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 12 *Registration Education Project*

13 **UNITED STATES DISTRICT COURT**
 14 **DISTRICT OF ARIZONA**

15 Mi Familia Vota, et al.,
 Plaintiffs,
 16 v.
 17 Adrian Fontes, in his official capacity as
 Arizona Secretary of State, et al.,
 18 Defendants.
 19

No. CV-22-00509-PHX-SRB (Lead)

**PROMISE ARIZONA AND
 SOUTHWEST VOTER
 REGISTRATION EDUCATION
 PROJECT'S STATEMENT OF FACTS
 IN SUPPORT OF THEIR
 OPPOSITION TO DEFENDANTS
 ATTORNEY GENERAL KRISTEN K.
 MAYES AND STATE OF ARIZONA'S
 MOTION FOR PARTIAL SUMMARY
 JUDGMENT**

No. CV-22-00519-PHX-SRB
 No. CV-22-01003-PHX-SRB
 No. CV-22-01124-PHX-SRB
 No. CV-22-01369-PHX-SRB
 No. CV-22-01381-PHX-SRB
 No. CV-22-01602-PHX-SRB
 No. CV-22-01901-PHX-SRB

26 AND CONSOLIDATED CASES.
 27
 28

1 Plaintiffs Promise Arizona and Southwest Voter Registration Education Project
2 submit the following statement of facts in support of their Opposition to Defendants
3 Attorney General Kristin K. Mayes and State of Arizona’s Motion for Partial Summary
4 Judgment, as joined by RNC and Legislative Intervenors, as well as controverting
5 responses to Defendants’ and Intervenor-Defendant RNC’s statement of facts:
6

7 **Plaintiffs Promise Arizona and Southwest Voter Registration Education**
8 **Project’s Statement of Facts**

9 **H.B. 2243: A.R.S. § 16-165(I)**

- 10 1. On July 6, 2022, Arizona Governor Doug Ducey signed H.B. 2243 into law. *See*
11 State of Arizona, House of Representatives, Chapter 370, House Bill 2243, (July 6,
12 2022), <https://www.azleg.gov/legtext/55leg/2R/laws/0370.pdf>. A copy of the
13 chaptered version of H.B. 2243 is attached hereto as **Exhibit A.**
- 14 2. H.B. 2243 amends Section 16-165 of the Arizona Revised Statutes (“A.R.S.”) to
15 include subsection (I) which provides that, to the extent practicable, the county
16 recorder will compare every month registered persons and whom the recorder “has
17 reason to believe are not United States (“U.S”) citizens” with the systematic alien
18 verification for entitlements program (“SAVE program” or “program”) maintained
19 by United States Citizenship and Immigration Services (“USCIS”) to verify the
20 U.S. citizenship status of the persons registered. *See* A.R.S. § 16-165, Causes for
21 cancellation; report, available at <https://www.azleg.gov/ars/16/00165.htm> (last
22 accessed June 4, 2023). A copy of A.R.S. § 16-165 is attached hereto as **Exhibit B.**
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26
27 *See also* A.R.S. § 16-165(I).
28

1 3. The entirety of H.B. 2243 does not specify what information would give county
2 recorders “reason to believe” that a person is not a United States citizen. *See* Case
3 No. 2:22-CV-01602-SRB, Dkt. 46 (Defendant Arizona Secretary of State Katie
4 Hobbs’ Answer to Promise Arizona and Southwest Voter Registration Education
5 Project’s Complaint) ¶ 71.

7 **H.B. 2243: A.R.S. § 16-165(A)(10)**

8 4. H.B. 2243 further amends Section 16-165 of the Arizona Revised Statutes to add
9 subsection (A)(10), which requires county recorders to begin their voter
10 cancellation processes and investigation referrals once they have “obtain[ed]”
11 information and “confirm[ed]” that a registered voter is not a United States citizen.
12 *See* A.R.S. § 16-165(A)(10).

13 5. The entirety of H.B. 2243 does not specify what information establishes that a
14 registered voter is “not a United States citizen.” *See* Case No. 2:22-CV-01602, Dkt.
15 46 (Arizona Secretary of State Katie Hobbs’ Answer) ¶ 66.

18 **The SAVE Program**

19 6. The SAVE program is an online service that allows benefit-granting agencies to
20 verify a benefit applicant’s immigration status. *See* USCIS, SAVE,
21 <https://www.uscis.gov/save>, (last accessed June 4, 2023); *see also* **Exhibit 1** to
22 **Exhibit C**, Declaration of Erika Cervantes.

23 7. To verify an applicant’s immigration status under the SAVE program, the agency
24 user must have the applicant’s: (1) first name, (2) last name, (3) date of birth, *and*
25 (4) a numeric identifier (such as an Alien Number; Form I-94, Arrival/Departure
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Record, number; Student and Exchange Visitor Information System (SEVIS) ID number; or unexpired foreign passport number). *See* USCIS, SAVE Verification Process, Minimum Requirements for Verification, <https://www.uscis.gov/save/about-save/save-verification-process>, (last accessed June 4, 2023); *see also* **Exhibit 2** to Exhibit C.

8. The SAVE program cannot verify an applicant’s status by only using their first and last name. *See* Exhibit 2 to Exhibit C.

9. The SAVE verification process can take up to three steps. *See* USCIS, SAVE Verification Process Fact Sheet, (November 2020), <https://www.uscis.gov/sites/default/files/document/factsheets/SAVEVerificationProcessFactSheet.pdf>; *See* USCIS, SAVE Verification Process Fact Sheet, <https://www.uscis.gov/save/save-resources/save-verification-process-fact-sheet>, (last accessed June 4, 2023); *see also* **Exhibits 3 & 4** to Exhibit C.

10. In the first step, the agency user must select the benefit the applicant is seeking and provide their numeric identifier; first and last name; and date of birth. *See* Exhibits 3 & 4 to Exhibit C.

11. After their submission, the SAVE program either provides the applicant’s status or prompts the agency user to “[i]nstitute additional verification” if the SAVE program needs additional information to process the case. *See* Exhibits 3 & 4 to Exhibit C.

1 12. In the second step, if the user is asked to “[i]nstitute additional verification” as an
2 initial response, the agency must provide the SAVE program with the information
3 requested. *See* Exhibit 4 to Exhibit C.
4

5 13. In the final step, if the SAVE program needs to review a copy of the applicant’s
6 immigration document to issue a verification response, the SAVE program will
7 request a third-level review and the agency user must upload the document to the
8 SAVE program electronically. *See* Exhibits 3 & 4 to Exhibit C.
9

10 14. The SAVE program is not a system database. *See* Exhibits 3 & 4 to Exhibit C.

11 **Southwest Voter Registration Education Project**

12 15. Southwest Voter Registration Education Project (“SVREP”) is a non-profit and
13 non-partisan organization committed to empowering Latinos and Latinas through
14 their vote and improving the participation of Latino and other minority
15 communities across the United States in the democratic process, through voter
16 registration, voter education and voter participation activities. *See* Declaration of
17 Lydia Camarillo, attached hereto as **Exhibit D.**
18

19
20 16. SVREP is concerned that H.B. 2243, if implemented, will purge Latino and
21 minority voters from Arizona’s voter rolls, thus undoing the work SVREP has done
22 in relation to the organization’s voter registration efforts in Arizona. *See* Exhibit D.
23

24 17. If implemented, H.B. 2243 will force SVREP to divert the little time, money, and
25 resources it has to: (1) setting community meetings and educating the public,
26 community organizers, press, and elected officials of H.B. 2243 and its harms, (2)
27 organizing educational campaigns to consistently inform the public via text and
28

1 email about H.B. 2243 and that its restrictions should not deter United States
2 citizens from voting, (3) preparing English and Spanish educational materials about
3 H.B. 2243, (4) training SVREP staff on H.B. 2243, (5) helping re-register those
4 who were purged under H.B. 2243, and (6) demanding that the Arizona Secretary
5 of State and county officials reinstate the registrations of voters who are purged
6 of State and county officials reinstate the registrations of voters who are purged
7 under H.B. 2243. *See* Exhibit D.

8
9 18. In addition, H.B. 2243 would likely cause SVREP to hire additional staff members
10 to help inform and educate the public of the requirements, restrictions, and harms of
11 H.B. 2243. *See* Exhibit D.

12 **Promise Arizona**

13 19. Plaintiff Promise Arizona (“PAZ”) is a non-profit that believes in promoting
14 diversity, opportunity, and progress. *See* Declaration of Petra Falcon, attached
15 hereto as **Exhibit E.**

16
17 20. PAZ is committed to developing new community leaders, registering new voters,
18 providing legal services to community members who want to achieve citizenship
19 status, and teaching those who want to strengthen their English speaking skills. *See*
20 Exhibit E.

21
22 21. PAZ aims to improve the participation of Latino and other minority communities
23 across the State of Arizona in the democratic process. *See* Exhibit E.

24
25 22. PAZ intends to continue its efforts to register and engage the Latino electorate. *See*
26 Exhibit E.

27 23. PAZ is concerned that H.B. 2243, if implemented, will purge Latino and minority
28

1 voters from Arizona’s voter rolls, thus undoing the work PAZ has done in relation
2 to the organization’s voter registration efforts in Arizona. *See* Exhibit E.

3
4 24. If implemented, H.B. 2243 will force PAZ to divert its time, money, and resources
5 to: (1) creating educational campaigns to inform the public of H.B. 2243 and why
6 the law injures the right to vote, (2) preparing English and Spanish educational
7 materials about H.B. 2243, (3) hiring staff members to help educate the public
8 about H.B. 2243, (4) training staff members of the requirements, restrictions, and
9 harms of H.B. 2243, and (5) helping re-register those who were purged under H.B.
10 2243. *See* Exhibit E.

11
12 **Controverting Responses to Defendants State of Arizona, Attorney General Kris**
13 **Mayes, Intervenor-Defendant Republican National Committee’s Statement of Facts**

14
15 Plaintiffs Promise Arizona and Southwest Voter Registration Education Project
16 incorporate by reference the non-U.S. Plaintiffs’ controverting statement of facts in
17 support of non-U.S. Plaintiffs’ opposition to Defendants Attorney General Kris Mayes and
18 State of Arizona’s motion for summary judgment and Intervenor-Defendant RNC’s
19 motion for partial summary judgment.
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21
22 Dated: June 5th, 2023

Respectfully submitted,

23
24 By: /s/ Erika Cervantes
Erika Cervantes*
Ernest Herrera*
25 MEXICAN AMERICAN LEGAL
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CERTIFICATE OF SERVICE

On this 5th day of June, 2023, I caused the foregoing to be filed and served electronically via the Court’s CM/ECF system upon counsel of record.

/s/ Erika Cervantes
Erika Cervantes