather than only at their assigned polling place. The
25 Secretary lacks knowledge or information sufficient to form a belief about the truth of the
26 remaining allegations in Paragraph 48.

1 49. Responding to Paragraph 49 of the SAC, the Secretary admits that there was a
2 high turnout rate in the 2020 General Election; that more than 3.4 million of the state's 4.3
3 million voters, or 79.9 percent, cast a ballot in the 2020 General Election; that 74.17% of
4 registered voters cast a ballot in the 2016 General Election; 74.36% of registered voters cast a
5 ballot in the 2012 General Election; 77.69% of registered voters cast a ballot in the 2008
6 General Election; 77.10% of registered voters cast a ballot in the 2004 General Election; and
7 71.76% of registered voters cast a ballot in the 2000 General Election. The Secretary lacks
8 knowledge or information sufficient to form a belief about the truth of the remaining
9 allegations in Paragraph 49.

10 50. The Secretary admits the allegations in Paragraph 50.

11 51. The Secretary admits the allegations in Paragraph 51.

12 52. Responding to Paragraph 52 of the SAC, the Secretary admits that Plaintiffs
13 quote a portion of a letter from Clint Hickman of the Maricopa County Board of Supervisors.

14 53. The Secretary admits the allegations in Paragraph 53.

15 54. Responding to Paragraph 54 of the SAC, the Secretary admits the allegations in
16 the first three sentences, and lacks knowledge or information sufficient to form a belief about
17 the truth of the last sentence.

18 55. The Secretary admits the allegations in Paragraph 55.

19 56. The Secretary admits the allegations in Paragraph 56.

20 57. The Secretary admits the allegations in Paragraph 57.

21 58. Responding to Paragraph 58 of the SAC, the Secretary admits that some
22 Republican officials in Arizona have animated disproven claims of fraud in Arizona's elections
23 that undermine confidence in the elections process, and lacks knowledge or information
24 sufficient to form a belief about the truth of the remaining allegations in Paragraph 58.

25 59. Responding to Paragraph 59 of the SAC, the Secretary admits that the
26 Legislature passed S.B. 1003 and S.B. 1485 during the 2021 legislative session, and lacks

1 knowledge or information sufficient to form a belief about the truth of the remaining
2 allegations in Paragraph 59.

3 60. The Secretary admits the allegations in Paragraph 60.

4 61. Responding to Paragraph 61 of the SAC, the Secretary lacks knowledge or
5 information sufficient to form a belief about the truth of the allegations in the first sentence.
6 Responding to the remaining allegations in Paragraph 61, admits that Plaintiffs generally
7 describe certain provisions in H.B. 2492.

8 62. The Secretary lacks knowledge or information sufficient to form a belief about
9 the truth of the allegations in Paragraph 62.

10 63. The Secretary lacks knowledge or information sufficient to form a belief about
11 the truth of the allegations in Paragraph 63.

12 64. Responding to Paragraph 64 of the SAC, the Secretary admits that Arizona has
13 allowed voters to vote by mail for any reason since 1991, and lacks knowledge or information
14 sufficient to form a belief about the truth of the remaining allegations in Paragraph 64.

15 65. Responding to Paragraph 65 of the SAC, the Secretary admits that H.B. 2492
16 contains notice provisions only for new voter registration applicants who register without
17 providing documentary proof of citizenship, and lacks knowledge or information sufficient to
18 form a belief about the truth of the remaining allegations in Paragraph 65.

19 66. Responding to Paragraph 66 of the SAC, the Secretary admits that Arizona's
20 bifurcated voter registration system has resulted in allegations of disenfranchisement and an
21 ongoing consent decree, and lacks knowledge or information sufficient to form a belief about
22 the truth of the remaining allegations in Paragraph 66.

23 67. The Secretary lacks knowledge or information sufficient to form a belief about
24 the truth of the allegations in Paragraph 67.

25 68. Responding to Paragraph 68 of the SAC, the Secretary admits that H.B. 2492
26 subjects potential voters to referral for investigation by the Attorney General or County

1 Attorney if the County Recorder “matches the applicant with information that the applicant is
2 not a United States Citizen,” and directs the Secretary and County Recorders to give access to
3 the Attorney General a list of all individuals who are registered to vote but have not provided
4 proof of citizenship. The Secretary lacks knowledge or information sufficient to form a belief
5 about the truth of the remaining allegations in Paragraph 68.

6 69. The Secretary lacks knowledge or information sufficient to form a belief about
7 the truth of the allegations in Paragraph 69.

8 70. The Secretary lacks knowledge or information sufficient to form a belief about
9 the truth of the allegations in Paragraph 70.

10 71. The Secretary lacks knowledge or information sufficient to form a belief about
11 the truth of the allegations in Paragraph 71.

12 72. Responding to Paragraph 72 of the SAC, the Secretary admits that Plaintiffs
13 quote a portion of a statement attributed to Rep. Jake Hoffman in the cited article, and lacks
14 knowledge or information sufficient to form a belief about the truth of the remaining
15 allegations in Paragraph 72.

16 73. The Secretary lacks knowledge or information sufficient to form a belief about
17 the truth of the allegations in Paragraph 73.

18 74. The Secretary lacks knowledge or information sufficient to form a belief about
19 the truth of the allegations in Paragraph 74.

20 75. The Secretary lacks knowledge or information sufficient to form a belief about
21 the truth of the allegations in Paragraph 75.

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1 **CLAIMS FOR RELIEF**

2 **COUNT I**

3 **Unjustifiable Burden on the Right to Vote**
4 **U.S. Const. Amend. I, XIV, 42 U.S.C. § 1983**
5 **(As to all Defendants)**

6 76. The Secretary incorporates by reference all preceding paragraphs as if fully set
7 forth herein.

8 77. Responding to Paragraph 77 of the SAC, the Secretary admits that Plaintiffs
9 generally describe the test set forth in *Burdick v. Takushi*, 504 U.S. 428, 434 (1992) and
10 *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983).

11 78. Responding to Paragraph 78 of the SAC, the Secretary admits that Plaintiffs
12 quote portions of *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 191 (2008).

13 79. The Secretary lacks knowledge or information sufficient to form a belief about
14 the truth of the allegations in Paragraph 79.

15 80. The Secretary lacks knowledge or information sufficient to form a belief about
16 the truth of the allegations in Paragraph 80.

17 **COUNT II**

18 **Denial of Procedural Due Process**
19 **U.S. Const. Amend. XIV, 42 U.S.C. § 1983**
20 **(As to all Defendants)**

21 81. The Secretary incorporates by reference all preceding paragraphs as if fully set
22 forth herein.

23 82. Responding to Paragraph 82 of the SAC, the Secretary admits that Plaintiffs
24 generally describe the procedural due process test set forth in *Ariz. Democratic Party v. Hobbs*,
25 18 F.4th 1179, 1195 (9th Cir. 2021).

26 83. Responding to Paragraph 83 of the SAC, the Secretary admits that the right to
vote is a fundamental constitutional right and that Plaintiffs quote various cases. The Secretary
lacks knowledge or information sufficient to form a belief about the truth of the remaining

1 allegations in Paragraph 83.

2 84. The Secretary lacks knowledge or information sufficient to form a belief about
3 the truth of the allegations in Paragraph 84.

4 85. The Secretary lacks knowledge or information sufficient to form a belief about
5 the truth of the allegations in Paragraph 85.

6 **COUNT III**
7 **Disparate Treatment in Violation of the Right to Equal Protection**
8 **U.S. Const. Amend. XIV, 42 U.S.C. § 1983**
9 **(As to all Defendants)**

10 86. The Secretary incorporates by reference all preceding paragraphs as if fully set
11 forth herein.

12 87. Responding to Paragraph 87 of the SAC, the Secretary admits that Plaintiffs
13 quote a portion of the Equal Protection Clause of the Fourteenth Amendment.

14 88. Responding to Paragraph 88 of the SAC, the Secretary admits that Plaintiffs
15 quote portions of *City of Cleburne v. Cleburn Living Ctr.*, 473 U.S. 432, 439 (1985) and *Bush*
16 *v. Gore*, 531 U.S. 98, 104-05 (2000), and generally describe the test set forth in *Dudum v.*
17 *Arntz*, 640 F.3d 1098, 1106 n.15 (9th Cir. 2011).

18 89. The Secretary lacks knowledge or information sufficient to form a belief about
19 the truth of the allegations in Paragraph 89.

20 90. The Secretary lacks knowledge or information sufficient to form a belief about
21 the truth of the allegations in Paragraph 90.

22 91. The Secretary lacks knowledge or information sufficient to form a belief about
23 the truth of the allegations in Paragraph 91.

24 92. The Secretary lacks knowledge or information sufficient to form a belief about
25 the truth of the allegations in Paragraph 92.

26

COUNT IV

National Voter Registration Act of 1993

52 U.S.C. §§ 20505, 20507, 20508, 20510

(As to Defendants Hobbs and the County Recorders)

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4 93. The Secretary incorporates by reference all preceding paragraphs as if fully set
5 forth herein.

6 94. Responding to Paragraph 94 of the SAC, the Secretary admits that Plaintiffs
7 generally describe portions of the NVRA.

8 95. Responding to Paragraph 95 of the SAC, the Secretary admits that Plaintiffs
9 quote a portion of the NVRA.

10 96. Responding to Paragraph 96 of the SAC, the Secretary admits that, in her view
11 as the Chief Election Officer for the State of Arizona, certain provisions of H.B. 2492 conflict
12 with the NVRA, including by prohibiting county election officials from registering otherwise
13 eligible voters to vote in federal elections using the Federal Form unless they provide
14 documentary proof of residence and documentary proof of citizenship. The Secretary lacks
15 knowledge or information sufficient to form a belief about the truth of the remaining
16 allegations in Paragraph 96.

17 97. Responding to Paragraph 97 of the SAC, the Secretary admits that, in her view
18 as the Chief Election Officer for the State of Arizona, certain provisions of H.B. 2492 conflict
19 with the NVRA, including by prohibiting voters who register with the Federal Form and do
20 not provide proof of citizenship from voting in presidential elections. The Secretary further
21 admits that Plaintiffs quote a portion of *Inter Tribal Council of Arizona*, 570 U.S. at 15. The
22 Secretary lacks knowledge or information sufficient to form a belief about the truth of the
23 remaining allegations in Paragraph 97.

24 98. Responding to Paragraph 98 of the SAC, the Secretary admits that Plaintiffs
25 generally describe Section 20510(b) of the NVRA. The Secretary lacks knowledge or
26 information sufficient to form a belief about the truth of the allegations in Paragraph 98.

1 99. Responding to Paragraph 99 of the SAC, the Secretary admits that Plaintiffs sent
2 the Secretary notice of alleged violations of the NVRA on April 7, 2022, and Exhibit A to the
3 SAC contains the notice provided to the Secretary and all correspondence between the parties
4 thereafter.

5
6 **COUNT V**
7 **Materiality Provision of the Civil Rights Act of 1964**
8 **52 U.S.C. § 10101(a)(2)(B)**
9 **(As to all Defendants)**

10 100. The Secretary incorporates by reference all preceding paragraphs as if fully set
11 forth herein.

12 101. Responding to Paragraph 101 of the SAC, the Secretary admits that Plaintiffs
13 generally describe portions of the Civil Rights Act of 1964 and qualifications for eligibility to
14 vote under Arizona law.

15 102. Responding to Paragraph 102 of the SAC, the Secretary admits that when a voter
16 registration application is accompanied by documentary proof of citizenship or the county
17 recorder is able to acquire proof of citizenship for the applicant from Arizona Department of
18 Transportation (ADOT) records, whether the applicant fails to mark the “yes” box next to the
19 citizenship question “is not material to Arizona determining whether they qualify to vote under
20 State law.” Therefore, the Secretary admits that, in her view as the Chief Election Officer for
21 the State of Arizona, H.B. 2492 conflicts with the Materiality Provision in 52 U.S.C. §
22 10101(a)(2)(B) to the extent that it requires rejection of a voter registration application if the
23 applicant does not mark the “yes” box next to the citizenship question even where election
24 officials already have adequate evidence of the applicant’s citizenship.

25 103. The Secretary admits the allegations in Paragraph 103.

26 104. The Secretary lacks knowledge or information sufficient to form a belief about
the truth of the allegations in Paragraph 104.

105. The Secretary lacks knowledge or information sufficient to form a belief about

1 the truth of the allegations in Paragraph 105.

2 106. The Secretary lacks knowledge or information sufficient to form a belief about
3 the truth of the allegations in Paragraph 106.

4 107. The Secretary denies each and every allegation in the SAC that is not specifically
5 admitted herein, including (i) any implied allegations, inferences, or characterizations not
6 specifically admitted, and (ii) any and all allegations stated or implied in unnumbered
7 paragraphs, footnotes, and headings.

8 **PRAYER FOR RELIEF**

9 108. Responding to Plaintiffs' prayer for relief, the Secretary states that, other than
10 providing her view on certain provisions as Arizona's Chief Election Officer, she takes no
11 position regarding the ultimate merits of Plaintiffs' claims against the challenged laws and
12 Plaintiffs' request for substantive relief in the form of a declaratory judgment and a permanent
13 injunction. The Secretary denies that Plaintiffs should be entitled to an award of their costs,
14 expenses, and reasonable attorneys' fees as against her.

15 Respectfully submitted this 16th day of September, 2022.

16 **COPPERSMITH BROCKELMAN PLC**

17 By /s/ D. Andrew Gaona _____

18 D. Andrew Gaona
19 Kristen Yost

20 **STATES UNITED DEMOCRACY CENTER**

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22 Christine Bass *

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24 *Attorney for Defendant Arizona Secretary of
25 State Katie Hobbs*