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10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE DISTRICT OF ARIZONA**

13 Mi Familia Vota, et al.,

14 Plaintiffs,

15 v.

16 Adrian Fontes, et al.,

17 Defendants.

18
19 Associated Consolidated Cases
20
21

No. 2:22-cv-509 (SRB) (Lead Case)
No. 2:22-cv-1124 (SRB) (Consolidated)

Motion for Indicative Ruling on
Motion for Relief from Final Judgment

22 Pursuant to Federal Rule of Civil Procedure 62.1, the United States respectfully
moves for an indicative ruling on a motion for relief from final judgment under Rule
60(b)(5) or (b)(6) and for voluntary dismissal under Rule 41(a)(2). An indicative ruling
is necessary when this Court lacks authority to afford the requested relief “because of an

1 appeal that has been docketed and is pending.” Fed. R. Civ. P. 62.1(a); *see also Williams*
 2 *v. Woodford*, 384 F.3d 567, 586 (9th Cir. 2004) (“To seek Rule 60(b) relief during the
 3 pendency of an appeal, the proper procedure is to ask the district court whether it wishes
 4 to entertain the motion, or to grant it, and then move this court, if appropriate, for remand
 5 of the case.” (internal quotation marks and citation omitted)). The Ninth Circuit
 6 presently maintains jurisdiction over this consolidated litigation. *See Mi Familia Vota v.*
 7 *Fontes*, 129 F.4th 691 (9th Cir. Feb. 25, 2025); Fed. R. App. P. 40(d)(1)(A) (45-day
 8 period to file petition for rehearing en banc when United States is a party); Fed. R. App.
 9 P. 41(b) (delaying issuance of mandate until petition deadline passes).

10 The United States no longer seeks to press its claims in this case. Therefore, the
 11 United States seeks complete relief from final judgment in *United States v. Arizona*, No.
 12 2:22-cv-1124 (D. Ariz.), and—once the judgement has been vacated with respect to
 13 *United States v. Arizona*—voluntary dismissal of the United States’ claims. Relief from
 14 judgment would be timely and equitable under Federal Rule of Civil Procedure Rule
 15 60(b)(5) and (b)(6). *See Am. Games, Inc. v. Trade Prods., Inc.*, 142 F.3d 1164, 1167-70
 16 (9th Cir. 1998) (permitting relief from judgment based on district court’s “equitable
 17 balancing”); *see also, e.g., Henson v. Fidelity Nat’l Fin., Inc.*, 943 F.3d 434, 443-44 (9th
 18 Cir. 2019) (recognizing that Rule 60(b)(6) “gives the district court power to vacate
 19 judgments whenever such action is appropriate to accomplish justice” (internal quotation
 20 marks and citation omitted)). In turn, voluntary dismissal is within this Court’s discretion
 21 and appropriate under the circumstances. *See Kamal v. Eden Creamery, LLC*, 88 F.4th
 22 1268, 1286-87 (9th Cir. 2023); *see also, e.g., Order Dismissing the United States’*

1 Claims, *LULAC v. Abbott*, No. 3:21-cv-259 (W.D. Tex. Mar. 6, 2025) (three-judge court),
 2 ECF No. 872.

3 In light of ongoing proceedings in the Court of Appeals, the United States
 4 respectfully requests an indicative ruling under Rule 62.1 as to whether the Court would
 5 grant a motion for relief from judgment on its claims under Rule 60(b)(5) or (6) and for
 6 voluntary dismissal under Rule 41(a)(2). Pursuant to Rule 62.1(b), the United States will
 7 promptly notify the circuit clerk under Federal Rule of Appellate Procedure 12.1(a) if this
 8 Court states that it would grant the motion or that the motion raises a substantial issue. In
 9 conjunction with such notification, the United States will seek a limited remand,
 10 recognizing that the Court of Appeals would otherwise retain jurisdiction. *See* Fed. R.
 11 App. P. 12.1(b). Private Plaintiffs brought claims challenging the same provisions of HB
 12 2492 under the same causes of action. *Compare* Compl. ¶¶ 62-71, *United States v.*
 13 *Arizona*, No. 2:22-cv-1124 (D. Ariz. July 5, 2022), ECF No. 1, *with* LULAC Am. Compl.
 14 ¶¶ 351-362, ECF No. 67, *and* MFV 2d Am. Compl. ¶¶ 93-106, ECF No. 65. Thus, the
 15 requested relief would not otherwise impact final judgment entered in the consolidated
 16 litigation. *See* Final Judgment, ECF No. 720 (listing cases).¹

17 The United States attempted to meet and confer with all counsel prior to filing the
 18 instant motion. The State of Arizona and the RNC and Legislative Intervenors consent to
 19 the requested relief. The Poder Latinx Plaintiffs oppose Rule 60(b) relief and take no
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21 ¹ Vacatur of the final judgment in *United States v. Arizona* may be accomplished merely
 22 by striking “*United States v. Arizona*, No. 2:22-cv-01124-SRB (D. Ariz. July 5, 2022);”
 on page 1, lines 19-20 of the Final Judgment.

1 position on Rule 41(a)(2) relief. The MFV Plaintiffs, LULAC Plaintiffs, Democratic
2 Party Plaintiffs, and Arizona AANHPI for Equity Plaintiffs expressly reserve their
3 positions, and Secretary Fontes takes no position. The remaining parties have not
4 articulated a position. A proposed order is attached hereto.

5 Date: April 8, 2025

6 Respectfully submitted,

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10 /s/ Daniel J. Freeman

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CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of this filing to counsel of record.

/s/ Daniel J. Freeman

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