

1 Mark Brnovich
Attorney General

2 Linley Wilson (027040)
3 Kara Karlson (029407)
4 Dustin Romney (034728)
2005 North Central Avenue
5 Phoenix, AZ 85004-1592
6 Telephone (602) 542-4951
7 Facsimile (602) 542-4385
8 kara.karlson@azag.gov
linley.wilson@azag.gov
adminlaw@azag.gov

9 Mary R. O’Grady (011434)
10 Emma J. Cone-Roddy (034285)
OSBORN MALEDON, P.A.
11 2929 North Central Avenue, Suite 2100
Phoenix, AZ 85012-2793
12 (602)640-9000
mogrady@omlaw.com
13 econe-rodde@omlaw.com

14 *Attorneys for Defendant*
Arizona Secretary of State Katie Hobbs

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

18 Voto Latino, Inc., *et al*,

19 Plaintiffs,

20 v.

21 Katie Hobbs, in her official capacity as
22 Arizona Secretary of State,

23 Defendant.
24

No: 2:19-cv-05685-DWL

**NOTICE OF WITHDRAWAL AND RE-
FILING OF ARIZONA SECRETARY
OF STATE’S REPLY IN SUPPORT OF
MOTION TO DISMISS PLAINTIFFS’
SECOND AMENDED COMPLAINT**

25 Arizona Secretary of State hereby files this notice of withdrawal and re-filing of
26 the Secretary’s reply in support of motion to dismiss Plaintiffs’ second amended
27 complaint. The reply filed at 2:41 p.m. today was formatted incorrectly; the Secretary is
28

1 filing simultaneously with this notice the reply that is formatted correctly. Undersigned
2 counsel apologizes to the Court and opposing counsel for this mistake.

3 RESPECTFULLY SUBMITTED this 27th day of April, 2020.

4
5 MARK BRNOVICH
6 ATTORNEY GENERAL

7 /s/ Linley Wilson
8 Linley Wilson (027040)
9 Kara Karlson (029407)
10 Dustin Romney (034728)
11 2005 North Central Avenue
12 Phoenix, AZ 85004-1592
13 (602) 542-4951

14 OSBORN MALEDON, PA

15 Mary R. O'Grady (011434)
16 Emma J. Cone-Roddy (034285)
17 OSBORN MALEDON, P.A.
18 2929 North Central Avenue, Suite 2100
19 Phoenix, Arizona 85012-2793
20 (602) 640-9000

21 *Attorneys for Defendant Arizona*
22 *Secretary of State Katie Hobbs*
23
24
25
26
27
28

CERTIFICATE OF SERVICE

The foregoing was e-filed with the Clerk of the Federal Court for the District of Arizona using the CM/ECF System on April 27, 2020.

Copy emailed this same day to:

Alexis E. Danneman
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
adanneman@perkinscoie.com

Amanda R. Callais
Christina A. Ford
John M. Devaney
K'Shaani O. Smith
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 600
Washington, D.C. 20005-3960
acallais@perkinscoie.com
christinaford@perkinscoie.com
jdevaney@perkinscoie.com
kshaanismith@perkinscoie.com

/s/ Susan Peterson

1 Mark Brnovich
Attorney General

2 Linley Wilson (027040)
3 Kara Karlson (029407)
4 Dustin Romney (034728)
2005 North Central Avenue
5 Phoenix, AZ 85004-1592
6 Telephone (602) 542-4951
7 Facsimile (602) 542-4385
8 kara.karlson@azag.gov
linley.wilson@azag.gov
adminlaw@azag.gov

9 Mary R. O’Grady (011434)
10 Emma J. Cone-Roddy (034285)
OSBORN MALEDON, P.A.
11 2929 North Central Avenue, Suite 2100
Phoenix, AZ 85012-2793
12 (602)640-9000
mogradym@omlaw.com
econe-rodde@omlaw.com

13 *Attorneys for Defendant*
14 *Arizona Secretary of State Katie Hobbs*

15 **UNITED STATES DISTRICT COURT**
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20 v.

21 Katie Hobbs, in her official capacity as
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No: 2:19-cv-05685-DWL

**ARIZONA SECRETARY OF STATE’S
REPLY IN SUPPORT OF MOTION TO
DISMISS PLAINTIFFS’ SECOND
AMENDED COMPLAINT**

25 The Arizona law that Plaintiffs allege is unconstitutional—A.R.S. § 16–548(A)—
26 has existed for 23 years. *See* 1997 Ariz. Legis. Serv. 2nd Spec. Sess. Ch. 5 (S.B. 1003).
27 This statute plainly and simply requires ballots to be “received by the county recorder or
28 other officer in charge of elections or deposited at any polling place in the county no later

1 than 7:00 p.m. on election day.” A.R.S. § 16–548(A) (“Election Day Deadline”).
2 Plaintiffs do not contest that the State must impose a deadline for receiving ballots; they
3 simply prefer a later deadline that would require elections officials to accept any ballots
4 that are postmarked and received up to, “at a minimum, five business days” after an
5 election. (Doc. 21 at 25.) In support of their claim that the Election Day Deadline
6 imposes an undue burden on the right to vote and amounts to a denial of procedural due
7 process,¹ Plaintiffs note that in 2018, “more than 3,000 ballots” were rejected as late.
8 (*Id.* at ¶ 2.) But this number represents *less than 1%* of all ballots cast in that election
9 (*see id.* at ¶ 23 [noting that “over 1.9 million voters voted by mail” in the 2018 election]).
10 It is undisputed that over 99% of all ballots in Arizona arrive by Election Day to be
11 counted. (*See* Doc. 30 at 4.)

12 As discussed in the Secretary’s motion to dismiss, the organizational plaintiffs—
13 Voto Latino and Priorities USA—lack standing to challenge the Election Day Deadline,
14 under either an associational standing or organizational standing theory. (*See* Doc. 30 at
15 4–7.) Plaintiffs defend only an organizational standing theory (Doc. 36 at 10–12 & n.1
16 [disavowing any claim of associational standing]), but their arguments do not
17 demonstrate a frustration of their missions or a diversion of their resources in mitigating
18 the alleged effects of the Election Day Deadline. Indeed, the organizational plaintiffs
19 would still educate voters about any ballot deadline—even if it is the one Plaintiffs
20 propose—because voter education is core to their missions. (*See* Doc. 21 at ¶ 17 [Voto
21 Latino “educates voters, among other things, on when to cast their mail ballots”], ¶ 18
22 [Priorities USA “works to help educate, mobilize, and turn out voters”].)

23 Plaintiffs attempt to paint this lawsuit as one that involves the disenfranchisement
24 of Hispanic, Latino, Native American, and rural voters. (*See* Doc. 36 at 11.) Not so.
25 The Election Day Deadline applies to *all* voters, and it is well-established that generally-
26 applicable election regulations do not violate the Constitution simply because they may
27

28 ¹ Plaintiffs mistakenly assert that their Second Amended Complaint alleges an Equal
Protection violation. (*Compare* Doc. 21 *with* Doc. 36 at 6.)

1 incidentally impact some voters more than others. *See Crawford v. Marion Cty. Election*
2 *Bd.*, 553 U.S. 181, 198-200 (2008) (plurality op.) (upholding identification requirement
3 to vote even though some voters would have a more difficult time managing “life’s
4 vagaries” to obtain the required identification or go through a special process to cast a
5 provisional ballot); *McDonald v. Bd. of Election Comm’rs of Chicago*, 394 U.S. 802,
6 810-11 (1969) (“Constitutional safeguards are not . . . offended simply because some
7 [voters] . . . find voting more convenient than appellants.”). Thus, even taking Plaintiffs’
8 allegations as true, their claims fail as a matter of law. The motion to dismiss should be
9 granted.

10 ARGUMENT

11 I. Organizational Plaintiffs Lack Standing To Challenge The Election Day 12 Deadline

13 As noted above, Plaintiffs Voto Latino and Priorities USA lack standing to
14 challenge the Election Day Deadline under an organizational standing theory, which
15 requires these Plaintiffs to show: “(1) frustration of [their] organizational mission[s]; and
16 (2) diversion of [their] resources” to mitigate the effects of the challenged law. *Smith v.*
17 *Pac. Props. and Dev. Corp.*, 358 F.3d 1097, 1105 (9th Cir. 2004). Plaintiffs must show
18 that they would have “suffered some other injury” if they had not “diverted resources to
19 counteracting the problem.” *La Asociacion de Trabajadores de Lake Forest v. Lake*
20 *Forest*, 624 F.3d 1083, 1088 (9th Cir. 2010).

21 Here, Voto Latino repeats its vague contention that it will have to “expend and
22 divert additional funds and resources that it would otherwise spend on its efforts to
23 accomplish its mission in other states or its own registration efforts in Arizona” as a
24 result of the Election Day Deadline. (Doc. 36 at 10 [quoting Doc. 21 at ¶ 17].)
25 Likewise, Priorities USA asserts that the Election Day Deadline frustrates its mission by
26 “burden[ing] and disenfranchis[ing] the voters Priorities supports through its work and
27 contributions in Arizona.” (Doc. 36 at 11 [quoting Doc. 21 at ¶ 18].) These assertions
28 are too vague and conclusory to show that Voto Latino and Priorities USA have

1 organizational standing. Plaintiffs cite *Nat'l Council of La Raza v. Cegavske*, 800 F.3d
2 1032, 1040 (9th Cir. 2015), for the proposition that organizational standing can be
3 “broadly alleged” (Doc. 36 at 11), but in *Cegavske*, the allegations were much more
4 concrete and specific. In *Cegavske*, the plaintiffs alleged that they would spend “fewer
5 resources on voter registration drives in communities where DHHS clients should be
6 offered voter registration opportunities at DHHS offices” and that “[b]ut for defendant’s
7 violations[,]” the plaintiffs “would be able to allocate substantial resources to other
8 activities central to [their] mission[s].” 800 F.3d at 1040. Accordingly, the Ninth Circuit
9 concluded in *Cegavske* that the complaint “clearly allege[d] that Plaintiffs changed their
10 behavior as a result of [the] alleged violation” of the law. *Id.* The same cannot be said
11 here. Neither Voto Latino nor Priorities USA have alleged any resources they would
12 have allocated to other activities “but for” the Election Day Deadline.

13 Plaintiffs’ reliance on *El Rescate Legal Servs., Inc. v. Exec. Office of Immigration*
14 *Review*, 959 F.2d 742, 748 (9th Cir. 1991) (Doc. 36 at 12), is also misplaced. There, the
15 Ninth Circuit relied on *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982),
16 where the Supreme Court held that where the defendants’ “practices have perceptibly
17 impaired [the organizational plaintiff’s] ability to provide [the services it was formed to
18 provide] ... there can be no question that the organization suffered injury in fact.” *See El*
19 *Rescate*, 959 F.2d at 748 (quoting *Havens*, 455 U.S. at 379). In *El Rescate*, the
20 organizations “were established to assist Central American refugee clients, most of
21 whom are unable to understand English, in their efforts to obtain asylum and withholding
22 of deportation in immigration court proceedings.” 959 F.2d at 748. The defendant’s
23 policy at issue was “not to interpret many portions of immigration court hearings,” *id.* at
24 745, and thus, the Ninth Circuit held that the policy frustrated the goals of the
25 organizations and required them to “expend resources in representing clients they
26 otherwise would spend in other ways[,]” which was “enough to establish standing.” *Id.*
27 Here, Election Day Deadline has not impaired Voto Latino or Priorities USA from
28 providing any services or expending resources they would not otherwise provide.

1 Simply put, Voto Latino and Priorities USA have not alleged a frustration of their
2 organizational missions or diversion of resources as a result of the Election Day
3 Deadline. And even though the Secretary has not challenged the voter’s standing to
4 bring this lawsuit, this Court should nonetheless dismiss the organizational Plaintiffs for
5 lack of standing. *See We Are Am./Somos Am., Coal. of Ariz. v. Maricopa Cty. Bd. of*
6 *Supervisors*, 809 F. Supp. 2d 1084, 1091 (D. Ariz. 2011) (stating that the general rule
7 permitting appellate courts to determine whether one plaintiff has standing “does not
8 strictly prohibit a district court, in a multiple plaintiff case ... from considering the
9 standing of the other plaintiffs even if it finds that one plaintiff has standing”). Voto
10 Latino and Priorities USA should not be permitted to “effectively piggyback[]” on the
11 voter’s claims here. *See id.* at 1092 (discussing the “compelling reasons for addressing
12 the standing of all of the remaining plaintiffs”). Moreover, Article III standing “is
13 relevant not only with respect to who may access federal courts initially, but it is also
14 relevant to who may obtain a judgment.” *Id.* “Therefore, before deciding the precise
15 nature of [any] relief to award herein, necessarily, this court would have to decide the
16 issue of the organizations’ standing.” *Id.*

17 **II. Plaintiffs’ Claims Fail As A Matter of Law**

18 Plaintiffs insist that their claims are fact-intensive and require a developed factual
19 record. (Doc. 36 at 13.) But their claims should be dismissed because even taking their
20 allegations as true, the Election Day Deadline is constitutional.

21 **A. The Election Day Deadline Is Not An Undue Burden On The Right To** 22 **Vote**

23 Casting a ballot by the Election Day deadline is not burdensome, and the deadline
24 is easily justified by the State’s interests without factual development. The federal
25 Constitution authorizes State legislatures to prescribe the “Times, Places and Manner of
26 holding Elections” US Const. art. I, § 4, cl. 1. States “retain broad authority to
27 structure and regulate elections.” *Short v. Brown*, 893 F.3d 671, 676 (9th Cir. 2018). As
28 noted in the Secretary’s motion to dismiss (Doc. 30 at 7–8), constitutional challenges to

1 election regulations are evaluated under the two-part *Anderson/Burdick* framework. *See*
2 *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983); *Burdick v. Takushi*, 504 U.S. 428,
3 434 (1992). Under this framework, courts “must first consider the character and
4 magnitude of the asserted injury to the rights . . . that the plaintiff seeks to vindicate.”
5 *Short*, 893 F.3d at 676 (*quoting Anderson*, 460 U.S. at 789). If the asserted injury
6 evidences no burden, there is “no reason to call on the State to justify its practice.” *Ariz.*
7 *Libertarian Party v. Reagan*, 798 F.3d 723, 732 n.12 (9th Cir. 2015). Minimal burdens
8 from generally-applicable, even-handed regulations are justified by a State’s important
9 regulatory interests. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997).

10 Here, contrary to Plaintiffs’ contention that the Election Day Deadline “poses
11 severe burdens on the right to vote” (Doc. 36 at 15), requiring a ballot to be received by
12 elections officials by 7:00 p.m. on Election Day is, at most, minimal. *See Friedman v.*
13 *Snipes*, 345 F. Supp.2d 1356, 1375 (S.D. Fla. 2004) (rejecting the argument that a ballot
14 receipt deadline is subject to strict scrutiny) (citing *Burdick*, 504 U.S. at 434); *Dudum v.*
15 *Arntz*, 640 F.3d 1098, 1106 (9th Cir. 2011) (“We have repeatedly upheld as ‘not severe’
16 restrictions that are generally applicable, even-handed, politically neutral, and . . . protect
17 the reliability and integrity of the election process.”). As the Secretary discussed in her
18 motion to dismiss, the State’s interests in the Election Day deadline far outweigh the
19 minimal burden that Plaintiffs allege. (Doc. 30 at 13.) The State’s interests include
20 preventing voter confusion, preserving election integrity, promoting voter confidence,
21 and establishing rules for orderly election administration. *See Timmons*, 520 U.S. at
22 364–65; *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (“Confidence in the integrity of our
23 electoral processes is essential to the function of our participatory democracy.”);
24 *Crawford*, 553 U.S. at 192-97 (recognizing state’s interest in promoting voter confidence
25 and improving and modernizing election administration). States have a substantial
26 interest in regulating their elections through various deadlines, like the deadline
27 challenged here, to ensure that “some sort of order, rather than chaos, is to accompany
28 the democratic processes.” *Burdick*, 504 U.S. at 433.

1 Indeed, there is no constitutional right to early voting, *see McDonald*, 394 U.S. at
2 807–10, and the challenged law here “merely imposes a deadline”—nothing more. *See*
3 *Friedman*, 345 F. Supp.2d at 1376 (reasoning that Florida’s ballot-receipt-deadline
4 statute “does not deny the right to vote to a class of persons” and “merely imposes a
5 deadline by which Plaintiffs must return their absentee ballots”); *see also Mays v.*
6 *LaRose*, 951 F.3d 775, 791-92 (6th Cir. 2020) (“Ohio’s generally applicable deadline for
7 requesting absentee ballots is constitutional because it imposes only a minimal burden on
8 Plaintiffs’ right to vote” and the state’s interests “justify that burden”) (citing *McDonald*,
9 394 U.S. at 807–09). Accordingly, Arizona’s Election Day Deadline for receiving
10 ballots is constitutional, even assuming some voters may need to account for slower mail
11 service if they opt to send ballots back to elections officials through the United States
12 Postal Service. *See Friedman*, 345 F. Supp. 2d at 1377 (“Florida’s 7 p.m. deadline of
13 returning ballots on election day does not disenfranchise a class of voters.”).

14 Plaintiffs suggest that the Ninth Circuit held in *Soltysik v. Padilla*, 910 F.3d 438
15 (9th Cir. 2018), that it is never appropriate to dismiss a challenge to an election law
16 under Rule 12(b)(6). (Doc. 36 at 13.) *Soltysik* made no such holding. Rather, when a
17 plaintiff “adequately plead[s] ... more than a minimal burden, ... further factual
18 development is necessary.” *Soltysik*, 910 F.3d at 449. Because the burden is minimal
19 here, dismissal is appropriate. *See Storer v. Brown*, 415 U.S. 724, 728 (1974) (affirming
20 dismissal of challenges to election law); *Rubin v. City of Santa Monica*, 308 F.3d 1008,
21 1012–13, 1019–20 (9th Cir. 2002) (same). Plaintiffs have not adequately pleaded more
22 than a minimal burden, at best.

23 Plaintiffs also cite *Pub. Integrity All., Inc. v. City of Tucson*, 836 F.3d 1019, 1024
24 n.2 (9th Cir. 2016), for the proposition that courts should consider “the effects of the
25 restriction on those voters who are actually impacted by the law” to assess “the severity
26 of the burden” (Doc. 36 at 16), but *Pub. Integrity All., Inc.*, does not help them. There,
27 the Ninth Circuit noted that “[r]estrictions that block access to the ballot or impede
28 individual voters or subgroups of voters in exercising their right to vote receive different

1 treatment from rules establishing an overall, generally applicable electoral system.” *Pub.*
2 *Integrity All., Inc.*, 836 F.3d at 1024 n.2. The law at issue here is a “generally
3 applicable” deadline that applies to *all* early ballots. *See* A.R.S. § 16–548(A). It does
4 not block access to the ballot or impede individual voters or groups in exercising their
5 right to vote.

6 **B. The Election Day Deadline Does Not Implicate Procedural Due**
7 **Process**

8 Plaintiffs’ claim that the Election Day Deadline violates voters’ right to
9 procedural due process under the Fourteenth Amendment (Doc. 36 at 18–21) also fails as
10 a matter of law. “The requirements of procedural due process apply only to the
11 deprivation of interests encompassed by the Fourteenth Amendment’s protection of
12 liberty and property.” *Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 569
13 (1972). The Election Day Deadline does not deprive anyone of liberty or property.

14 Plaintiffs’ procedural due process claim is governed by the *Anderson/Burdick*
15 standard. Doc. 30 at 13–15. *See Dudum*, 640 F.3d at 1106 n.15 (stating that the
16 Supreme Court has addressed First Amendment, Due Process, and Equal Protection
17 claims “collectively using a single analytical framework”) (citing *Anderson*, 460 U.S. at
18 787 n.7); *see also Lemons v. Bradbury*, 538 F.3d 1098, 1104–05 (9th Cir. 2008)
19 (rejecting procedural due process challenge to procedures for verifying referendum
20 petition signatures under the *Anderson/Burdick* test, and reasoning State’s regulatory
21 interests “are sufficient to justify the state’s ‘reasonable, nondiscriminatory
22 restrictions’”) (quoting *Burdick*, 504 U.S. at 434).

23 As the Secretary noted in the motion to dismiss (Doc. 30 at 15), Arizona law
24 requires *every* ballot to be accompanied by written instructions making clear to voters
25 that ballots must be delivered to the officer in charge of elections by 7:00 p.m. on
26 Election Day. A.R.S. § 16–547(C). That Arizona law provides this pre-election notice
27 about the deadline to voters refutes Plaintiffs’ allegation that the Election Day Deadline
28 is not a “reliable” or “fair” way of administering voting by mail. (Doc. 21 at ¶ 73.)

1 Critically, Plaintiffs do not acknowledge A.R.S. § 16–547(C), let alone respond to
2 the Secretary’s argument. (See Doc. 36 at 18–21.) They instead assert that the Election
3 Day Deadline “disenfranchises voters each election because of the absence of post-
4 deprivation notice to voters that their ballot was not counted.” (Doc. 36 at 20.) But
5 voters indisputably have *pre*-deprivation notice as a matter of law under A.R.S. § 16–
6 547(C) (and post-deprivation notice, as discussed below). The Election Day Deadline is
7 not a secret; to the contrary, voters receive notice of the deadline with *every* ballot they
8 receive in advance of *any* election in which they decide to vote early.

9 Plaintiffs argue that their procedural due process claim is not governed by the
10 *Anderson/Burdick* test, and that the claim should instead be evaluated under *Mathews v.*
11 *Eldridge*, 424 U.S. 319, 335 (1976). (Doc. 36 at 18–21.) But as discussed above, the
12 Ninth Circuit has applied the *Anderson/Burdick* test to both substantive and procedural
13 due process claims. See *Dudum*, 640 F.3d at 1106 n.15; *Lemons*, 538 F.3d at 1104–05.
14 Nonetheless, even if Plaintiffs were correct, their claim still fails under *Mathews*, which
15 requires consideration of three factors: (1) “the private interest that will be affected by
16 the official action;” (2) “the risk of an erroneous deprivation of such interest through the
17 procedures used, and the probable value, if any, of additional or substitute procedural
18 safeguards;” and (3) the government’s interest, “including the function involved and the
19 fiscal and administrative burdens that the additional or substitute procedural requirement
20 would entail.” 424 U.S. at 321.

21 A voter has a liberty interest in the fundamental right to vote because, generally
22 speaking, fundamental rights constitute liberty interests under the Due Process Clause.
23 *Burdick*, 504 U.S. at 433. Plaintiffs cite a New Hampshire district court decision,
24 *Saucedo v. Gardner*, 335 F. Supp. 3d 202, 215 (D.N.H. 2018), for their suggestion that
25 “a voter has a sufficient liberty interest” to vote by mail once “the State permits voters to
26 vote absentee.” (Doc. 36 at 20 n.6.) But the Supreme Court has emphasized that “the
27 range of interests protected by procedural due process is not infinite,” *Roth*, 408 U.S. at
28 570, and has rejected the notion that states must extend absentee voting privileges in a

1 way that provides “a more convenient method of exercising the franchise[.]” *McDonald*,
2 394 U.S. at 810–11. Thus, *Mathews*’ first factor does not weigh in Plaintiffs’ favor.

3 Arizona’s law establishing a deadline by which ballots must be received also does
4 not create a risk of erroneous deprivation of any liberty interest under *Mathews*’ second
5 factor. In *Saucedo*, this factor was significant because a voter could comply with all
6 legal requirements to have his/her ballot counted, but untrained election officials could
7 incorrectly declare a mismatched signature. *See* 355 F. Supp. 3d at 217–220 (providing
8 detailed explanation of uncontroverted evidence showing a relatively high risk that
9 untrained lay people would incorrectly find a mismatched signature and reject a ballot
10 for that reason). Here, in contrast, that voters must decide when to mail their ballots to
11 comply with the deadline—of which they have notice under A.R.S. § 16–547(C)—
12 cannot establish a “deprivation” under *Mathews*. Notably, the plaintiffs argued in
13 *Saucedo* that the New Hampshire law at issue violated procedural due process “because
14 it lacks any pre-deprivation process” where voters “receive neither prior notice of, nor an
15 opportunity to cure, a rejection due to a signature mismatch.” 335 F. Supp. 3d at 214.
16 Unlike *Saucedo*, Arizona voters have “pre-deprivation” notice that, “[i]n order to be
17 valid and counted, the ballot and affidavit must be delivered to the office of the county
18 recorder or other officer in charge of elections or may be deposited at any polling place
19 in the county no later than 7:00 p.m. on election day.” A.R.S. § 16–547(C). This notice
20 obviates any need for “post-deprivation notice” that Plaintiffs argue is lacking. (Doc. 36
21 at 20.)

22 Additionally, voters in Arizona have an opportunity to track the status of their
23 early or provisional ballots via the Secretary’s online voter information portal.² Thus, a
24 voter has pre-deprivation notice of the deadline *and* post-deprivation notice of whether

25 ² *See* <https://my.arizona.vote/PortalList.aspx> (last visited Apr. 26, 2020). This Court
26 may take judicial notice of the publicly-available information displayed on the online
27 portal. *See Daniels-Hall v. Nat. Educ. Ass’n*, 629 F.3d 992, 998–99 (9th Cir. 2010)
28 (taking judicial notice of information on websites of school districts in reviewing district
court’s dismissal for failure to state a claim, noting the information “was made publicly
available by government entities” and “neither party disputes the authenticity of the
websites or the accuracy of the information displayed therein”) (citing Fed. R. Evid. 201).

1 his/her ballot was counted. Plaintiffs’ reliance on *Raetzel v. Parks/Bellefont Absentee*
2 *Election Bd.*, 762 F. Supp. 1354, 1358 (D. Ariz. 1990) (*see* Doc. 36 at 20–21), is
3 misplaced because in *Raetzel*, there was an “absence of *any* procedure which furnishes
4 post-deprivation notice to an individual whose absentee ballot has been disallowed[.]”
5 (Emphasis added.) *Mathews*’ second factor does not support Plaintiffs.

6 Third, as discussed above, the State has numerous interests that support the
7 Election Day Deadline—preventing voter confusion, preserving election integrity,
8 promoting voter confidence, and establishing rules for orderly election administration.
9 *See Lemons*, 538 F.3d at 1104 (noting that a state’s interest “in the orderly administration
10 of elections are weighty and undeniable”). The “substitute procedural requirement” that
11 Plaintiffs request here, *see Mathews*, 424 U.S. at 335, would entail additional
12 administrative burdens requiring election officials to count ballots for up to *seven* full
13 days after an election. For example, such a procedure would be burdensome for county
14 boards of supervisors, who must comply with statutory deadlines that are triggered after
15 every primary and general election for canvassing election results. *See* A.R.S. §§ 16–
16 642(A), –645. Thus, the value of Plaintiffs’ substitute procedure “is negligible, and the
17 burden on plaintiffs’ interests from the state’s failure to adopt their proposed procedures
18 is slight at most.” *See Lemons*, 538 F.3d at 1105.

19 Due process requirements are “flexible and cal[l] for such procedural protections
20 as the particular situation demands[.]” *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972).
21 Arizona has extended more than adequate process to voters to ensure that voters’ ballots
22 are fairly counted.

23 Finally, despite Plaintiffs’ discussion of the current COVID-19 public health crisis
24 (Doc. 36 at 7, 15 18), the circumstances surrounding COVID-19 do not affect the legal
25 analysis of the Secretary’s motion to dismiss.

26 **III. Conclusion**

27 The Court should dismiss the complaint in its entirety.

28 ...

1 RESPECTFULLY SUBMITTED this 27th day of April, 2020.

2
3 MARK BRNOVICH
4 ATTORNEY GENERAL

5 /s/ Linley Wilson
6 Linley Wilson (027040)
7 Kara Karlson (029407)
8 Dustin Romney (034728)
9 2005 North Central Avenue
10 Phoenix, AZ 85004-1592
11 (602) 542-4951

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19 *Attorneys for Defendant Arizona*
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21
22
23
24
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27
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Alexis E. Danneman
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
adanneman@perkinscoie.com

Amanda R. Callais
Christina A. Ford
John M. Devaney
K'Shaani O. Smith
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 600
Washington, D.C. 20005-3960
acallais@perkinscoie.com
christinaford@perkinscoie.com
jdevaney@perkinscoie.com
kshaanismith@perkinscoie.com

/s/ Susan Peterson