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Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT
12 DISTRICT OF ARIZONA

13 Promise Arizona; and Southwest Voter
14 Registration Education Project,

15 Plaintiffs,

16 vs.

17 Katie Hobbs, in her official capacity as
18 Arizona Secretary of State; Mark
19 Brnovich, in his official capacity as
20 Arizona Attorney General; John S.
21 Halikowski, in his official capacity as
22 Director of the Arizona Department of
23 Transportation; and the County Recorder
24 Defendants, Apache County Recorder
25 Larry Noble; Cochise County Recorder
26 David W. Stevens; Coconino County
27 Recorder Patty Hansen; Gila County
28 Recorder Sadie Jo Bingham; Graham
County Recorder Wendy John; Greenlee
County Recorder Sharie Milheiro; La Paz
County Recorder Richard Garcia;
Maricopa County Recorder Stephen
Richer; Mohave County Recorder Kristi
Blair; Navajo County Recorder Michael
Sample; Pima County Recorder Gabriella
Cázares-Kelly; Pinal County Recorder
Dana Lewis; Santa Cruz County
Recorder Suzanne Sainz; Yavapai
County Recorder Michelle M. Burchill;

Case No.:

**Complaint for Declaratory and
Injunctive Relief**

1 and Yuma County Recorder Richard
Colwell, in their official capacities,

2 Defendants.

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1 Plaintiffs Promise Arizona and Southwest Voter Registration Education Project
2 (collectively, “Plaintiffs”) bring the following allegations, based upon information and
3 belief, against Katie Hobbs, in her official capacity as the Secretary of State of Arizona
4 (“Secretary Hobbs”), Mark Brnovich, in his official capacity as the Attorney General of
5 Arizona (“Attorney General Brnovich”), John S. Halikowski, in his official capacity as
6 Director of the Arizona Department of Transportation (“Director Halikowski”), and the
7 above-captioned County Recorder Defendants, each named in their official capacities
8 (collectively, “Defendants”):

9 **INTRODUCTION**

10 1. This action challenges the voter registration cancellation provisions of
11 Arizona House Bill 2243 (“H.B. 2243”) and it seeks declaratory and injunctive relief to
12 halt their implementation and enforcement.

13 2. Because of unfounded allegations of voter fraud and “illegal aliens” voting
14 in the 2020 Presidential Election, the Arizona legislature enacted H.B. 2243. This new law
15 imposes a series of additional burdens and restrictions that will have the effect of
16 suppressing Arizona voters, most notably Latino voters, and discouraging—including by
17 criminalizing—the applications of new voters and established voters through a series of
18 mandated documentation, proof of citizenship, and identification and verification of
19 information across varied databases.

20 3. Among its many provisions, H.B. 2243 does the following:

21 (a) “The county recorder shall cancel a registration: [...] when the county
22 recorder obtains information pursuant to this section and confirms that
23 the person registered is not a United States citizen.” Arizona Revised
24 Statutes (“A.R.S.”) Sec. 16-165(A)(10).

25 (b) The county recorder must cancel a registration when the county recorder
26 “receives written information from the person registered that the person
27 has a change of address outside of the county” including when the county

1 recorder receives a form from the person confirming that they are not an
2 Arizona resident, or a summary report from the jury commissioner or jury
3 manager that the person is not an Arizona resident. A.R.S. Sec. 16-
4 165(A)(9).

5 (c) The Arizona Secretary of State will compare every month “the statewide
6 voter registration database to the driver license database maintained by
7 the Department of Transportation” and afterward “shall notify the
8 appropriate county recorder if a person who is registered to vote in that
9 county has changed the person’s residence address or is not a United
10 States citizen.” A.R.S. Sec. 16-165(F).

11 (d) The county recorder will, to the extent practicable, compare every month
12 “the county’s voter registration database to the Social Security
13 Administration database.” A.R.S. Sec. 16-165(G).

14 (e) The county recorder will, to the extent practicable, compare every month
15 “persons who are registered to vote in that county and who the county
16 recorder has reason to believe are not United States citizens and persons
17 who are registered to vote without satisfactory evidence of citizenship
18 and persons who are registered to vote without satisfactory evidence of
19 citizenship [...] with the Systematic Alien Verification for Entitlements
20 Program.” A.R.S. Sec. 16-165(H).

21 (f) The county recorder will “compare the Electronic Verification of Vital
22 Events System maintained by a National Association for Public Health
23 Statistics and Information Systems, if accessible, with the information on
24 the person’s voter registration file” concerning “persons who are
25 registered to vote without satisfactory evidence of citizenship.” A.R.S.
26 Sec. 16-165(I).

1 (g) The county recorder will, to the extent practicable, review every month
2 “relevant city, town, county, state and federal databases to which the
3 county recorder has access to confirm information obtained that requires
4 cancellation of registration pursuant to this section.” A.R.S. Sec. 16-
5 165(J).

6 4. Governor Douglas Ducey signed this legislation on the pretextual grounds
7 that it was necessary to prevent voter fraud and maintain election integrity. However, there
8 is no evidence that voter fraud occurs in Arizona, except for a few isolated cases, that would
9 change the outcome of election results, such as the 2020 Presidential Election, that could
10 not be addresses by Arizona’s pre-existing processes and procedures. Therefore, the
11 additional burdens and restrictions on voting and removal from the voter rolls contained in
12 H.B. 2243 are not justified by invoking unspecified and unproven claims of voter fraud.

13 5. As described below, H.B. 2243 is a reaction to Arizona’s changing electorate,
14 which is now more racially diverse and younger than before. The Arizona legislature
15 responded to the changing demographics and unfounded allegations of voter fraud by
16 imposing voting requirements in the name of election integrity that will make it harder for
17 Arizonans, especially Latino voters, to participate in their civic responsibility.

18 6. H.B. 2243’s limitations violate federal law and will cause irreparable harm
19 to Plaintiffs and the community they serve. H.B. 2243 creates an undue burden on the right
20 to vote in violation of the First and Fourteenth Amendments. The provisions of verifying
21 information through various databases amount to intentional race, national origin, and
22 alienage discrimination in violation of the Fourteenth Amendment. The provisions
23 providing that the county recorder may cancel a registration based on subjective grounds
24 are void for vagueness and denial of due process. H.B. 2243 also contains provisions that
25 amount to intentional race discrimination in voting in violation of the Fifteenth
26 Amendment. The provisions that allow the removal of individuals from the voter rolls
27 constitute a violation of Section 8 of the National Voter Registration Act of 1993.

1 16. Venue is proper in the District of Arizona under 28 U.S.C. § 1391(b) because
2 a substantial part of the events and omissions giving rise to Plaintiffs' claims occurred in
3 this judicial district and division.

4 PARTIES

5 Plaintiffs

6 17. Plaintiff Promise Arizona (“PAZ”) is a non-profit and membership
7 organization committed to improving the participation of Latino and other minority
8 communities across the State of Arizona in the democratic process, through English-
9 language and citizenship classes, voter registration, voter education, and voter
10 participation activities. Since starting its voter registration program over a decade ago,
11 PAZ has registered over 100,000 Latino and minority voters in Arizona. PAZ conducts
12 its voter registration activities at community-based sites such as school campuses,
13 community colleges, and churches. Because H.B. 2243 has limited the number of
14 persons that PAZ can register to vote and impaired the ability of PAZ to conduct voter
15 registration, voter turnout, and civic participation, PAZ has been injured by H.B. 2243.
16 Additionally, PAZ must use its limited resources to hire and train staff concerning how
17 H.B. 2243 impacts voter registration by canceling voter registrations and purging
18 registered voters from the voter rolls, as well as media outreach to inform its community
19 members about the prospect that new voter and registered voters will be ineligible to vote
20 because of H.B. 2243.

21 18. Plaintiff Southwest Voter Registration Education Project (“SVREP”) is a
22 non-profit and non-partisan organization committed to improving the participation of
23 Latino and other minority communities across the United States in the democratic
24 process, through voter registration, voter education, and voter participation activities.
25 Since its founding in 1974, SVREP has registered 2.7 million Latinos, trained 150,000
26 Latino leaders, and won 210 voting rights lawsuits. SVREP conducts its voter
27 registration activities at community-based sites such as school campuses, malls, and fairs

1 in Arizona and other states. Because H.B. 2243 has limited the number of persons that
2 SVREP can register to vote and impaired the ability of SVREP to conduct voter
3 registration, voter turnout, and civic participation, SVREP has been injured by H.B. 2243.
4 Additionally, SVREP must use its limited resources to hire and train staff concerning
5 how H.B. 2243 impacts voter registration by canceling voter registrations and purging
6 registered voters from the voter rolls, as well as media outreach to inform its community
7 members about the prospect that new voter and registered voters will be ineligible to vote
8 because of H.B. 2243.

9 **Defendants**

10 19. Defendant Katie Hobbs is sued in her official capacity as Arizona Secretary
11 of State for actions taken under color of state law. Secretary Hobbs is the chief election
12 officer of the State of Arizona. In that capacity, she is responsible for the implementation
13 of H.B. 2243 relating to the maintenance of the statewide voter registration database,
14 comparing the information in the voter registration database with the information in other
15 prescribed databases, and notifying the local county recorder that a registered voter is
16 suspected of not being a U.S. citizen or Arizona resident.

17 20. Defendant Mark Brnovich is sued in his official capacity as Arizona
18 Attorney General for actions taken under color of state law. Attorney General Brnovich is
19 the chief legal officer of the State of Arizona. In that capacity, he is responsible for the
20 enforcement of H.B. 2243 relating to the prosecution of registered voters who are not
21 United States citizens.

22 21. Defendant John S. Halikowski is sued in his official capacity as Director of
23 the Arizona Department of Transportation for actions taken under color of state law.
24 Director Halikowski leads the agency responsible for planning, building and maintaining
25 the state's multimodal transportation system, proving motor vehicle title, registration and
26 driver license services. In that capacity, he is responsible for the implementation of H.B.

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1 2243 relating to furnishing every month to the Secretary of State a list of persons who have
2 a driver license or other equivalent identification from another state.

3 22. Defendant County Recorders are sued in their official capacities as Arizona
4 County Recorders for actions taken under color of state law. They are the chief election
5 officer at the local level in the State of Arizona. In that capacity, they are responsible for
6 the implementation and enforcement of H.B. 2243 relating to verification of a voter's
7 citizenship status, processing voter registration forms, and rejecting a voter's registration
8 form if the county recorder cannot confirm a voter's citizenship status through
9 governmental databases. Consequently, the County Recorder Defendants listed below are
10 sued in their official capacities:

- 11 (a) Defendant Larry Noble is the Apache County Recorder.
- 12 (b) David W. Stevens is the Cochise County Recorder.
- 13 (c) Patty Hansen is the Coconino County Recorder.
- 14 (d) Sadie Jo Bingham is the Gila County Recorder.
- 15 (e) Wendy John is the Graham County Recorder.
- 16 (f) Sharie Milheiro is the Greenlee County Recorder.
- 17 (g) Richard Garcia is the La Paz County Recorder.
- 18 (h) Stephen Richer is the Maricopa County Recorder.
- 19 (i) Kristi Blair is the Mohave County Recorder.
- 20 (j) Michael Sample is the Navajo County Recorder.
- 21 (k) Gabriella Cázares-Kelly is the Pima County Recorder.
- 22 (l) Dana Lewis is the Pinal County Recorder.
- 23 (m) Suzanne Sainz is the Santa Cruz County Recorder.
- 24 (n) Michelle M. Burchill is the Yavapai County Recorder.
- 25 (o) Richard Colwell is the Yuma County Recorder.

26 **STATEMENT OF FACTS**

27 **Introduction**

1 23. Arizona has a long and troubled history of discrimination and voter
2 suppression. In 1909, Arizona passed a law, lasting for over 60 years, that required voters
3 to pass an English literacy test in order to register to vote. This was a coordinated effort to
4 block the “ignorant Mexican vote” to keep Arizona a majority white-voting state.¹ This
5 feature of Arizona’s history was recognized in *Democratic National Committee v. Hobbs*,
6 948 F.3d 989 (Supreme Court did not overturned factual findings of the Ninth Circuit),
7 where the Ninth Circuit Court of Appeals found that Arizona has a “long history of race-
8 based voting discrimination[.]”² This history also includes Arizona’s defense of its literacy
9 test requirement until 1970. *See Oregon v. Mitchell*, 400 U.S. 112, 132 (1970).

10 24. Arizona also has a history of official discrimination against Latinos in other
11 areas such as education. *See Fisher v. Tucson Unified Sch. Dist.*, 652 F.3d 1131, 1141 (9th
12 Cir. 2011) (Tucson school district continued failure to achieve unitary status since entry of
13 1978 desegregation orders pertaining to Latino and Black students); *see also Gonzales v.*
14 *Sheely*, 96 F. Supp. 1004, 1009 (D. Ariz. 1951) (finding racial segregation of students of
15 Mexican descent in schools in Maricopa County).

16 25. Significant socioeconomic disparities in the areas of health, education, and
17 employment persist between Latinos and non-Latinos in Arizona.

18 26. Compared to over a century ago, the demographics of Arizona have greatly
19 shifted to empower the growing Latino population. In the 2020 elections, the eligible
20 Latino voting population accounted for 23.6% of eligible voters in Arizona.³ In Maricopa
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23 ¹ Mira Ortegón, *Latino Communities on the Front Lines of Voter Suppression*, Brennan Center for Justice
24 (January 14, 2022), [https://www.brennancenter.org/our-work/analysis-opinion/latino-communities-front-
lines-voter-suppression](https://www.brennancenter.org/our-work/analysis-opinion/latino-communities-front-lines-voter-suppression).

25 ² *DNC*, 948 F.3d at 1041, *overruled on legal grounds by Brnovich v. Democratic National Committee*, 141
26 S. Ct. 2321 (2021).

27 ³ Mapping the 2020 Latino Electorate, Pew Research Center,
<https://www.pewresearch.org/hispanic/interactives/mapping-the-latino-electorate/iframe/> (accessed
28 September 14, 2022).

1 County, which accounts for 60% of Arizona's vote, one-third of residents are Latino.⁴
2 Additionally, 45% of Arizona students in grades pre-K through 12 are Latino.⁵ These
3 demographic changes in Arizona favor the Latino population in the coming years; however,
4 like over a century ago, Arizona continues to suppress and disenfranchise its Latino
5 population based on fear and xenophobia.

6 27. Following the 2020 Presidential Election, many elected officials from
7 Arizona repeated former President Donald Trump's unsubstantiated claims of widespread
8 voter fraud, illegal immigrants casting ballots, and suspicious mail-in ballots at drop box
9 locations.

10 28. On February 7, 2022, State Representative Mark Finchem introduced HCR
11 2033, which called for the elections of Maricopa, Pima, and Yum Counties to be set aside
12 and the decertification of the elections results based on alleged illegal acts that took place
13 during the 2020 election.⁶ Finchem is currently running as the Arizona Republican
14 candidate for Secretary of State, a position that is responsible for the certification of
15 election results in Arizona, and has said that President Joseph Biden did not win Arizona
16 during the 2020 election.⁷ If elected as Arizona Secretary of State, Finchem has vowed to
17 decertify the 2020 Presidential Election.⁸

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20 ⁴ Courtney Vinopal, *How Mexican American Voters Helped Turn Arizona Blue*, PBS News Hour
(November 4, 2020), <https://www.pbs.org/newshour/politics/how-mexican-american-voters-helped-turn-arizona-blue>.

21 ⁵ Mia Marquez et al., *Arizona's Growing Latino Population is Underrepresented Among Teachers*,
22 Cronkite News Arizona PBS (April 25, 2022), <https://cronkitenews.azpbs.org/2022/04/25/arizona-latino-hispanic-population-underrepresented-teachers-education/>.

23 ⁶ Representative Finchem Introduces Resolution to Set Aside and Decertify Three 2020 County Elections,
24 Arizona House of Representatives (February 7, 2022), <https://www.azleg.gov/press/house/55LEG/2R/220207FINCHEMHCR2033.pdf>.

25 ⁷ Adam Edelman, *Election Denier Mark Finchem Wins Arizona GOP Secretary of State Primary*, NBC
26 News Projects, NBC News (August 3, 2022), <https://www.nbcnews.com/politics/2022-election/election-denier-mark-finchem-wins-arizona-gop-secretary-state-primary-rcna40651>.

27 ⁸ Elias Weiss, *Leaked Emails: How Mark Finchem Went from State Lawmaker to Conspiracy Czar*,
28 Phoenix New Times (July 29, 2022), <https://www.phoenixnewtimes.com/news/how-mark-finchem-went-from-state-lawmaker-to-conspiracy-czar-14118341>.

1 29. Arizona State Senator Wendy Rogers also claimed that the 2020 election was
2 fraudulent. Rogers has claimed that “[d]ead people are voting, illegal immigrants are
3 voting, non-residents are voting. Every illegal corrupted vote takes away my vote and your
4 vote and everyone’s constituent’s vote.”⁹

5 30. In April 2022, echoing the “great replacement” conspiracy theory, Arizona
6 Senate candidate Blake Masters accused Democrats of attempting to flood the United
7 States with millions of immigrants “to change the demographics of our country.”¹⁰
8 Similarly, on May 14, 2022, Masters tweeted that “Democrats want open borders so they
9 can bring in and amnesty ****tens of millions**** of illegal aliens—that’s their electoral
10 strategy. Not on my watch.”¹¹

11 31. The above-mentioned examples illustrate that many elected officials and
12 current candidates subscribe to the belief that the 2020 election was stolen because of
13 illegal immigrants or other nefarious actors despite the multitude of evidence to the
14 contrary. According to the Heritage Foundation’s database of election fraud cases, since
15 2020, there have been only seven individuals convicted of fraudulent use of absentee
16 ballots in Arizona, despite mail ballots being the predominant method of voting in the
17 state.¹² Similarly, Arizona county election officials identified fewer than 200 cases of
18 potential voter fraud out of more than 3.4 million ballots cast during the 2020 election.¹³

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20 ⁹ Gloria Rebecca Gomez, *Republican Lawmakers Move to Clean Up Voter Rolls*, *Arizona Mirror*
(February 11, 2022), [https://www.azmirror.com/2022/02/11/republican-lawmakers-move-to-tighten-
21 voter-registration-laws/](https://www.azmirror.com/2022/02/11/republican-lawmakers-move-to-tighten-voter-registration-laws/).

22 ¹⁰ Steve Peoples, *Republican Senate Candidates Promote “Replacement Theory,”* AP News (May 17,
2022), [https://apnews.com/article/2022-midterm-elections-republicans-replacement-theory-
23 00800c89953aa58e746988ed591e7ed9](https://apnews.com/article/2022-midterm-elections-republicans-replacement-theory-00800c89953aa58e746988ed591e7ed9).

24 ¹¹ Jon Greenberg *et al.*, *Fact Checking Arizona’s Blake Masters’ Claim of Open Borders and Democratic
Amnesty Plans*, Politifact (May 16, 2022), [https://www.politifact.com/factchecks/2022/may/16/blake-
25 masters/factchecking-arizonas-blake-masters-claim-open-bor/](https://www.politifact.com/factchecks/2022/may/16/blake-masters/factchecking-arizonas-blake-masters-claim-open-bor/).

26 ¹² Election Fraud Cases, The Heritage Foundation,
27 [https://www.heritage.org/voterfraud/search?state=AZ&combine=&year=&case_type=All&fraud_type=Al
28 l&page=0](https://www.heritage.org/voterfraud/search?state=AZ&combine=&year=&case_type=All&fraud_type=Al) (accessed September 14, 2022).

¹³ Bob Christie *et al.*, *Few AZ Voters Fraud Cases, Discrediting Trump’s Claims*, AP News (July 16,
2021), [https://apnews.com/article/business-government-and-politics-arizona-election-2020-
e6158cd1b0c6442716064e6791b4c6fc](https://apnews.com/article/business-government-and-politics-arizona-election-2020-e6158cd1b0c6442716064e6791b4c6fc).

1 32. With this backdrop, the Arizona legislature moved to pass legislation to make
2 it harder for Latinos to vote in the name of election integrity.

3 **Arizona House Bill 2617**

4 33. On May 25, 2022, the Arizona legislature passed House Bill 2617 (“H.B.
5 2617”). The proposed legislation sought to amend Arizona Revised Statutes Sections 16-
6 165 and 21-314 concerning voter registration and cancellations, and jury questionnaires.
7 H.B. 2617 contained provisions that, among other things, required the county recorder to
8 verify a person’s information against state and federal databases to confirm their residency
9 and citizenship status.

10 34. Most notably, as amended by Section 1 of H.B. 2617, A.R.S. Sec. 16-
11 165(A)(10) provided that “[t]he county recorder shall cancel a registration: [...] when the
12 county recorder receives and confirms information that the person registered: (a) is not a
13 United States citizen [...] (b) has been issued a driver license or the equivalent of an
14 Arizona nonoperating identification license from another state [...] (c) is otherwise not a
15 qualified elector[.]”

16 35. On May 26, 2022, a coalition of organizations headed by the Arizona Free
17 Enterprise Club sent a letter in support of H.B. 2617 to Arizona Governor Douglas Ducey.
18 In the letter, the coalition encouraged Governor Ducey to sign H.B. 2617 in order to
19 preserve election integrity and remove ineligible voters from the voter rolls:

20 HB 2617 establishes a process to ensure just that. It requires regular checks
21 of several databases containing information pertinent to voter qualifications
22 and then requires, when a county recorder has confirmed that an elector is no
longer eligible, cancellation of the registration.

23 ...

24 Ineligible individuals on the voter rolls are often not the result of fraud.
25 Instead, it is due to a lack of processes that ensure routine maintenance. It is
26 also in large part a result of voters moving, and with the many burdens that
come with that, they do not get around to notifying the state or county from
which they moved that they no

1 longer reside there.¹⁴

2 36. On May 27, 2022, Governor Ducey vetoed H.B. 2617. In the letter
3 explaining the veto of H.B. 2617, Governor Ducey stated that H.B. 2617 failed to provide
4 “necessary safeguards” to “protect the vote of any Arizonian who is eligible and lawfully
5 registered.”¹⁵

6 37. Governor Ducey explained that H.B. 2617 contained provisions that required
7 county recorders to cancel voter registrations if they received information that the voter is
8 not a qualified elector was vague and ambiguous, which could result in “bad actors” falsely
9 accusing someone of not being eligible to vote in Arizona:

10 H.B. 2617 requires a county recorder to cancel the voter registration of a
11 voter if the recorder receives information that provides the basis for
12 determining that the person is not a qualified elector. The implementation of
13 this provision is vague and lacks any guidance on how a county recorder
14 would confirm such a determination. Our lawfully registered voters deserve
15 to know that their right to vote will not be disturbed without sufficient due
16 process. This provision leaves our election system vulnerable to bad actors
17 who could seek to falsely allege a voter is not a qualified elector.¹⁶

18 38. In addition, Governor Ducey proffered that H.B. 2617 contained provisions
19 that required county recorders to investigate and potentially remove voters from the voter
20 rolls based on subjective criteria, such as the determination of residency:

21 There are certain aspects of being a qualified elector that are objectively
22 quantifiable and identifiable, such as age and citizenship status; but, the
23 determination of residency can be a fact specific inquiry. The subjectivity of
24 this provision, as well as a lack of guardrails against false claims, included
25 in H.B. 2617 leaves voter registration susceptible to being canceled based on
26 fiction rather than fact.¹⁷

27 **Arizona House Bill 2243**

28 ¹⁴ Coalition of Organization Letter to Governor Douglas A. Ducey re House Bill 2617 (May 26, 2022),
<https://electiontransparency.org/wp-content/uploads/sites/9/2022/05/HB2617-Coalition-Letter.pdf>.

¹⁵ Governor Douglas A. Ducey Letter re House Bill 2617 (May 27, 2022),
<https://www.azleg.gov/govletr/55leg/2r/hb2617.pdf>.

¹⁶ *Id.*

¹⁷ *Id.*

1 39. Following the veto of H.B. 2617, the Arizona legislature amended H.B. 2243
2 to include nearly identical language from H.B. 2617, as well as new provisions purportedly
3 added to address Governor Ducey’s concerns of due process and vagueness.

4 40. On June 22, 2022, during an Arizona Senate floor session regarding H.B.
5 2243, Arizona State Senator Warren Petersen noted that H.B. 2243 is an amended version
6 of H.B. 2617 with additional notice, but that it was “otherwise identical” to H.B. 2617.¹⁸

7 41. During that same Arizona Senate floor session, Arizona State Senator Martin
8 Quezada raised the issue that H.B. 2243 did not go through the rules committee process.
9 State Senator Quezada also noted that H.B. 2243 would violate the Arizona Voter
10 Protection Act because it was not passed with a three-fourths majority.

11 42. The Arizona Voter Protection Act of 1998 prohibits the state legislature from
12 amending or repealing any voter-approved ballot measures and referendums; the
13 legislature must have a three-fourths vote to make any changes to voter-protected laws.¹⁹

14 43. On June 23, 2022, the Arizona legislature passed H.B. 2243 based on a
15 majority vote in both legislative chambers.

16 44. After H.B. 2243 was passed in the Arizona legislature, Jennifer Marson, the
17 executive director of the Arizona Association of Counties, warned that “[i]f signed, this
18 bill is an illegal enactment”²⁰ because H.B. 2243 was passed by a simple majority in both
19 chambers, in violation of the Arizona Constitution. She also asserted that H.B. 2243
20 “forces County Recorders to violate voter protected statutes.”²¹

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23 ¹⁸ <https://www.azleg.gov/videoplayer/?eventID=2022061052&startStreamAt=7888>.

24 ¹⁹ Arizona Voter Protection Act of 1998,
<https://apps.azsos.gov/election/1998/Info/PubPamphlet/prop105.html> (accessed September 14, 2022).

25 ²⁰ Rachel Leingang, *Voting Advocates Fear New Law Could Disenfranchise Some Naturalized Citizens*,
26 Arizona Mirror (July 14, 2022), <https://www.azmirror.com/2022/07/14/voting-advocates-fear-new-law-could-disenfranchise-some-naturalized-citizens/>.

27 ²¹ *Id.*

1 45. On July 6, 2022, Governor Ducey signed H.B. 2243 into law. H.B. 2243
2 requires a county recorder to cancel the voter registration of a person when the county
3 recorder receives and confirms information that the person: (1) is not a U.S. citizen; (2) is
4 not an Arizona resident; or (3) has been issued a driver license or nonoperating license in
5 another state.

6 46. H.B. 2243 further requires that the Secretary of State and county recorders
7 compare the voter registration database with prescribed databases every month for
8 registered voters who are suspected non-U.S. citizens or non-Arizona residents.

9 47. The difference between H.B. 2617 and H.B. 2243 is that H.B. 2243 requires
10 the county recorder to “obtain” rather than “receive and confirm” information when
11 determining whether a person is not eligible to vote.

12 48. H.B. 2243 represents the State of Arizona’s latest attempt to restrict Latino
13 voters’ fundamental right to vote by removing the names of new and registered voters from
14 the voter rolls.

15 49. There is no evidence of wide-spread voter fraud that threatens the integrity
16 of elections in Arizona. H.B. 2243 seeks to remove registered voters from the voter rolls
17 who are suspected to be non-U.S. citizens or non-Arizona residents.

18 50. H.B. 2243’s purging of the voter rolls violates federal law and will cause
19 irreparable harm to Plaintiffs. Thus, Plaintiffs respectfully request that the Court declare
20 that the challenged provisions of H.B. 2243 are unlawful and enjoin Defendants from
21 enforcing the challenged provisions.

22 **Residency Requirements**

23 51. Each Arizona resident is qualified to register to vote if they meet certain
24 criteria, including, among other things, having been a resident of Arizona for 29 days
25 preceding an election.

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1 52. A resident is defined as an individual who has actual physical presence in
2 Arizona, or for the purposes of a political subdivision actual physical presence in the
3 political subdivision, combined with an intent to remain. A.R.S. § 16-101.

4 53. The state voter registration form must include certain identifying information
5 of the registrant and specified statements, including a statement that the registrant is an
6 Arizona resident and resident of the county in which the registrant is registering. A.R.S. §
7 16-152.

8 **Causes of Cancellation**

9 54. Section 2 of H.B. 2243 amends Section 16-165 of the Arizona Revised
10 Statutes in order to add subsection (A)(9) which provides that the county recorder shall
11 cancel a voter registration when the recorder receives written information from the person
12 registered that they have a change of address outside of the county, as well as when the
13 recorder receives a form from the person that they are not a resident of Arizona; or
14 summary report from the jury commissioner or jury manager that the person registered is
15 not a resident of the county. However, before the recorder cancels the registration, the
16 recorder must send notice to the person requesting that they confirm, by signing under
17 penalty of perjury, that they are a resident of the county and that failure to return the form
18 within 35 days will result in cancellation.

19 55. Section 2 of H.B. 2243 further amends Section 16-165 of the Arizona
20 Revised Statutes in order to add subsection (A)(10) which provides that the county recorder
21 shall cancel a voter registration when the recorder receives and confirms information that
22 the person registered is not a United States citizen, such as receiving a summary report
23 from the jury commissioner or jury manager. However, before the recorder cancels the
24 registration, the recorder must send notice to the person that their registration will be
25 canceled unless they provide satisfactory evidence of citizenship within 35 days, and if
26 there is a cancellation, the recorder will notify the County Attorney and Attorney General
27 to open a possible investigation.

1 56. Section 2 of H.B. 2243 further amends Section 16-165 of the Arizona
2 Revised Statutes in order to add subsection (F) which provides that the Secretary of State
3 will compare the statewide voter registration database to the driver license database
4 maintained by the Arizona Department of Transportation every month. The Secretary of
5 State will notify the local county recorder if a registered person has changed their address
6 “or is not a United States citizen.”

7 57. Section 2 of H.B. 2243 further amends Section 16-165 of the Arizona
8 Revised Statutes in order to add subsection (G) which provides that, to the extent
9 practicable, the county recorder will each month “compare the county’s voter registration
10 database to the Social Security Administration database.”

11 58. Section 2 of H.B. 2243 further amends Section 16-165 of the Arizona
12 Revised Statutes in order to add subsection (H) which provides that, to the extent
13 practicable, the county recorder will compare every month registered persons with who the
14 recorder “has reason to believe are not United States citizens and persons who are
15 registered to vote without satisfactory evidence of citizenship [. . .] with the Systematic
16 Alien Verification for Entitlement Program.”

17 59. Section 2 of H.B. 2243 further amends Section 16-165 of the Arizona
18 Revised Statutes in order to add subsection (I) which provides that, for persons without
19 satisfactory evidence of citizenship, the county recorder will “compare the public health
20 statistics and information systems, if accessible, with the information on the person’s
21 registration file.”

22 60. Section 2 of H.B. 2243 further amends Section 16-165 of the Arizona
23 Revised Statutes in order to add subsection (J) which provides that, to the extent
24 practicable, the county recorder will “review relevant city, town, county, state, and federal
25 databases to which the county recorder has access to confirm information obtained that
26 requires cancellation of registrations pursuant to this section.”

27

28

1 61. Section 2 of H.B. 2243 further amends Section 16-165 of the Arizona
2 Revised Statutes in order to add subsection (K) which provides that, after canceling a
3 registration, the county recorder will send notice to the person that their registration has
4 been canceled, reasons for the cancellation, qualification of electors, and instructions on
5 registering to vote.

6 **Effects of Registration Cancellations and Voter Purges**

7 62. Arizona's claims of voter fraud and support for election integrity are pretexts
8 for their actual purpose in enacting H.B. 2243, namely to target registered Latino voters,
9 rather than native-born and white voters, and disenfranchise registered Latino voters by
10 removing them from the voter rolls. H.B. 2243 discriminates based on race, national origin
11 and alienage, and creates an undue burden on Latino citizens who seek to exercise their
12 fundamental right to vote.

13 63. As a result of the new residency requirements, causes of cancellation, and
14 voter purges imposed by H.B. 2243, Plaintiffs are impeded in their ability to conduct
15 community-based voter registrations and civic participation activities. Plaintiffs will have
16 to train its staff on the new regulations and educate potential voters, who often do not have
17 sufficient English proficiency, on the various reasons why their registration application
18 may be canceled, and inform already registered voters that they may be removed from the
19 voter rolls and prohibited from voting.

20 64. Naturalized U.S. citizens who are Latinos are more likely to have limited
21 English proficiency and therefore be less likely to understand the new causes of
22 cancellation imposed by H.B. 2243, and less likely to possess the forms of residency and
23 citizenship documentary required under H.B. 2243 to avoid being purge from the voter
24 rolls. As a result, a significant number of Latinos that have registered to vote will be denied
25 the right to vote.

26 65. Because Latinos comprise a large proportion of naturalized citizens in
27 Arizona, the creation of lists of suspected voters and notices requiring satisfactory evidence

1 of citizenship imposed by H.B. 2243 have a disproportionately negative impact on voter
2 registrations by Latino voters. Specifically, at the time of the 2020 Presidential Election,
3 Latinos accounted for approximately 23.6% of U.S. citizens of voting age in Arizona.²² In
4 Maricopa County, which accounts for 60% of Arizona's vote, nearly one-third of residents
5 are Latino.²³ Latinos make up 59.9% of Arizona's foreign-born population, and naturalized
6 U.S. citizens comprise 45.2% of Arizona's total foreign-born population. The percentage
7 of U.S. citizen voting-age Latinos in Arizona who are naturalized is approximately 17.7%,
8 whereas the percentage of non-Latino White U.S. citizens of voting age in Arizona who
9 are naturalized is 3.1%. Latinos make up 50.6% of all naturalized U.S. citizens of voting
10 age in Arizona. As such, H.B. 2243 will have a disparate impact on the growing Latino
11 population in the next few years, particularly as more Latinos become U.S. citizens or reach
12 voting age.

13 66. Section 2 of H.B. 2243 addresses voter registration cancellations and voter
14 purges. Under A.R.S. Secs. 16-165(A)(9) and (10), the county recorder must cancel a voter
15 registration when the recorder receives: (1) a form from the person on which the person
16 has confirmed that they are not a resident of the state; (2) a summary report from the jury
17 commissioner or jury manager indicating that the person has stated that they are not a
18 county resident; or (3) information and confirmation that the person is not a United States
19 citizen. Here, there are no details regarding how county recorders will receive information
20 that a person is not a United States citizen, how to confirm such information, and what
21 information establishes that a person is not a United States citizen. It is also unclear as to
22 what type of form would demonstrate that a person is not a resident of the state. As a result,

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25 ²² American Community Survey 2016-2020 5-Year Estimates – Citizen Voting Age Population Special
26 Tabulation, Census Bureau (March 17, 2022), <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html>.

27 ²³ United States Census Data, 2020 Census,
28 <https://data.census.gov/cedsci/table?g=0500000US04013&tid=DECENNIALPL2020.P2> (accessed
September 1, 2022).

1 A.R.S. Secs. 16-165(A)(9) and (10) are designed to target U.S. citizens who have registered
2 to vote and have moved into Arizona and U.S. citizens who do not have a permanent
3 residence in Arizona. Further, Latino voters, many of whom have hyphenated or accented
4 surnames, will be arbitrarily removed from the voter rolls as a result of errors and the
5 subjective decisions of county recorders.

6 67. A.R.S. Secs. 16-165(A)(9) and (10) further require that a county recorder,
7 before canceling a voter registration, must send notice to the person requesting the person:
8 (1) confirm that the person is a county resident and is not knowingly registered to vote in
9 another county or state by signing under penalty of perjury; or (2) provide satisfactory
10 evidence of citizenship. In both cases, the person has 35 days to provide the required
11 information otherwise their voter registration will be canceled. Here, A.R.S. Secs. 16-
12 165(A)(9) and (10) fail to provide notice and procedural protections. Specifically, a person
13 has 35 days to respond to the notice. Depending on the information requested, the person
14 must either collect the necessary documentation listed in the notice by obtaining copies of
15 their birth certificate, passport, or naturalized certificate to meet the satisfactory evidence
16 of citizenship requirement; or return the signed form under penalty of perjury confirming
17 that they are a county resident in the allotted time. Because of the short response period
18 prescribed in A.R.S. Secs. 16-165(A)(9) and (10), naturalized Latino voters will face an
19 undue burden in collecting the necessary documentation from governmental offices, based
20 on limited English proficiency, and will most likely be removed from the voter rolls as a
21 consequence. Additionally, Plaintiffs will have to spend more organizational resources on
22 helping individuals whom they helped to register respond to such notices.

23 68. A.R.S. Sec. 16-165(F) requires the Secretary of State, each month, to
24 compare the statewide voter registration database to the driver license database maintained
25 by the Arizona Department of Transportation. The Secretary of State must further notify
26 the appropriate county recorder if a person who is registered to vote in that county has
27 changed the person's residence address is not a United States citizen. Here, A.R.S. Sec.

1 16-165(F) fails to provide sufficient detail regarding the voter registration and driver
2 license databases. A.R.S. Sec. 16-165(F) does not explain how often the databases are
3 maintained, how the Secretary of State makes the determination that a person is not a
4 United States citizen, and how to appeal an erroneous entry in the databases. A.R.S. Sec.
5 16-165(F) is designed to target U.S. citizens who have naturalized since their last Arizona
6 driver license renewal, and subject them to onerous verification requirements or purge from
7 the voter rolls.

8 69. Arizona's driver license-related data do not provide a reliable source of
9 information regarding a licensee's citizenship status. In Arizona, under A.R.S. § 28-3171,
10 a driver license is valid until the applicant's sixty-fifth birthday,²⁴ meaning when an
11 Arizona resident with a valid driver license becomes a U.S. citizen, Arizona's driver license
12 database no longer accurately reflects that resident's citizenship status because there is no
13 requirement to renew a driver license every few years, except for the requirement that
14 licensees update their photograph every twelve years. Consequently, A.R.S. Sec. 16-
15 165(F) will create a disparate impact on naturalized U.S. citizen Latinos whose Arizona
16 driver license database information is out of date once they become U.S. citizens. Because
17 a significant number of U.S. citizens who naturalized in the last ten years are originally
18 from Latin American counties, this provision will discriminate against Latinos
19 disproportionately based on race and national origin.

20 70. A.R.S. Sec. 16-165(G) requires the county recorder each month, and to the
21 extent practicable, to compare the county's voter registration database to the Social
22 Security Administration database. Here, 16-165(G) is discriminatory because it will
23 disproportionately affect Latinos who often have hyphenated or misspelled surnames, which
24 often do not match in different databases, and subject them to onerous verification
25 requirements. A.R.S. Sec. 16-165(G) also fails to explain the purpose of comparing the

26
27 ²⁴ Arizona Revised Statutes Section 28-3171,
<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/28/03171.htm>.

1 county's voter registration database to the Social Security Administration database, and it
2 is unclear whether a county recorder has access to the Social Security Administration
3 database.

4 71. A.R.S. Sec. 16-165(H) requires the county recorder, each month and to the
5 extent practicable, to compare persons who are registered to vote in that county and who
6 the county recorder "has reason to believe are not United States citizens" and persons who
7 are registered to vote without satisfactory evidence of citizenship with the Systematic Alien
8 Verification for Entitlements (SAVE) Program maintained by United States Citizenship
9 and Immigration Services ("USCIS") to verify the person's citizenship status. Here, A.R.S.
10 Sec. 16-165(H) is vague regarding how county recorders will receive information that a
11 person is not a United States citizen, how to confirm such information, and what
12 information establishes that a person is not a United States citizen. A.R.S. Sec. 16-165(H)
13 is designed to target naturalized citizens, U.S. citizens born abroad who derived citizenship
14 from U.S. citizen parents, native-born Latino U.S. citizens, and children who became U.S.
15 citizens through a parent's naturalization and, based on the subjective decisions of the
16 county recorder, subject them to onerous verification requirements or purge from the voter
17 rolls.

18 72. The SAVE program is an electronic, fee-based system operated by USCIS to
19 verify that a person has the immigration status his or her documents indicate or that the
20 immigration information he or she has provided is accurate for government benefits and
21 licensing agencies or other lawful purposes. The SAVE program has traditionally been
22 used as a support system for verifying eligibility for benefits or services at the time an
23 application is initially filed. However, it is not a list of all non-citizens in the United States
24 and would not necessarily enable a county recorder to identify every naturalized U.S.
25 citizen residing in Arizona.

26 73. For example, on June 11, 2012, the Department of Justice sent a letter to the
27 Florida Secretary of State, Ken Detzner, advising him that Florida's program of citizenship
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1 verification through the SAVE program would violate the Voting Rights Act and the
2 National Voter Registration Act.²⁵ The Department of Justice explained that the “SAVE
3 program relies on [Department of Homeland Security] records, which do not include a
4 comprehensive and definitive listing of U.S. citizens” and “does not allow verification
5 based on name and/or date of birth alone” but requires “unique identifiers, such as
6 registration numbers or certificate numbers found on immigration-related documents[.]”²⁶

7 74. Additionally, there is a risk that a county recorder could mistake a native-
8 born U.S. citizen’s identity for that of a non-citizen found in the SAVE Program, causing
9 that U.S. citizen to be sent a notice under the Arizona voter registration cancellation
10 provision. This creates a particular risk for Latino U.S. citizens who have Spanish
11 surnames, which are more likely to match the names of a non-citizen from a Latin
12 American country.

13 75. Therefore, the methodology for the use of the SAVE program for voter
14 registration verification that is set forth in A.R.S. Sec. 16-165(H) discriminates based on
15 race and national origin by targeting a disproportionately large number of foreign-born
16 U.S. citizens.

17 76. A.R.S. Sec. 16-165(I) requires, for persons who are registered to vote without
18 satisfactory evidence of citizenship, the county recorder to compare the Electronic
19 Verification of Vital Events System maintained by the National Association for Public
20 Health Statistic and Information System, if accessible, with the information on the person’s
21 voter registration file. Here, A.R.S. Sec. 16-165(I) is designed to target U.S. citizens who
22 registered to vote via the Federal Form and U.S. naturalized citizens, and therefore
23 discriminates based on race and national origin by targeting a disproportionately large

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27 ²⁵ DOJ Letter to Ken Detzner (June 11, 2012), <https://www.documentcloud.org/documents/805150-us-dep-of-justice-save-letter-1.html>.

28 ²⁶ *Id.*

1 number of foreign-born U.S. citizens and subjecting them to onerous verification
2 requirements or purge from the voter rolls.

3 77. A.R.S. Sec. 16-165(J) requires the county recorder, to the extent practicable,
4 to review relevant city, town, county, state, and federal databases to which the county
5 recorder has access to confirm information obtained that requires cancellations of
6 registrations. Here, A.R.S. Sec. 16-165(J) is designed to target U.S. citizens who have
7 registered to vote and have moved into Arizona and U.S. citizens who have naturalized
8 since their last driver license renewal, and subject them to onerous verification
9 requirements or purge from the voter rolls. Subsection (J) also does not specify which
10 types of databases a county recorder should review.

11 78. In sum, H.B. 2243 provides that the county recorder may cancel a voter
12 registration and purge registered voters from the voter rolls if the county recorder
13 determines that the registered voter is not a resident or United States citizen. Because the
14 county recorder must compare prescribed databases every month, new and already
15 registered voters would be deemed ineligible to vote in any upcoming elections at any
16 given time. In other words, the creation of lists of voters every month and cancellation of
17 voter registration under the amended provisions of A.R.S. Sec. 16-165 will result in
18 removal of names within 90 days of federal elections, in violation of Section 8 of the
19 NVRA. *See* 52 U.S.C. § 20507(c)(2)(A).

20 79. H.B. 2243 provides that when the county recorder cancels a voter
21 registration, the County Attorney and Attorney General may initiate an investigation into
22 potential voters to determine their citizenship status. Consequently, H.B. 2243 creates a
23 chilling effect on potential voters to register to vote, or to reapply to register to vote,
24 especially voters with limited English proficiency, naturalized citizens, and Latino citizens.

25 80. Plaintiffs PAZ and SVREP have expended their limited and valuable
26 organizational resources informing new and already registered voters of the possibility of
27 voter purges as an attempt to prevent H.B. 2243 from blocking qualified voters from voting.

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1 Plaintiffs have been injured by the causes of cancellation and voter purge provisions of
2 H.B. 2243 because their resources are drained by the effort to assist voters in understanding
3 and navigating registration cancellations and voter purges.

4 81. Plaintiff PAZ's members include Latino registered voters, some of whom
5 have limited English proficiency and/or have limited formal schooling and limited literacy.
6 Plaintiff PAZ's members include Latino voters who require and need assistance to register
7 to vote because of limited ability to read or write in English. These members need
8 assistance to navigate the registration process, finding the polling place, understanding how
9 to mark and cast a ballot, and following-up with any other requirements imposed by H.B.
10 2243. Further, Plaintiff PAZ's members have chosen PAZ to assist them to vote by mail,
11 including assisting registered voters with reading, interpreting, completing, and returning
12 the application for ballot by mail and mail ballot.

13 82. H.B. 2243 will force Plaintiffs PAZ and SVREP to divert their resources
14 away from voter registration and community education activities, which are central to their
15 missions, in order to increase the number of Latino voters. Consequently, Plaintiffs have
16 expended their resources to assist Latino voters to navigate the byzantine and unclear
17 requirements of H.B. 2243.

18 83. Moreover, H.B. 2243 directly undermines Plaintiffs' missions by preventing
19 Latino voters from registering and removing registered voters from the voter rolls; in effect,
20 H.B. 2243 negates Plaintiffs' voter registration efforts by jeopardizing years of previous
21 voter registrations and the encouragement Latino citizens to register to vote and exercise
22 their civic duty by voting on election day. H.B. 2243 will frustrate the missions of Plaintiffs
23 by chilling Latino citizens from registering to vote, based on the threat of prosecution, and
24 removal from the voter rolls because of missing documentation or difficulty matching
25 information from governmental databases. Plaintiffs will be required to divert resources
26 to retrain staff, prepare new educational materials, recruit, train and manage new
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1 volunteers, and conduct community outreach to comply with H.B. 2243's new restrictions
2 and requirements for remaining on the voter rolls.

3 84. Plaintiffs have in the past, and will in the future, encourage civic education
4 and participation among its members and in the communities they serve. Plaintiffs' voter
5 engagement activities include registering eligible voters, hosting volunteer trainings,
6 proving written and online resources about in-person and mail voting, holding events to
7 encourage community members to vote, organizing transportation to the polls for
8 registered voters, and assisting on any other matters.

9 85. H.B. 2243 will force Plaintiffs to divert their resources away from their voter
10 registration and civic participation activities, which are central to their missions, in order
11 to counteract the negative effects of H.B. 2243 on the community members and voters that
12 Plaintiffs serve. Plaintiffs have conducted in the past, and will conduct in the future,
13 outreach activities aimed at Latino voters with low turnout. Plaintiffs have employed
14 canvassers to contact voters in person at their homes, educate Latino voters about
15 upcoming elections, urge voters to vote, and encourage and offer assistance to Latino U.S.
16 citizens to register and learn about the requirements of registration.

17 86. Without these causes of cancellations and voter removal provisions imposed
18 by H.B. 2243, Plaintiffs would have the ability to use its limited resources in reaching out
19 to more voters through their voter registration and participation efforts.

20 87. Upon information and belief, Defendants are implementing the causes of
21 cancellation and voter purges set forth in Section 2 of H.B. 2243.

22 **FIRST CAUSE OF ACTION**

23 **Violation of the First and Fourteenth Amendments**
24 **U.S. Const. Amend., I and XIV; 42 U.S.C. § 1983**
(Undue Burden on the Right to Vote)

25 88. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth
26 here.

1 89. The provisions of H.B. 2243 place an undue burden on the ability of
2 Plaintiffs, including Latino voters, to participate in elections and cast a ballot that will
3 count, in violation of the First and Fourteenth Amendments.

4 90. The Due Process Clause of the Fourteenth Amendment of the U.S.
5 Constitution provides that “[n]o State shall [. . .] deprive any person of life, liberty, or
6 property, without due process of law.” U.S. Const. Amend. XIV, § 1.

7 91. The First Amendment of the U.S. Constitution, which is applicable to the
8 States through the Fourteenth Amendment prohibits “abridging the freedom of speech.”
9 The First Amendment protects the right of citizens to vote for the candidate of their choice.

10 92. The “political franchise of voting” has long been held to be a “fundamental
11 political right, because [it is] preservative of all rights.” *Harper v. Va. Bd. of Elections*,
12 383 U.S. 663, 667 (1966) (citation omitted).

13 93. “A court considering a challenge to a state election law must weigh ‘the
14 character and magnitude of the asserted injury to the rights protected by the First and
15 Fourteenth Amendments that the plaintiff seeks to vindicate’ against ‘the precise interests
16 put forward by the State as justifications for the burden imposed by its rule,’ taking into
17 consideration ‘the extent to which those interests make it necessary to burden the plaintiffs’
18 rights.” *Burdick v. Takushi*, 504 U.S. 428, 434 (1992) (quoting *Anderson v. Celebrezze*,
19 460 U.S. 780, 789 (1983)).

20 94. State election administration practices may not burden the right to vote unless
21 relevant and legitimate state interests of sufficient weight necessarily justify the magnitude
22 and character of the burden imposed. *Crawford v. Marion Cnty. Election Bd.*, 553 U.S.
23 181, 191 (2008) (holding “[h]owever slight th[e] burden may appear [. . .] it must be
24 justified by relevant and legitimate state interests sufficiently weighty to justify the
25 limitation.”) (internal citation and quotation marks omitted). The more a challenged law
26 burdens the right to vote, the more strictly it must be scrutinized. Burdens, no matter how
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1 slight, must be justified by valid state interests of sufficient weight. *Veasey v. Perry*, 71 F.
2 Supp. 3d 627, 691 (S.D. Tex. 2014).

3 95. When a state election law severely burdens the right to vote or is
4 discriminatory, a court must find that it is “narrowly drawn to advance a state interest of
5 compelling importance” in order to survive constitutional muster. *Burdick*, 504 U.S. at
6 434 (citation omitted); *see also Norman v. Reed*, 502 U.S. 279, 280 (1992).

7 96. Importantly, “laws that govern the political process surrounding elections—
8 and, in particular, election-related speech and association—go beyond merely the
9 intersection between voting rights and election administration, veering instead into the law
10 area ‘the First Amendment has its fullest and most urgent application.’” *League of Women*
11 *Voters v. Hargett*, 400 F. Supp. 3d 706, 722 (M.D. Tenn. 2019) (quoting *Eu v. S.F. Cnty.*
12 *Democratic Cent. Comm.*, 489 U.S. 214, 223 (1989)).

13 97. H.B. 2243’s challenged provisions, which include the combined causes of
14 cancellations and voter purges, erect substantial barriers to voting for Arizona’s Latino and
15 naturalized U.S. citizen voters. These provisions present a substantial burden to these
16 voters in violation of the First and Fourteenth Amendments.

17 98. Plaintiffs challenge Section 2 of H.B. 2243 as establishing an undue burden
18 on the right to vote in violation of the First and Fourteenth Amendment to the U.S.
19 Constitution.

20 99. The burdens imposed by the challenged provisions of H.B. 2243 individually
21 and collectively on eligible Arizona voters’ fundamental right to vote, including on
22 Plaintiffs and members of Plaintiff PAZ, are severe and neither justified by nor necessary
23 to promote any legitimate interest of the State that was not already adequately protected by
24 pre-existing election procedures.

25 100. Even if reducing voter fraud was the true motivation for H.B. 2243, and it is
26 not, there is no evidence that H.B. 2243 will address voter fraud, or that there were
27 allegedly registered voters in 2020 contributed to any alleged fraud within Arizona.

1 101. Arizona's interest in the causes of cancellations and voter purges enacted by
2 H.B. 2243 are neither narrowly tailored nor sufficiently compelling to justify the severe
3 burden imposed on the rights of organizational Plaintiffs or individual voters. The
4 provisions imposed by this law are arbitrary, lack rational justification, and violate the First
5 Amendment.

6 102. The challenged provisions of H.B. 2243 irreparably harm Arizona voters,
7 particularly Latino and naturalized U.S. citizen voters.

8 103. The challenged provisions also irreparably harm the organizational Plaintiffs
9 by forcing them to divert finite resources from their regular registration and educational
10 activities to educating Latino and naturalized U.S. citizen voters about the new and onerous
11 causes of cancellation and removal from the voter rolls imposed by H.B. 2243 and helping
12 them avoid cancellation of voter registration.

13 104. Accordingly, Plaintiffs are entitled to a declaration that Section 2 of H.B.
14 2243 is unconstitutional and an order permanently enjoining their enforcement.

15 **SECOND CAUSE OF ACTION**

16 **Violation of the Fourteenth Amendment**
17 **U.S. Const. Amend., XIV; 42 U.S.C. § 1983**
(Race or National Origin Discrimination)

18 105. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth
19 here.

20 106. Section 1983 authorizes suits resulting from the deprivation of a right secured
21 by the Constitution or the laws of the United States by a person acting under the color of
22 state law.

23 107. Section 1 of the Fourteenth Amendment to the United States Constitution
24 provides that:

25 No state shall make or enforce any law which shall abridge the privileges or
26 immunities of citizens of the United States; nor shall any state deprive any
27 person of life, liberty, or property, without due process of law; nor deny to
any person within its jurisdiction the equal protection of the laws.

1 108. Classifications based on alienage, nationality, or race are inherently suspect
2 and subject to strict scrutiny. *Graham v. Richardson*, 403 U.S. 365, 372 (1971); *see City*
3 *of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 440 (1985).

4 109. When the government classifies persons based on race or national origin, a
5 plaintiff does not need to make an extrinsic showing of discriminatory animus or
6 discriminatory effect to trigger strict scrutiny. *Mitchell v. Washington*, 818 F.3d 436, 445–
7 46 (9th Cir. 2016); *see also Freeman v. City of Santa Ana*, 68 F.3d 1180, 1187 (9th Cir.
8 1995) (“Classifications based on race or national origin, such as those alleged here, are
9 subject to strict scrutiny.”); *Tiwari v. Mattis*, 363 F. Supp. 3d 1154, 1162 (W.D. Wash.
10 2019) (“Government action that distinguishes among citizens on the basis of national origin
11 is inherently suspect and subject to ‘strict scrutiny.’”).

12 110. The right to vote is a fundamental constitutional right protected by the due
13 process and equal protection clauses of the Fourteenth Amendment. *See Bush v. Gore*, 531
14 U.S. 98; 104–05 (2000); *Anderson v. Celebrezze*, 460 U.S. 780, 786–87 (1983); *Harper v.*
15 *Va. State Bd. of Elections*, 383 U.S. 663, 670 (1966).

16 111. A law or policy is unconstitutional under the equal protection clause when
17 race was a motivating factor in the decision-making process that led to the law or policy.
18 *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265 (1977).

19 112. H.B. 2243 violates the Fourteenth Amendment to the United States
20 Constitution, through 42 U.S.C. § 1983, because it was purposefully enacted and operates
21 to deny, abridge, or suppress the right to vote of eligible voters based on race or national
22 origin.

23 113. The challenged provisions were adopted, individually and collectively, for
24 the purpose of denying Latino voters full and equal access to the political process.

25 114. H.B. 2243 was enacted in response to claims of widespread voter fraud
26 during the 2020 elections and a time that the population of Latino voters had increased in
27

1 statewide elections, as well as a time when Latino voters were making increasing use of
2 voting to exercise their voice that are now being eliminated by H.B. 2243.

3 115. The purported justifications for H.B. 2243 were pretextual.

4 116. The legislative process leading up to the enactment of H.B. 2243 included
5 departures from normal procedures and ability to comment.

6 117. Implementing and enforcing H.B. 2243 will irreparably harm Plaintiffs, as
7 well as Latino voters by denying or abridging their right to vote.

8 118. Arizona's long history and record of racial discrimination in voting, the
9 reasonably foreseeable discriminatory impact of H.B. 2243, departures from the normal
10 legislative process, baseless claims of voter fraud, and the tenuous justifications for
11 H.B. 2243 provide a strong inference of a discriminatory purpose in violation of the
12 Fourteenth Amendment.

13 119. Following the 2020 elections, Arizona elected officials and candidates made
14 racially charged comments about widespread voter fraud in Arizona caused by illegal alien
15 voters, as well as unfounded allegations that Former President Trump won the 2020
16 Presidential Election.

17 120. Furthermore, Arizona candidates for elected office have promised to
18 decertify the 2020 election results and to impose stricter requirements to preserve election
19 integrity, which would unevenly impact the Latino community. H.B. 2243 represents the
20 Arizona legislature's response to unfounded allegations of widespread voter fraud,
21 particularly the racially charged notion that illegal aliens were registered to vote to swing
22 the results of the 2020 Presidential Election.

23 121. Defendants, acting under color of state law, have deprived and, absent an
24 injunction, will continue to deprive Plaintiffs of their rights secured by the Fourteenth
25 Amendment to the U.S. Constitution, and Plaintiffs will suffer irreparable harm for which
26 there is no adequate remedy at law.

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1 122. Accordingly, Plaintiffs are entitled to a declaration that Section 2 of H.B.
2 2243 is unconstitutional and an order permanently enjoining their enforcement.

3 **THIRD CAUSE OF ACTION**
4 **Violation of the Fourteenth Amendment**
5 **U.S. Const. Amend., XIV; 42 U.S.C. § 1983**
6 **(National Origin or Alienage Discrimination)**

7 123. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth
8 here.

9 124. Section 1983 authorizes suits resulting from the deprivation of a right secured
10 by the Constitution or the laws of the United States by a person acting under the color of
11 state law.

12 125. Section 1 of the Fourteenth Amendment to the United States Constitution
13 provides that:

14 No state shall make or enforce any law which shall abridge the privileges or
15 immunities of citizens of the United States; nor shall any state deprive any
16 person of life, liberty, or property, without due process of law; nor deny to
17 any person within its jurisdiction the equal protection of the laws.

18 126. “[C]lassifications based on alienage, like those based on nationality or race,
19 are inherently suspect and subject to close judicial scrutiny. Aliens as a class are a prime
20 example of a ‘discrete and insular’ minority for whom such heightened judicial solicitude
21 is appropriate.” *Graham*, 403 U.S. at 372 (internal citation omitted).

22 127. When the government classifies persons based on race or national origin, a
23 plaintiff does not need to make an extrinsic showing of discriminatory animus or
24 discriminatory effect to trigger strict scrutiny. *Mitchell*, 818 F.3d at 445–46; *see also*
25 *Freeman*, 68 F.3d at 1187 (“Classifications based on race or national origin, such as those
26 alleged here, are subject to strict scrutiny.”); *Tiwari*, 363 F. Supp. 3d at 1162 (“Government
27 action that distinguishes among citizens on the basis of national origin is inherently suspect
28 and subject to ‘strict scrutiny.’”).

1 128. “[A]lienage discrimination is discrimination on the basis of citizenship, not
2 immigrant status. Discrimination on the basis of a person’s status as an immigrant to the
3 United States is not alienage discrimination unless it is also motivated by the lack of U.S.
4 citizenship.” *Vaughn v. City of New York*, 2010 WL 2076926, at *10 (E.D.N.Y. May 24,
5 2010).

6 129. H.B. 2243 discriminates against naturalized U.S. citizens, a significant
7 percentage of whom are Latino, in the State of Arizona.

8 130. A.R.S. Sec. 16-165(H) provides that the county recorder will compare
9 persons registered to the SAVE Program. However, only those who immigrated to the
10 United States will be listed in the SAVE Program. Subsection (H) targets naturalized U.S.
11 citizens, U.S. citizens born abroad who derived citizenship from U.S. citizen parents,
12 native-born Latino U.S. citizens, and children who became U.S. citizens through a parent’s
13 naturalization.

14 131. A.R.S. Sec. 16-165(F) provides that the Secretary of State will compare the
15 statewide voter registration database to the driver license database maintained by the
16 Arizona Department of Transportation. The Secretary of State must further notify the
17 appropriate county recorder is a person registered to vote in that county is not a United
18 States citizen. However, Arizona’s driver license-related data do not provide a reliable
19 source of information regarding a licensee’s citizenship status. When an Arizona resident
20 with a valid driver license becomes a U.S. citizen, Arizona’s driver license database no
21 longer accurately reflects that resident’s citizenship status. Subsection (F) targets
22 naturalized Latino citizens whose Arizona driver license database information is out of date
23 when they become U.S. citizens.

24 132. The provisions of H.B. 2243 provide that the county recorder will verify
25 information across varied governmental databases and reject a voter’s registration if the
26 county recorder cannot confirm a voter’s citizenship status through such databases.

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1 133. H.B. 2243 treats Latino naturalized U.S. citizens as non-citizens, based on
2 their former alienage, when the county recorder has a suspicion that a naturalized applicant
3 is not a U.S. citizen because of their hyphenated or accented surname, outdated driver
4 license information, or any other subjective criteria.

5 134. Implementing and enforcing H.B. 2243 will irreparably harm Plaintiffs, as
6 well as discriminate against Latino voters based on race, national origin, and alienage.

7 135. Defendants, acting under color of state law, have deprived and, absent an
8 injunction, will continue to deprive voters of their rights secured by the Fourteenth
9 Amendment to the U.S. Constitution, and Plaintiffs will suffer irreparable harm for which
10 there is no adequate remedy at law through harm to their community and frustration of
11 mission.

12 136. Accordingly, Plaintiffs are entitled to a declaration that Section 2 of H.B.
13 2243 is unconstitutional and an order permanently enjoining its enforcement.

14 **FOURTH CAUSE OF ACTION**

15 **Violation of the Fourteenth Amendment**
16 **U.S. Const. Amend., XIV; 42 U.S.C. § 1983**
(Void for Vagueness; Denial of Due Process)

17 137. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth
18 here.

19 138. The Due Process Clause of the of the Fourteenth Amendment to the U.S.
20 Constitution prohibits the State of Arizona from “depriv[ing] any person in life, liberty, or
21 property without due process of law.” U.S. Const. Amend. XIV, § 1.

22 Due process claims require two inquiries: (1) “whether there exists a liberty
23 to property interest which has been interfered with by the State” and (2)
24 “whether the procedures attendant upon that deprivation were
25 constitutionally sufficient.” *Kentucky Dep’t of Corr. v. Thompson*, 490 U.S.
26 454, 460 (1989). Vague laws that invite arbitrary enforcement also violate
27 the Due Process clause because “[a] vague law impermissibly delegates basic
28 policy matters to policeman, judges, and juries, and juries for resolution on
an ad hoc and subjective basis . . .” *Grayned v. City of Rockford*, 408 U.S.
104, 108–09 (1972).

1 139. Section 16-165(A)(10) of the Arizona Revised Statutes, as amended by H.B.
2 2243 section 2, states that when the county recorder cancels a voter registration, the County
3 Attorney and Attorney General can open a criminal investigation to determine whether the
4 registrant is not a United States citizen. This provision creates a criminal penalty; the
5 statute specifies that a registration cancellation can lead to an investigation by the County
6 Attorney and Attorney General. Similarly, A.R.S. Sec. 16-165(H) states that, when the
7 county recorder “has reasons to believe” that a person is not a United States citizen, the
8 county recorder will compare that person’s information with the SAVE Program.
9 Subsections (A)(10) and (H) are impermissibly vague because it does not provide an
10 election official any guidance to determine whether a person is not a United States citizen;
11 moreover, Subsection (A)(10) provides a registrant less than 35 days to respond in order to
12 avoid a voter cancellation and subsequent investigation.

13 140. Section 2 of H.B. 2243 applies retroactively to registered voters. Millions of
14 registered voters will be affected by the new causes of cancellation provisions, meaning
15 that registered voters will receive notices informing them that they have to provide proof
16 of Arizona residency or satisfactory evidence of citizenship during the short response
17 period of 35 days, or risk being removed from the voter rolls.

18 141. Defendants, acting under color of state law, have deprived and, absent an
19 injunction, will continue to deprive Plaintiff PAZ’s members of their rights secured by the
20 Fourteenth Amendment to the U.S. Constitution, and Plaintiffs will suffer irreparable harm
21 for which there is no adequate remedy at law.

22 142. Accordingly, Plaintiffs are entitled to a declaration that Section 2 of H.B.
23 2243 is unconstitutional and an order permanently enjoining its enforcement.

24 **FIFTH CAUSE OF ACTION**

25 **Violation of the Fifteenth Amendment**
26 **U.S. Const. Amend., XV; 42 U.S.C. § 1983**
27 **(Intentional Race Discrimination in Voting)**

1 143. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth
2 here.

3 144. The Fifteenth Amendment prohibits intentional racial discrimination by state
4 actors. Section 1 of the Fifteenth Amendment to the United States Constitution prohibits
5 states from “abridg[ing]” the “right of citizens of the United States to vote [. . .] on account
6 of race, color, or previous condition of servitude.”

7 145. The Fifteenth Amendment therefore prohibits voting laws that “handicap
8 exercise of the franchise” on account of race because the Amendment “nullifies
9 sophisticated as well as simple-minded modes of [racial] discrimination.” *Tex. Democratic*
10 *Party v. Abbott*, 978 F.3d 168, 184 (5th Cir. 2020) (quoting *Lane v. Wilson*, 307 U.S. 268,
11 275 (1939)).

12 146. The challenged provisions of H.B. 2243 violate the Fifteenth Amendment to
13 the Constitution of the United States because Defendants intentionally enacted and
14 administer, enforce, and implement the laws to deny, abridge, or suppress the right to vote,
15 Latino voters based on race and ethnic origin.

16 147. The challenged provisions were adopted, individually and collectively, to
17 deny, abridge, or suppress intentionally the right to vote to Plaintiffs and Latino voters
18 based on race and ethnic origin.

19 148. The facts alleged here reveal that H.B. 2243 was enacted, at least in part, with
20 a racially discriminatory intent to discriminate against Latino voters in violation of the
21 United States Constitution.

22 149. Defendants, acting under color of state law, have deprived and, absent an
23 injunction, will continue to deprive Plaintiffs of their rights secured by the Fourteenth
24 Amendment to the U.S. Constitution, and Plaintiff will suffer irreparable harm for which
25 there is no adequate remedy at law.

26 150. Accordingly, Plaintiffs are entitled to a declaration that Section 2 of H.B.
27 2243 is unconstitutional and an order permanently enjoining its enforcement.

SIXTH CAUSE OF ACTION

**Violation of Section 8 of the National Voter Registration Act of 1993
42 U.S.C. § 1973gg, et seq.
(Purging of Voter Rolls)**

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151. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth here.

152. Section 8 of the National Voter Registration Act of 1993 provides that “each State shall [...] provide that the name of a registrant may not be removed from the official list of eligible voters” unless certain prerequisites are met: (1) “at the request of the registrant;” (2) “as provided by State law, by reason of criminal conviction or mental capacity;” (3) “death of a registrant;” or (4) “a change in the residence of the registrant.” See 52 U.S.C. § 20507(a)(3)–(4) (formerly 42 U.S.C. § 1973gg-6).

153. Section 8 also addresses a state’s removal of individuals from a state voter rolls:

Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office—

- (1) shall be uniform, nondiscriminatory, and in compliance with the Voting Rights of 1965 (42 U.S.C. §1973 et seq.); and
- (2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person’s failure to vote, except nothing in this paragraph may be construed to prohibit a State from using the procedures described in subsection (c) and (d)[.]

52 U.S.C. § 20507(b)(1)–(2).

154. According to the legislative history, Section 8 intends “to impose the uniform, nondiscriminatory and conforming with the Voting Rights Act standards on any activity that is used to start, or has the effect of starting, a purge of the voter rolls, without regard to how it is described or to whether it also may have some other purpose.” S. REP. No. 103-6, 103rd Cong., at 31 (1993).

1 155. Section 2 of H.B. 2243 violates the NVRA. Section 8 provides that a
2 registrant cannot be removed, unless the registrant's requests removal, it is allowed under
3 State law based on criminal conviction or mental incapacity, death of the registrant, or
4 change of the registrant's address. H.B. 2243 contravenes the clear language and purpose
5 of Section 8 by removing registered voters because they have a driver license or equivalent
6 from another state.

7 156. H.B. 2243 also violates the uniform and nondiscriminatory requirements of
8 Section 8. Any removal of registered voters from the voter rolls must not be based on
9 specific criteria that targets registered voters on racial grounds. As mentioned, H.B. 2243
10 targets Latino voters, especially naturalized U.S. citizens, through skewed application of
11 the SAVE Program, use of driver license data, and subjective discretion of the county
12 recorder to decide whether a registrant may not be a United States citizen.

13 157. Furthermore, because the county recorder must compare prescribed
14 databases every month, new and already registered voters would be deemed ineligible to
15 vote in any upcoming elections at any given time. As such, the creation of lists of voters
16 every month and cancellation of voter registration under the amended provisions of A.R.S.
17 Sec. 16-165 will result in removal of names within 90 days of federal elections, in violation
18 of Section 8 of the NVRA. *See* 52 U.S.C. § 20507(c)(2)(A).

19 158. Accordingly, Plaintiffs are entitled to a declaration that Section 2 of H.B.
20 2243 violates their rights under the NVRA and an order permanently enjoining its
21 enforcement.

22 **PRAYER FOR RELIEF**

23 **WHEREFORE**, Plaintiffs respectfully request that this Court:

- 24 i. Issue a declaration that Section 2 of H.B. 2243 is unconstitutional and illegal
25 under the Voting Rights Act and the National Voter Registration Act and of
26 no force or effect;

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- ii. Enter an order enjoining Defendants, their agents and succession in office, from implementing Section 2 or any subpart thereof of H.B. 2243;
- iii. Enter an order requiring Defendants to immediately restore the voter registration of individuals improperly removed from the voter rolls under the provisions of Section 2 of H.B 2243;
- iv. Enter an order requiring Defendants to publicize effectively the remedial plans and programs to restore voter registration as ordered by the Court to ensure widespread dissemination to State of Arizona residents, among others, for those who, at the time of the Court’s order, may have been improperly removed from the voter rolls as required by Section 2 of H.B. 2243;
- v. Award Plaintiffs’ attorneys’ fees and costs incurred in this action under 42 U.S.C. § 1988, 52 U.S.C. § 20510(c), and 52 U.S.C. § 10310(e);
- vi. Grant such other and further relief as may be deemed just and proper; and
- vii. Maintain jurisdiction over this action.

Dated: September 20, 2022

Respectfully submitted,

MEXICAN AMERICAN LEGAL
DEFENSE AND EDUCATIONAL FUND

/s/Ernest Herrera

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