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15 *Attorneys for Plaintiffs*

16  
17 UNITED STATES DISTRICT COURT  
18 DISTRICT OF ARIZONA

19 Leslie Feldman; Luz Magallanes; Mercedes  
20 Hymes; Julio Morera; Alejandra Ruiz; Cleo  
Ovalle; Marcia Baker; Former Chairman and  
21 First President of the Navajo Nation Peterson  
Zah; Democratic National Committee; DSCC  
22 a.k.a. Democratic Senatorial Campaign  
Committee; Arizona Democratic Party;  
23 Kirkpatrick for U.S. Senate; Hillary for  
America,

24 Plaintiffs,

25 v.

26 Arizona Secretary of State's Office; Michele  
27 Reagan, in her official capacity as Secretary of  
State of Arizona; Maricopa County Board of  
28 Supervisors; Denny Barney, in his official

No. CV-16-01065-PHX-DLR

**AMENDED COMPLAINT**

1 capacity as a member of the Maricopa County  
2 Board of Supervisors; Steve Chucri, in his  
3 official capacity as a member of the Maricopa  
4 County Board of Supervisors; Andy Kunasek,  
5 in his official capacity as a member of the  
6 Maricopa County Board of Supervisors; Clint  
7 Hickman, in his official capacity as a member  
8 of the Maricopa County Board of Supervisors;  
9 Steve Gallardo, in his official capacity as a  
10 member of the Maricopa County Board of  
11 Supervisors; Maricopa County Recorder and  
12 Elections Department; Helen Purcell, in her  
13 official capacity as Maricopa County  
14 Recorder; Karen Osborne, in her official  
15 capacity as Maricopa County Elections  
16 Director; and Mark Brnovich, in his official  
17 capacity as Arizona Attorney General,

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Defendants.

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LESLIE FELDMAN, LUZ MAGALLANES, MERCEDEZ HYMES, JULIO MORERA, ALEJANDRA RUIZ, CLEO OVALLE, MARCIA BAKER, FORMER CHAIRMAN AND FIRST PRESIDENT OF THE NAVAJO NATION PETERSON ZAH, the DEMOCRATIC NATIONAL COMMITTEE, the DSCC a.k.a. DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE, the ARIZONA DEMOCRATIC PARTY, KIRKPATRICK FOR U.S. SENATE, and HILLARY FOR AMERICA (collectively, “Plaintiffs”) for their Complaint against the ARIZONA SECRETARY OF STATE’S OFFICE; MICHELE REAGAN, in her official capacity as the Secretary of State of Arizona; the MARICOPA COUNTY BOARD OF SUPERVISORS; DENNY BARNEY, STEVE CHUCRI, ANDY KUNASEK, CLINT HICKMAN, and STEVE GALLARDO, in their official capacities as members of the Maricopa County Board of Supervisors; the MARICOPA COUNTY RECORDER AND ELECTIONS DEPARTMENT; HELEN PURCELL, in her official capacity as Maricopa County Recorder, KAREN OSBORNE, in her official capacity as Maricopa County Elections Director, and MARK BRNOVICH, in his official capacity as Arizona Attorney General (collectively, “Defendants”) allege as follows:



1           4.       On June 25, 2013, the United States Supreme Court issued its opinion in  
2 *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), in which it invalidated the coverage  
3 formula contained in Section 4 of the Voting Rights Act (used to identify covered  
4 jurisdictions under Section 5), thereby stripping Arizona’s voters of the protection that  
5 Section 5 had provided. *Id.* at 2631. Arizona’s elections officials became free to make  
6 changes to their election laws and procedures without first demonstrating to DOJ or a  
7 federal court that those changes were not meant to, and would not result in, denial or  
8 abridgement of the right to vote of minority voters.

9           5.       In the less than three years that have passed since the Court decided *Shelby*  
10 *County*, voters in general and minority voters in particular have not fared well in Arizona.  
11 Since being removed from the protection of Section 5, Arizona generally—and Maricopa  
12 County specifically—has engaged in “consistent activity that has created a culture of voter  
13 disenfranchisement” and abridged and denied the rights of voters across the State and the  
14 County. *See* Mayor Greg Stanton’s March 23, 2016 Letter to Attorney General Lynch at 2  
15 [hereinafter “Stanton Letter”], *available at* [https://www.phoenix.gov/mayorsite/](https://www.phoenix.gov/mayorsite/Documents/Mayor%20Greg%20Stanton%20Letter%20to%20DOJ.pdf)  
16 [Documents/Mayor%20Greg%20Stanton%20Letter%20to%20DOJ.pdf](https://www.phoenix.gov/mayorsite/Documents/Mayor%20Greg%20Stanton%20Letter%20to%20DOJ.pdf) (last visited, Apr.  
17 13, 2016). These burdens on the right to vote have fallen particularly hard on minority  
18 voters who Maricopa County election officials readily admit to have stopped considering  
19 when enacting changes to their voting practices and procedures.

20           6.       Just weeks ago, Maricopa County made national headlines when, due to its  
21 decision to drastically reduce the number of voting locations for the March 22, 2016  
22 presidential preference election (“PPE”), it forced thousands of voters to wait in lines for  
23 upwards of five hours to cast their votes for their preferred presidential nominee. In many  
24 cases, voters were unable to wait in the arduous lines and were wholly disenfranchised.  
25 The reduction of voting locations was particularly burdensome on Maricopa County’s  
26 Hispanic and African-American communities, many of which had fewer polling locations  
27 than Anglo communities and, in some instances, no voting locations at all.

28           7.       This fiasco was the direct result of Maricopa County elections officials’

1 decision to focus on cutting the costs of the PPE by severely reducing the number of  
2 polling locations, rather than ensuring that there were a sufficient number of polling  
3 locations per eligible voter and that such locations were accessible to minority  
4 communities. In particular, when Defendant Helen Purcell, the Maricopa County  
5 Recorder, was asked if she made any effort to determine how her plan to allocate vote  
6 centers would impact minority populations, she stated that she looked at the County as a  
7 whole and did not pay any attention to “specific areas.”

8         8. Arizona is also arbitrarily and disparately disenfranchising voters at  
9 alarming rates through its provisional balloting process, in which the ballots of some  
10 voters are rejected where they cast their ballot in the right jurisdiction but in a precinct  
11 different than the one to which they are assigned (“out of precinct” voting), while others  
12 are counted so long as they vote in any polling location found within the jurisdiction.  
13 Effectively, this means the ability of Arizona citizens to have their vote counted in such  
14 circumstances depends entirely on the county in which they live. These arbitrary  
15 differences cause voter confusion, which is compounded by the fact that some of the  
16 jurisdictions that accept out-of-precinct ballots in one election (e.g., Maricopa County in  
17 the PPE), may reject them in the next (e.g., Maricopa County in the 2016 general  
18 election). It is therefore not surprising that, in 2014, Arizona ranked fifth in the nation for  
19 the total number of provisional ballots rejected. The main reason that Arizona refused to  
20 count provisional ballots in 2014 was that they were cast in a precinct other than the one  
21 to which the voter was assigned. In Maricopa County alone, over 2,800 ballots were  
22 rejected for this reason. Upon information and belief, the provisional ballots cast and  
23 rejected across the state were disproportionately cast by Hispanic voters.

24         9. Minority voters are further likely to be disenfranchised in future elections in  
25 Arizona as a result of a new law enacted by the Arizona State Legislature in early March  
26 2016, which makes it a felony to turn a signed and sealed ballot into the county registrar  
27 on behalf of another voter. This legislation (referred to hereafter as “H.B. 2023”), was  
28 passed over the protests of Arizona’s Hispanic, Native-American, and African-American

1 voters, all of which have relied heavily on community members, organizers, and friends to  
2 deliver ballots to the registrar's office in past elections, and all of which now are  
3 significantly more likely to have their right to vote abridged or denied in the coming  
4 general election.

5 10. Together, these policies and practices not only result in the arbitrary and  
6 differential treatment of Arizona voters but, moreover, they impose onerous burdens on  
7 Arizona voters generally and Maricopa County voters specifically, as they have the  
8 purpose and effect of burdening, abridging, and/or denying the right to vote of Arizona  
9 citizens, in violation of the Equal Protection Clause of the Fourteenth Amendment, the  
10 First Amendment, Section 2 of the Voting Rights Act, and the laws of the United States.

11 11. Most of these harmful policies and practices are already in place and have  
12 harmed voters in past elections.<sup>1</sup> Unless the Court acts quickly to preliminarily and  
13 permanently enjoin these voting laws, practices, and procedures, Plaintiffs, their members,  
14 constituents, and numerous other qualified Arizona voters will find their right to vote  
15 severely burdened—and in many cases, wholly denied—in November's upcoming general  
16 election.

### 17 **JURISDICTION AND VENUE**

18 12. This Court has jurisdiction to hear Plaintiffs' claims pursuant to 28 U.S.C.  
19 §§ 1331, 1343(a)(3), and 1357, and 42 U.S.C. §§ 1983 and 1988. This Court has  
20 jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

21 13. This Court has personal jurisdiction over Defendants, all of whom are sued  
22 in their official capacities and are either government entities, elected, or appointed  
23 officials in Arizona or Maricopa County. All Defendants work or reside in the State of  
24 Arizona.

25 14. Venue in this district is proper under 28 U.S.C. § 1391(b) because a

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26  
27 <sup>1</sup>H.B. 2023 will take effect on July 20, 2016. Thus, the harm it imposes is  
28 imminent, and will burden the right to vote of Plaintiffs, their members, constituents, and  
numerous other Arizona voters in local and statewide elections as early as November  
2016.

1 substantial part of the events or omissions giving rise to the claim occurred in this judicial  
2 district and in this division.

### 3 PARTIES

4 15. Plaintiff LESLIE FELDMAN is a United States citizen registered to vote in  
5 Maricopa County, Arizona. She is registered as a Democrat and ordinarily votes in person.  
6 On March 22, 2016, Ms. Feldman endured a nearly five-hour wait to vote in the 2016  
7 PPE. She arrived at her vote center, the Church of the Beatitudes, at approximately 3:20  
8 p.m. Upon arriving, she was forced to park half a mile away from the vote center, and  
9 then to walk to the vote center with her three-year-old and twelve-week-old daughters.  
10 Ms. Feldman arrived at the line to vote at approximately 3:40 p.m. She then waited in line  
11 for nearly four hours before even entering the vote center. This experience was made even  
12 more unpleasant and upsetting because the one bathroom at the vote center was  
13 overwhelmed and leaked raw sewage onto the sidewalk and into the adjacent grass. After  
14 nearly four hours of waiting, Ms. Feldman entered the vote center, only to be informed  
15 that the location had run out of Democratic ballots. Ms. Feldman then waited another  
16 twenty-five minutes for Democratic ballots to arrive. She voted at 8:05 p.m., nearly five  
17 hours after arriving at the location. When she left, there were still hundreds of people  
18 remaining in line. While Ms. Feldman was able to cast her vote, she was severely  
19 burdened by Defendants' mismanagement of the election, including specifically their  
20 failure to allocate a sufficient number of polling locations to reasonably accommodate  
21 Maricopa County's voters and their failure to ensure that such locations had an adequate  
22 number of ballots. Her experience voting in the 2016 PPE has reduced her confidence in  
23 Maricopa County and Arizona's election system, and she fears that she will be burdened  
24 by the same elections mismanagement, including in particular inadequate allocation of  
25 polling locations, in the upcoming 2016 general election and beyond.

26 16. Plaintiff LUZ MAGALLANES is a United States citizen registered to vote  
27 in Maricopa County, Arizona. Ms. Magallanes is Hispanic and is registered as a  
28 Democrat. Ms. Magallanes is a school teacher and she regularly votes in person so that

1 she can be sure her vote is counted, and so that she can share her voting experiences with  
2 her students on Election Day. On March 22, 2016, Ms. Magallanes attempted to vote in  
3 the PPE before work at the American Legion at 2240 W. Chandler Boulevard, but was  
4 unable to vote due to the length of the line. After work, Ms. Magallanes returned to her  
5 vote center at approximately 6:00 p.m. and was forced to wait in line for nearly five hours  
6 in order to cast her vote. Ms. Magallanes left the vote center at approximately 10:50 p.m.  
7 While Ms. Magallanes was able to cast her vote, she was severely burdened by  
8 Defendants' mismanagement of the election, including specifically their failure to allocate  
9 a sufficient number of polling locations to reasonably accommodate Maricopa County's  
10 voters. Her experience voting in the 2016 PPE has reduced her confidence in Maricopa  
11 County and Arizona's election system, and she fears that she will be burdened by the  
12 same elections mismanagement, including in particular the inadequate allocation of  
13 polling locations, in the upcoming 2016 general election.

14 17. Plaintiff MERCEDEZ HYMES is a United States citizen registered to vote  
15 in Maricopa County, Arizona. Ms. Hymes is African American and is registered as a  
16 Democrat. She lives in a predominately Hispanic part of Maricopa County. Ms. Hymes  
17 first attempted to vote in the 2016 PPE around 6:00 p.m. at the Bell Recreation Center.  
18 Upon arriving, she saw that the line wrapped around the block, so she drove to the next  
19 closest vote center, the Church of the Advent, in hopes that the line to vote would be  
20 shorter. Upon arriving at the Church of the Advent, Ms. Hymes observed that the line at  
21 that vote center was even longer than the line at Bell Recreation Center. Therefore, she  
22 drove back to the Bell Recreation Center to attempt to vote. Ms. Hymes was unable to  
23 find any available parking at Bell Recreation Center, and was still looking for parking at  
24 7:00 p.m. when the line closed. Realizing she would not be able to vote, Ms. Hymes went  
25 home without casting a ballot. Ms. Hymes was disappointed that she could not vote in the  
26 2016 PPE and is concerned that she will be similarly disenfranchised in the upcoming  
27 2016 general election. Ms. Hymes was not eligible for early voting because she only  
28 recently moved to Maricopa County, and she received her voter registration card the same



1 week as the 2016 PPE. Ms. Hymes was denied her right to vote as a result of Defendants'  
2 mismanagement of the election, including specifically their failure to allocate a sufficient  
3 number of polling locations to reasonably accommodate Maricopa County's voters,  
4 particularly those in predominately minority communities. Her experience voting in the  
5 2016 PPE has reduced her confidence in Maricopa County and Arizona's election system,  
6 and she fears that she will be disenfranchised or otherwise severely burdened by the same  
7 elections mismanagement, including, in particular, inadequate allocation of polling  
8 locations in the upcoming 2016 general election.

9 18. Plaintiff JULIO MORERA is a United States citizen registered to vote in  
10 Maricopa County, Arizona. Mr. Morera is Hispanic and is registered as a Democrat. On  
11 March 22, 2016, Mr. Morera waited in line for three hours and fifteen minutes before  
12 finally being able to cast his ballot in the PPE. Mr. Morera originally planned to vote in  
13 the morning before work, but when he arrived at the Tempe Christian Church vote center  
14 around 8:00 a.m., the line was too long for him to wait. Instead, Mr. Morera returned after  
15 work at approximately 6:00 p.m. and waited in line until 9:15 p.m. The wait was  
16 particularly burdensome because there were limited bathroom facilities at the location.  
17 Mr. Morera's right to vote was severely burdened as a result of Defendants'  
18 mismanagement of the election, including specifically their failure to allocate a sufficient  
19 number of polling locations to reasonably accommodate Maricopa County's voters,  
20 particularly those in predominately minority communities. He is concerned that he will be  
21 similarly harmed in the upcoming 2016 general election and in other future elections.

22 19. Plaintiff ALEJANDRA RUIZ is a United States citizen registered to vote in  
23 Maricopa County, Arizona. Ms. Ruiz is a registered Democrat. She is Mexican American  
24 and voted in a predominately Hispanic neighborhood. Ms. Ruiz recently moved to  
25 Maricopa County and could not register for early voting in time for the 2016 PPE,  
26 therefore, her only option was to vote in person. Ms. Ruiz first attempted to vote on her  
27 lunch break at the only vote center in downtown Phoenix, the Salvation Army on Third  
28 Street. Realizing that the line was too long to allow her to return to work before her lunch

1 break ended, she decided to vote after work instead. Accordingly, at approximately 6:30  
2 p.m. she arrived at the vote center at West Thomas Baptist Church. After a nearly six-hour  
3 wait, she finally cast her ballot at 12:07 a.m. on March 23, 2016. When she left the vote  
4 center, there were at least one hundred voters still waiting in line. Ms. Ruiz's right to vote  
5 was severely burdened as a result of Defendants' mismanagement of the PPE, including  
6 specifically their failure to allocate a sufficient number of polling locations to reasonably  
7 accommodate Maricopa County's voters, particularly those in predominately minority  
8 communities. While she is grateful that she was able to endure the wait to vote, she is  
9 particularly concerned that friends and family members who rely on public transportation  
10 were not able to wait in the lines late into the evening. She fears that she and others in her  
11 community will continue to be harmed in future elections by Maricopa County's elections  
12 mismanagement, including in particular inadequate allocation of polling locations, in the  
13 upcoming 2016 general election and future elections.

14         20. Plaintiff CLEO OVALLE is a United States citizen registered to vote in  
15 Maricopa County, Arizona. Ms. Ovalle is a registered Democrat. She considers herself to  
16 be Latina and voted in a predominately Hispanic neighborhood. Ms. Ovalle did not  
17 originally plan to vote in person; however, she never received her early ballot in the mail  
18 and had to vote in person to make her voice heard in the 2016 PPE. Ms. Ovalle made three  
19 separate attempts to vote. First, she visited the Church of the Beatitudes at approximately  
20 4:00 p.m., but realized that the line was too long to allow her to vote with sufficient time  
21 to pick her son up from school. Therefore, after picking up her son, she dropped him off at  
22 her mother's house and drove back to the Church of the Beatitudes, arriving at  
23 approximately 5:50 p.m. The line was even longer than it had been before. Ms. Ovalle  
24 then proceeded to a second vote center, North Hills Church, where she arrived at  
25 approximately 6:00 p.m. There were no available parking spaces. Ms. Ovalle estimates  
26 that she spent twenty to thirty minutes looking for parking. By the time she was able to  
27 park her car and approach the building, she saw the full extent of the line and realized that  
28 she would have to wait several hours in order to vote. Ms. Ovalle needed to be available

1 to care for her son and was not able to wait in the line. Frustrated, Ms. Ovalle left without  
2 being able to vote. Ms. Ovalle was denied her right to vote as a result of Defendants'  
3 mismanagement of the election, including specifically their failure to allocate a sufficient  
4 number of polling locations to reasonably accommodate Maricopa County's voters,  
5 particularly those in predominately minority communities. Ms. Ovalle's experience voting  
6 in the 2016 PPE has reduced her confidence in Maricopa County and Arizona's election  
7 system, and she fears that she will be disenfranchised or otherwise severely burdened by  
8 the same elections mismanagement, including in particular inadequate allocation of  
9 polling locations, in the upcoming 2016 general election and future elections in Maricopa  
10 County.

11 21. Plaintiff MARCIA BAKER is a United States citizen and has been  
12 registered to vote in Maricopa County, Arizona since 1989. She is a registered Democrat,  
13 and she waited in line for five hours to cast her vote in the 2016 PPE. Ms. Baker arrived at  
14 her vote center, Shiloh Community Church, at approximately 6:15 p.m. She was then  
15 forced to wait in line until approximately 11:30 p.m. Upon finally making it to the end of  
16 the line, Ms. Baker was told by the poll worker that she was not in the registration  
17 database. Accordingly, Ms. Baker was forced to cast a provisional ballot because the poll  
18 worker could not locate her in the registration system. The following day Ms. Baker called  
19 the Maricopa County Recorder's Office. The person she spoke with at the Maricopa  
20 County Recorder's Office readily confirmed that Ms. Baker was a registered Democrat in  
21 the County. Ms. Baker is concerned that despite her conversation with the person at the  
22 Maricopa County Recorder's Office, her provisional ballot was not or will not be counted.  
23 Further, she feels that she was directly discriminated against because her information was  
24 not available to the poll worker on Election Day. Ms. Baker's right to vote was severely  
25 burdened as a result of Defendants' mismanagement of the election, including specifically  
26 their failure to allocate a sufficient number of polling locations to reasonably  
27 accommodate Maricopa County's voters. This burden was particularly severe because, as  
28 a blue-collar worker, it was difficult for Ms. Baker to take the time to wait in the line to

1 vote. Ms. Baker fears that she will be similarly burdened in the upcoming 2016 general  
2 election and future elections in Maricopa County and that, as a result of the limited time  
3 that she has to wait, she may be completely disenfranchised.

4 22. Plaintiff PETERSON ZAH is the former Chairman and First President of  
5 the Navajo Nation. Mr. Zah continues to serve in a leadership role in the Navajo Nation  
6 and represents the interests of the Navajo Nation's approximately 17,000 members in  
7 Maricopa County and over 100,000 members in Arizona. Mr. Zah is a United States  
8 citizen registered to vote in Apache County, Arizona. Arizona's policy of not counting  
9 provisional ballots cast in a precinct or voting area other than the one to which the voter is  
10 assigned and the State's recent criminalization of the collection of signed and sealed  
11 absentee ballots with the passage of H.B. 2023 directly harm the members of the Navajo  
12 Nation and Arizona's Native-American community by burdening, abridging, and in some  
13 cases completely denying them the right to vote. On information and belief, the  
14 challenged voting laws, practices, and procedures have disproportionately reduced the  
15 turnout of members of the Navajo Nation and Native Americans in Arizona generally and  
16 have increased the likelihood that those voters who do turnout will not have their vote  
17 counted.

18 23. Plaintiff the DEMOCRATIC NATIONAL COMMITTEE ("DNC") is a  
19 national committee, as that term is defined by and used in 52 U.S.C. § 30101, dedicated to  
20 electing local, state, and national candidates of the Democratic Party to public office  
21 throughout the United States. The DNC has members and constituents across the United  
22 States, including eligible voters in Arizona. To accomplish its mission, among other  
23 things, the DNC works closely with Democratic public officials and assists state parties  
24 and candidates by contributing money; making expenditures on their behalves; and  
25 providing active support through the development of programs benefiting Democratic  
26 candidates. The lack of oversight for Maricopa County's allocation of polling locations;  
27 Arizona's policy of not counting provisional ballots cast in a precinct or voting area other  
28 than the one to which the voter is assigned; and the State's recent criminalization of the

1 collection of signed and sealed absentee ballots with the passage of H.B. 2023 directly  
2 harm the DNC, its members, and constituents by disproportionately reducing the turnout  
3 of Democratic voters and increasing the likelihood that those voters who do turnout will  
4 not have their vote counted. These practices and provisions further decrease the likelihood  
5 that the DNC will be successful in its efforts to help elect candidates of the Democratic  
6 Party to public office.

7       24. In particular, among the voters most harmed by Arizona's policies are some  
8 of the DNC's core constituencies, including Hispanic, Native-American, and African-  
9 American voters, who are more likely to be burdened by the voting laws, procedures, and  
10 practices challenged in this lawsuit and, as a result, are less likely to vote or to have their  
11 provisional vote counted. Arizona will have a number of competitive Democratic races at  
12 both the local and statewide level in the upcoming 2016 general election; as a result, to  
13 accomplish its mission the DNC will be forced to divert valuable resources to help its  
14 members and constituents overcome the barriers to voting created by the challenged  
15 voting laws, practices, and procedures and to ensure that these voters are not  
16 disenfranchised. Further, the DNC's members and constituents are also directly harmed  
17 by these voting laws, practices, and procedures as they are Arizona voters whose right to  
18 vote is burdened, abridged, and denied by the same. The DNC brings this suit on their  
19 behalves, as well as in its own right.

20       25. Plaintiff DSCC a.k.a. Democratic Senatorial Campaign Committee is a  
21 Democratic political committee established and maintained by a national political party,  
22 as defined by and used in 11 C.F.R. § 110.2(c)(2)(iii) and provided for in 52 U.S.C. §  
23 30116(h). The DSCC is dedicated to encouraging the election of Democratic Senate  
24 candidates to office and is comprised of sitting Democratic Members of the United States  
25 Senate. The DSCC accomplishes its mission by, among other things, contributing money  
26 to Democratic Senate candidates; making expenditures on behalf of Democratic Senate  
27 candidates; and providing campaign services to Democratic Senate candidates. DSCC also  
28 provides assistance to the state Democratic parties in the development and implementation

1 of programs benefitting Democratic candidates for federal, state, and local office, such as  
2 get-out-the-vote and generic party efforts undertaken on behalf of the Democratic ticket.

3 26. DSCC is directly harmed by the lack of oversight for Maricopa County's  
4 allocation of polling locations; Arizona's policy of not counting provisional ballots cast in  
5 a precinct or voting area other than the one to which the voter is assigned; and the State's  
6 recent criminalization of the collection of signed and sealed absentee ballots with the  
7 passage of H.B. 2023. These voting laws, practices, and procedures disproportionately  
8 reduce the turnout of Democratic voters and the likelihood that those voters who do  
9 turnout will have their vote counted, thereby decreasing the likelihood that DSCC will be  
10 successful in its efforts to help elect candidates of the Democratic Party to the Senate as  
11 well as federal, state, and local office. In particular, it is DSCC's core constituencies of,  
12 among others, Hispanics, Native Americans, and African Americans who are most  
13 harmed by Arizona's policies and, as a consequence, are more likely to be burdened and  
14 less likely to vote or to have their provisional vote counted. Arizona will be electing a  
15 U.S. Senator in 2016, and the challenged voting laws, practices, and procedures will  
16 directly affect DSCC's ability to campaign for and have its Senate candidate elected,  
17 forcing DSCC to divert resources that it would use for other purposes to assisting Arizona  
18 voters with overcoming the barriers created by the challenged voting laws, practices, and  
19 procedures to ensure that these voters are not disenfranchised.

20 27. Plaintiff ARIZONA DEMOCRATIC PARTY is a state committee, as  
21 defined by 52 U.S.C. § 30101(15), dedicated to electing candidates of the Democratic  
22 Party to public office throughout the State of Arizona. The Arizona Democratic Party has  
23 members and constituents from across Arizona, including many eligible voters who  
24 regularly support and vote for candidates affiliated with the Democratic Party. As  
25 discussed *infra*, all of these members and constituents risk having their right to vote  
26 burdened and/or denied due to the lack of oversight for Maricopa County's allocation of  
27 polling locations; Arizona's policy of not counting provisional ballots cast in a precinct or  
28 voting area other than the one to which the voter is assigned; and the State's recent

1 criminalization of the collection of signed and sealed absentee ballots with the passage of  
2 H.B. 2023. The Arizona Democratic Party brings these claims on their behalves, as well  
3 as in its own right.

4 28. The Arizona Democratic Party is directly harmed by the challenged voting  
5 laws, practices, and procedures which disproportionately reduce the turnout of Democratic  
6 voters and the likelihood that those voters who do turnout will have their vote counted,  
7 thereby decreasing the likelihood that the Arizona Democratic Party will be successful in  
8 its efforts to help elect candidates of the Democratic Party to office. In particular, it is the  
9 Arizona Democratic Party's core constituencies of, among others, Hispanics, Native  
10 Americans, and African Americans who are most harmed by Arizona's policies and, as a  
11 consequence, are more likely to be burdened and less likely to vote or to have their  
12 provisional vote counted. Moreover, since at least 2002, collecting early-vote ballots has  
13 been an integral part of the Arizona Democratic Party's get-out-the-vote strategy and is a  
14 key part of the support it provides its Hispanic, Native-American, and African-American  
15 members, constituents, and voters, particularly those in Phoenix, Tucson, and the Navajo  
16 Nation. Due to the passage of H.B. 2023 and its corresponding criminal penalties, the  
17 Arizona Democratic Party will not be able to assist its voters in this way due to the  
18 possibility of criminal liability. Accordingly, the Arizona Democratic Party is now  
19 foreclosed from associating with its voters in this manner. As a result of all of the  
20 challenged voting laws, practices, and procedures, the Arizona Democratic Party will have  
21 to devote resources that it otherwise would have spent educating voters about its  
22 candidates and issues, to assisting its voters in overcoming the barriers the challenged  
23 voting laws, practices, and procedures impose and in protecting their right to vote.

24 29. Plaintiff KIRKPATRICK FOR U.S. SENATE ("Kirkpatrick Campaign") is  
25 an authorized committee, as defined by 52 U.S.C. § 30101(6), dedicated to supporting the  
26 election of Democratic U.S. Representative Ann Kirkpatrick to the United States Senate.  
27 The Kirkpatrick Campaign regularly works with Democratic activists, organizers,  
28 supporters, and voters throughout Arizona to organize and execute direct voter contact

1 programs consisting of activities such as phone banking, door-to-door canvassing, and  
2 participating in community events. In addition, the Kirkpatrick Campaign also plans to  
3 organize and execute get-out-the-vote activities in advance of the 2016 general election.  
4 The Kirkpatrick Campaign is directly harmed by the lack of oversight for Maricopa  
5 County's allocation of polling locations; Arizona's policy of not counting provisional  
6 ballots cast in a precinct or voting area other than the one to which the voter is assigned;  
7 and the State's recent criminalization of the collection of signed and sealed absentee  
8 ballots with the passage of H.B. 2023. These policies and provisions disproportionately  
9 reduce the turnout of Democratic voters and the likelihood that those voters who do  
10 turnout will have their vote counted, thereby decreasing the likelihood that the Kirkpatrick  
11 Campaign will be successful in its efforts to help elect Rep. Ann Kirkpatrick to the U.S.  
12 Senate. In particular, it is the Kirkpatrick Campaign's core constituencies of, among  
13 others, Hispanics, Native Americans, and African Americans who are most harmed by  
14 Arizona's policies and, as a consequence, are more likely to be burdened and less likely to  
15 vote or to have their provisional vote counted. As a result, the campaign will have to  
16 divert valuable resources from educating voters about its candidate to assisting them with  
17 overcoming the barriers posed by these policies in order to accomplish its mission.

18 30. Plaintiff HILLARY FOR AMERICA ("Clinton Campaign") is an authorized  
19 committee, as defined by 52 U.S.C. § 30101(6), dedicated to supporting the election of  
20 Democratic candidate Hillary Clinton for President of the United States. The Clinton  
21 Campaign regularly works with Democratic activists, organizers, supporters, and voters  
22 throughout the United States to organize and execute direct voter contact programs  
23 consisting of activities such as phone banking, door-to-door canvassing, and participating  
24 in community events. In addition, the Clinton Campaign conducts get-out-the-vote  
25 activities. In particular, it conducted get-out-the-vote activities in the most recent 2016  
26 PPE, including activities in Maricopa County. The Clinton Campaign was and is directly  
27 harmed by the lack of oversight for Maricopa County's allocation of polling locations;  
28 Arizona's policy of not counting provisional ballots cast in a precinct or voting area other



1 than the one to which the voter is assigned; and the State's recent criminalization of the  
2 collection of signed and sealed absentee ballots with the passage of H.B. 2023. These  
3 voting laws, practices, and procedures disproportionately reduce the turnout of  
4 Democratic voters, including many supporters of Hillary Clinton. In particular, it is the  
5 Clinton Campaign's core constituencies of, among others, Hispanics, Native Americans,  
6 and African Americans who are most harmed by Arizona's policies and, as a  
7 consequence, are more likely to be burdened and less likely to vote or to have their  
8 provisional vote counted. For example, in Maricopa County the poor allocation of vote  
9 centers in the 2016 PPE not only caused many of Hillary Clinton's supporters to have to  
10 wait in line for hours to cast their vote but, in some instances, they were unable to cast  
11 their vote entirely and were completely disenfranchised.

12 31. Defendant the Arizona SECRETARY OF STATE'S OFFICE is established  
13 by A.R.S. § 41-121.02. It is directed by the Secretary of State and, among other things, is  
14 charged with securing elections in the State of Arizona. *Id.*

15 32. Defendant Michele REAGAN is the Secretary of State for the State of  
16 Arizona ("the Secretary") and is the Chief Elections Officer for Arizona. A.R.S. § 16-142.  
17 As Arizona's Chief Elections Officer, the Secretary is responsible for overseeing the  
18 voting process in Arizona, and is empowered with broad authority to carry out that  
19 responsibility. The Secretary also issues the Arizona Election Procedures Manual  
20 ("Manual") (Rev. 2014), which establishes election procedures and administration across  
21 Arizona's fifteen counties. A.R.S. § 16-452. The Manual is approved by the Governor and  
22 the Arizona Attorney General and carries the force of law. A.R.S. § 16-452(B). The  
23 Secretary also has oversight over changes to practices and policies in a PPE. Manual at  
24 96, *available at* [https://www.azsos.gov/sites/azsos.gov/files/election\\_procedure\\_](https://www.azsos.gov/sites/azsos.gov/files/election_procedure_manual_2014.pdf)  
25 [manual](https://www.azsos.gov/sites/azsos.gov/files/election_procedure_manual_2014.pdf)  
26 [\\_2014.pdf](https://www.azsos.gov/sites/azsos.gov/files/election_procedure_manual_2014.pdf). The Secretary is sued in her official capacity for actions taken under color of  
27 law.

28 33. Defendant MARICOPA COUNTY BOARD OF SUPERVISORS ("the Board") is the governing body of Maricopa County. The Board "is charged with overall

1 responsibility of the county election process, except for those functions designated by law  
2 to other elected officials.” Manual at 100. Among other duties, the Board publicizes  
3 election dates and times, adopts election precincts, approves polling locations within  
4 Maricopa County, ensures polling places have adequate supplies, and allocates county  
5 funds for the elections. A.R.S. §§ 16-214, 16-223, 16-411, 16-511(A). The Board also  
6 certifies county election results to the Secretary of State’s Office, who then consolidates  
7 local data and certifies statewide results. A.R.S. §§ 16-249(C), 16-645(B) & 16-646.

8 34. Defendants DENNY BARNEY, STEVE CHUCRI, ANDY KUNASEK,  
9 CLINT HICKMAN, and STEVE GALLARDO are members of Defendant the  
10 MARICOPA COUNTY BOARD OF SUPERVISORS, discussed *supra*. Each Board  
11 Member is sued in his official capacity for actions taken under color of law.

12 35. Defendant MARICOPA RECORDER AND ELECTIONS DEPARTMENT  
13 is charged with carrying out election-related activities in Maricopa County. *See, e.g.*,  
14 A.R.S. §§ 11-461; 19-121.03; 19-208.02; 16-204; 16-161 (detailing statutory duties of the  
15 Recorder, which are carried out by her office within the Elections Department). It is  
16 headed by the Recorder, as well as the Elections Director, under the supervision of the  
17 Recorder.

18 36. Defendant HELEN PURCELL is the Maricopa County Recorder. She is  
19 responsible for administering elections in Maricopa County. The Recorder reports to the  
20 Board of Supervisors. Among other duties, the Recorder is responsible for designating  
21 polling locations, registering voters, assigning each registration record to its proper  
22 precinct, ensuring appropriate supplies and staffing at poll locations, monitoring wait  
23 times and taking steps to reduce long lines, determining whether provisional ballots are  
24 acceptable, and conducting public outreach regarding election information. A.R.S. §§ 16-  
25 101, et seq. The Recorder is sued in her official capacity for actions taken under color of  
26 law.

27 37. Defendant KAREN OSBORNE is the Maricopa County Elections Director.  
28 The Elections Director is the head of the Elections Department, which is a department

1 within the Recorder's office. Elections Director Osborne reports directly to Recorder  
2 Purcell. The Director is responsible for overseeing the daily operations of the Elections  
3 Department, which includes scouting polling locations, allocating resources, training poll  
4 workers, monitoring wait times, reducing long lines at polls, and conducting public  
5 outreach to the electorate and citizens of Maricopa County. *See* A.R.S. §§ 16-101, et seq.  
6 (detailing statutory duties of the Recorder's office, which the Recorder delegates to Karen  
7 Osborne as head of the Elections Department). The Elections Director is sued in her  
8 official capacity for actions taken under color of law.

9 38. Defendant MARK BRNOVICH, is the Arizona Attorney General  
10 ("Attorney General") and the chief legal officer of the state of Arizona. A.R.S. § 41-  
11 192(A). The Attorney General approves election procedures issued by the Secretary of  
12 State. A.R.S. § 16-452. Among other duties, the Attorney General is charged with  
13 enforcing state criminal statutes, including H.B. 2023. A.R.S. §§ 41-191 et seq. In  
14 particular, the Attorney General is empowered to prosecute election-related offenses  
15 under Title 16. A.R.S. § 16-1021. Additionally, the Attorney General has the duty to  
16 "[r]epresent the state in any action in a federal court." A.R.S. § 41-193(A)(3). The  
17 Attorney General is sued in his official capacity for actions taken under the color of law.

## 18 GENERAL ALLEGATIONS

### 19 Arizona's History of Discrimination Against Racial, Ethnic, and Language 20 Minorities

21 39. Arizona has a lengthy history of discrimination against Hispanics, Native  
22 Americans, and African Americans, which has directly and substantially hindered their  
23 ability to participate in the political process, and which, in 1975, resulted in Arizona  
24 becoming a covered jurisdiction subject to federal preclearance for any change to its  
25 voting laws, practices, or procedures, under Section 5 of the Voting Rights Act.

26 40. When Arizona became a state in 1912, Native Americans were excluded  
27 from voting.<sup>2</sup> Even after the United States Congress passed the Indian Citizenship Act in

28 <sup>2</sup> Hispanics were granted the right to vote in Arizona when it became a state in

1 1924, recognizing Native Americans as citizens and, thereby, affording them the right to  
2 vote, Arizona's Constitution continued to deny Native Americans that right. Indeed, it was  
3 not until 1948 when the Arizona Supreme Court found that such treatment was  
4 unconstitutional that Native Americans were granted the right to vote in Arizona. *See*  
5 *Harrison v. Laveen*, 196 P.2d 456, 463 (Ariz. 1948). Despite being granted the legal right  
6 to vote in 1948, Native Americans, as well as Hispanics and African Americans, have  
7 continued to face barriers to participation in the franchise.

8 41. In 1912, Arizona enacted an English literacy test for voting. The test was  
9 enacted specifically "to limit 'the ignorant Mexican vote,'" and had the effect of also  
10 reducing the ability of African Americans and Native Americans to register and vote, as  
11 registrars applied the test to these communities as well. David Berman, *Arizona Politics*  
12 *and Government: The Quest for Autonomy, Democracy, and Development* 75 (John  
13 Kincaid, *et al eds.*, 1998). Furthermore, well into the 1960's it was also a practice for  
14 white Arizonians to challenge these minority voters at the polls by asking them to read  
15 and explain literacy cards. *Id.* at 76. In 1970, Congress amended the Voting Rights Act to  
16 enact a nationwide ban on literacy tests after finding that they were used to discriminate  
17 against voters on account of their race or ethnicity. *Oregon v. Mitchell*, 400 U.S. 112, 118  
18 (1970). In reaching that finding, Congress specifically cited evidence which showed "that  
19 voter registration in areas with large Spanish-American populations was consistently  
20 below the state and national averages." *Id.* at 132. And that, "[i]n Arizona, for example,  
21 only two counties out of eight with Spanish surname populations in excess of 15%  
22 showed a voter registration equal to the state-wide average." *Id.* Congress also noted that  
23 Arizona had a serious deficiency in Native American voter registrations. *See id.* Rather  
24

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25 1912 by virtue of the Treaty of Guadalupe Hidalgo, which was signed in 1848 at the close  
26 of the Mexican-American War. The treaty required that Congress pass legislation  
27 recognizing all Mexican Americans as full U.S. citizens. Prior to becoming a state,  
28 Arizona (which was a U.S. territory) did not allow Mexican Americans to vote. Notably,  
as discussed herein, at the time that it became a state in 1912, Arizona enacted an English  
literacy test which had the effect of preventing these newly enfranchised Mexican  
Americans (as well as Native Americans and African American) from voting.

1 than comply with the law and repeal its test, Arizona challenged the ban, arguing that it  
2 could not be enforced to the extent that it was inconsistent with the State's literacy  
3 requirement. *Id.* at 117. The United States Supreme Court upheld Congress's ban. *Id.* at  
4 131-33. Nevertheless, Arizona waited until 1972, two years after the Court's decision, to  
5 repeal its literacy test.

6 42. Arizona's English literacy test also compounded the effects of the State's  
7 long history of discrimination in the education of its Hispanic, Native-American, and  
8 African-American citizens. From 1912 until the Supreme Court's decision in *Brown v.*  
9 *Board of Education*, segregated education was widespread throughout Arizona, and  
10 sanctioned by both the courts and the state legislature. *See Dameron v. Bayless*, 126 P.  
11 273 (Ariz. 1912); *see also Ortiz v. Jack*, No. Civ-1723 (D. Ariz. 1955) (discontinuing  
12 segregation of Mexican children at schools); *Gonzales v. Sheely*, 96 F. Supp. 1004, 1008-  
13 09 (D. Ariz. 1951) (enjoining segregation of Mexican school children in Maricopa  
14 County). Spanish-speaking students were directly targeted based on their language. Native  
15 Americans remained segregated because they attended schools on reservations. The  
16 practice of segregation also extended well beyond schools, with it being common place to  
17 have segregated public spaces such as restaurants, swimming pools, and theaters. Berman,  
18 *supra*, at 14.

19 43. Even where schools were not segregated, Arizona enacted restrictions on  
20 bilingual education, mandating English-only education in public schools as early as 1919.  
21 *See James Thomas Tucker, et al., Voting Rights in Arizona: 1982-2006*, 17 Rev. L. & Soc.  
22 Justice 283, 284 (2008). Many of these English-only restrictions have remained in effect  
23 in some form to the present day, despite the fact that such programs have led to poor  
24 educational outcomes for Arizona's students. *See id.* at 339-40 (noting "[t]he available  
25 evidence in Arizona reveals that bilingual education programs have been more effective at  
26 raising students' test scores [than English-immersion programs]").

27 44. Indeed, as recently as 2000, Arizona banned bilingual education with the  
28 passage of Proposition 203. This ballot initiative, which is only the second of its kind to

1 be passed in the United States, is the most restrictive ban on bilingual education in the  
2 nation. In addition to severely restricting the educational opportunities of limited English-  
3 proficiency students in Arizona, the law has led to widespread confusion and  
4 discrimination as well, with reports of students being slapped for speaking Spanish at  
5 school and teachers being afraid they will be fired if they communicate with students in  
6 Spanish, even when outside of the classroom. *Id.* at 341.

7 45. In addition to Arizona’s formal prohibitions on bilingual education, the  
8 State also has a long record of failing to provide adequate funding to teach its non-English  
9 speaking students—which are one of “the largest and fastest-growing segments of the  
10 school population in Arizona.” *Id.* at 338-39 (“As of 2000, there were almost 140,000  
11 [non-English speaking] students enrolled in Arizona public schools.”); *see also id.* at 343.  
12 In some instances, the State has reportedly underfunded its programs for non-English  
13 speaking students by as much as ninety percent, leading to high illiteracy and dropout  
14 rates. Remarkably, this underfunding has taken place despite multiple court orders  
15 instructing Arizona to develop an adequate funding formula for its programs, including a  
16 2005 order in which Arizona was held in contempt of court for refusing to provide  
17 adequate funding for its educational programs. *Flores v. Arizona*, 405 F. Supp. 2d 1112  
18 (D. Ariz. 2005), *vacated*, 204 Fed App’x 580 (9th Cir. 2006).

19 46. Arizona’s history of segregation, limitations on bilingual education, and  
20 systemic underfunding of education for non-English speaking students not only contribute  
21 to educational disparities amongst Arizona’s Hispanic and Native American populations  
22 but, when combined with Arizona’s literacy test, they have had the effect of denying  
23 Hispanics and Native Americans the right to vote.

24 47. In 2004, Arizona passed another discriminatory ballot initiative, Proposition  
25 200, or the Arizona Taxpayer and Citizen Protection Act, which prohibits persons from  
26 voting and receiving access to state and local public benefits where they cannot prove  
27 their citizenship through documentation. In its original form, Proposition 200 specifically  
28 required Arizona voters to provide proof of citizenship by presenting at least one of a

1 limited set of documents at the time that they registered to vote. A.R.S. §§ 16-152, 16-  
2 166. Between the time that the law was passed and November 2005, “[m]ore than 12,000  
3 applications were rejected because of the new requirements in Pima and Maricopa  
4 Counties alone.” Tucker, *supra*, at 357. This requirement was (and is) particularly  
5 burdensome for many Hispanic, Native-American, and African-American voters who do  
6 not have the required forms of identification and face, sometimes insurmountable, burdens  
7 in obtaining it. In 2013, the Supreme Court found that Proposition 200’s proof of  
8 citizenship requirement for voter registration was preempted by the National Voter  
9 Registration Act. *Arizona v. Inter Tribal Council of Arizona, Inc.*, 133 S.Ct. 2247, 2260  
10 (2013). In response, rather than end the practice of requiring proof of citizenship for  
11 registration, Arizona instead implemented a two track registration system under which  
12 individuals may register for federal elections without providing proof of citizenship, but to  
13 vote in state and local elections they must provide proof of citizenship. This two track  
14 system has added another layer of confusion to Arizona’s elections system, particularly  
15 for minority voters. As of 2015, Arizona officials reported rejecting over 30,000 voter  
16 registrations due to Proposition 200.

17 48. In 2007, Maricopa County Sheriff Joseph Arpaio was sued in a class action  
18 seeking to stop the Maricopa County Sheriff Office’s (“MCSO”) policies and practices of  
19 intentional and systematic discrimination by conducting illegal stops and detentions of  
20 Hispanics and mistreating Hispanic detainees with limited English proficiency. In May  
21 2013, U.S. District Court Judge Murray Snow issued lengthy findings of fact and  
22 conclusions of law, finding, among other things, that the MCSO intentionally  
23 discriminated against Hispanics. *Melendres v. Arpaio*, 989 F. Supp. 2d 822 (D. Ariz.  
24 2013). Among Judge Snow’s findings was “the presence of express racial classification in  
25 the policies, practices and procedures followed by the MCSO....” 989 F. Supp. 2d at 901.  
26 Judge Snow enjoined MCSO “from using Hispanic ancestry or race as any factor in  
27 making law enforcement decisions.” 989 F. Supp. 2d at 895. Hispanic activists launched a  
28 vigorous campaign to keep Sheriff Arpaio from being reelected to his sixth term in 2012.

1 Nevertheless, Sheriff Arpaio was reelected. In that same election, Maricopa County  
2 misprinted the date of the election on over 2000 Spanish language information cards and  
3 bookmarks, some of which were distributed into the community.

4 49. In 2010, the Arizona State Legislature passed SB 1070, which authorized  
5 local police to check the immigration status of individuals who they suspected to be in the  
6 country illegally. A.R.S. § 11-1051. U.S. District Court Judge Susan Bolton enjoined most  
7 of the law from taking effect. *United States v. Arizona*, 703 F. Supp. 2d 980, 1008 (D.  
8 Ariz. 2010), *aff'd in part, rev'd in part, Arizona v. United States*, 132 S.Ct. 2492, 2510  
9 (2012). This injunction was mostly upheld in subsequent stages of the litigation. *See*  
10 *Arizona v. United States*, 132 S.Ct. 2492, 2510 (2012).

11 50. Due to its long history of discrimination, Arizona became a covered  
12 jurisdiction under Section 5 of the Voting Rights Act in 1975. In addition to being covered  
13 under Section 5, it was one of only three states to be covered under Section 4(f)(4) of the  
14 Act for Spanish Heritage. Twelve of its fifteen counties, including Maricopa County, are  
15 also covered separately under Section 203, which requires minority language assistance.  
16 As a result of its inclusion under the Voting Rights Act, Arizona achieved recognized  
17 improvements in the numbers of Hispanics and Native Americans registering and voting  
18 as well as in the overall representation of minority elected officials in the State.  
19 Nevertheless, only one Hispanic and African American have ever been elected to  
20 statewide office, and Arizona has never elected a Native American to statewide office. No  
21 Native American or African American has ever been elected to the U.S. House of  
22 Representatives. Further, no Hispanic, Native American, or African American has ever  
23 served as a U.S. Senator representing Arizona, as Attorney General for the State of  
24 Arizona, or on the Arizona Supreme Court.

25 51. Arizona also has a recognized history of racially polarized voting. *Gonzalez*  
26 *v. Arizona*, 677 F.3d 383, 407 (9th Cir. 2012), *aff'd sub nom. Arizona v. Inter Tribal*  
27 *Council of Arizona, Inc.*, 133 S. Ct. 2247 (2013). Such racially polarized voting continues  
28 today. In particular, in the most recent redistricting cycle, the Arizona Independent



1 Redistricting Commission found that at least one congressional district and five legislative  
2 districts clearly exhibited racially polarized voting. Gary King, et al., *Racially Polarized*  
3 *Voting Analysis (Draft)*, Ariz. Indep. Redistricting Comm'n, 10, 20 (2011), available at  
4 [http://azredistricting.org/Meeting-Info/AZ%20racially%20polarized%20voting%20](http://azredistricting.org/Meeting-Info/AZ%20racially%20polarized%20voting%20analysis%20112911%20-%20DRAFT.pdf)  
5 [analysis%20112911%20-%20DRAFT.pdf](http://azredistricting.org/Meeting-Info/AZ%20racially%20polarized%20voting%20analysis%20112911%20-%20DRAFT.pdf).

### 6 **The Ongoing Effects of Arizona's History of Discrimination**

7 52. Arizona's Hispanic, Native-American, and African-American citizens have  
8 suffered from, and continue to suffer from, the effects of discrimination in a number of  
9 areas, including education, health, housing, employment, income, transportation, and  
10 criminal justice.

11 53. According to the U.S. Census Bureau's 2010-2014 American Community  
12 Survey 5-Year Estimates, Hispanic, African American, and Native American  
13 unemployment rates in Arizona exceeded white unemployment rates for the period of  
14 2010 to 2014. Likewise, Hispanic, Native American, and African American poverty rates  
15 in Arizona exceeded the white poverty rate for that same time period. As of the 2000  
16 census, compared to whites, Hispanics, Native Americans, and African Americans were  
17 all less likely to graduate high school in Arizona. Further, whites were 1.5 times more  
18 likely to have a bachelor's degree than African Americans, and as much as three times  
19 more likely to have a bachelor's degree than Hispanics and Native Americans in Arizona.  
20 As of the 2010 census, whites were also more likely than Hispanics, Native Americans,  
21 and African Americans to own a house in Arizona.

22 54. As of 2013, Hispanics, Native Americans, and African Americans in  
23 Arizona all ranked below whites in relative healthiness, with both Native Americans and  
24 African Americans having the poorest rank of overall health status in the State. Ariz.  
25 Dep't of Health Servs., *Differences in the Health Status Among Racial/Ethnic Groups,*  
26 *Arizona 2013*, 7 (2015). One report explained that Native American health outcomes were  
27 so poor, that "[i]n 2013, compared to White non-Hispanics, American Indian residents of  
28 Arizona were on-average 19 years younger at time of death." *Id.* Further, all three

1 minority groups saw a higher infant mortality rate than whites, with African Americans  
2 experiencing an infant mortality rate more than double the rates for whites. *Id.* at 49.

3 55. Hispanics, Native Americans, and African Americans are all  
4 overrepresented in Arizona jails in comparison to the total population, whereas whites are  
5 underrepresented. Prison Policy Initiative, <http://www.prisonpolicy.org/profiles/AZ.html>  
6 (last visited April 13, 2016).

### 7 **The Challenged Voting Laws, Practices, and Procedures**

#### 8 **Factual Background: Maricopa County's 2016 PPE**

9 56. The devastating burdens that the challenged voting laws, practices, and  
10 procedures impose upon Arizona voters were amply demonstrated by, and in large part  
11 have been exacerbated because of, the Maricopa County 2016 PPE. As virtually every  
12 American knows by now, the management of that PPE, which was conducted with an  
13 alarmingly inadequate number of voting centers, resulted in severe, inexcusable burdens  
14 on voters county-wide, as well as the ultimate disenfranchisement of untold numbers of  
15 voters who were unable or unwilling to wait in intolerably long lines to cast their ballot  
16 for their preferred presidential candidate.

17 57. The PPE was conducted under the authority of Defendant Maricopa County  
18 Recorder Helen Purcell, who sought approval from Defendant Maricopa County Board of  
19 Supervisors to employ—for the first time in Maricopa County—voting centers rather than  
20 a traditional precinct based polling system for the election.

21 58. Under Arizona law, when designating polling locations for a primary,  
22 general, or PPE, County Boards of Supervisors may use a precinct-based polling system, a  
23 voting center system, or some combination of the two. A.R.S. § 16-411(B)(4).

24 59. In a precinct-based polling system, voters may only cast their votes at their  
25 assigned polling location. *See* A.R.S. § 16-583 (voters whose names are not listed on the  
26 precinct register are redirected to another polling location). In contrast, under a voting  
27 center system, any voter in the county—regardless of the precinct in which they live—  
28

1 may vote at any of the available vote centers. A.R.S. § 16-411(B)(4). When implemented  
2 correctly, voting centers are often preferred by voters because they afford voters the  
3 flexibility to vote anywhere in the county in which they are registered. Vote Centers, Nat'l  
4 Conference of State Legislatures, *available at* [http://www.ncsl.org/ research/elections-](http://www.ncsl.org/research/elections-and-campaigns/vote-centers.aspx)  
5 [and-campaigns/vote-centers.aspx](http://www.ncsl.org/research/elections-and-campaigns/vote-centers.aspx) (stating vote centers are more convenient for voters). As  
6 a result, a voter may vote near his or her home, work, or any other convenient location  
7 within the jurisdiction. This flexibility reduces both time and travel burdens on voters,  
8 which in turn leads to increased voter participation. Robert M. Stein et al., *Engaging the*  
9 *Unengaged Voter: Vote Centers and Voter Turnout*, 70 *The J. of Pol.*, 2, 487-97 (2008),  
10 *available at* <http://bakerinstitute.org/research/engaging-unengaged-voter/> (noting  
11 significant evidence vote centers increase voter turnout generally, and among infrequent  
12 voters in particular).

13 60. Maricopa County's allocation of vote centers in the 2016 PPE was anything  
14 but correct.

15 61. On February 17, 2016, Ms. Purcell and Defendant Elections Director Karen  
16 Osborne submitted their voting center plan to the Board, in which they proposed that sixty  
17 voting centers be allocated across Maricopa County for approximately 1.2 million PPE  
18 voters.

19 62. This was a reduction in voting sites of a shocking magnitude. In the 2008  
20 PPE, Maricopa County had 403 polling locations, 85% more than in 2016. In 2012, which  
21 had only one contested primary election, 211 polling locations were available, 70% more  
22 locations than in 2016. Yet, in the 2016 PPE only sixty voting centers were made  
23 available—one polling place per every 21,000 voters.

24 63. In contrast, most other Arizona counties—including those that used vote  
25 centers—had enough polling places in the 2016 PPE to average 2,500 or fewer eligible  
26 voters per polling site. Pinal County, for example, operated eighty-two polling sites for its  
27 98,000 eligible voters. Pima County had 130 polling places for 300,000 eligible voters.  
28 Other less populated counties, such as Apache and Navajo, had about forty polling places

1 each—just twenty fewer than Maricopa—despite having only between 34,000 and 42,000  
2 eligible voters total in the entire jurisdiction.

3 64. In presenting her plan to the Board, Ms. Purcell explained that she had  
4 determined that sixty vote centers would be sufficient by evaluating the number of eligible  
5 voters in the PPE (approximately 1.2 million); the number of voters who had requested to  
6 receive an early ballot by mail, including those voters on the permanent early voter list  
7 (approximately 897,000); and by evaluating the turnout for the 2008 PPE (projecting that  
8 a maximum of 23% of those eligible would vote in the PPE at physical polling locations).

9 65. On information and belief, Ms. Purcell’s plan did not account for the  
10 physical proximity of voters to the vote centers; voters’ access to transportation; the ratio  
11 of voters to vote centers; contemporaneous reports of increased turnout in neighboring  
12 states; or historic data available to Ms. Purcell and Maricopa County which indicated that  
13 a substantial number of voters who requested absentee ballots—particularly Hispanic  
14 voters—would actually go to a physical polling location to cast their vote. In the 2012  
15 general election, at least 72,185 early voters arrived at physical polling locations and cast  
16 provisional ballots rather than mailing in or dropping off their absentee ballot. *See*  
17 *Maricopa Cnty. Elections Dep’t., Provisional Ballots General 2012*, 29 (2013).

18 66. The Board approved Ms. Purcell’s proposed allocation of vote centers for  
19 Maricopa County’s 2016 PPE during the February 17 public meeting. Their vote was  
20 unanimous.

21 67. Defendant Secretary of State Michele Reagan did not pose any questions  
22 about the drastic reduction in voting locations, despite the fact that the Manual specifically  
23 requires that a written plan for modifying polling place designations for PPEs be  
24 submitted to the Secretary of State and that the total number of polling locations “be  
25 reasonable and adequate.” Manual at 96.

26 68. Despite state mandates to educate voters about changes to polling locations  
27 in order to reduce lines, *see* Manual at 136, Ms. Purcell then waited until March 9, 2016—  
28 a mere 12 days before the PPE—to inform Maricopa County voters about the change to

1 voting centers and the reduced number of voting locations.

2 69. The resulting PPE was an unmitigated disaster. Maricopa County was  
3 overwhelmed with the number of voters who attempted to vote at vote centers. As  
4 Phoenix Mayor Greg Stanton explained in a letter to the Justice Department the day after  
5 the PPE took place, “[j]ust after Midnight this morning, more than five hours after the  
6 polls closed on Tuesday, the final voters in Maricopa County were at last able to cast their  
7 ballots in Arizona’s [PPE]. Throughout the county, but especially in Phoenix, thousands  
8 of citizens waited in line for three, four, and even five hours to vote. Many more simply  
9 could not afford to wait that long, and went home.” Stanton Letter at 1. Representative  
10 Michelle Ugenti-Rita, chair of the State House Committee on Elections characterized the  
11 PPE as a “debacle,” and Secretary of State Michele Reagan stated that it was “completely  
12 unacceptable.”

13 70. Long lines formed outside many of the polling places, with thousands of  
14 Arizona voters still in line after the polls officially closed at 7:00 p.m. At the Salvation  
15 Army polling location on Third Avenue in downtown Phoenix, hundreds of people were  
16 still in line to vote more than four hours after the polls closed. In twenty other locations—  
17 a third of all available—votes were still being cast at 10:00 p.m., a full three hours after  
18 the line closed. Plaintiff, Luz Magallanes, who voted in Chandler, cast her vote at  
19 approximately 10:40 p.m. One location in Phoenix saw its last voter just two minutes  
20 before one o’clock in the morning, *six hours after the line closed*. Fourteen of the twenty  
21 sites that had people voting past 10:00 p.m. were in Phoenix or its western suburbs, while  
22 six were in the eastern part of the Phoenix metro area.

23 71. While some voters waited for hours in long lines, other polling locations  
24 saw as few as twenty-one voters. On information and belief, there is no indication that  
25 Maricopa County officials made any coordinated outreach effort to alleviate lines by  
26 informing voters that lines were shorter at other nearby polling places. Nor is there any  
27 indication that Ms. Purcell had developed or implemented any contingency plan for  
28 addressing long lines, as is required by the Secretary of State’s Office. *See Manual at 139.*

1           72. In addition to long wait times to vote, voters were also burdened by vote  
2 centers lacking adequate parking. Plaintiff Mercedes Hymes was unable to vote because  
3 she could not find parking in time to get in line before the polls closed at 7:00 p.m.  
4 Further, some locations ran out of ballots, and there was ongoing confusion over the use  
5 of provisional ballots. In the end, nearly 25,000 provisional ballots were cast. The total  
6 number eventually counted was just 4,631. More than 18,000 ballots were rejected.

7           73. The insufficient number of voting locations had a particular impact on  
8 minority populations. In primarily Anglo communities like Cave Creek, there was one  
9 polling place per 8,500 residents. In Phoenix, a majority-minority city where 40.8 percent  
10 of its 1.5 million residents are Hispanic, there was only one polling place allocated per  
11 108,000 residents. Stanton Letter at 1. A wide swath of predominantly minority and  
12 lower-income areas in west Phoenix and east Glendale, along with south Phoenix, were  
13 particularly lacking in polling sites compared with 2012. Poorer areas of central Mesa  
14 lacked polling sites as well, as did south Avondale and much of central Glendale. Arizona  
15 State Senator Martin Quezada’s predominately Hispanic district only had one polling  
16 location. As a result, in this and in other predominately Hispanic parts of the city, not only  
17 did people wait well into the night to vote, but Board member Steve Gallardo admitted  
18 that “minorities and low income families may have had to drive a lot further, and had less  
19 overall access to voting centers.”

20           74. Based on testimony that Ms. Purcell gave at a hearing held by the Arizona  
21 State Legislature’s House Election Committee after the disastrous 2016 PPE took place, it  
22 turns out that this disparate impact on minority voters is also unsurprising, given how  
23 voting sites were allocated. In fact, when asked if she made any effort to determine how  
24 her plan to allocate vote centers would impact minority populations covered by the Voting  
25 Rights Act, Ms. Purcell responded that she looked at the county as a whole and did not  
26 pay any attention to “specific areas.” In other words, Ms. Purcell made no effort  
27 whatsoever to ensure that her decisions would not disparately disenfranchise minority  
28 voters in Arizona. And the result was, predictably, given both the factors that were

1 considered in making the allocation decisions, and Arizona’s history of discriminatory  
2 practices toward minority voters, that those voters suffered disparate impacts.

3 75. In the end, Ms. Purcell and Maricopa County underestimated the total  
4 number of voters by half, and failed to account for over 11,500 early voters who had  
5 received mail-in ballots but still went to the polls to vote. In testimony after the fact, Ms.  
6 Purcell admitted that she made “some horrendous mistakes,” but that realization came too  
7 late for the thousands of Arizona voters whose right to vote was severely burdened—and  
8 in many cases, wholly denied—as a result.

9 **Maricopa County’s Allocation of Polling Locations**  
10 **for the 2016 General Election**

11 76. Arizona became a covered jurisdiction under Section 5 of the Voting Rights  
12 Act in 1975. For the next 38 years, the Maricopa County Recorder’s Office, the Board,  
13 and the Secretary of State’s Office routinely evaluated the impact of changes to Maricopa  
14 County’s election procedures and practices—such as changes to the allocation of polling  
15 locations—on its minority populations, so as to ensure that those changes would meet  
16 federal preclearance standards. Ms. Purcell, who has served as Maricopa County Recorder  
17 since 1988, directly participated in that process for over 25 of those years.

18 77. Nevertheless, the 2016 Maricopa County PPE demonstrates, in stark relief,  
19 that despite that experience, not only can Maricopa County not be trusted to use informed  
20 and reasoned judgment in the allocating polling locations generally but, importantly,  
21 despite the continued mandate of the Voting Rights Act (regardless of Section 5  
22 coverage), Maricopa County no longer evaluates or even considers the impact that  
23 changes to its practices and procedures will have on minority voters.

24 78. As the facts discussed *supra* demonstrate, neither Ms. Purcell, Ms. Osborne,  
25 the Board, nor the Secretary of State gave *any* consideration to the impact that Maricopa  
26 County’s decision to reduce the number of voting locations in the 2016 PPE would have  
27 on minority voters within the County. As a result, the dramatic reduction in voting  
28 locations also had a dramatic and disparate impact on Hispanic and African-American

1 voters in Maricopa County. Upon information and belief, Hispanic and African-American  
2 voters had to travel farther than white voters to access the polls; had to wait in long lines  
3 in disproportionate numbers; and had fewer polling locations in their communities than  
4 white voters. As Arizona Representative Raul Grijalva explained, “[t]he impact[] of  
5 undoing the Voting Rights Act ha[s] been dramatically revealed in Arizona, and the result  
6 is disenfranchisement plain and clear. Gutting polling locations to save a buck has  
7 dismantled a fair election process.”

8         79. Without limited intervention and oversight from this Court, there is nothing  
9 to ensure that Ms. Purcell, Ms. Osborne, and the Board will not continue to dismantle the  
10 fair election process in Maricopa County by disenfranchising and disparately burdening  
11 Arizona’s voters generally, and minority voters in particular, when allocating polling  
12 locations for the 2016 general election. Indeed, Ms. Purcell has publically stated that she  
13 does not take minority areas into account when making polling determinations and there is  
14 simply no reason to believe she will do so in the upcoming general election.

15         80. Thus, it is incumbent upon this Court to review and approve Ms. Purcell’s  
16 and the Board’s polling allocation plan for the 2016 general election to ensure its  
17 compliance with the Voting Rights Act as well as the Constitution and laws of the United  
18 States.

### 19             **Arizona’s Prohibition On Counting Out-of-Precinct Provisional Ballots**

20         81. Since 2006, Arizona has rejected over 121,000 provisional ballots,  
21 consistently finding itself at or near the top of the list of states that collect and reject the  
22 largest number of provisional ballots each election. Ariz. Advocacy Found., et al., *Arizona*  
23 *Shelby Response Project: Modernizing Elections and Maximizing Voter Participation*, 2  
24 (2015) [hereinafter *Shelby Response Project*]. In 2012 alone, nearly 46,000 votes were  
25 rejected by the State—meaning that about 2% of all votes cast in the general election did  
26 not count. Brandon Quester, *Rejected Ballots Document Continued Problems in Arizona*  
27 *Elections*, Ariz. Ctr. for Investigative Reporting, available at <http://azcir.org/rejected->  
28



1 ballots-document-continued-problems-in-arizonas-elections/ (last visited Apr. 13, 2016).  
2 Unfailingly, one of the top reasons that ballots are rejected is because they were cast in a  
3 polling place other than the one to which the voter is assigned. *See, e.g.,* ACLU of Ariz.,  
4 *Uncounted Votes: How Arizona Law Impacts Provisional Ballots*, 5 (2010) [hereinafter  
5 *Uncounted Votes*] (finding that in 2008, 33.89 percent of all rejected provisional ballots in  
6 five counties surveyed were rejected because they were cast in the wrong polling place);  
7 *Shelby Response Project* at 9 (finding that in 2014, of thirteen counties surveyed, 46% of  
8 all provisional ballots rejected were rejected by they were cast out of precinct).

9       82. Although a voter may cast a provisional ballot if he or she attempts to vote  
10 at a polling location or voting area other than the one to which he or she has been  
11 assigned, Arizona law prohibits such votes from being counted if the voter is voting in a  
12 jurisdiction that has chosen to operate under a precinct-based system. A.R.S. § 16-584(B);  
13 Manual at 185. Accordingly, even where the voter is otherwise fully qualified to vote for  
14 at least some of the candidates on the ballot—President, U.S. Senate, U.S. Representative,  
15 Governor—or even where the voter is otherwise fully qualified to vote for all of the  
16 candidates on the ballot, their vote is not counted. In contrast, where a voter votes in a  
17 jurisdiction that has chosen to operate under a vote center based system, the voter is  
18 allowed to go to any polling location in the jurisdiction and cast their vote by regular non-  
19 provisional ballot. Thus, their ballot will count in any location in the county.

20       83. Maricopa County has one of the highest provisional ballot rejection rates in  
21 the state. In 2008, “[o]ne of every 14 Maricopa County voters cast a provisional ballot [].  
22 The county then rejected 29,531 provisional ballots, nearly a third of which might have  
23 counted had the voter been directed to the correct polling location.” *Uncounted Votes* at 6.  
24 Likewise, in 2012, the Center for American Progress named Maricopa County as one of  
25 the worst counties in Arizona for election performance solely for the high rate of  
26 provisional ballots cast in the County. Anna Chu, et al., *Unequal Access: A County-by-*  
27 *County Analysis of Election Administration in Swing States in the 2012 Election*, Ctr. for  
28 Am. Progress, 11 (2014). More than 37% of ballots cast on Election Day were provisional

1 ballots—76% higher than the state average. *Id.* The county rejected approximately 18% of  
2 those provisional ballots. Maricopa Cnty. Elections Dep’t., *Provisional Ballots General*  
3 *2012*, 17, 32 (2013). Approximately 7500 provisional ballots were not counted solely  
4 because they were cast out of precinct. Rob O’Dell, *Despite Progress in Arizona, Early*  
5 *Ballots Again Delay Vote Count*, The Ariz. Republic, Dec. 1, 2014. In 2014, in Maricopa  
6 County over 2,800 provisional ballots were cast in the incorrect precinct.

7 84. On information and belief, one of the primary causes for the large number of  
8 provisional ballots cast out of precinct in Maricopa County specifically and across  
9 Arizona generally is voter confusion caused by the large number of changes that Arizona  
10 counties make to their polling locations from year to year. *Shelby Response Project* at 8.  
11 In Maricopa County alone, between 2006 and 2008 at least 43 percent of polling locations  
12 changed from one year to the next. *Uncounted Votes* at 4. Further, one study found that in  
13 a statewide survey of voters, of the 15 percent of survey respondents who reported that  
14 they cast a provisional ballot because they went to the wrong polling location, at least half  
15 of those individuals had correctly voted at the same polling location the year before.  
16 *Shelby Response Project* at 8.

17 85. Moreover, poll worker error and poor election administration also contribute  
18 heavily to this problem. For example, in 2004, Maricopa County sent 8,800 voters  
19 election notification cards that listed the wrong voting location. Lillie Coney, *A Call for*  
20 *Election Reform*, 7 J. L. & Soc. Challenges 183, 189 (2005). More recently, despite  
21 implementing an electronic poll book system which allows election workers to print a  
22 receipt listing a voter’s correct polling location and providing directions to that location  
23 for voters who arrive at the wrong polling location, over 2,800 voters in Maricopa County  
24 still cast out-of-precinct provisional ballots in 2014. The spokesman for the Maricopa  
25 County Recorder’s office explained that with this system, such ballots “shouldn’t have  
26 occurred at all.” This indicates that, at least in part, some out-of-precinct provisional  
27 ballots are cast because poll workers either are not providing the correct polling location  
28 information to voters, or they are not explaining that the provisional vote cast at the

1 incorrect location will not be counted.

2 86. In 2014, eighteen percent of all provisional ballots rejected in Arizona were  
3 cast by Hispanic voters despite their comprising only eleven percent of the electorate.  
4 *Shelby Response Project* at 13; *see also* Joshua Field, et al., *Uncounted Votes: Racially*  
5 *Discriminatory Effects of Provisional Ballots*, Ctr. for Am. Progress, 14 (2014) (finding a  
6 statistically significant correlation between high rates of provisional ballots cast and  
7 counties covered by Section 203, i.e., counties with a large population of non-English  
8 speakers). Similarly, in 2012, Maricopa County found that of the provisional ballots cast  
9 in the County, nineteen percent were cast by individuals with Hispanic surnames.  
10 Maricopa Cnty. Elections Dep't., *Provisional Ballots General 2012*, 11 (2013). The  
11 county found that twenty-one percent of all Hispanic provisional ballots were not counted,  
12 which was higher than the County average of eighteen percent. *Id.* at 17. The study also  
13 found that Hispanic voters are more likely to go to the wrong polling location. *Id.* at 202.

14 87. These statistics are unsurprising. Minority voters often have less stable  
15 housing than white voters and, as a result, are often more mobile, causing them to change  
16 precincts and polling locations more frequently. Likewise, they are less likely to have  
17 access to reliable transportation as well as more likely to have inflexible work schedules.  
18 Accordingly, where these voters arrive at the wrong polling location, they are more likely  
19 to have difficulty traveling to the correct polling location to cast their ballot. In Arizona's  
20 Native American community in particular, tribal voting locations often differ from voting  
21 locations for state and county elections, causing further confusion and leading Native  
22 Americans to cast their votes at the incorrect polling location.

23 88. Voters whose provisional ballots are rejected because they vote in the  
24 incorrect polling location face a severe burden: complete disenfranchisement. Sadly, many  
25 of these voters are not even given the option to avoid this burden, as poll worker error (by  
26 sending them to the wrong polling location or failing to explain to them the consequences  
27 of casting their provisional ballot in the wrong precinct) leads them to erroneously and  
28 unknowingly cast an uncountable ballot. Maricopa County's 2016 PPE and the decision to

1 drastically reduce the number of polling locations has exacerbated this burden for  
2 Maricopa County voters in the upcoming general election and increased the likelihood  
3 that thousands of voters will be disenfranchised.

4 89. As noted, one of the key factors contributing to the casting of out-of-  
5 precinct provisional ballots is the change in the location and number of polling locations.  
6 In the 2016 PPE, only sixty voting locations were allotted for Maricopa County voters.  
7 Current reports indicate that there could be up to an 1,107% change in the number of  
8 polling locations in the upcoming general election which, while plainly necessary to  
9 accommodate voters, is virtually certain to create massive confusion among voters as to  
10 where they must go in order to cast a countable ballot. Further, in the 2016 PPE voters  
11 were able to vote at any voting location, regardless of the precinct in which they were  
12 registered. Now Maricopa County voters will once again be forced to vote only in the  
13 precinct in which they are registered. Such a drastic change in such a short period of time  
14 will assuredly confuse voters and cause many voters to arrive at the wrong polling  
15 location to cast their general election ballot. This is particularly true for voters in  
16 Maricopa County where, even before the 2016 PPE debacle, there were already systemic  
17 problems with the casting of out-of-precinct provisional ballots. Consequently, thousands  
18 more Maricopa County voters are likely to be disenfranchised in the upcoming 2016  
19 general election if the State's prohibition on counting out-of-precinct ballots remains in  
20 place.

21 90. Thus, Defendants should be enjoined from rejecting provisional ballots cast  
22 out-of-precinct during the upcoming November 2016 general election, and be required to  
23 count all such ballots cast by otherwise eligible voters. Given that the burden of  
24 disenfranchisement is severe, and the likelihood of an increase in the number of voters  
25 disenfranchised in the upcoming election is so high, there is simply no legitimate reason  
26 for the State not to do so.

27 91. Arizona voters will also be subjected to unequal and arbitrary treatment as a  
28 result of the State's out-of-precinct provisional ballot policy. In 2016, at least five Arizona

1 counties have announced that they will use a vote center system rather than a traditional  
2 precinct-based polling location system. Thus, voters in these counties will be able to vote  
3 in any voting location in the county without risking disenfranchisement for mistakenly  
4 voting in the incorrect precinct. In contrast, because the State does not permit votes that  
5 are cast out of precinct to be counted in traditional precinct-based systems, voters who  
6 happen to live in these counties face an arbitrary yet substantial risk of disenfranchisement  
7 unequal to similarly situated voters who live in jurisdictions that have chosen to use a vote  
8 center system. That risk of disenfranchisement, as discussed *supra*, is significantly  
9 increased in jurisdictions such as Maricopa County, where the local elections authorities  
10 have declined to settle on one system or the other. Instead, they have chosen to run some  
11 elections—such as the most recent 2016 PPE—under a voting center system, and other  
12 elections—including the very next major election that Maricopa County voters will  
13 participate in, the upcoming November general election—under a precinct-based polling  
14 system. This drastic change in approach virtually ensures massive voter confusion that  
15 will, at best, result in numerous voters attempting to cast their ballots out of precinct and  
16 being arbitrarily disenfranchised.

17 92. There is simply no rational basis under which these precinct based voters'  
18 fully eligible votes should not also be counted. As a consequence, it is incumbent upon the  
19 Court to enter a ruling that that would prevent their disenfranchisement.

#### 20 **H.B. 2023—Prohibition on the Collection of Early Vote Ballots**

21 93. For many years it has been the practice of individuals, political parties, and  
22 other community organizers in Arizona to maximize voter turnout by assisting voters with  
23 casting their mail-in absentee ballots by collecting those ballots *en masse* and hand  
24 delivering them to the appropriate elections officials to be counted. This assistance has  
25 particularly benefited voters who are homebound and elderly, and in many cases lacking  
26 transportation, as well as voters in the Hispanic, Native-American, and African-American  
27 communities in Arizona. For Arizona activists, assisting these minority voters in this  
28

1 fashion is not only a way to combat historically low voter turnout for these populations, it  
2 is a way to directly counteract the effects of systemic discrimination that have resulted in  
3 burdens disproportionately carried by minority communities such as high poverty rates,  
4 lack of access to transportation, and inflexible work schedules, all of which have made it  
5 more difficult in general for Arizonians to participate in the franchise.

6 94. Arizona law provides that all elections must allow for early voting and that  
7 any qualified elector may vote by early ballot. A.R.S. § 16-541. To cast an early ballot,  
8 the ballot, together with the signed affidavit, must be enclosed in a self-addressed  
9 envelope and delivered or mailed to the county recorder or deposited by the voter or the  
10 voter's agent at any polling place in the county by 7:00 p.m. on Election Day. A.R.S. §  
11 16-548. To protect against voter fraud, Arizona law has long provided that any person  
12 who knowingly collects voted or unvoted ballots and does not turn those ballots in to an  
13 election official, is guilty of a Class 5 felony, which carries a presumptive 1 ½ years of  
14 incarceration and a fine up to \$150,000 plus surcharges. A.R.S. § 16-1005.

15 95. Despite the widespread practice of collecting ballots in minority  
16 communities and the well-established protections against fraud, on March 9, 2016, citing  
17 voter fraud as its chief concern, the Arizona State Legislature passed H.B. 2023 and  
18 Governor Doug Ducey signed it into law, making it a Class 6 felony for an individual to  
19 knowingly collect voted or unvoted early ballots from another person. H.B. 2023. In other  
20 words, although the prior law already made it a felony for a person to collect ballots but  
21 not turn them in to the appropriate elections official, the new law makes the mere  
22 *collection* of the ballots—even if the collector delivers those ballots to an elections official  
23 in time to be counted—a felony.

24 96. While H.B. 2023 does provide limited exceptions for individuals collecting  
25 the ballots of family and household members, caregivers, and the election and mail  
26 workers who handle ballots by trade, the activists, friends, and neighbors who have  
27 provided this assistance to voters for years, as well as political parties and campaigns, will  
28 all face criminal penalties if they so much as attempt to assist voters in this way in the

1 2016 general election. *See* H.B. 2023.

2 97. Upon information and belief, the Republican-controlled Arizona State  
3 Legislature passed H.B. 2023 with the purpose and effect of suppressing Democratic votes  
4 through the disenfranchisement and abridgement of the right to vote of minority voters in  
5 Arizona. Moreover, it is clear that if H.B. 2023 is not enjoined it will do just that.

6 98. Republican Representative Michelle Ugenti-Rita filed H.B. 2023 on January  
7 11, 2016. On January 25, 2016, H.B. 2023 was heard by the House Elections Committee.  
8 The Committee heard over two hours of public testimony on the bill, none of which  
9 indicated that there was any evidence of fraud in the ballot collection process and much of  
10 which indicated that this practice was used heavily by Arizona's minority communities. In  
11 fact, State Elections Director Eric Spencer, speaking on behalf of the Secretary of State's  
12 Office, admitted that he could not offer specific instances in which an individual spoiled  
13 or stole the early ballot of another. Likewise, House Elections Committee member  
14 Representative J.D. Mesnard stated that it was irrelevant whether fraud was actually  
15 occurring because "what is indisputable is that many people believe it is happening."  
16 Nevertheless, the Committee voted to allow H.B. 2023 to move to the floor for a vote. The  
17 vote was 4-2 along party lines, with Republicans in favor of the bill.

18 99. On January 22, 2016, Representative Ken Clark attempted to amend the bill  
19 to add a provision that would allow an individual to return another person's ballot to  
20 elections officials as long as the voter had signed an affidavit attesting that they had  
21 authorized the return. The amendment was rejected by House Republicans.

22 100. On February 4, 2016, the Arizona House of Representatives passed H.B.  
23 2023 with thirty-four voting for the measure and twenty-three voting against. The vote  
24 was split along party lines; every Republican supported the bill with one exception, and  
25 all Democrats opposed.

26 101. Upon reaching the Senate, H.B. 2023 was referred to the Senate  
27 Government Committee. On February 24, 2014, the Senate Government Committee voted  
28 to allow the bill to proceed to a floor vote. They gave the bill a "do pass"

1 recommendation, with four members voting for the recommendation and three members  
2 voting against. Committee Members Martin Quezada-D, Lupe Chavira Contreras-D, and  
3 Robert Meza-D voted against the measure. All three are Hispanic.

4 102. In the Senate, Senator Andrew Sherwood-D moved to reduce the penalty to  
5 a misdemeanor, but could not garner sufficient votes. Senator Lynn Pancrazi-D also spoke  
6 out against the bill, stating that some rural residents of her district do not receive home  
7 delivery of their mail and are therefore unable to rely on mail services to transmit their  
8 ballot to and from their home. Sen. Steve Farley-D stated that there had never been a  
9 documented case of anyone actually picking up someone else's ballot and then failing to  
10 deliver it to elections officials, explaining that "[t]he problem we're solving is that one  
11 party is better at collecting ballots than the other one." No concrete evidence of voter  
12 fraud was presented.

13 103. On March 9, 2016, the Arizona Senate passed H.B. 2023, with a party line  
14 vote of 17 voting for the measure and 12 voting against. H.B. 2023 Senate Vote Detail.

15 104. On the same day, Arizona Governor Doug Ducey signed H.B. 2023 into  
16 law. H.B. 2023 Chapter 5.

17 105. H.B. 2023 will go into effect on July 20, 2016. As discussed *supra*, H.B.  
18 2023 will severely burden, abridge, and deny Arizona citizens the right to vote. Further, it  
19 will have a disparate impact on Arizona's Hispanic, African-American, and Native-  
20 American populations, who rely disproportionately on the collection of ballots to cast  
21 their early votes. These populations' reliance on ballot collecting is directly connected to  
22 the long history of discrimination that they have been subject to in Arizona, which has left  
23 them with less access to transportation; less flexible work schedules; and a higher  
24 likelihood of suffering from poor health and disabilities.

25 106. Moreover, H.B. 2023 also burdens the rights of the members of political  
26 parties, organizers, and other activists who assist Arizona voters in submitting their ballot  
27 by threatening them with criminal prosecution, jail time, and large fines. Accordingly, the  
28 law will cause these individuals and organizations not to engage in such activities, thereby



1 disrupting their right to associate with voters.

2 107. For Maricopa County voters, these burdens are exacerbated by the recent  
3 2016 PPE debacle and the cumulative effect of all of the challenged voting laws,  
4 practices, and procedures is severe. Not only will voters who typically have their ballot  
5 collected no longer be able to utilize that method, but they will face increased risks of  
6 being disenfranchised due to the inequitable allocation of polling locations by Maricopa  
7 County and the State’s restrictive out-of-precinct provisional ballot policy. Organizers,  
8 activists, campaigns, and candidates also face additional burdens. Now, on top of  
9 increasing their efforts to educate voters about where they can vote in order to combat the  
10 inevitable confusion that the 2016 PPE has caused, they will also have to divert more time  
11 and energy to arranging for voters who would typically use ballot collecting to cast their  
12 ballot either by mail or in person so that those voters may exercise the franchise.

13 108. Given the severe burdens placed on Arizona voters and the sheer lack of  
14 evidence of that fraud has ever occurred, the State cannot show any legitimate interest in  
15 the passage and promulgation of this law sufficient to overcome the rights of the Arizona  
16 citizens who are burdened by it.

17 **CAUSES OF ACTION**

18 **COUNT I**

19 **(Violations of Section 2 of the Voting Rights Act Against Defendants Arizona**  
20 **Secretary of State’s Office; Michele Reagan; Maricopa County Board of Supervisors;**  
21 **Denny Barney; Steve Chucri; Andy Kunasek; Clint Hickman; Steve Gallardo;**  
22 **Maricopa County Recorder and Elections Department; Helen Purcell; and Karen**  
**Osborne)**

23 109. Plaintiffs reallege and incorporate by reference all prior paragraphs of this  
24 Complaint and the paragraphs in the counts below as though fully set forth herein.

25 110. Section 2 of the Voting Rights Act provides in part that “[n]o voting  
26 qualification or prerequisite to voting or standard, practice, or procedure shall be imposed  
27 or applied by any State . . . in a manner which results in a denial or abridgement of the  
28 right of any citizen of the United States to vote on account of race or color.” 52 U.S.C. §

1 10301(a).

2 111. Maricopa County's allocation of polling locations has had and—if this  
3 Court does not institute the remedy that Plaintiffs request—will continue to have, an  
4 adverse and disparate impact on Hispanic and African-American citizens of Arizona.

5 112. As evidenced by the 2016 PPE, now that the County is making these  
6 decisions without federal oversight, it does not take into account how its polling location  
7 determinations affect Hispanic and African-American voters. Thus, these voters are highly  
8 likely to face substantial burdens when voting, as they did in the 2016 PPE, which are  
9 more likely to result in their disparate disenfranchisement and a reduction their  
10 participation in future elections.

11 113. Hispanics and African Americans in Arizona have suffered from, and  
12 continue to suffer from, discrimination on the basis of race. The ongoing effects of this  
13 discrimination include significant and continuing socioeconomic disparities between  
14 Hispanic and African Americans and whites in the State.

15 114. The interaction of Maricopa County's allocation of polling locations with  
16 the effects of discrimination against Hispanics and African Americans in Arizona has  
17 caused and will continue to cause an inequality in the opportunity of members of these  
18 minority communities to vote in Arizona. Under the totality of the circumstances,  
19 Hispanics and African Americans in Arizona have had and will continue to have less  
20 opportunity than other members of the electorate to participate in the political process and  
21 to elect representatives of their choice as a result of Maricopa County's allocation of  
22 polling locations. Hispanics and African Americans in Arizona therefore have had and  
23 will continue to have their right to vote abridged or denied on account of race due to  
24 Maricopa County's discriminatory allocation of polling locations.

25 115. Arizona's policy of not counting provisional ballots cast out of precinct has  
26 had, and if not declared illegal and enjoined, will continue to have an adverse and  
27 disparate impact on Hispanic, African-American, and/or Native-American citizens of  
28 Arizona.

1           116. These voters are more likely than white voters to attempt to vote in the  
2 incorrect precinct and, as a result, are more likely to have their vote rejected. Thus, these  
3 voters are highly likely to face substantial burdens when voting, which are more likely to  
4 result in their disparate disenfranchisement and a reduction their participation in future  
5 elections.

6           117. Hispanics, African Americans, and Native Americans in Arizona have  
7 suffered from, and continue to suffer from, discrimination on the basis of race. The  
8 ongoing effects of this discrimination include significant and continuing socioeconomic  
9 disparities between Hispanics, African Americans, Native Americans and whites in the  
10 State.

11           118. The interaction of Arizona's policy of not counting out-of-precinct  
12 provisional ballots with the effects of discrimination against Hispanics, African  
13 Americans, and/or Native Americans in Arizona has caused and will continue to cause an  
14 inequality in the opportunity of members of these minority communities to vote in  
15 Arizona. Under the totality of the circumstances, Hispanics, African Americans, and/or  
16 Native Americans in Arizona have had and will continue to have less opportunity than  
17 other members of the electorate to participate in the political process and to elect  
18 representatives of their choice as a result of Arizona's policy of not counting out-of-  
19 precinct provisional ballots. Hispanics, African Americans, and/or Native Americans in  
20 Arizona therefore have had and will continue to have their right to vote abridged or denied  
21 on account of race due to Arizona's policy of not counting out-of-precinct provisional  
22 ballots.

23           119. H.B. 2023, which criminalizes the collection of signed and sealed absentee  
24 ballots, if not declared illegal and enjoined, will have an adverse and disparate impact on  
25 Hispanic, African-American, and/or Native-American citizens of Arizona.

26           120. Hispanics, African Americans, and Native Americans have suffered from,  
27 and continue to suffer from, discrimination on the basis of race. The ongoing effects of  
28 this discrimination include socioeconomic disparities between Hispanics, African

1 Americans, Native Americans and whites in Arizona.

2 121. The interaction of H.B. 2023 with the effects of discrimination in Arizona  
3 will cause an inequality in the opportunity of Hispanics, African Americans, and/or Native  
4 Americans to vote in Arizona. Under the totality of the circumstances, Hispanics, African  
5 Americans, and/or Native Americans in Arizona have had and will continue to have less  
6 opportunity than other members of the electorate to participate in the political process and  
7 to elect representatives of their choice as a result of H.B. 2023. Hispanics, African  
8 Americans, and/or Native Americans in Arizona therefore have had and will continue to  
9 have their right to vote abridged or denied on account of race due to H.B. 2023.

10 122. Under the totality of the circumstances, the voting laws, practices and  
11 provisions challenged under Section 2 have resulted and will result in less opportunity for  
12 Hispanics, African Americans, and/or Native Americans than for other members of the  
13 population in Arizona to participate in the political process and to elect candidates of their  
14 choice, and they violate Section 2 of the Voting Rights Act.

15 **COUNT II**

16  
17 **(Denial of Equal Protection Under the Fourteenth Amendment of the United States  
18 Constitution and Violation of 42 U.S.C. § 1983 by Unjustifiably Burdening Voters  
19 Against Defendants Arizona Secretary of State's Office; Michele Reagan; Maricopa  
20 County Board of Supervisors; Denny Barney; Steve Chucuri; Andy Kunasek; Clint  
21 Hickman; Steve Gallardo; Maricopa County Recorder and Elections Department;  
22 Helen Purcell; and Karen Osborne)**

23 123. Plaintiffs reallege and incorporate by reference all prior paragraphs of this  
24 Complaint and the paragraphs in the counts below as though fully set forth herein.

25 124. Under the Equal Protection Clause, any state election regulation that  
26 imposes non-discriminatory restrictions on the right to vote must be justified by an  
27 important state regulatory interest. *Burdick v. Takushi*, 504 U.S. 428, 434 (1992). Where  
28 the restrictions are severe, however, “the regulation must be narrowly drawn to advance a  
state interest of compelling importance.” *Id.* (quoting *Norman v. Reed*, 502 U.S. 279, 289  
(1992)). In determining severity of the restrictions, the court:

1 must weigh “the character and magnitude of the asserted injury to the rights  
2 protected by the First and Fourteenth Amendments that the plaintiff seeks  
3 to vindicate” against “the precise interests put forward by the State as  
4 Justifications for the burden imposed by its rule,” taking into consideration  
5 “the extent to which those interests make it necessary to burden the  
6 plaintiff’s rights.”

7 *Id.* (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983)).

8 125. Unless Plaintiffs are granted the relief requested, there is a strong likelihood  
9 that their right to vote, their constituencies’ and members’ right to vote, and the right to  
10 vote of thousands of other Maricopa County residents will be severely burdened in the  
11 2016 general election as a result of Defendants’ misallocation of polling locations. As  
12 evidenced by the 2016 PPE, now that the County is making these decisions without  
13 federal oversight, it not only makes these decisions in a vacuum, where even facially  
14 unreasonable reductions in voting sites are apparently rubber stamped by the Board and  
15 the Secretary, it has failed entirely to take into account how these decisions are likely to  
16 impact Hispanic, Native-American, and African-American communities in particular.  
17 Thus, voters residing in such communities in Maricopa County are highly likely to face  
18 substantial burdens, just as they did in the 2016 PPE, including having to travel farther  
19 distances to reach their polling locations; having to stand in line for longer periods of time  
20 to exercise their right to vote; and ultimately, are more likely to be disenfranchised as a  
21 result of those burdens. The state has no interest of sufficient importance that outweighs  
22 any of these burdens on otherwise eligible members of Arizona’s electorate.

23 126. Plaintiffs’ right to vote, their constituencies’ and members’ right to vote,  
24 and the right to vote of thousands of other Arizona voters generally—and Maricopa  
25 County voters specifically—are also independently severely burdened by the arbitrary and  
26 unjustified rejection of out-of-precinct provisional ballots. Voters who have their  
27 provisional ballots rejected are completely disenfranchised, often due to no fault of their  
28 own, but rather due to ineffective administration of elections and poll worker error.  
Minority voters face even greater risks of disenfranchisement and, therefore, greater  
burdens, as they are more likely to appear to vote at the incorrect precinct through no fault

1 of their own. Moreover, due to the confusion surrounding the 2016 PPE, the dramatic  
2 changes in Maricopa County's voting locations from one election to the next, as well as  
3 the changes in its voting system, Maricopa County voters specifically face severe burdens  
4 on their right to vote and are substantially more likely to vote in the incorrect precinct and,  
5 as a result, be disenfranchised. These voters, who are otherwise fully qualified to vote for  
6 the candidates on their ballot, should have their votes counted. The State has no sufficient  
7 interest that outweighs any of these burdens on otherwise eligible members of Arizona's  
8 electorate.

9 127. Plaintiffs' right to vote, their constituencies' and members' right to vote,  
10 and the right to vote of thousands of Arizona citizens is severely and unjustifiably  
11 burdened by the criminalization of the collection of absentee ballots. Enacting this  
12 prohibition not only interferes with individuals' right to vote but, significantly, denies  
13 thousands of eligible voters this fundamental right, particularly the State's Hispanic,  
14 African-American, and Native-American voters, who have historically relied on this  
15 method of voting to combat Arizona's long history of discrimination. As a result of H.B.  
16 2023, thousands of Arizona voters will no longer have any means by which to cast their  
17 ballots and, if individuals attempt to assist them, they will risk jail time, a criminal record,  
18 and large fines. The state has no interest of sufficient importance that outweighs any of  
19 these burdens on otherwise eligible members of Arizona's electorate.

20 128. Based on the foregoing, Defendants, acting under color of state law, have  
21 deprived and will continue to deprive Plaintiffs of equal protection under the law secured  
22 to them by the Fourteenth Amendment to the United States Constitution and protected by  
23 42 U.S.C. § 1983.

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**COUNT III**

**(Denial of Equal Protection Under the Fourteenth Amendment of the United States Constitution and Violation of 42 U.S.C. § 1983 Through Disparate Treatment Against Defendants Arizona Secretary of State’s Office; Michele Reagan; Maricopa County Board of Supervisors; Denny Barney; Steve Chucri; Andy Kunasek; Clint Hickman; Steve Gallardo; Maricopa County Recorder and Elections Department; Helen Purcell; and Karen Osborne)**

129. Plaintiffs reallege and incorporate by reference by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

130. The Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution guarantees qualified voters a substantive right to participate equally with other qualified voters in the electoral process. Further, the equal right to vote that is protected by the Equal Protection Clause is protected in more than the initial allocation of the franchise; equal protection applies to the manner of its exercise as well. *See Hunter v. Hamilton Cny. Bd. of Elections*, 635 F.3d 219, 234 (6th Cir. 2011) (quoting *Bush v. Gore*, 531 U.S. 98, 104 (2000)). A state may not arbitrarily impose disparate treatment on similarly situated voters.

131. By refusing to count ballots cast out of precinct in some Arizona counties, but allowing other counties to employ voting center systems in which a ballot is accepted regardless of where it is cast within the jurisdiction, Arizona treats voters in vote-center counties different from voters in precinct-system counties. As a result, Arizona’s policy creates two groups of otherwise similarly situated voters in Arizona—(1) fully eligible Arizona voters who cannot have their ballot counted because they vote outside of their precinct in a precinct-system county, and (2) fully eligible Arizona voters who can have their ballot counted where they vote outside of their precinct in a vote-center county. This disparate treatment of Arizona voters based solely upon the county in which they live is arbitrary, and there is no rational justification for such differentiation. Both groups of voters are qualified electors in Arizona, and there is no legally sufficient reason to distinguish between them.





1 First and Fourteenth Amendment rights are impaired as a result of H.B. 2023. In  
2 *Carrington v. Rash*, 380 U.S. 89, 94 (1965), a case brought under the Equal Protection  
3 Clause, the Supreme Court held that “[f]encing out’ from the franchise a sector of the  
4 population because of the way they may vote is constitutionally impermissible.”  
5 Similarly, the First Amendment protects citizens against “a law that has the purpose and  
6 effect of subjecting a group of voters or their party to disfavored treatment by reason of  
7 their views.” *Vieth v. Jubelirer*, 541 U.S. 267, 314 (2004) (Kennedy, J., concurring).

8 137. Upon information and belief, the State, upon enacting H.B. 2023, intended  
9 to suppress (that is, fence out), the vote of Democrats because of the way they are  
10 expected to vote. Accordingly, H.B. 2023, absent the relief requested, will continue to  
11 violate the First Amendment and the Equal Protection Clause.

12 **PRAYER FOR RELIEF**

13  
14 WHEREFORE, Plaintiffs pray for judgment in their favor and against Defendants  
15 as follows:

16 A. An order declaring that:

17 1. Arizona’s prohibition on the counting of out-of-precinct provisional  
18 has a disparate effect on Hispanic, Native-American, and African-American voters in  
19 violation of Section 2 of the Voting Rights Act;

20 2. Arizona’s prohibition on the counting of out-of-precinct provisional  
21 ballots burdens Arizona voters generally and, specifically, Hispanic, African-American,  
22 and Native-American voters as well as voters in Maricopa County without a sufficient  
23 state justification for doing so, in violation of the Equal Protection Clause of the  
24 Fourteenth Amendment;

25 3. Arizona’s policy of rejecting provisional ballots cast out of precinct  
26 in certain jurisdictions, while allowing for the counting of ballots cast out of precinct in  
27 others, violates the Equal Protection Clause of the Fourteenth Amendment;

28

1           4.     H.B. 2023 violates Section 2 of the Voting Rights Act, the Equal  
2 Protection Clause of the Fourteenth Amendment, and the First Amendment to the United  
3 States Constitution; and

4           5.     The rights and privileges of Plaintiffs will be irreparably harmed  
5 without the intervention of this Court.

6           B.     An order preliminarily and permanently enjoining Defendants, their  
7 respective agents, officers, employees, successors, and all persons acting in concert with  
8 each or any of them from:

9           1.     Allocating polling locations for the 2016 general election in  
10 Maricopa County without first submitting the allocation plan to this Court for review and  
11 approval to ensure that the plan is in keeping with state and federal law, Section 2 of the  
12 Voting Rights Act, and the United States Constitution;

13           2.     Rejecting provisional ballots solely because they were cast in the  
14 wrong precinct or polling location, and requiring that such ballots be counted for all  
15 elections in which the elector is eligible to vote;

16           3.     Implementing, enforcing, or giving any effect to the challenged  
17 provisions of H.B. 2023.

18           C.     An order requiring the Maricopa County Defendants to draft and submit to  
19 this Court for review and approval a contingency plan to address and remedy long wait  
20 times should they occur in the 2016 general election;

21           D.     An order awarding Plaintiffs their costs, disbursements and reasonable  
22 attorneys' fees incurred in bringing this action pursuant to 42 U.S.C. §§ 1988, 19731(e);  
23 and

24           Such other or further relief as the Court deems just and proper.  
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Dated: April 19, 2016

s/ Daniel C. Barr  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 19, 2016, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing.

s/ Evelyn Maestre