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9
 10 IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ARIZONA

11
 12 Mi Familia Vota; Arizona Coalition for
 Change; and Ulises Ventura,

13 Plaintiffs,

14 v.

15 Katie Hobbs, in her official capacity as
 16 Arizona Secretary of State,

17 Defendant.

No. _____

**COMPLAINT FOR
 DECLARATORY AND
 INJUNCTIVE RELIEF**

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PRELIMINARY STATEMENT

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2 1. This action is brought to protect Plaintiffs who are engaged in voter
3 registration work fundamental to our democracy, and to ensure that all Arizonans who
4 want to register to vote in this year’s Presidential election will have the time necessary
5 to do so, notwithstanding the COVID-19 pandemic.

6 2. Arizona law requires that all voters submit their registration to vote no
7 later than 29 days before the election.

8 3. That means that any Arizonan who wishes to vote in this year’s
9 Presidential election on November 3, 2020, must register no later than Monday, October
10 5, 2020 (the “Voter Registration Cutoff”) or lose the right to vote.

11 4. But this is no ordinary year. This year, Arizona, like the rest of the
12 country and world, is grappling with the devastating and enduring effects of the
13 COVID-19 pandemic which has killed over 200,000 Americans.

14 5. Plaintiffs Mi Familia Vota and Arizona Coalition for Change are not-for-
15 profit organizations working to register voters ahead of the November election. Plaintiff
16 Ulises Ventura is a voter registration organizer employed by Mi Familia Vota.

17 6. From March 30, 2020, when Arizona imposed a stay-at-home order and
18 other restrictions on day-to-day interactions in order to mitigate the effects of the
19 pandemic, to the middle of August when those restrictions were lifted, Plaintiffs were
20 effectively prevented from registering voters.

21 7. The act of registering people to vote through voter registration drives and
22 get-out-the-vote campaigning implicates core political speech and associational rights
23 protected by the First and Fourteenth Amendments.

24 8. Plaintiffs have diverted significant resources to try to register as many
25 voters as possible ahead of the Voter Registration Cutoff notwithstanding the pandemic
26 conditions, but unless the Voter Registration Cutoff is extended, Plaintiffs will not be
27 able to complete their work and thousands of eligible voters will not be registered and
28 will not be able to vote in the election.

1 resources away from its planned activities due to the conduct alleged here. Specifically,
2 MFV has had to divert and spend additional money, time, and other resources it would
3 not otherwise have spent to register voters ahead of the Voter Registration Cutoff
4 because Defendant has not extended the Voter Registration Cutoff. Defendant's
5 enforcement of the Voter Registration Cutoff under these conditions has frustrated
6 MFV's fundamental mission of registering as many voters as possible with the specific
7 target of registering 30,000 voters in 2020. Defendant's enforcement of the Voter
8 Registration Cutoff under these conditions severely burdens MFV's ability to engage in
9 constitutionally protected political speech and associational rights through its voter
10 registration efforts.

11 16. Plaintiff Arizona Coalition for Change ("ACFC") is a non-profit
12 organization with a mission to empower everyday people to transform their community
13 by building civic power, just and equitable schools, and safer neighborhoods. ACFC's
14 civic engagement team's primary mission is to register people to vote. Plaintiff ACFC
15 has had to divert money, personnel, time, and resources away from its planned activities
16 due to the conduct alleged here. Specifically, ACFC has had to divert and spend
17 additional money, time, and other resources it would not otherwise have spent to
18 register voters ahead of the Voter Registration Cutoff because Defendant has not
19 extended the Voter Registration Cutoff. Defendant's enforcement of the Voter
20 Registration Cutoff under these conditions has frustrated ACFC's fundamental mission
21 of registering as many voters as possible with the specific target of registering 25,000
22 voters in 2020. Defendant's enforcement of the Voter Registration Cutoff under these
23 conditions severely burdens the Coalition's ability to engage in constitutionally
24 protected political speech and associational rights through its voter registration efforts.

25 17. Plaintiff Ulises Ventura is a resident of Phoenix, Arizona and engages in
26 voter registration work there and in Tucson, Arizona in his capacity as an employee of
27 Mi Familia Vota.

28

1 24. That means that, in order to be able to vote in this year’s election,
2 Arizonans must submit their registration to vote no later than Monday, October 5, 2020
3 (the “Voter Registration Cutoff”).

4 25. Plaintiffs MFV and ACFC are not-for-profit organizations which engage
5 in voter registration work.

6 26. Plaintiff Ulises Ventura helps voters complete their registration and is
7 employed as a voter registration organizer by MFV.

8 27. In 2020, both organizational Plaintiffs joined a coalition of organizers
9 dedicated to registering 250,000 new voters for the 2020 election.

10 28. Plaintiff MFV had a target for its organization of registering 30,000 new
11 voters this year.

12 29. Prior to March 20, 2020, MFV had registered 9,845 new voters.

13 30. Prior to March 20, 2020, MFV was on track to register 41,568 voters by
14 October 5 and exceed its target of registering 30,000 new voters.

15 31. Plaintiff ACFC had a target for its organization of registering 25,000 new
16 voters this year.

17 32. Prior to March 30, 2020, ACFC had registered 6,662 new voters.

18 33. Prior to March 30, 2020, ACFC was on track to meet or exceed its target
19 of registering 25,000 new voters before the Voter Registration Cutoff.

20 ***The COVID-19 Pandemic Hits Arizona***

21 34. Plaintiffs’ voter registration work was effectively halted by the impact of
22 the COVID-19 pandemic on Arizona and the Arizona government’s response to that
23 crisis.

24 35. The first known case of community-based transmission of COVID-19 in
25 Arizona was documented on March 6, 2020. Cases then spread rapidly.

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1 36. Since March 6, at least 5,650 people have died of the virus in Arizona and
2 there have been 218,507 confirmed cases.¹

3 37. On March 12, 2020, Governor Doug Ducey declared a state of emergency
4 in Arizona due to the pandemic.²

5 38. On March 15, 2020, all schools were closed statewide.³

6 39. On March 17, 2020, the Arizona Department of Health Services issued
7 guidance that included canceling or postponing gatherings of 10 people or more.⁴

8 40. On March 19, 2020, bars, gyms, and movie theaters were required to close
9 and restaurants were directed to provide dine-out options only.⁵

10 41. On March 30, 2020, Governor Ducey issued a statewide stay-at-home
11 order which prevented Arizonans from leaving their residences except for food,
12 medicine, and other essential activities. The order also directed all people to maintain
13 physical distancing of at least six feet away from others in shared or outdoor spaces.⁶ A
14 violation of the order was a class 1 misdemeanor.⁷

15 42. On April 8, 2020, the Governor issued an order requiring travelers from
16 “area[s] with substantial community [COVID-19] spread” to isolate and self-quarantine
17 upon arrival in Arizona.⁸

18 43. On April 29, 2020, the Governor extended the March 30, 2020 stay-at-
19 home order through May 15, 2020 by a similar executive order.⁹

21 ¹ See Ariz. Dep’t of Health Servs., *Data Dashboard*,
22 <https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/covid-19/dashboards/index.php> (last visited Sept. 30, 2020).

23 ² Ariz. Declaration (Mar. 11, 2020),
24 https://azgovernor.gov/sites/default/files/declaraton_0.pdf.

25 ³ See Ariz. Exec. Order No. 2020-18 (Mar. 30, 2020) at 1.

26 ⁴ See *id.*

27 ⁵ Ariz. Exec. Order No. 2020-09 (Mar. 19, 2020) at 2.

28 ⁶ Ariz. Exec. Order No. 2020-18 (Mar. 30, 2020) at 3.

⁷ *Id.* at 4 (citing Ariz. Rev. Stat. § 26-317).

⁸ Ariz. Exec. Order No. 2020-24 (Apr. 8, 2020) at 2.

⁹ See *generally* Ariz. Exec. Order No. 2020-33 (Apr. 29, 2020).

1 44. Governor Ducey rescinded the stay-at-home order and loosened other
2 COVID-19-related restrictions as of May 12, 2020.¹⁰

3 45. Arizonans were still directed to maintain physical distancing from others
4 in public areas and avoid settings where physical distancing was not possible.¹¹

5 46. A surge of new cases in Arizona followed the Governor's attempts to
6 loosen restrictions, with an increase of over 800% in new cases reported between the
7 middle of May and early July.¹²

8 47. In response, the Governor re-imposed restrictions on large public events
9 and many non-essential businesses through executive orders issued on June 29¹³ and
10 July 9, 2020,¹⁴ and continued to extend those restrictions through August 6, 2020 when
11 the orders expired.¹⁵

12 48. The number of new cases in Arizona in August and September has been
13 lower than in June and July, but the virus continues to spread throughout the state.

14 49. On the single day of September 23, 2020, for example, Arizona reported
15 578 new, documented COVID-19 cases in the state.¹⁶

19 ¹⁰ Ariz. Exec. Order No. 2020-36 (May 12, 2020) at 2 (rescinding Exec. Order Nos.
20 2020-18, 2020-24, and 2020-33).

21 ¹¹ *Id.*

22 ¹² Anne Gearan & Jacqueline Dupree, *White House calls Arizona a coronavirus*
23 *success story as state resets after huge spike in cases*, Wash. Post (Aug. 5, 2020),
[https://www.washingtonpost.com/politics/white-house-calls-arizona-a-coronavirus-
23 success-story-as-state-resets-after-huge-spike-in-cases/2020/08/05/a76774a0-d74a-
11ea-930e-d88518c57dcc_story.html](https://www.washingtonpost.com/politics/white-house-calls-arizona-a-coronavirus-success-story-as-state-resets-after-huge-spike-in-cases/2020/08/05/a76774a0-d74a-11ea-930e-d88518c57dcc_story.html).

24 ¹³ Ariz. Exec. Order No. 2020-43 (June 29, 2020) at 2–3.

25 ¹⁴ Ariz. Exec. Order No. 2020-47 (July 9, 2020) at 3.

26 ¹⁵ Ariz. Exec. Order No. 2020-52 (July 23, 2020) at 2 (extending Executive Order
27 No. 2020-42).

28 ¹⁶ See Ariz. Dep't of Health Servs., *Data Dashboard*,
[https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-
epidemiology/covid-19/dashboards/index.php](https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/covid-19/dashboards/index.php) (last visited Sept. 30, 2020) (click
"Confirmed COVID-19 Cases by Day").

1 50. Because Arizona has tested only a small percentage of residents for
2 coronavirus infection, it is likely that the true rate of infection and fatalities is higher
3 than reported.

4 51. Medical experts predict an ongoing, second, or worse wave of COVID-19
5 infections in the fall and winter of 2020.¹⁷

6 ***The COVID-19 Pandemic Conditions Severely Curtailed Plaintiffs' Voter***
7 ***Registration Work***

8 52. Plaintiffs typically do their voter registration work in person, either by
9 going door-to-door, or by holding voter registration events at high-traffic public areas
10 such as churches, schools, community centers, and stores.

11 53. In response to the pandemic and the Governor's orders, the majority of
12 these high-traffic areas, including schools, churches, and community centers, closed at
13 the end of March 2020 and most remain closed to this day.

14 54. Even in those high-traffic areas which remained open, such as grocery
15 stores, it was almost impossible for voter registration staffers to register voters while
16 maintaining the physical distancing of at least 6 feet required by the Governor's orders.

17 55. Similarly, it became almost impossible to do door-to-door registration at
18 potential voters' homes while maintaining the required physical distancing of at least 6
19 feet.

20 56. Potential voters as well as Plaintiffs' voter registration organizers were
21 understandably fearful they would catch the virus if they engaged in the close contact
22 required for a voter registration employee to help fill out a voter registration form.

23 ¹⁷ See Audrey Cher, *WHO's Chief Scientist Says There's a 'Very Real Risk' of a*
24 *Second Wave of Coronavirus as Economies Reopen*, CNBC (June 9, 2020),
25 <https://cnb.cx/2MM8p97>; Len Strazewski, *Harvard Epidemiologist: Beware COVID-*
26 *19's Second Wave This Fall*, *American Medical Ass'n* (May 8, 2020), [https://www.ama-](https://www.ama-assn.org/delivering-care/public-health/harvard-epidemiologist-beware-covid-19-s-second-wave-fall)
27 [assn.org/delivering-care/public-health/harvard-epidemiologist-beware-covid-19-s-](https://www.ama-assn.org/delivering-care/public-health/harvard-epidemiologist-beware-covid-19-s-second-wave-fall)
28 [second-wave-fall](https://www.ama-assn.org/delivering-care/public-health/harvard-epidemiologist-beware-covid-19-s-second-wave-fall); Zack Budryk, *CDC Director Warns Second Wave of Coronavirus*
Might Be 'More Difficult', *The Hill* (Apr. 21, 2020),
[https://thehill.com/policy/healthcare/493973-cdc-director-warns-second-wave-of-](https://thehill.com/policy/healthcare/493973-cdc-director-warns-second-wave-of-coronavirus-might-be-more-difficult)
[coronavirus-might-be-more-difficult](https://thehill.com/policy/healthcare/493973-cdc-director-warns-second-wave-of-coronavirus-might-be-more-difficult).

1 57. These fears were well-founded. The COVID-19 virus spreads through
2 respiratory droplets left in the air, sometimes for hours, after an infected person sneezes,
3 coughs, exhales deeply, or speaks. Many people who contract the virus do not exhibit
4 symptoms but can still spread the virus to others. Wearing masks mitigates, but does not
5 eliminate, the risk of contracting the virus and is not a substitute for social distancing of
6 at least 6 feet from other people.¹⁸ The consequences of contracting the virus can be
7 severe and even fatal.¹⁹ To date, the pandemic has killed more than 200,000 Americans.

8 58. As a result, for five months—from the time Governor Ducey first issued a
9 stay-at-home order on March 30, 2020, until the middle of August when government-
10 imposed restrictions were lifted and the case numbers began to go down—Plaintiffs
11 were effectively prevented from registering voters in person.

12 59. During this five-month period, Plaintiffs attempted to replicate in-person
13 voter registration with voter registration by phone, text, and online, as well as through
14 drive-through voter registration events.

15 60. But the number of voters they were able to register was dramatically
16 lower than with in-person voter registration.

17 61. The Secretary of State’s own data confirms that voter registration this year
18 is significantly lower than in 2016, the last Presidential election year. Between January
19 and August 2016, 146,214 new voters registered. In the same period this year, the State
20 processed only 62,565 registrations.

21 62. Plaintiff MFV, for example, registered 1,523 voters in the single week
22 preceding Governor Ducey’s March 30 stay-at-home order.

25 ¹⁸ Ctrs. for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-*
26 *19): Symptoms* (May 13, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>.vo

27 ¹⁹ Ctrs. for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-*
28 *19): Clinical Care Guidance* (Sept. 10, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html>.

1 63. But between March 30 and the middle of August, Plaintiff MFV
2 registered on average only 193 voters every week.

3 64. During the months of April through July, ACFC registered only 710 total
4 new voters.

5 65. Many potential voters were reluctant to share personal identifying
6 information such as social security numbers over the phone.

7 66. Many of the potential voters in the communities Plaintiffs serve lack
8 reliable internet access and devices necessary to complete voter registration online.

9 67. Also, in the midst of this shutdown, Arizona closed its online registration
10 system for four days right before the deadline to register for the spring primary
11 elections.²⁰

12 68. Until September 4, 2020, Arizona's online voter registration system did
13 not allow a voter to register online if they had a non-traditional address, which is
14 common among Native American voters who live on tribal lands.

15 69. To this day, Arizona's online voter registration system only allows voters
16 to register online if they have State-issued driver's licenses, not other forms of
17 identification such as tribal identification for Native American voters or student
18 identification for young, new voters.

19 70. In addition, many would-be voters across the state were unable to submit
20 voter registrations earlier in the pandemic, and many were unable to register with an
21 address that would be reliably maintained through the November election. The
22 Governor extended expiration of state motor vehicle licenses, but state election law does
23 not accommodate voters who registered with expired licenses and then moved
24 residences across county lines.

25
26 ²⁰ Dylan Smith, *Arizona shutting down online voter registration at spring deadline*,
27 Tuscon Sentinel (Apr. 15, 2020),
28 https://www.tucson-sentinel.com/local/report/041520_az_mvd_voters/arizona-shutting-down-online-voter-registration-spring-deadline/.

1 *The Organizational Plaintiffs Diverted Resources Because of the Impending Voter*
2 *Registration Cutoff*

3 71. Plaintiffs diverted significant resources to try register as many voters
4 ahead of the impending Voter Registration Cutoff of October 5.

5 **MFV**

6 72. In August, Plaintiff MFV developed and implemented a new health and
7 safety protocol to be able to resume in-person voter registration, including the use of
8 PPE, safety measures and training, and health screening.

9 73. MFV increased the salary for voter registration workers to be able to staff
10 up and register as many voters as possible ahead of the Voter Registration Cutoff.

11 74. In order to minimize COVID-19-related health absences of its workers so
12 as to maximize the number of voters MFV could register ahead of the October 5
13 deadline, MFV also had to divert additional money and resources to find and purchase
14 PPE and equip all its voter registration employees with PPE; develop and train them in a
15 new COVID-19 safety protocol for in-person registration; and hire a health inspector to
16 routinely screen all employees participating in voter registration.

17 75. MFV also diverted resources to reassign staff to try to register as many
18 voters as possible ahead of the deadline.

19 76. For example, MFV diverted resources to move staff, including plaintiff
20 Ulises Ventura, from its Phoenix office to its Tucson office, which had been closed
21 during the shutdown, in order to ramp back up voter registration efforts there ahead of
22 the Voter Registration Cutoff.

23 77. MFV also diverted resources away from other work it typically does in
24 voter education in order to prioritize voter registration ahead of the deadline.

25 **ACFC**

26 78. ACFC diverted significant resources to move its entire registration effort
27 from in-person to online in order to register voters ahead of the Voter Registration
28 Cutoff.

1 79. Because many of ACFC's voter registration employees are young people
2 from communities of color, many of them lacked the resources needed to work
3 virtually.

4 80. ACFC had to divert resources to purchase them Wifi hotspots, cell phones
5 to call and text potential voters, and tablets to help potential voters register online.

6 81. ACFC also spent money purchasing software to help their employees
7 make calls and send texts to potential voters.

8 82. ACFC diverted resources to create and run digital advertisements and
9 purchase related software which would allow them to follow up with people who
10 responded to an advertisement and expressed interest in registering to vote.

11 83. ACFC diverted resources to create and implement a new text-messaging
12 voter registration campaign.

13 84. ACFC diverted resources to train its volunteers on these new voter
14 registration methods and the supportive technologies. It took time for ACFC's
15 employees and volunteers to learn, adapt, and become comfortable with the new voter
16 registration processes.

17 85. Since restrictions throughout the state began to loosen in August, ACFC
18 diverted additional resources to develop and host drive-through registration events in
19 church and foodbank parking lots, voter registration mask give-away events at local
20 elementary schools, and drive-in movie voter registration events.

21 86. During this period, ACFC also increased its spending on digital
22 advertising.

23 87. ACFC diverted resources to build new employee schedules to be able to
24 create and staff this registration program. This required ACFC to divert employees from
25 other projects into the voter registration work, including changing people's job
26 descriptions, titles, positions, and work hours.

27 88. In addition to having to divert money, time, and employees, ACFC also
28 had to divert additional time to voter registration. Prior to the pandemic, in a typical six-

1 hour shift, one voter registration employee would on average register 1.5 new voters
2 every hour; that has now dropped to 0.35 new voters per hour.

3 89. In order to pay for all of these unprecedented costs and to ensure that
4 ACFC's voter registration efforts moved forward as quickly as possible, in light of the
5 upcoming Voter Registration Cutoff, ACFC had to divert resources to engage in
6 additional, unplanned fundraising; apply for grants from COVID relief funds; and
7 reallocate funds from its other projects.

8 90. If MFV and ACFC had not diverted these resources to in-person
9 registration ahead of the Voter Registration Cutoff, then they would have frustrated
10 their mission of registering voters.

11 ***Enforcement of the Voter Registration Cutoff Under these Conditions Severely***
12 ***Burdens Plaintiffs' First and Fourteenth Rights to Register Voters***

13 91. Enforcement of the Voter Registration Cutoff will frustrate Plaintiffs'
14 mission to register as many voters as possible for the 2020 election and thousands of
15 Arizonans will be denied their right to vote.

16 92. Under the pandemic conditions which have been in effect in Arizona since
17 March 2020, Defendant's enforcement of the Voter Registration Cutoff severely
18 burdens Plaintiffs' right to register voters in time for the election this year.

19 93. Plaintiffs' redoubled post-shutdown registration efforts are just beginning
20 to bear fruit.

21 94. For example, since Plaintiff MFV resumed in-person registration work at
22 the end of August, in the last three weeks, it has registered 4,500 additional voters.

23 95. This rate is similar to the rate of registration MFV had been experiencing
24 prior to the shutdown, *i.e.* approximately 1,523 voters per week.

25 96. MFV has now registered a total of just under 14,000 voters so far this
26 year.

27 97. ACFC has registered 9,637 voters so far this year.

28

1 98. An extension of the Voter Registration Cutoff would allow Plaintiffs to
2 register thousands of new voters before the November election.

3 ***Arizona Can Easily Extend the Voter Registration Cutoff***

4 99. Any inconvenience the Secretary might experience from an extension of
5 the Voter Registration Cutoff will be minimal due to Arizona’s registration and election
6 process.

7 100. Arizona is already required to process four categories of overseas voter
8 registrations, and domestic registrations timely postmarked by the Voter Registration
9 Cutoff, as late as 7:00 p.m. on election day, belying any claim by the Secretary that
10 Arizona is unable to accept new registrations after October 5.²¹

11 101. Arizona already allows early voting to begin just *two days* after the Voter
12 Registration Cutoff. Ariz. Rev. Stat. § 16-541.²² That means that, as a matter of course,
13 Arizonians can register to vote on October 5 and cast their ballot by voting early just
14 two days later on October 7.

17 ²¹ See Ariz. Rev. Stat. § 16-103(A), (C) (qualified registrants temporarily absent
18 from the state may register by submitting an affidavit to the county recorder up until
19 7:00 p.m. on election day); *Id.* § 16-103(B), (C) (designated overseas voters, including
20 military servicemembers, federal employees, and their families, may, register to vote via
21 federal postcard application up until 7:00 p.m. on election day); *Id.* § 16-103(E) (U.S.
22 citizens who have never resided in the U.S. and whose parent is a citizen who is
23 registered to vote in Arizona may register using a federal write-in early ballot, as long as
24 it is received by the county recorder by 7:00 p.m. on election day); *Id.* § 16-103(D)
(these same designated overseas voters, if discharged from overseas service in the 90
25 days before election day, may register to vote by 5:00 p.m. on the Friday before election
26 day); *Id.* § 16-134(C)(1) (in case of registration by mail, a registration is valid if “[t]he
27 form is postmarked twenty-nine days or more before an election and is received by the
28 county recorder by 7:00 p.m. on the day of that election.”)

²² See, e.g., Maricopa Cnty. Elections Dep’t, *Where Do I Vote?*,
<https://recorder.maricopa.gov/pollingplace/> (last visited Sept. 30, 2020) (click: “vote
centers” for early voting locations); Pima Cnty. Recorder’s Office, *Early Voting Sites*,
<https://www.recorder.pima.gov/EarlyVotingSites> (last visited Sept. 30, 2020); Yuma
Cnty. Ariz., *Early Voting*, [https://www.yumacountyaz.gov/government/recorder/voter-
information/early-voting](https://www.yumacountyaz.gov/government/recorder/voter-information/early-voting) (last visited Sept. 30, 2020).

1 102. Arizona already allows voters to simultaneously update their voter
2 registration addresses and cast their votes the same day. Ariz. Rev. Stat. § 16-
3 411(b)(5).²³ Arizona already has the capacity to simultaneously update a voter’s
4 registration and allow the voter to vote in the same day.

5 103. Arizona has already implemented the use of electronic poll books which
6 allow for swift and frequent updating with new voter registrations.²⁴

7 104. All 15 Arizona counties subscribe to the Electronic Registration
8 Information System (“ERIC”), an interstate system which makes it easier to “register
9 more eligible citizens to vote.”

10 105. For all these reasons, Arizona can extend the Voter Registration Cutoff
11 and any administrative inconvenience will be minimal at worst.

12 **FIRST CAUSE OF ACTION**
13 **Severe Burden on the Right to Register Voters**
14 **in Violation of the First Amendment**
15 **as Applied During the COVID-19 Pandemic**

16 106. Plaintiffs reallege and incorporate by reference as if fully set forth herein
17 each of the preceding paragraphs and allegations.

18 107. The First Amendment, which is applicable to states via the Fourteenth
19 Amendment, prohibits “abridging the freedom of speech.” U.S. Const. Amend. I.

20 108. The right to vote and the related rights to associate and engage in free
21 speech to register voters and get out the vote are core political rights protected by the
22 First Amendment.

23
24 ²³ See, e.g., Pima Cnty. Recorder’s Office, *Provisional Voter FAQ*,
25 https://www.recorder.pima.gov/faq_voter_provisional (last visited Sept. 30, 2020)
(noting that a voter can vote in person and then use a provisional ballot form to update
26 their voter registration record with a new residence address).

27 ²⁴ See Nat’l Conference of State Legislatures, *Electronic Poll Books | e-Poll Books*
28 (Oct. 25, 2019), <https://www.ncsl.org/research/elections-and-campaigns/electronic-pollbooks.aspx> (noting that Ariz. Rev. Stat. Ann. §§ 16-571, 16-444 authorize the use of e-poll books).

1 116. Arizona’s interest in enforcing the Voter Registration Cutoff is not
2 narrowly tailored nor sufficiently compelling to justify the severe burden imposed on
3 Plaintiffs’ Fourteenth Amendment rights.

4 117. Without an order enjoining Defendant from enforcing the Voter
5 Registration Cutoff and extending the deadline, Plaintiffs will be subject to an
6 unjustifiable burden on their Fourteenth Amendment rights and will suffer irreparable
7 harm for which there is no adequate remedy at law.

8 **THIRD CAUSE OF ACTION**
9 **Declaratory Judgment**
10 **(Fed. R. Civ. P. 57 and 28 U.S.C. §§ 2201–02)**

11 118. Plaintiffs reallege and incorporate by reference as if fully set forth herein
12 each of the preceding paragraphs and allegations.

13 119. A justiciable case and controversy exists because Defendant’s
14 enforcement of the Voter Registration Cutoff under the pandemic conditions in effect in
15 Arizona imminently threaten to severely burden Plaintiffs’ First and Fourteenth
16 Amendment rights to register voters in time for the November 2020 election.

17 120. Plaintiffs are entitled to a declaratory judgment that Defendant’s
18 enforcement of the Voter Registration Cutoff as applied here under the pandemic
19 conditions in Arizona is unconstitutional.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs respectfully request that this Court:

22 Preliminarily and permanently enjoin Defendant from enforcing the Voter
23 Registration Cutoff this election cycle;

24 a. Order Defendant to extend the Voter Registration Cutoff to a date no
25 earlier than October 27, 2020;

26 b. Declare that enforcement of the Voter Registration Cutoff as applied
27 under the pandemic conditions in Arizona is unconstitutional in violation of the First
28 and Fourteenth Amendments;

c. Award Plaintiffs reasonable attorneys’ fees and costs;

1 d. Retain jurisdiction to ensure Defendant’s ongoing compliance with the
2 foregoing orders; and

3 e. Grant such other and further relief that this Court deems just and
4 appropriate.

5 DATED this 30th day of September, 2020.

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