Ex. 1
List of Exhibits

List of Exhibits

Ex. 2
Rule 37.1 Statement of Questions, Responses, and Deficiencies

Rule 37.1 Statement of Questions, Responses, and Deficiencies

QUESTION 1

State Defendants' Question 1

1. Explain how the ADP uses census and geographic data to determine the race of its members.

Arizona Democratic Party's Answer to Question 1

2. ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329).

3. Subject to and without waiving the foregoing objection, ADP does use proprietary internal algorithms to project voters' probable race and ethnicity. Tameron Tr. 24:15-25:15, 30:4-9, 92:14-22. Those algorithms are protected by the First Amendment.

Deficiencies

4. The ADP did not provide a responsive answer to the question. The State Defendants have not asked for, and are not interested in knowing, the ADP's proprietary information and algorithms. Rather, they seek a general understanding of the steps that the ADP takes to arrive at its determinations regarding race in order to evaluate whether the ADP's data can be relied upon.

QUESTION 3

State Defendants' Question 3

5. Provide the percentage of ADP members who are White, Hispanic, Native American, and African-American for each general election from 2004 to 2016.

Arizona Democratic Party's Answer to Question 3

6. ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). ADP also objects on the basis that this question is impermissibly vague; it is not clear what the State means by "ADP members," as ADP does not have an official membership list. Further, this question seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here.

Deficiencies

7. The ADP did not provide a responsive answer to the question. The question is not vague. In the Revised Interrogatories, the State Defendants defined Democratic members as "a person who is or was a registered Democratic voter in the state of Arizona." Ex. 5 at 3. As explained in the Memorandum of Points and Authorities, the ADP provided this information with regard to the 2016 election with no First Amendment objection. It will not implicate a First Amendment privilege to provide similar data for prior election years.

QUESTION 5

State Defendants' Question 5

8. Describe the race or ethnicity of early voters from 2004 through 2016. Please include any information that could identify the race or ethnicity of Democratic, Republican, or Independent voters by county of residence and year.

Arizona Democratic Party's Answer to Question 5

9. ADP objects to this question as vague, unduly burdensome, and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Further, this question seeks a level

of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here.

Deficiencies

10. The ADP did not provide a responsive answer to the question. As explained in the Memorandum of Points and Authorities, this question does not implicate the First Amendment privilege. Nor does it seek detail beyond what would be typical for a 30(b)(6) deposition. Rather, it concerns a properly noticed topic of inquiry.

QUESTION 9

State Defendants' Question 9

11. If the ADP has recorded any of the race or ethnicity information of any group identified in Interrogatory 12 (sic), please provide the race or ethnicity composition of those groups for each general election from 2004 through 2016 for Democrats, Republicans, and Independents.

Arizona Democratic Party's Answer to Question 9

12. ADP objects to this question as vague, unduly burdensome, and seeking information protected by the First Amendment privilege. See ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; see also Order Denying State's Motion to Compel (Doc. 329). Further, this question seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here.

Deficiencies

13. The ADP did not provide a responsive answer to the question. As explained in the Memorandum of Points and Authorities, this question does not implicate the First Amendment privilege. Nor does it seek detail beyond what would be typical for a 30(b)(6) deposition. Rather, it concerns a properly noticed topic of inquiry.

QUESTION 13

State Defendants' Question 13

14. Describe complaints received by the ADP by any voter, stating that it would be difficult or impossible for them to vote their early ballot because of the ban on ballot collection.

Arizona Democratic Party's Answer to Question 13

15. ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). ADP further objects to this question to the extent that it seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here. ADP also objects to this question as duplicative; ADP answered nearly identical questions during both depositions and written discovery.

Deficiencies

16. The ADP did not provide a responsive answer to the question. As explained in the Memorandum of Points and Authorities, this question does not implicate the First Amendment privilege. The State Defendants are not asking for the identities of voters. Rather, they only ask for a description of any complaints received. This line of questioning is not covered by the First Amendment privilege. Nor does it seek detail beyond what would be typical for a 30(b)(6) deposition. Rather, it concerns a properly noticed topic of inquiry.

QUESTION 17

State Defendants' Question 17

17. Has the number of Hispanic, Native American, and African-American voters who voted in an election increased since H.B. 2023 was passed? Was the trend different for White voters?

Arizona Democratic Party's Answer to Question 17

18. ADP objects to this question as seeking information protected by the First Amendment. ADP objects to this question as duplicative; ADP answered similar questions during depositions. ADP also objects to this question as vague; it is not clear whether this question is referring to the absolute number of voters, voters as a share of the electorate, or percentage of voters within a group who have turned out to vote. Similarly, it is not clear which election(s) the State is using as a baseline for determining whether there has been an increase.

19. Subject to and without waiving the foregoing objection, ADP states that detailed statistics regarding minority turnout are available in the expert reports of Allan Lichtman and Jonathan Rodden.

Deficiencies

20. The ADP did not provide a responsive answer to the question. As explained in the Memorandum of Points and Authorities, this question does not implicate the First Amendment privilege. The State Defendants do not want to know what statistics Plaintiffs' experts rely upon, but rather what ADP's information reveals about this question.

QUESTION 18

State Defendants' Question 18

21. Has the number of Hispanic, Native American, and African-American voters using vote-by-mail increased since H.B. 2023 was passed? Was the trend different for White voters?

Arizona Democratic Party's Answer to Question 18

22. ADP objects to this question as seeking information protected by the First Amendment. ADP also objects to this question as vague; it is not clear whether this question is referring to the absolute number of voters using vote by mail, voters who are signed up for PEVL, or percentage of voters signed up for vote by

mail who actually cast a vote. Similarly, it is not clear which election(s) the State is using as a baseline for determining whether there has been an increase.

23. Subject to and without waiving the foregoing objection, ADP states that detailed statistics regarding minority turnout are available in the expert reports of Allan Lichtman and Jonathan Rodden.

Deficiencies

24. The ADP did not provide a responsive answer to the question. As explained in the Memorandum of Points and Authorities, this question does not implicate the First Amendment privilege. The State Defendants do not want to know what statistics Plaintiffs' experts rely upon, but rather what ADP's information reveals about this question.

QUESTION 21

State Defendants' Question 21

25. Has the ADP commissioned reports on the voting patterns of racial minorities in Arizona for 2016? If so, please identify or describe:

a. When the reports were commissioned;

b. The analysis and conclusion of the reports;

c. Any increase or decrease in the number of minority voters who cast ballots in Arizona in the last ten years;

d. Any increase or decrease in the number of minority voters who cast early ballots in Arizona in the last ten years;

e. Any increase or decrease in the number of OOP voters in the last ten years, including the race or ethnicity of those voters;

f. How large the increase or decrease in voter turn-out was;

g. Whether minority voters complained that voter registration was more difficult;

h. Whether minority voters complained that their assigned polling place was difficult to identify;

i. Whether minority voters complained that the voting process was more difficult;

j. Whether any minority voters stated that voter registration, identifying their assigned polling place, or the voting process was easier in the 2016 than it had been in past years; and

k. Whether these reports were disclosed by the Plaintiffs. If so, please identify the disclosed reports.

Arizona Democratic Party's Answer to Question 21

26. ADP objects to this question as vague, unduly burdensome, and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). ADP further objects to this question to the extent that it seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here.

Deficiencies

27. The ADP did not provide a responsive answer to the question. As explained in the Memorandum of Points and Authorities, this question does not implicate the First Amendment privilege. The State Defendants are not asking for the identities of voters. This line of questioning is not covered by the First Amendment privilege. Nor does it seek detail beyond what would be typical for a 30(b)(6) deposition. Rather, it concerns a properly noticed topic of inquiry, and is central to the defense against Plaintiffs' claims.

QUESTION 22

State Defendants' Question 22

28. Has the ADP engaged in polling of voting patterns of racial minorities in Arizona? If so, please identify or describe:

a. When the polls were commissioned;

b. The analysis and conclusion of the polls;

c. Any increase or decrease in the number of minority voters who cast ballots in Arizona in the last ten years;

d. Any increase or decrease in the number of minority voters who cast early ballots in Arizona in the last ten years;

e. Any increase or decrease in the number of OOP voters in the last ten years, including the race or ethnicity of those voters;

f. How large the increase or decrease in voter turn-out was;

g. Whether minority voters complained that voter registration was more difficult;

h. Whether minority voters complained that their assigned polling place was difficult to identify;

i. Whether minority voters complained that the voting process was more difficult;

j. Whether any minority voters stated that voter registration, identifying their assigned polling place, or the voting process was easier in the 2016 than it had been in past years; and

k. Whether these polls were disclosed by the Plaintiffs. If so, please identify the disclosed polls.

Arizona Democratic Party's Answer to Question 22

29. ADP objects to this question as vague, unduly burdensome, and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321)

Deficiencies

30. The ADP did not provide a responsive answer to the question. As explained in the Memorandum of Points and Authorities, this question does not implicate the First Amendment privilege. The State Defendants are not asking for the identities of voters. This line of questioning is not covered by the First Amendment privilege. Nor does it seek detail beyond what would be typical for a 30(b)(6) deposition. Rather, it concerns a properly noticed topic of inquiry, and is central to the defense against Plaintiffs' claims.

QUESTION 23

State Defendants' Question 23

31. Has the ADP used the voter registration lists it obtains from the county recorders or any other source to analyze voting patterns of racial minorities in Arizona? If so, please identify and describe:

a. Which years the ADP conducted this analysis, between 2006 and 2016;

b. Aside from information provided by the county recorders, what other information the ADP used to analyze voting patterns of racial minorities in Arizona;

c. What did this analysis determine about voting patterns of racial minorities in Arizona;

d. Was this analysis disclosed by Plaintiffs? If so, please identify.

Arizona Democratic Party's Answer to Question 23

32. ADP objects to this question as unduly burdensome and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). ADP further objects to this question to the extent that it seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry

here. ADP also objects to the extent the State seeks information that is duplicative of information that has already been provided.

33. Subject to and without waiving the foregoing objections, ADP states that it uses the voter registration lists it obtains from the county recorders to analyze voting patterns of racial minorities in Arizona. Tameron Tr. 24:15-25:15. As to each subpart:

a. ADP has conducted this analysis regularly.

b. ADP objects to subpart b as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Subject to and without waiving the foregoing objections, ADP states that, as Ms. Tameron testified, the ADP supplements the information in the voter file with census data to generate models of race or ethnicity. Tameron Tr. 92:14-22; 30:4-9. Other types of data inputs may also be used.

c. ADP objects to subpart c as unduly burdensome, vague, and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329).

d. ADP's internal analyses are protected by the First Amendment from disclosure. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Accordingly, they are included on ADP's First Amendment privilege logs.

Deficiencies

34. The ADP did not provide a full, responsive answer to the question. As explained in the Memorandum of Points and Authorities, this question does not implicate the First Amendment privilege. The State Defendants are not asking for the

identities of voters. This line of questioning is not covered by the First Amendment privilege. Nor does it seek detail beyond what would be typical for a 30(b)(6) deposition. Rather, it concerns a properly noticed topic of inquiry, and is central to the defense against Plaintiffs' claims.

QUESTION 24

State Defendants' Question 24

35. Has the ADP relied on any national reports or studies to analyze the voting patterns of racial minorities in Arizona?

a. When were these national reports or studies published?

b. Identify the titles of the national reports or studies the ADP has relied upon to analyze the voting patterns of racial minorities in Arizona?

c. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to be registered to vote than minority voters in other states? If so, were Arizona minority voters more or less likely to be registered to vote? What is the break-down by race or ethnicity?

d. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote early than minority voters in other states? If so, were Arizona minority voters more or less likely to vote early? What is the break-down by race or ethnicity?

e. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote than minority voters in other states? If so, were Arizona minority voters more or less likely to vote? What is the break-down by race or ethnicity?

f. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote by mail than minority voters in other states? If so, were Arizona minority voters more or less likely to vote by mail? What is the break-down by race or ethnicity?

g. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote in the wrong precinct than minority voters in other states? If so, were Arizona minority voters more or less likely to vote in the wrong precinct? What is the breakdown by race or ethnicity?

h. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to have home mail service than minority voters in other states? If so, were Arizona minority voters more or less likely to have home mail service? What is the breakdown by race or ethnicity?

i. Were these national reports or studies disclosed by Plaintiffs? If so, please identify.

Arizona Democratic Party's Answer to Question 24

36. ADP objects to this question as vague; it is not clear what the State means by asking whether ADP has "relied" on these studies. Further, ADP objects to the extent the State seeks information protected by the First Amendment; what types of public information ADP strategically selects and reviews for its own internal purposes is protected from disclosure. ADP also objects to this question on relevance grounds; it is irrelevant to this litigation what information ADP has relied upon in other contexts. ADP further objects to this question to the extent that it seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here. And, ADP objects on the grounds that the burden of obtaining public information is substantially the same for ADP as for the State.

Deficiencies

37. The ADP did not provide a responsive answer to the question. As explained in the Memorandum of Points and Authorities, this question does not implicate the First Amendment privilege. The State Defendants are not asking for the identities of voters. This line of questioning is not covered by the First Amendment privilege. Nor does it seek detail beyond what would be typical for a 30(b)(6)

deposition. Rather, it concerns a properly noticed topic of inquiry, and is central to the defense against Plaintiffs' claims.

QUESTION 26

State Defendants' Question 26

38. Describe any complaints the ADP received between 2004 and 2016 from a voter who cast an OOP ballot that was not counted. Please include in the description any information on the race or ethnicity of the voter, the year the complaint was made, and the county from which the complaint originated.

Arizona Democratic Party's Answer to Question 26

39. ADP objects to this question as outside the scope of the four at-issue deposition topics identified in the State's Motion to Compel. Deposition topics 2, 4, 6, and 7 are the permissible subjects of inquiry here. This question seeks information within topic 8. Further, this question seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here. ADP also objects to this question as unduly burdensome and to the extent that it seeks information protected from disclosure by the First Amendment privilege.

Deficiencies

40. The ADP did not provide a responsive answer to the question. As explained in the Memorandum of Points and Authorities, this question does not implicate the First Amendment privilege. The State Defendants are not asking for the identities of voters. This line of questioning is not covered by the First Amendment privilege. Nor does it seek detail beyond what would be typical for a 30(b)(6) deposition. Rather, it concerns a properly noticed topic of inquiry, and is central to the defense against Plaintiffs' claims. It is true that this question fits within Topic 8, not Topics 2, 4, 6, and 7. But it is also true that this was a question that the State Defendants wanted to ask Mr. Scharff, but did not, when it became

obvious that he either could not, or would not, answer many of the questions put to him. It is therefore an artificial limitation to suggest that the State Defendants may only inquire as to four Topics.

QUESTION 27

State Defendants' Question 27

41. For the document attached hereto as Exhibit 1, provide the following information:

a. What time period or election does the document reflect?

b. Who created the document?

c. Identify the source or sources of the data used to create the document.

d. How were voters assigned to the race or ethnicity categories used in the document?

e. Native American voters are not a separately identified race or ethnicity category in the document, in which race or ethnicity category were Native Americans placed?

f. Did the ADP compile similar documents or data for elections or time periods not covered by this document?

i. If so, provide all of the information reflected in Exhibit 1 for those other time periods or elections.

ii. If so, please answer Interrogatories 6.a-e for each of those other time periods or elections.

Arizona Democratic Party's Answer to Question 27

42.

a. The document reflects data provided to ADP by the county recorders in the April 2017 iteration of the voter file.

b. Sam Almy, ADP's Data Director, created the document.

c. ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's

Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Subject to and without waiving the foregoing objections, ADP states that Mr. Almy created the document using the publicly available voter file in combination with proprietary internal modeling, as described above in Response to Interrogatory 23.

d. ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Subject to and without waiving the foregoing objections, ADP refers the State to the information provided in response to Interrogatory 23.

e. ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Subject to and without waiving the foregoing objections, ADP states that it is not aware of which ethnicity includes Native American voters in Exhibit 1.

f. ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Subject to and without waiving the foregoing objections, ADP states that Exhibit 1 was created specifically for Alexis Tameron to answer the questions set forth in the State's email during her deposition. Because this document was created specifically during the deposition as an aide, there are no analogous documents for other elections. However, ADP does possess documents containing data or modeling for other elections that is similar to the data or modeling from

which this report for April 2017 was derived, and such documents are listed on ADP's First Amendment privilege logs.

Deficiencies

43. The ADP did not provide a full, responsive answer to the question. As explained in the Memorandum of Points and Authorities, this question does not implicate the First Amendment privilege. The State Defendants are not asking for the identities of voters. This line of questioning is not covered by the First Amendment privilege. Nor does it seek detail beyond what would be typical for a 30(b)(6) deposition. Rather, it concerns a properly noticed topic of inquiry, and is central to the defense against Plaintiffs' claims.

QUESTION 28

State Defendants' Question 28

44. The article attached hereto as Exhibit 2, states that it is based on information provided by the ADP, please describe

a. Who provided the information to the *Arizona Republic*;

b. The source of the information provided to the *Republic*; and

c. What process the ADP used to determine which racial or ethnic group a voter belonged to.

Arizona Democratic Party's Answer to Question 28

45. ADP objects to this question to the extent that it seeks information that is not relevant and as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329).

Deficiencies

46. The ADP did not provide a responsive answer to the question. As explained in the Memorandum of Points and Authorities, this question does not implicate the First Amendment privilege. The State Defendants are not asking for the identities of voters. This line of questioning is not covered by the First Amendment

privilege. Nor does it seek detail beyond what would be typical for a 30(b)(6) deposition. Rather, it concerns a properly noticed topic of inquiry, and is central to the defense against Plaintiffs' claims.

QUESTION 29

State Defendants' Question 29

47. Identify the name of each person who answered each Interrogatory.

Arizona Democratic Party's Answer to Question 29

48. ADP objects to this question as seeking information protected by the attorney-client privilege and for seeking communications constituting attorney work product. The answers herein are provided on behalf of ADP as an organization.

Deficiencies

49. The ADP did not provide a responsive answer to the question. The question does not implicate the attorney-client privilege. It merely asks the ADP to identify who was the representative or representatives who answered the propounded questions. If this were a live, 30(b)(6) deposition, the State Defendants would be able to see who was answering the questions and no attorney-client privilege would be implicated. The State Defendants should be able to ascertain the identities of those who answered these written questions as well.

#612635-v1

Ex. 3
Reporter's Trans. of Proceedings, July 14, 2017

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

_____

Arizona Democratic Party, et al.,	)	No. CV-16-01065-PHX-DLR
Plaintiffs,	)	
vs.	)	Phoenix, Arizona July 14, 2017 1:31 p.m.
Michele Reagan, et al.,	)	
Defendants.	)	

BEFORE: THE HONORABLE DOUGLAS L. RAYES, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TELEPHONIC CONFERENCE

Official Court Reporter:
Jennifer A. Pancratz, RMR, CRR, CRC
Sandra Day O'Connor U.S. Courthouse, Suite 312
401 West Washington Street, Spc 42
Phoenix, Arizona 85003-2151
(602) 322-7198

Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

A P P E A R A N C E S

For the Plaintiffs:
Perkins Coie LLP
By: Joshua L. Kaul, Esq.
1 East Main Street, Suite 201
Madison, Wisconsin 53703

For the Plaintiffs:
Perkins Coie LLP
By: Sarah R. Gonski, Esq.
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012

For the State Defendants:
Office of the Attorney General
By: Kara Karlson, Esq.
Joseph E. LaRue, Esq.
1275 West Washington Street
Phoenix, Arizona 85007

For the Intervenor Defendants:
Snell & Wilmer LLP
By: Sara J. Agne, Esq.
Brett W. Johnson, Esq.
400 East Van Buren, 1 Arizona Center
Phoenix, Arizona 85004

P R O C E E D I N G S

COURTROOM DEPUTY: Civil Case No. 16-1065, Feldman and others versus Arizona Secretary of State's Office and others, on for telephonic conference.

Counsel, please announce for the record.

MR. KAUL: Your Honor, for the plaintiffs, this is Josh Kaul and Sarah Gonski.

MS. KARLSON: Your Honor, for the State defendants, Kara Karlson and Joseph LaRue.

MS. AGNE: Your Honor, for the intervenor defendants, Sara Agne and Brett Johnson.

THE COURT: Okay. Good afternoon. We're here on the State defendants' motion to compel plaintiffs to produce relevant documents and 30(b)(6) witness.

I've reviewed the motion and the response. Let me just tell you what my starting point is. This involves a number of documents, but generally, the plaintiffs have established a prima facie case for the First Amendment protection. The defendants, however, argue that there has been a waiver based on the nature of the claims.

First, Mr. Kaul, would you agree that if your claims regarding the impact of the challenged laws on minority voters, if -- and that is your claim, that these laws impact minority voters in a way that is inappropriate. True?

MR. KAUL: Yes, it is, Your Honor.

THE COURT: Okay. Would you agree that if you have information reflecting the impact of the challenged laws on minority voters, that would be relevant?

MR. KAUL: We agree that it's relevant, Your Honor, yes.

THE COURT: Okay. Do you have information reflecting the impact of the challenged laws on minority voters? That you -- that you are claiming is privileged in those 7-, 800 documents?

MR. KAUL: I don't know the direct answer to that, Your Honor. But there's a demographic information we have, certainly, that's among the information that -- over which we've asserted the privilege.

THE COURT: Well --

MR. KAUL: You know, I don't believe --

THE COURT: Let me back up. The demographic information doesn't tell me a whole lot. What I'm asking for specifically, is there information reflecting the impact of the challenged laws on minority voters that hasn't been disclosed and that you're claiming is privileged?

MR. KAUL: Your Honor, to the best of my -- there are 1,776 documents, so I certainly don't have them memorized. But my understanding is that there's not a document that says, for example, the ban on ballot collection decreased minority turnout by X and white turnout by Y. Or anything that direct,

if that's what the Court is getting at.

THE COURT: Do you have anything that indirectly gives that information?

MR. KAUL: I believe there's data that includes information -- for example, there are documents that have incidents that came up in the field that were relayed to people doing election collection work, and those might indicate that somebody's having trouble getting their ballot delivered. And so had ballot collection been an option, that would have reduced the burden on those workers.

So there are -- I know that there are things like that.

THE COURT: Okay. So there are anecdotal experiences by people in the field that have been reflected in some of those documents?

MR. KAUL: Yes.

THE COURT: Which you think indicates -- could be information reflecting the impact of the challenged laws on minority voters?

MR. KAUL: I mean, you could take those anecdotes and look to try to figure out whether, you know, more of our anecdotes came from certain types of voters or something like that. Or to establish that -- you know, some link that's related to essentially minority voters or not, I believe.

THE COURT: Now, let me ask you this: The argument

being made is that it doesn't matter whether you intend to use that information or not or whether you turn it over to your experts. You've made certain claims, and when you make certain claims, you open yourself up to having to disclose information that pertains to those claims.

When you make those claims, there's a waiver. Do you disagree with that proposition?

MR. KAUL: We do disagree with that proposition, Your Honor, yes.

THE COURT: Are you arguing that you can never waive the First Amendment privilege?

MR. KAUL: No, I'm not arguing that. It can be waived. If we had relied on some of this proprietary data in this case --

THE COURT: Okay. Let me interrupt you.

MR. KAUL: -- then I think --

THE COURT: Let me interrupt you there. I'm sorry, but I'm trying to narrow this down.

So your position is the only time you can waive the privilege is when you use the data yourself, but if you have data that is relevant to your claims and you don't rely on it, you haven't waived the privilege for that data. Is that your position?

MR. KAUL: Yes.

THE COURT: Okay. All right. Let me hear from the

defense on that.

MS. KARLSON: Your Honor, we obviously disagree that that's what the law is. They have -- they admitted that they have relevant information that really goes to the heart of the case that they brought. To the extent they are trying to argue that they didn't rely on it, it's just as possible that the reason they didn't use the data is because it contradicts what their expert said.

I mean, and we have evidence of them doing that with the Rule 30(b)(6) deposition witness. They tried to change her testimony from the early voting population of Hispanics, and now they're trying to say the opposite to conform with what their expert said.

So just -- there could be other reasons that they didn't rely on it, and that could be crucial to our defense.

THE COURT: Well, my belief, after reading the cases and based on my history with dealing with privilege issues, is that if you assert a claim and you have evidence or information that addresses that claim, you've opened the door to the disclosure of that evidence, regardless of whether you intend to use it for yourself or not.

For example, if you're in a car accident and you have a preexisting back injury but you're not going to rely on evidence of that preexisting back injury, you're still required to -- you've still given up the privilege on any evidence

pertaining to that particular claim regarding your back.

And I guess, Mr. Kaul, is the First Amendment privilege any different than that or -- the typical privileges that when you make a specific claim, you've opened the door to evidence pertaining to that claim in your possession even if you don't intend to use it?

MR. KAUL: Your Honor, I don't think that that's the rule that applies with most claims. The attorney-client privilege, for example, just because information is relevant certainly doesn't mean that our party sacrifices its attorney-client privilege. I don't think the defendants here are arguing that we have to sacrifice our attorney-client privilege with respect to relevant materials just because we've brought these claims.

And the First Amendment privilege isn't any different. It applies the same way. And there are cases that we've cited here, like *Ohio Organizing Collaborative*, for example, which mirror this case precisely. That's a voting rights case in which Voting Rights Act claims were brought and the First Amendment privilege was asserted and enforced.

The same thing in the Colorado case we cited, *Independence Institute versus Gessler*. That was a First Amendment privilege assertion in a case involving a challenge to the constitutionality of the statute.

And the defendants' position, Your Honor, boiled down

is for us to seek to vindicate our constitutional and Voting Rights Act rights. But if we try to vindicate those, we must waive other First Amendment rights, which can't be the law, because it would require us to sacrifice one set of constitutional rights for the other.

MS. KARLSON: Your Honor, if I may, that's a mischaracterization of our argument. Our argument is that if they have demographic -- if they have information that is relevant to their Voting Rights Act claim specifically, then that information needs to be produced.

Obviously, we don't believe the -- by seeking a Voting Rights Act claim, to use the example that plaintiffs' counsel just used, that they somehow waived attorney-client privilege. Because the attorney-client privilege is not -- I'm going to say that that information would not be relevant to the claims that they're making.

On the other hand, as you brought up, if they had -- if they had somehow raised a claim in a different lawsuit about attorney malpractice, then attorney-client communications would absolutely be required to be produced.

And if we take, for example, *Bittaker versus Woodford*, that is a case where the plaintiff was a death row inmate and was seeking habeas petitions based on ineffective assistance of counsel. And he was not allowed to use the attorney-client privilege in order to protect those communications and then so

sued his attorney or so filed the habeas claim for ineffective assistance of counsel because that was exactly at issue. *Bittaker versus Woodford* is cited in our brief and I believe in the plaintiffs' brief. It's at 331 F.3d 715, Ninth Circuit, 2003.

So plaintiffs come in and say, well, we shouldn't -- you know, the law is not you have to make a choice, but the law is absolutely you have to make a choice. And I quote: When a party discloses privileged -- or I'm sorry. This implied waiver --

THE COURT: Did we lose her?

MS. KARLSON: Yeah, no, I'm --

THE COURT: Okay.

MS. KARLSON: I'm sorry. I lost -- I lost the quote.

MR. KAUL: Your Honor, may I --

MS. KARLSON: Excuse me. Sorry.

THE COURT: Are you finished?

MS. KARLSON: Yes.

THE COURT: Okay. The situation with the attorney-client privilege waiver in an ineffective assistance of counsel claim is pretty easy. This is more difficult, because Mr. Kaul is right. Simply because evidence is relevant doesn't mean the privilege has been lifted or been waived. The --

MR. KAUL: And --

THE COURT: Go ahead, Mr. Kaul.

MR. KAUL: Your Honor, I was going to say, I believe the quote that Ms. Karlson started reading and stopped herself from reading makes the very point we're making, which is that if privileged information is put at issue, you can't then bar the admission of the privileged information.

MS. KARLSON: Actually, I didn't finish reading the quote that I was going to read. I stopped myself reading from it because it was irrelevant. It was about disclosing information to a third party. It was not what -- I'm happy to read it, but I just didn't want to waste the Court's time.

THE COURT: Well --

MR. KAUL: The point is that case law talks about putting privileged information at issue.

THE COURT: Okay. So your argument is in the attorney-client privilege waiver situation that's been raised as an example here, the very communications are the issue. Here --

MR. KAUL: Exactly, Your Honor.

THE COURT: -- you're arguing that these communications aren't at issue. Although they may be relevant, that doesn't amount to a waiver. Is that what I'm hearing?

MR. KAUL: Yes, Your Honor.

THE COURT: Okay. All right. Does anyone have anything else they want to add?

MS. KARLSON: I mean, we believe that the information that they have is not only relevant but is at issue. I mean, their allegations in the complaint state that the practices and procedures implemented by the State burden minority voters. And, in fact, in the first preliminary injunction order, Docket I believe 204, Your Honor, you stated that plaintiffs had not produced or provided -- plaintiffs, however, provided no quantitative or statistical evidence comparing the --

THE COURT: Well, hold on.

MS. KARLSON: -- portion of minority to white voters.

THE COURT: Stop, stop, stop. You're talking too fast for me. I can't keep up with you over the phone. Can you slow down, please?

MS. KARLSON: Sorry. I will try.

But it -- so the actual data of people, minority voters specifically, who have had or allegedly been impacted by HB 2023 and out-of-precinct voting is the central issue of the lawsuit that plaintiffs brought. And they cannot now claim that they -- that they have this information that goes to that -- those exact fact patterns and that that's protected.

And that is all that we're interested in. I know that the plaintiffs spent a lot of time in their brief talking about plans and all sorts of other --

THE COURT: Stop, stop, stop. Let me back you up just for a second.

Would you narrow for me, what specifically are you interested in? Did you say you have a specific category of information that you're looking for?

MS. KARLSON: Yes. Anything that goes to the heart of this case. How -- or whether the HB 2023 or out-of-precinct voting has had a disparate impact on minority voters as compared to white voters. Has it -- had it impacted them more than white voters? That's the heart of their Section 2 claim, and that is the heart of the information we're seeking.

To the extent there is other information included in the emails that we sought in -- specifically outlined in Footnote 3, we are fine if they, you know, need to redact specific strategic plans because we are not after that. We are after the demographic information that goes to the heart of this case.

THE COURT: Okay. Let me ask Mr. Kaul another question now.

Mr. Kaul, in your briefing, you seem to make an argument that the First Amendment privilege is kind of like a qualified privilege, like the work product, for example, where if there's a strong enough showing made as to the relevance and the need for the information, it can be overcome. That's a separate issue as to -- regarding waiver.

Did I understand your argument correctly?

MR. KAUL: Well, Your Honor, what we were attempting

to do was to just relay our understanding of the holding in *Perry*.

THE COURT: Answer my question. Is this somewhat like the qualified privilege of work product, except for maybe a higher standard, but that the privilege can be overcome by a showing of need and the relevance, the high degree of relevance?

MR. KAUL: I'm just looking at my notes on *Perry*, Your Honor.

According to *Perry*, the parties seeking discovery must show that the information sought is highly relevant, that the claims are defenses in the litigation, and then there's -- if it is, there's a balancing done, which also raises the First Amendment interests, the ability of the opposing party to obtain the information elsewhere, among other things.

So I would agree with Your Honor that there is a balancing component to it, yes.

THE COURT: Can you say that again? I didn't quite understand. What did you last say?

MR. KAUL: I would agree with Your Honor that there is a balancing component to it as set forth in the test in *Perry*.

THE COURT: So it's a qualified privilege more than an absolute privilege then. Is that what you're saying?

MR. KAUL: Well, I think, Your Honor, the way I refer to it, it's an absolute privilege but you conduct a balancing

test to determine whether that applies.

THE COURT: Whether what? I'm sorry. Whether what?

MR. KAUL: I believe you conduct a balancing test to determine whether the privilege applies.

THE COURT: Okay. All right.

All right. Now, I've got just a couple more issues. If I were to order some disclosure, would it be possible, Mr. Kaul, that a protective order would meet the concerns that you're worried about?

MR. KAUL: I'm sorry, Your Honor. Would it be possible for --

THE COURT: A protective order regarding the disclosure of this information.

MR. KAUL: No, it would not, Your Honor. The fact of disclosure at all to the government is exactly the First Amendment.

THE COURT: So the disclosure to the government is the party you're really afraid of having it. And if we give it to them, a protective order won't help you. Is that what you're saying?

MR. KAUL: That's right, Your Honor.

THE COURT: And finally, let's talk about the 30(b)(6) issue. The witness that you -- that's in question here, is it the plaintiffs' position that the First Amendment privilege is the reason why this witness shouldn't be testifying? Is that

what you're saying?

MR. KAUL: That's a secondary argument we have, Your Honor. I would say the main argument is that we believe we've -- for the reasons we've explained, we've fully addressed the topics and the questions that were raised by the defendants.

The other thing is, there's a practical issue with this witness which is that he's the witness who's hiking the Appalachian Trail right now.

THE COURT: Can you say that again? Because you said it so fast, I didn't understand it.

MR. KAUL: I apologize, Your Honor. He is the witness who's hiking the Appalachian Trail.

THE COURT: Okay. So when does he get back?

MR. KAUL: My understanding is that he's gone for months. I don't --

THE COURT: Okay.

MR. KAUL: And is out of --

THE COURT: So it's an impossibility to take his deposition now. Is that what you're saying?

MR. KAUL: Yes, Your Honor.

THE COURT: Okay. All right. Defendants want to address anything else on the 30(b)(6)? Because if he's not available, I don't know what I can do with him.

MS. KARLSON: No.

And I just wanted to clarify, Your Honor, that the reason we brought up Sam Almy is because both Alexis Tameron and Spencer Scharff, who were the designated 30(b)(6) witnesses, testified that he would -- on multiple occasions, for multiple topics, that he would be the best person to ask.

THE COURT: Okay. I --

MS. KARLSON: So we are not --

THE COURT: Hang on. Whoa. I saw that in your papers.

Just for the court reporter, could you please state the names of those two witnesses who said that? Because she didn't get down what their names are.

MS. KARLSON: Okay. Alexis Tameron, T-a-m-e-r-o-n, and Spencer Scharff, S-c-h-a-r-f-f.

THE COURT: Okay. So the acoustics here aren't the greatest, so I just ask you guys to keep it slow and be crisp with your words.

All right. So explain to me again what the defense position is. And say it nice and slowly so I can understand it.

MS. KARLSON: The defense position is that we properly noticed a 30(b)(6) deposition. They did not object.

THE COURT: Let me interrupt you just for a second.

MS. KARLSON: Uh-huh.

THE COURT: I'm trying to be practical about this.

He's on the Appalachian Trail. What is it you want me to do now?

MS. KARLSON: We need to order them to produce a properly prepared 30(b)(6) deponent. If it cannot be Sam Almy, it needs to be someone who has the familiarity with the Democratic Party's demographic information to be able to answer those questions.

THE COURT: Okay. Mr. Kaul?

MR. KAUL: Your Honor, as we've tried to point out in our filing, witnesses -- our witnesses have answered questions on the topics that have been raised. And we don't know what questions the State has that haven't been answered. We've asked repeatedly, and we still don't know --

THE COURT: Well --

MR. KAUL: -- what questions they have.

THE COURT: -- they pointed to some transcript testimony where witnesses were asked questions, and they said they couldn't answer them. They referred to another witness who they thought could. And he's on the Appalachian Trail.

So I understand that there have been some questions posed to 30(b)(6) deponents that they just couldn't answer. You're aware of that?

MR. KAUL: I am, Your Honor. One example we cited was what percentage of Democrats are Pacific Islanders, for example. Or other obscure details. And when we -- when that

happened, we asked the defendants for a list of information they wanted, and they provided it. And we got answers to those questions within the same deposition. So those questions were answered.

THE COURT: Okay. So you're saying every question they've asked has been answered, and there's nothing that you're aware of that hasn't been answered. Is that true?

MR. KAUL: Well, the way I would phrase it, Your Honor, is I am not aware of -- if there are questions that haven't been answered, I'm not sure what they are.

THE COURT: Well, this isn't the time for us to be discussing that.

Why don't you guys get together and identify for the plaintiffs the specific questions you want answered. And if plaintiffs can answer those through an affidavit of -- like an interrogatory, do that. If you can't, let's get a 30(b)(6) deposition set up.

MS. KARLSON: Your Honor, another alternative I'd like to raise, since Mr. Almy is on the Appalachian Trail, my understanding of the trail is that there are points where you would have access to telephones.

THE COURT: Well --

MS. KARLSON: And we would --

THE COURT: I guess the first point is, according to Mr. Kaul, he doesn't even understand what questions are left to

be asked of him. So if you could specify those, he may find somebody or some other means to get those answers for you. And I expect he will. Okay?

MS. KARLSON: Okay, Your Honor.

THE COURT: And let's get back on the phone not next week but week after next if that hasn't been resolved. Because we need to wrap up this discovery.

MS. KARLSON: We agree, Your Honor.

THE COURT: All right. And I'll take under advisement the question on the documents that are claimed to be privileged and get a quick ruling out on that.

Okay. Anything else?

MR. KAUL: Thank you, Your Honor.

THE COURT: All right. Thank you. We'll stand in recess.

MS. KARLSON: Thank you.

MS. AGNE: Thank you.

(Proceedings concluded at 1:57 p.m.)

C E R T I F I C A T E

I, JENNIFER A. PANCRATZ, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 24th day of July, 2017.

s/Jennifer A. Pancratz
Jennifer A. Pancratz, RMR, CRR, CRC

Ex. 4
State Defendants' 2d Set of Interrogatories to Arizona Democratic Party, July 19, 2017

MARK BRNOVICH
Attorney General
Firm Bar No. 14000

Kara Karlson (029407)
Karen J. Hartman-Tellez (021121)
Joseph E. La Rue (031348)
Assistant Attorneys General
1275 W. Washington Street
Phoenix, AZ 85007
Telephone (602) 542-4951
Facsimile (602) 542-4385
kara.karlson@azag.gov
karen.hartman@azag.gov
joseph.larue@azag.gov
Attorneys for Secretary of State Michele Reagan and Attorney General Mark Brnovich

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Arizona Democratic Party, et al., Plaintiffs, v. Arizona Secretary of State's Office, et al., Defendants.	Case No. CV-16-01065-PHX-DLR **STATE DEFENDANTS' SECOND SET OF INTERROGATORIES TO ARIZONA DEMOCRATIC PARTY**

Pursuant to this Court's order, Doc. No. 323, Defendants Arizona Secretary of State Michele Reagan and Arizona Attorney General Mark Brnovich (collectively, the "State Defendants"), by and through counsel, request that Plaintiff Arizona Democratic Party, answer the questions specified below under the heading "Interrogatories," under oath and in accordance with the instructions set forth herein.

Responses to these Interrogatories are to be produced to the offices of the Arizona Attorney General, Solicitor General's Office, 1275 West Washington Street, Phoenix, Arizona, 85007-2926, to the attention of Kara Karlson, Karen Hartman-Tellez, and Joseph La Rue, on or before July 24, 2017.

DEFINITIONS

The following definitions apply to each of the Interrogatories set forth herein, and are deemed to be incorporated in each such Interrogatory below. Terms not defined in the Definitions shall be construed and defined in accordance with the Federal Rules of Civil Procedure, wherever applicable. Otherwise, terms not defined in the Definitions shall be given their ordinary meaning.

1. "ADP" is the Arizona Democratic Party and includes its current and former agents, consultants, directors, employees, officers, representatives, staff, volunteers, or anyone acting on their behalf.

2. "And" and "or" shall be construed conjunctively or disjunctively as necessary to bring within the scope of an Interrogatory all responses that otherwise might be construed to be outside its scope.

3. "Any" or "all" means "any and all."

4. "Assigned precinct" means the precinct to which the voter was assigned in the precinct register, pursuant to A.R.S. §§ 16-411 and 16-583.

5. "Ballot collection" means the receipt of, return of, or possession of a voted early ballot other than by the voter who completed the ballot.

6. "Communication" means any transmittal of information of any type, whether written, oral, electronic, or otherwise, including transmittals of information via email, letter, text message, voicemail message, note, summary, written memorandum, and other means, regardless of whether the transmittal of information was made by you to another person or by another person to you.

7. "Concerning" means in any way, directly or indirectly, in whole or in part, amending, analyzing, commenting upon, comprising, considering, constituting,

containing, describing, discussing, documenting, embodying, establishing, evaluating, evidencing, identifying, memorializing, mentioning, modifying, pertaining to, qualifying, referring to, reflecting, regarding, relating to, representing, showing, stating, summarizing, or in any way relevant to the subject matter stated.

8. "Democratic voter" or "member" shall mean a person who is or was a registered Democratic voter in the state of Arizona.

9. "Document" is synonymous in meaning and scope to the term "document" as defined in Fed. R. Civ. P. 34 and the phrase "writings and recordings" as defined in Fed. R. Evid. 1001, and includes but is not limited to all non-identical final versions, drafts, copies, or reproductions of (1) communications (as defined above); (2) ESI (as defined below); (3) writings of all kinds, whether handwritten, typewritten, printed, electronically recorded, taped, or otherwise stored, including but not limited to memoranda, booklets, books, placards, drawings, graphs, and charts; (4) photographs; (5) video recordings; (6) audio recordings; (7) facsimile transmissions; (8) other data compilations from which any intelligence can be perceived or information can be obtained, with or without the use of detection devices; or (9) any other material relating to the Interrogatory and responsive to it.

10. "Each" or "every" means "each and every."

11. "ESI" refers to electronically stored information and means originals, drafts, and all copies of any of the following: email; activity listings of email receipts and/or transmittals; voice mail; audio or video recordings of any kind; facsimiles; social media, including but not limited to Facebook, Twitter, Instagram, Snapchat, Vine, and Periscope; electronic message boards; E-qual records; computer programs (whether private, commercial, or a work-in-progress); programming notes or instructions; output resulting from the use of any software program, including word processing documents, spreadsheets, database files, slideshow presentations, charts, graphs, and outlines; operating systems; source code of all types; and electronic files and/or file fragments of any sort, regardless of the media on which they are stored and regardless of whether the

data resides in an active file, deleted file, or file fragment. ESI also includes the file, folder tabs, containers, or labels appended to any storage device containing electronic data. All ESI produced in response hereto should be produced in native format with all original metadata intact or with all metadata fields extracted into text format.

12. "H.B. 2023" means House Bill 2023 which was enacted on or around March 9, 2016 and codified as A.R.S. § 16-1005(H)-(I).

13. "Including" means "including, but not limited to." The phrases following "including" are intended to illustrate the kinds of matters that may be responsive to the request. Such examples are not intended to be exhaustive of the information sought and shall not in any way be read to limit the scope of the request.

14. "Information" includes not only that which is known to you, but also all documents, communications, data, or any other material within your possession, custody, or control, relating to the Interrogatory and responsive to it.

15. "OOP ballot" means a provisional ballot cast by a voter who voted in a precinct other than the one to which the voter was assigned in the precinct register, pursuant to A.R.S. §§ 16-122, -135, -168, -169, and -584.

16. "OOP voting" means a voter who cast an out of precinct provisional ballot.

17. "Person" means any and all natural persons, as well as any and all firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, trusts, groups, and organizations; federal, state, or local governments or government agencies, offices, bureaus, departments, or entities; other legal, business, or government entities; and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof or any combination thereof.

18. "Precinct-based election" means an election in which the county board of supervisors has not resolved to exclusively use voting centers as permitted by A.R.S. § 16-411(B)(4).

19. "Relating to," "regarding," or "concerning" and their cognates are to be understood in their broadest sense, and shall be construed to include analyzing,

commenting on, constituting, describing, evidencing, pertaining to, memorializing, recording, referring to, reflecting, representing, setting forth, or summarizing.

20. "Voter" means any registered voter in Arizona and all persons who are eligible to register to vote in Arizona by the close of discovery in this case.

21. "Voting in the assigned precinct" means casting a ballot at the voter's assigned polling location, as provided for by A.R.S. §§ 16-122 and -135.

22. "You" and "your" means the Arizona Democratic Party, including its current and former agents, consultants, directors, employees, officers, representatives, staff, volunteers, or anyone acting on their behalf.

INSTRUCTIONS

1. Each Interrogatory and subparagraph thereof shall be answered separately and fully, in writing, and under oath.

2. You are to respond with all information in your possession, custody, or control, as well as that of your attorneys, agents, employees, experts, investigators, or anyone else representing you or acting on your behalf.

3. If you make a written objection to part or all of an Interrogatory, the objection shall be set forth with specificity. If you object to only part of an Interrogatory, you must answer any part of the Interrogatory that you did not object to.

4. In the event that you fail to either answer or object to any of the following Interrogatories within the specified time, it shall be deemed a waiver of any objection thereto.

5. If you withhold any requested information on a claim of privilege, work product protection, or for any other reason, you shall state the basis for withholding the information in a manner sufficient to enable the State Defendants to assess the validity of the withholding.

6. If you are unable to answer any of the following Interrogatories fully and completely, after exercising due diligence to secure the information necessary to make full and complete answers, so state. In addition, answer each such Interrogatory to the

fullest extent possible, specifying your knowledge and your inability to answer the remainder, and state whatever information or knowledge you may have concerning the unanswered portions of the Interrogatory.

7. If you claim any ambiguity in either the Interrogatory or an applicable definition or instruction, please contact undersigned counsel and attempt to clarify the ambiguity. If the parties are unable to clarify the ambiguity, please include in your response: a.) the specific language you consider ambiguous; and b.) state the interpretation of the language you used to respond.

8. Words and phrases are to be given their ordinary meaning (unless otherwise defined) and must not be unduly construed so as to avoid responding to the fair scope of the Interrogatory.

9. In the following Interrogatories, the singular includes the plural and the plural includes the singular, and the masculine includes the feminine and the neutral genders, and vice versa.

10. The use of a verb in any tense shall be construed as the use of the verb in all other tenses, as necessary, to bring within the scope of the Interrogatory all information that might otherwise be considered to be beyond their scope.

11. Words and phrases are to be given their ordinary meaning (unless otherwise defined in the Definitions, the Instructions, or the Interrogatories) and must not be unduly construed so as to avoid responding to the fair scope of the Interrogatories.

12. The use of capital letters, lower case letters, or quotation marks in these Interrogatories shall not be construed to limit the scope of any specific Interrogatory contained herein.

13. A reference to an entity in this request shall be construed to include its officers, directors, partners, members, managers, employees, representatives, agents, consultants, volunteers, or anyone acting on its behalf.

14. These Interrogatories are continuing in nature, up to and during the course of trial. Responsive information that becomes available to you after you serve your responses must be disclosed to counsel for the State Defendants.

15. Pursuant to Fed. R. Civ. P. Rule 26(e), you are under a duty to promptly amend your responses to these Interrogatories if you learn that an answer is in some material respect incomplete or incorrect. If you expect to obtain further information or expect the accuracy of a response to change between the time responses are served and the time of trial, you should include that fact in your response.

INTERROGATORIES

1. Identify the location of ADP field offices that were open at any point in 2016.

2. Identify the ADP's paid staff, their titles, duties, and direct reports for any person employed for any period of time by the ADP in 2016.

3. Identify the ADP's board members, titles, names, and responsibilities for any person who served as an ADP board member for any period of time in 2016.

4. Describe the process the ADP used in 2016 to record its contact with voters.

5. Explain how the ADP uses census and geographic data to determine the race of its members.

6. Does the ADP obtain or maintain data regarding the primary language spoken by Democratic voters, Republican voters, Independent voters, or the electorate as a whole? If the ADP does maintain this information, please provide the primary language for White, Hispanic, Native American, and African American Democratic, Republican, and Independent voters.

7. Provide the percentage of ADP members who are White, Hispanic, Native American, and African-American for each general election from 2004 to 2016.

8. Describe any information the ADP maintains that predicts or documents whether a voter has mail service at his or her home.

9. Describe the race or ethnicity of early voters from 2004 through 2016. Please include any information that could identify the race or ethnicity of Democratic, Republican, or Independent voters by county of residence and year.

10. Does the ADP maintain a list or other documentation of non-PEVL early voters who live within half a mile of an outgoing mailbox (including community and USPS mailboxes)?

11. Does the ADP maintain a database containing information about voters? If so, does the database contain any of the following information:

a. Voter contact information;

b. Voter history;

c. Whether they vote early, at the polls, or by provisional ballot;

d. Whether ballot collection as requested by that voter; or

e. PEVL participation?

12. Does the ADP record any information on the race or ethnicity of:

a. Voters;

b. Early voters;

c. In-person voters;

d. OOP voters; or

e. Provisional voters?

13. If the ADP has recorded any of the race or ethnicity information of any group identified in Interrogatory 12, please provide the race or ethnicity composition of those groups for each general election from 2004 through 2016 for Democrats, Republicans, and Independents.

14. Provide the number of ballots collected by the ADP in 2014, 2012, 2010, 2008, 2006, and 2004 broken down by election year, county in which the ballot was collected, and any information the ADP maintained that may indicate the race or ethnicity of the voter whose ballot was collected.

15. Identify and describe any social media posts made by the ADP to voters regarding the exceptions for family members, caregivers, and household members from the ballot collection regulations in H.B. 2023.

16. How many voters attempted to use a ballot collection service provided by any individual, group, or organization between 2004 and 2016, broken down by election year and county of residence?

17. Does the ADP have records of voters who contacted the ADP asking to have their ballots collected? If so, please identify for each election year, the number of voters who requested this service, any information that might identify the race or ethnicity and the county of residence of the voter requesting the service.

18. Describe complaints received by the ADP by any voter, stating that it would be difficult or impossible for them to vote their early ballot because of the ban on ballot collection.

19. Did any voter report to the ADP that they had problems returning their early ballot? If so, please describe the complaint, any information that could identify the race or ethnicity of the voter, the voter's county of residence, and the year the complaint refers to.

20. Describe any ballot collection procedures that the ADP followed in the years before H.B. 2023 became law.

21. Does the ADP have any record of the race or ethnicity of voters who were unable to return their ballots due to H.B. 2023 in 2016? If so, please provide the number of those voters, the race or ethnicity of those voters, and each voter's county of residence.

22. Did any person who complained about H.B. 2023 to the ADP ultimately vote by early ballot or at the polling place in 2016? If so, please provide the number of those voters who complained but were able to cast a vote, the race or ethnicity of those voters, and each voter's county of residence.

23. Has the number of Hispanic, Native American, and African-American voters who voted in an election increased since H.B. 2023 was passed? Was the trend different for White voters?

24. Has the number of Hispanic, Native American, and African-American voters using vote-by-mail increased since H.B. 2023 was passed? Was the trend different for White voters?

25. Has the number of Democratic voters who voted in an election increased or decreased since H.B. 2023 was passed? Was the trend different for Republican or Independent voters?

26. Has the number of Democratic voters using vote-by-mail increased or decreased since H.B. 2023 was passed? Was the trend different for Republican or Independent voters?

27. Describe the ADP's legislative efforts regarding S.B. 1412 (2011), H.B. 2305 (2013), and H.B. 2023 (2016), including but not limited to efforts to amend, stop, or repeal any of these bills.

28. Describe the ADP's public outreach efforts regarding S.B. 1412 (2011), H.B. 2305 (2013), and H.B. 2023 (2016).

29. Describe what efforts the ADP undertook "with community partners and local activists to stop the passage of H.B. 2023, H.B. 2305, and S.B. 1412." (Resp. to Inter. 12).

30. Has the ADP commissioned reports on the voting patterns of racial minorities in Arizona for 2016? If so, please identify or describe:

a. When the reports were commissioned;

b. The analysis and conclusion of the reports;

c. Any increase or decrease in the number of minority voters who cast ballots in Arizona in the last ten years;

d. Any increase or decrease in the number of minority voters who cast early ballots in Arizona in the last ten years;

e. Any increase or decrease in the number of OOP voters in the last ten years, including the race or ethnicity of those voters;

f. How large the increase or decrease in voter turn-out was;

g. Whether minority voters complained that voter registration was more difficult;

h. Whether minority voters complained that their assigned polling place was difficult to identify;

i. Whether minority voters complained that the voting process was more difficult;

j. Whether any minority voters stated that voter registration, identifying their assigned polling place, or the voting process was easier in the 2016 than it had been in past years; and

k. Whether these reports were disclosed by the Plaintiffs. If so, please identify the disclosed reports.

31. Has the ADP engaged in polling of voting patterns of racial minorities in Arizona? If so, please identify or describe:

a. When the polls were commissioned;

b. The analysis and conclusion of the polls;

c. Any increase or decrease in the number of minority voters who cast ballots in Arizona in the last ten years;

d. Any increase or decrease in the number of minority voters who cast early ballots in Arizona in the last ten years;

e. Any increase or decrease in the number of OOP voters in the last ten years, including the race or ethnicity of those voters;

f. How large the increase or decrease in voter turn-out was;

g. Whether minority voters complained that voter registration was more difficult;

h. Whether minority voters complained that their assigned polling place was difficult to identify;

i. Whether minority voters complained that the voting process was more difficult;

j. Whether any minority voters stated that voter registration, identifying their assigned polling place, or the voting process was easier in the 2016 than it had been in past years; and

k. Whether these polls were disclosed by the Plaintiffs. If so, please identify the disclosed polls.

32. Has the ADP used the voter registration lists it obtains from the county recorders or any other source to analyze voting patterns of racial minorities in Arizona? If so, please identify and describe:

a. Which years the ADP conducted this analysis, between 2006 and 2016;

b. Aside from information provided by the county recorders, what other information the ADP used to analyze voting patterns of racial minorities in Arizona;

c. What did this analysis determine about voting patterns of racial minorities in Arizona;

d. Was this analysis disclosed by Plaintiffs? If so, please identify.

33. Has the ADP relied on any national reports or studies to analyze the voting patterns of racial minorities in Arizona?

a. When were these national reports or studies published?

b. Identify the titles of the national reports or studies the ADP has relied upon to analyze the voting patterns of racial minorities in Arizona?

c. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to be registered to vote than

minority voters in other states? If so, were Arizona minority voters more or less likely to be registered to vote? What is the break-down by race or ethnicity?

d. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote early than minority voters in other states? If so, were Arizona minority voters more or less likely to vote early? What is the break-down by race or ethnicity?

e. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote than minority voters in other states? If so, were Arizona minority voters more or less likely to vote? What is the break-down by race or ethnicity?

f. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote by mail than minority voters in other states? If so, were Arizona minority voters more or less likely to vote by mail? What is the break-down by race or ethnicity?

g. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote in the wrong precinct than minority voters in other states? If so, were Arizona minority voters more or less likely to vote in the wrong precinct? What is the break-down by race or ethnicity?

h. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to have home mail service than minority voters in other states? If so, were Arizona minority voters more or less likely to have home mail service? What is the break-down by race or ethnicity?

i. Were these national reports or studies disclosed by Plaintiffs? If so, please identify.

34. Does the ADP maintain a list of PEVL voters who live more than half a mile from an outgoing mailbox (including community and USPS mailboxes)?

35. Describe any complaints the ADP received between 2004 and 2016 from a voter who cast an OOP ballot that was not counted. Please include in the description any information on the race or ethnicity of the voter, the year the complaint was made, and the county from which the complaint originated.

36. For the document attached hereto as Exhibit 1, provide the following information:

a. What time period or election does the document reflect?
b. Who created the document?
c. Identify the source or sources of the data used to create the document.
d. How were voters assigned to the race or ethnicity categories used in the document?
e. Native American voters are not a separately identified race or ethnicity category in the document, in which race or ethnicity category were Native Americans placed?
f. Did the ADP compile similar documents or data for elections or time periods not covered by this document?
    i. If so, provide all of the information reflected in Exhibit 1 for those other time periods or elections.
    ii. If so, please answer Interrogatories 6.a-e for each of those other time periods or elections.

37. The article attached hereto as Exhibit 2, states that it is based on information provided by the ADP, please describe

a. Who provided the information to the *Arizona Republic*;
b. The source of the information provided to the *Republic*; and

c. What process the ADP used to determine which racial or ethnic group a voter belonged to.

38. Identify the name of each person who answered each Interrogatory.

Dated: July 19, 2017

MARK BRNOVICH
Attorney General

By: s/Kara Karlson
Kara Karlson
Karen J. Hartman-Tellez
Joseph E. La Rue
Assistant Attorneys General
1275 West Washington Street
Phoenix, Arizona 85007
Attorneys for State Defendants

CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2017, I sent a true copy of the foregoing document by electronic mail to the following:

Attorneys for Plaintiffs the Democratic National Committee, the Democratic Senatorial Campaign Committee, and the Arizona Democratic Party:

Daniel C. Barr (# 010149)
Sarah R. Gonski (# 032567)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: (602) 351-8000
Facsimile: (602) 648-7000
DBarr@perkinscoie.com
SGonski@perkinscoie.com

Joshua L. Kaul (WI# 1067529)*
PERKINS COIE LLP
One East Main Street, Suite 201
Madison, Wisconsin 53703
Telephone: (608) 663-7460
Facsimile: (608) 663-7499
JKaul@perkinscoie.com

Marc E. Elias (WDC# 442007)*
Bruce V. Spiva (WDC# 443754)*
Elisabeth C. Frost (WDC# 1007632)*
Amanda R. Callais (WDC# 1021944)*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 600
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
Facsimile: (202) 654-6211
MElias@perkinscoie.com
BSpiva@perkinscoie.com
EFrost@perkinscoie.com
ACallais@perkinscoie.com

*admitted pro hac vice to the U.S. District Court for the District of Arizona

Attorneys for Intervenor-Defendants Arizona Republican Party:

Brett W. Johnson (#021527)
Sara J. Agne (#026950)
Colin P. Ahler (#023879)
SNELL & WILMER
One Arizona Center
400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
Telephone: 602.382.6312
Facsimile: 602.382.6070
bwjohnson@swlaw.com
sagne@swlaw.com
cahler@swlaw.com

/Kara M. Karlson

#6087105.v1

Ex. 5
State Defendants' Revised 2d Set of Interrogatories to Arizona Democratic Party, July 21, 2017

"Revised Interrogatories"

MARK BRNOVICH
Attorney General
Firm Bar No. 14000

Kara Karlson (029407)
Karen J. Hartman-Tellez (021121)
Joseph E. La Rue (031348)
Assistant Attorneys General
1275 W. Washington Street
Phoenix, AZ 85007
Telephone (602) 542-4951
Facsimile (602) 542-4385
kara.karlson@azag.gov
karen.hartman@azag.gov
joseph.larue@azag.gov
Attorneys for Secretary of State Michele Reagan and Attorney General Mark Brnovich

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Arizona Democratic Party, et al., Plaintiffs, v. Arizona Secretary of State's Office, et al., Defendants.	Case No. CV-16-01065-PHX-DLR **STATE DEFENDANTS' REVISED SECOND SET OF INTERROGATORIES TO ARIZONA DEMOCRATIC PARTY**

Pursuant to this Court's order, Doc. No. 323, Defendants Arizona Secretary of State Michele Reagan and Arizona Attorney General Mark Brnovich (collectively, the "State Defendants"), by and through counsel, request that Plaintiff Arizona Democratic Party, answer the questions specified below under the heading "Interrogatories," under oath and in accordance with the instructions set forth herein.

Responses to these Interrogatories are to be produced to the offices of the Arizona Attorney General, Solicitor General's Office, 1275 West Washington Street, Phoenix, Arizona, 85007-2926, to the attention of Kara Karlson, Karen Hartman-Tellez, and Joseph La Rue, on or before July 24, 2017.

DEFINITIONS

The following definitions apply to each of the Interrogatories set forth herein, and are deemed to be incorporated in each such Interrogatory below. Terms not defined in the Definitions shall be construed and defined in accordance with the Federal Rules of Civil Procedure, wherever applicable. Otherwise, terms not defined in the Definitions shall be given their ordinary meaning.

1. "ADP" is the Arizona Democratic Party and includes its current and former agents, consultants, directors, employees, officers, representatives, staff, volunteers, or anyone acting on their behalf.

2. "And" and "or" shall be construed conjunctively or disjunctively as necessary to bring within the scope of an Interrogatory all responses that otherwise might be construed to be outside its scope.

3. "Any" or "all" means "any and all."

4. "Assigned precinct" means the precinct to which the voter was assigned in the precinct register, pursuant to A.R.S. §§ 16-411 and 16-583.

5. "Ballot collection" means the receipt of, return of, or possession of a voted early ballot other than by the voter who completed the ballot.

6. "Communication" means any transmittal of information of any type, whether written, oral, electronic, or otherwise, including transmittals of information via email, letter, text message, voicemail message, note, summary, written memorandum, and other means, regardless of whether the transmittal of information was made by you to another person or by another person to you.

7. "Concerning" means in any way, directly or indirectly, in whole or in part, amending, analyzing, commenting upon, comprising, considering, constituting,

containing, describing, discussing, documenting, embodying, establishing, evaluating, evidencing, identifying, memorializing, mentioning, modifying, pertaining to, qualifying, referring to, reflecting, regarding, relating to, representing, showing, stating, summarizing, or in any way relevant to the subject matter stated.

8. "Democratic voter" or "member" shall mean a person who is or was a registered Democratic voter in the state of Arizona.

9. "Document" is synonymous in meaning and scope to the term "document" as defined in Fed. R. Civ. P. 34 and the phrase "writings and recordings" as defined in Fed. R. Evid. 1001, and includes but is not limited to all non-identical final versions, drafts, copies, or reproductions of (1) communications (as defined above); (2) ESI (as defined below); (3) writings of all kinds, whether handwritten, typewritten, printed, electronically recorded, taped, or otherwise stored, including but not limited to memoranda, booklets, books, placards, drawings, graphs, and charts; (4) photographs; (5) video recordings; (6) audio recordings; (7) facsimile transmissions; (8) other data compilations from which any intelligence can be perceived or information can be obtained, with or without the use of detection devices; or (9) any other material relating to the Interrogatory and responsive to it.

10. "Each" or "every" means "each and every."

11. "ESI" refers to electronically stored information and means originals, drafts, and all copies of any of the following: email; activity listings of email receipts and/or transmittals; voice mail; audio or video recordings of any kind; facsimiles; social media, including but not limited to Facebook, Twitter, Instagram, Snapchat, Vine, and Periscope; electronic message boards; E-qual records; computer programs (whether private, commercial, or a work-in-progress); programming notes or instructions; output resulting from the use of any software program, including word processing documents, spreadsheets, database files, slideshow presentations, charts, graphs, and outlines; operating systems; source code of all types; and electronic files and/or file fragments of any sort, regardless of the media on which they are stored and regardless of whether the

data resides in an active file, deleted file, or file fragment. ESI also includes the file, folder tabs, containers, or labels appended to any storage device containing electronic data. All ESI produced in response hereto should be produced in native format with all original metadata intact or with all metadata fields extracted into text format.

12. "H.B. 2023" means House Bill 2023 which was enacted on or around March 9, 2016 and codified as A.R.S. § 16-1005(H)-(I).

13. "Including" means "including, but not limited to." The phrases following "including" are intended to illustrate the kinds of matters that may be responsive to the request. Such examples are not intended to be exhaustive of the information sought and shall not in any way be read to limit the scope of the request.

14. "Information" includes not only that which is known to you, but also all documents, communications, data, or any other material within your possession, custody, or control, relating to the Interrogatory and responsive to it.

15. "OOP ballot" means a provisional ballot cast by a voter who voted in a precinct other than the one to which the voter was assigned in the precinct register, pursuant to A.R.S. §§ 16-122, -135, -168, -169, and -584.

16. "OOP voting" means a voter who cast an out of precinct provisional ballot.

17. "Person" means any and all natural persons, as well as any and all firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, trusts, groups, and organizations; federal, state, or local governments or government agencies, offices, bureaus, departments, or entities; other legal, business, or government entities; and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof or any combination thereof.

18. "Precinct-based election" means an election in which the county board of supervisors has not resolved to exclusively use voting centers as permitted by A.R.S. § 16-411(B)(4).

19. "Relating to," "regarding," or "concerning" and their cognates are to be understood in their broadest sense, and shall be construed to include analyzing,

commenting on, constituting, describing, evidencing, pertaining to, memorializing, recording, referring to, reflecting, representing, setting forth, or summarizing.

20. "Voter" means any registered voter in Arizona and all persons who are eligible to register to vote in Arizona by the close of discovery in this case.

21. "Voting in the assigned precinct" means casting a ballot at the voter's assigned polling location, as provided for by A.R.S. §§ 16-122 and -135.

22. "You" and "your" means the Arizona Democratic Party, including their current and former agents, consultants, directors, employees, officers, representatives, staff, volunteers, or anyone acting on their behalf.

INSTRUCTIONS

1. Each Interrogatory and subparagraph thereof shall be answered separately and fully, in writing, and under oath.

2. You are to respond with all information in your possession, custody, or control, as well as that of your attorneys, agents, employees, experts, investigators, or anyone else representing you or acting on your behalf.

3. If you make a written objection to part or all of an Interrogatory, the objection shall be set forth with specificity. If you object to only part of an Interrogatory, you must answer any part of the Interrogatory that you did not object to.

4. In the event that you fail to either answer or object to any of the following Interrogatories within the specified time, it shall be deemed a waiver of any objection thereto.

5. If you withhold any requested information on a claim of privilege, work product protection, or for any other reason, you shall state the basis for withholding the information in a manner sufficient to enable the State Defendants to assess the validity of the withholding.

6. If you are unable to answer any of the following Interrogatories fully and completely, after exercising due diligence to secure the information necessary to make full and complete answers, so state. In addition, answer each such Interrogatory to the

fullest extent possible, specifying your knowledge and your inability to answer the remainder, and state whatever information or knowledge you may have concerning the unanswered portions of the Interrogatory.

7. If you claim any ambiguity in either the Interrogatory or an applicable definition or instruction, please contact undersigned counsel and attempt to clarify the ambiguity. If the parties are unable to clarify the ambiguity, please include in your response: a.) the specific language you consider ambiguous; and b.) state the interpretation of the language you used to respond.

8. Words and phrases are to be given their ordinary meaning (unless otherwise defined) and must not be unduly construed so as to avoid responding to the fair scope of the Interrogatory.

9. In the following Interrogatories, the singular includes the plural and the plural includes the singular, and the masculine includes the feminine and the neutral genders, and vice versa.

10. The use of a verb in any tense shall be construed as the use of the verb in all other tenses, as necessary, to bring within the scope of the Interrogatory all information that might otherwise be considered to be beyond their scope.

11. Words and phrases are to be given their ordinary meaning (unless otherwise defined in the Definitions, the Instructions, or the Interrogatories) and must not be unduly construed so as to avoid responding to the fair scope of the Interrogatories.

12. The use of capital letters, lower case letters, or quotation marks in these Interrogatories shall not be construed to limit the scope of any specific Interrogatory contained herein.

13. A reference to an entity in this request shall be construed to include its officers, directors, partners, members, managers, employees, representatives, agents, consultants, volunteers, or anyone acting on its behalf.

14. These Interrogatories are continuing in nature, up to and during the course of trial. Responsive information that becomes available to you after you serve your responses must be disclosed to counsel for the State Defendants.

15. Pursuant to Fed. R. Civ. P. Rule 26(e), you are under a duty to promptly amend your responses to these Interrogatories if you learn that an answer is in some material respect incomplete or incorrect. If you expect to obtain further information or expect the accuracy of a response to change between the time responses are served and the time of trial, you should include that fact in your response.

INTERROGATORIES

1. Explain how the ADP uses census and geographic data to determine the race of its members.

2. Does the ADP obtain or maintain data regarding the primary language spoken by Democratic voters, Republican voters, Independent voters, or the electorate as a whole? If the ADP does maintain this information, please provide the primary language for White, Hispanic, Native American, and African American Democratic, Republican, and Independent voters.

3. Provide the percentage of members who are White, Hispanic, Native American, and African-American from 2004 to 2016.

4. Describe any information the ADP maintains that predicts or documents whether a voter has mail service at his or her home.

5. Describe the race or ethnicity of early voters from 2004 through 2016. Please include any information that could identify the race or ethnicity of Democratic, Republican, or Independent voters by county of residence and year.

6. Does the ADP maintain a list or other documentation of non-PEVL early voters who live within half a mile of an outgoing mailbox (including community and USPS mailboxes)?

7. Does the ADP maintain a database containing information about voters? If so, does the database contain any of the following information:

a. Voter contact information;

b. Voter history;

c. Whether they vote early, at the polls, or by provisional ballot;

d. Whether ballot collection as requested by that voter; or

e. PEVL participation?

8. Does the ADP record any information on the race or ethnicity of:

a. Voters;

b. Early voters;

c. In-person voters;

d. OOP voters; or

e. Provisional voters?

9. If the ADP has recorded any of the information of any group identified in Interrogatory 8, please provide the race or ethnicity composition of those groups from 2004 through 2016 for Democrats, Republicans, and Independents.

10. Provide the number of ballots collected by the ADP in 2014, 2012, 2010, 2008, 2006, and 2004 broken down by election year, county in which the ballot was collected, and any information the ADP maintained that may indicate the race or ethnicity of the voter whose ballot was collected.

11. How many voters attempted to use a ballot collection service provided by any individual, group, or organization between 2004 and 2016, broken down by election year and county of residence?

12. Does the ADP have records of voters who contacted the ADP asking to have their ballots collected? If so, please identify for each election year, the number of voters who requested this service, any information that might identify the race or ethnicity and the county of residence of the voter requesting the service.

13. Describe complaints received by the ADP by any voter, stating that it would be difficult or impossible for them to vote their early ballot because of the ban on ballot collection.

14. Did any voter report to the ADP that they had problems returning their early ballot? If so, please describe the complaint, any information that could identify the race or ethnicity of the voter, the voter's county of residence, and the year the complaint refers to.

15. Does the ADP have any record of the race or ethnicity of voters who were unable to return their ballots due to H.B. 2023 in 2016? If so, please provide the number of those voters, the race or ethnicity of those voters, and each voter's county of residence.

16. Did any person who complained about H.B. 2023 to the ADP ultimately vote by early ballot or at the polling place in 2016? If so, please provide the number of those voters who complained but were able to cast a vote, the race or ethnicity of those voters, and each voter's county of residence.

17. Has the number of Hispanic, Native American, and African-American voters who voted in an election increased since H.B. 2023 was passed? Was the trend different for White voters?

18. Has the number of Hispanic, Native American, and African-American voters using vote-by-mail increased since H.B. 2023 was passed? Was the trend different for White voters?

19. Has the number of Democratic voters who voted in an election increased or decreased since H.B. 2023 was passed? Was the trend different for Republican or Independent voters?

20. Has the number of Democratic voters using vote-by-mail increased or decreased since H.B. 2023 was passed? Was the trend different for Republican or Independent voters?

21. Has the ADP commissioned reports on the voting patterns of racial minorities in Arizona for 2016? If so, please identify or describe:

a. When the report was commissioned;

b. The analysis and conclusion of the reports;

c. Any increase or decrease in the number of minority voters who cast ballots in Arizona in the last ten years;

d. Any increase or decrease in the number of minority voters who cast early ballots in Arizona in the last ten years;

e. Any increase or decrease in the number of OOP voters in the last ten years, including the race or ethnicity of those voters;

f. How large the increase or decrease in voter turn-out was;

g. Whether minority voters complained that voter registration was more difficult;

h. Whether minority voters complained that their assigned polling place was difficult to identify;

i. Whether minority voters complained that the voting process was more difficult;

j. Whether any minority voters stated that voter registration, identifying their assigned polling place, or the voting process was easier in the 2016 than it had been in past years; and

k. Whether these reports were disclosed by the Plaintiffs. If so, please identify the disclosed reports.

22. Has the ADP engaged in informal polling of voting patterns of racial minorities in Arizona? If so, please identify or describe:

a. When the polls were commissioned;

b. The analysis and conclusion of the polls;

c. Any increase or decrease in the number of minority voters who cast ballots in Arizona in the last ten years;

d. Any increase or decrease in the number of minority voters who cast early ballots in Arizona in the last ten years;

e. Any increase or decrease in the number of OOP voters in the last ten years, including the race or ethnicity of those voters;

f. How large the increase or decrease in voter turn-out was;

g. Whether minority voters complained that voter registration was more difficult;

h. Whether minority voters complained that their assigned polling place was difficult to identify;

i. Whether minority voters complained that the voting process was more difficult;

j. Whether any minority voters stated that voter registration, identifying their assigned polling place, or the voting process was easier in the 2016 than it had been in past years; and

k. Whether these polls were disclosed by the Plaintiffs. If so, please identify the disclosed polls.

23. Has the ADP used the voter registration lists it obtains from the county recorders or any other source to analyze voting patterns of racial minorities in Arizona? If so, please identify and describe:

a. Which years the ADP conducted this analysis, between 2006 and 2016;

b. Aside from information provided by the county recorders, what other information the ADP used to analyze voting patterns of racial minorities in Arizona;

c. What did this analysis determine about voting patterns of racial minorities in Arizona;

d. Was this analysis disclosed by Plaintiffs? If so, please identify.

24. Has the ADP relied on any national reports or studies to analyze the voting patterns of racial minorities in Arizona?

a. When were these national reports or studies published?

b. Identify the titles of the national reports or studies the ADP has relied upon to analyze the voting patterns of racial minorities in Arizona?

c. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to be registered to vote than minority voters in other states? If so, were Arizona minority voters more or less likely to be registered to vote? What is the break-down by race or ethnicity?

d. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote early than minority voters in other states? If so, were Arizona minority voters more or less likely to vote early? What is the break-down by race or ethnicity?

e. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote than minority voters in other states? If so, were Arizona minority voters more or less likely to vote? What is the break-down by race or ethnicity?

f. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote by mail than minority voters in other states? If so, were Arizona minority voters more or less likely to vote by mail? What is the break-down by race or ethnicity?

g. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote in the wrong precinct than minority voters in other states? If so, were Arizona minority voters more or less likely to vote in the wrong precinct? What is the break-down by race or ethnicity?

h. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to have home mail service than

minority voters in other states? If so, were Arizona minority voters more or less likely to have home mail service? What is the break-down by race or ethnicity?

i. Were these national reports or studies disclosed by Plaintiffs? If so, please identify.

25. Does the ADP maintain a list of PEVL voters who live more than half a mile from an outgoing mailbox (including community and USPS mailboxes)?

26. Describe any complaints the ADP received between 2004 and 2016 from a voter who cast an OOP ballot that was not counted. Please include in the description any information on the race or ethnicity of the voter, the year the complaint was made, and the county from which the complaint originated.

27. For the document attached hereto as Exhibit 1, provide the following information:

a. What time period or election does the document reflect?

b. Who created the document?

c. Identify the source or sources of the data used to create the document.

d. How were voters assigned to the race or ethnicity categories used in the document?

e. Native American voters are not a separately identified race or ethnicity category in the document, in which race or ethnicity category were Native Americans placed?

f. Did the ADP compile similar documents or data for elections or time periods not covered by this document?

i. If so, provide all of the information reflected in Exhibit 1 for those other time periods or elections.

ii. If so, please answer Interrogatory 7 a-e for each of those other time periods or elections.

28. The article attached hereto as Exhibit 2, states that it is based on information provided by the ADP, please describe:

a. Who provided the information to the *Arizona Republic*;

b. The source of the information provided to the *Republic*; and

c. What process the ADP used to determine which racial or ethnic group a voter belonged to.

29. Identify the name of each person who answered each Interrogatory.

Dated: July 21, 2017

MARK BRNOVICH
Attorney General

By: s/Kara Karlson
Kara Karlson
Karen J. Hartman-Tellez
Joseph E. La Rue
Assistant Attorneys General
1275 West Washington Street
Phoenix, Arizona 85007
Attorneys for State Defendants

CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2017, I sent a true copy of the foregoing document by electronic mail to the following:

Attorneys for Plaintiffs the Democratic National Committee, the Democratic Senatorial Campaign Committee, and the Arizona Democratic Party:

Daniel C. Barr (# 010149)
Sarah R. Gonski (# 032567)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: (602) 351-8000
Facsimile: (602) 648-7000
DBarr@perkinscoie.com
SGonski@perkinscoie.com

Joshua L. Kaul (WI# 1067529)*
PERKINS COIE LLP
One East Main Street, Suite 201
Madison, Wisconsin 53703
Telephone: (608) 663-7460
Facsimile: (608) 663-7499
JKaul@perkinscoie.com

Marc E. Elias (WDC# 442007)*
Bruce V. Spiva (WDC# 443754)*
Elisabeth C. Frost (WDC# 1007632)*
Amanda R. Callais (WDC# 1021944)*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 600
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
Facsimile: (202) 654-6211
MElias@perkinscoie.com
BSpiva@perkinscoie.com
EFrost@perkinscoie.com
ACallais@perkinscoie.com

*admitted pro hac vice to the U.S. District Court for the District of Arizona

Attorneys for Intervenor-Defendants Arizona Republican Party:

Brett W. Johnson (#021527)
Sara J. Agne (#026950)
Colin P. Ahler (#023879)
SNELL & WILMER
One Arizona Center
400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
Telephone: 602.382.6312
Facsimile: 602.382.6070
bwjohnson@swlaw.com
sagne@swlaw.com
cahler@swlaw.com

/Kara M. Karlson

#6087105.v1

Ex. 6
Electoral Break-down

By Party

	Registered Voters	Total Voted	Turnout %	Voted Early	% Voted Early	Dem - Rep	% of Registered	% of Total Voted
Democratic	1,095,049	843,257	77.0%	565,942	67.1%		30.35%	31.99%
Other	1,264,735	763,062	60.3%	444,626	58.3%		35.05%	28.94%
Republican	1,248,388	1,030,081	82.5%	668,966	64.9%		34.60%	39.07%
Grand Total	**3,608,172**	**2,636,400**	**73.1%**	**1,679,534**	**63.7%**	**-186,824**	**100.00%**	**100.00%**

By Ethnicity

	Registered Voters	Total Voted	Turnout %	Voted Early	% Voted Early	% of Registered	% of Total Voted
African American	98,008	58,118	59.3%	32,966	56.7%	2.72%	2.20%
Asian	56,103	35,900	64.0%	23,653	65.9%	1.55%	1.36%
Caucasian	2,840,190	2,166,108	76.3%	1,413,441	65.3%	78.72%	82.16%
Hispanic	613,871	376,274	61.3%	209,474	55.7%	17.01%	14.27%
Grand Total	**3,608,172**	**2,636,400**	**73.1%**	**1,679,534**	**63.7%**	**100.00%**	**100.00%**

By Party and Ethnicity

		Registered Voters	Total Voted	Turnout %	Voted Early	% Voted Early	% of Total Voted Early	% of Total Voted Early by Party	% of Registered	% of Total of Registered by Party	% of Total Voted	% of Total Voted by Party
Democratic	African American	55,457	38,076	68.7%	22,714	59.7%	1.35%	4.01%	1.54%	5.06%	1.44%	4.52%
	Asian	16,171	12,080	74.7%	8,522	70.5%	0.51%	1.51%	0.45%	1.48%	0.46%	1.43%
	Caucasian	727,732	582,621	80.1%	407,866	70.0%	24.28%	72.07%	20.17%	66.46%	22.10%	69.09%
	Hispanic	295,689	210,480	71.2%	126,840	60.3%	7.55%	22.41%	8.19%	27.00%	7.98%	24.96%
	Total	**1,095,049**	**843,257**	**77.0%**	**565,942**	**67.1%**	**33.70%**	**100.00%**	**30.35%**	**100.00%**	**31.99%**	**100.00%**
Other	African American	34,632	14,725	42.5%	7,159	48.6%	0.43%	1.61%	0.96%	2.74%	0.56%	1.93%
	Asian	27,835	15,135	54.4%	9,420	62.2%	0.56%	2.12%	0.77%	2.20%	0.57%	1.98%
	Caucasian	964,766	623,033	64.6%	375,597	60.3%	22.36%	84.47%	26.74%	76.28%	23.63%	81.65%
	Hispanic	237,502	110,169	46.4%	52,450	47.6%	3.12%	11.80%	6.58%	18.78%	4.18%	14.44%
	Total	**1,264,735**	**763,062**	**60.3%**	**444,626**	**58.3%**	**26.47%**	**100.00%**	**35.05%**	**100.00%**	**28.94%**	**100.00%**
Republican	African American	7,919	5,317	67.1%	3,093	58.2%	0.18%	0.46%	0.22%	0.63%	0.20%	0.52%
	Asian	12,097	8,685	71.8%	5,711	65.8%	0.34%	0.85%	0.34%	0.97%	0.33%	0.84%
	Caucasian	1,147,692	960,454	83.7%	629,978	65.6%	37.51%	94.17%	31.81%	91.93%	36.43%	93.24%
	Hispanic	80,680	55,625	68.9%	30,184	54.3%	1.80%	4.51%	2.24%	6.46%	2.11%	5.40%
	Total	**1,248,388**	**1,030,081**	**82.5%**	**668,966**	**64.9%**	**39.83%**	**100.00%**	**34.60%**	**100.00%**	**39.07%**	**100.00%**
Grand Total		**3,608,172**	**2,636,400**	**73.1%**	**1,679,534**	**63.7%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**	**100.00%**

Ex. 7

Ronald J. Hansen, *What we know about Arizona early voting in 5 charts*, The Arizona Republic, Nov. 2, 2016

"The *Republic* Article"

What we know about Arizona early voting in 5 charts

Ronald J. Hansen , The Republic | azcentral.com Published 1:38 p.m. MT Nov. 2, 2016 | **Updated 2:50 p.m. MT Nov. 2, 2016**

(Photo: Emmanuel Lozano / The Republic)

Election Day is fast approaching, but more than a million Arizona residents have already cast their ballots.

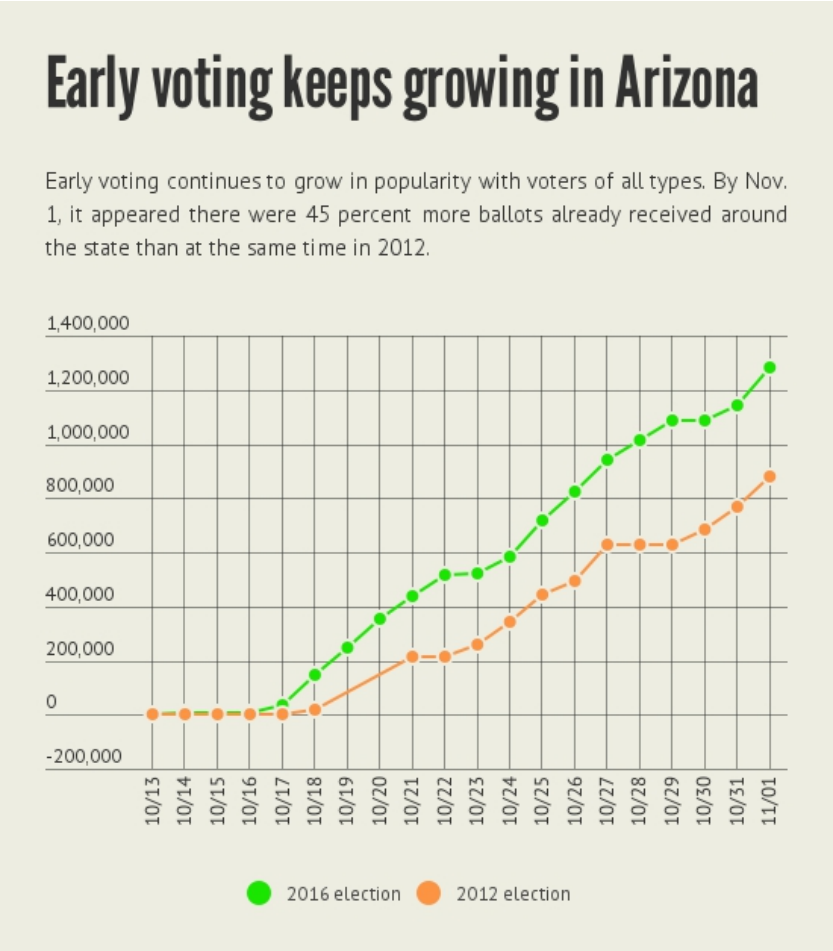
Here's a window into who has voted and where they live, as tabulated by Arizona's Democratic Party. State Republicans have not shared corresponding data, and county election officials have provided similar information only in sporadic fashion.

The early ballots correspond to voter information — age, location, party registration — and even suggest whether someone's last name is Hispanic. But the ballots are not yet publicly tabulated. That means the numbers don't reflect how many members of either major party have crossed over or whom third-party voters are choosing.

The totals reflect ballots counted through Nov. 1, which may not include every ballot received at that time.

Here are five key takeaways:

1. Increasingly, early voting is the rule



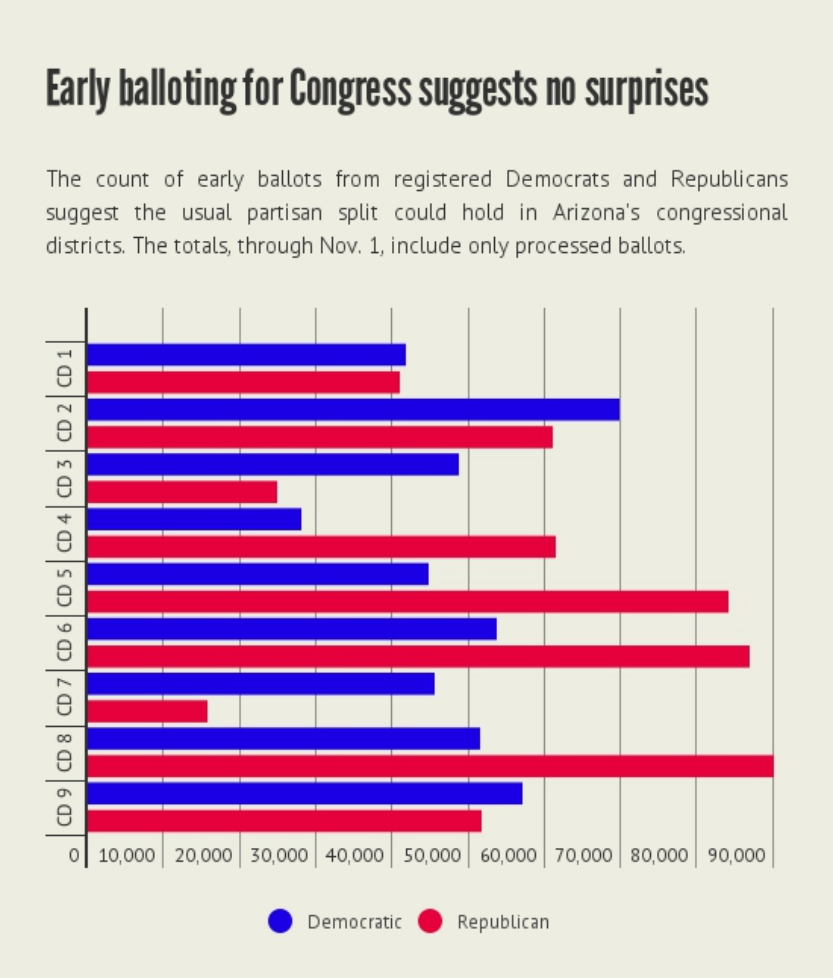
Plenty of ballots will be turned in on Election Day, but most voters want to be done with the process before the deadline. This year, early balloting is up 45 percent over four years ago.

This doesn't necessarily mean either Democrats or Republicans are more enthusiastic this year. Instead, it likely means more people are happy to avoid standing in line to vote.

Ex. 7
Article Follow-up

(The *Arizona Republic* Article)

2. Don't expect big changes in Congress



Early voting patterns by congressional district suggests most of the nine races around the state are going the way they usually do: More Republicans are voting in GOP-heavy districts and more Democrats are voting in seats they already hold.

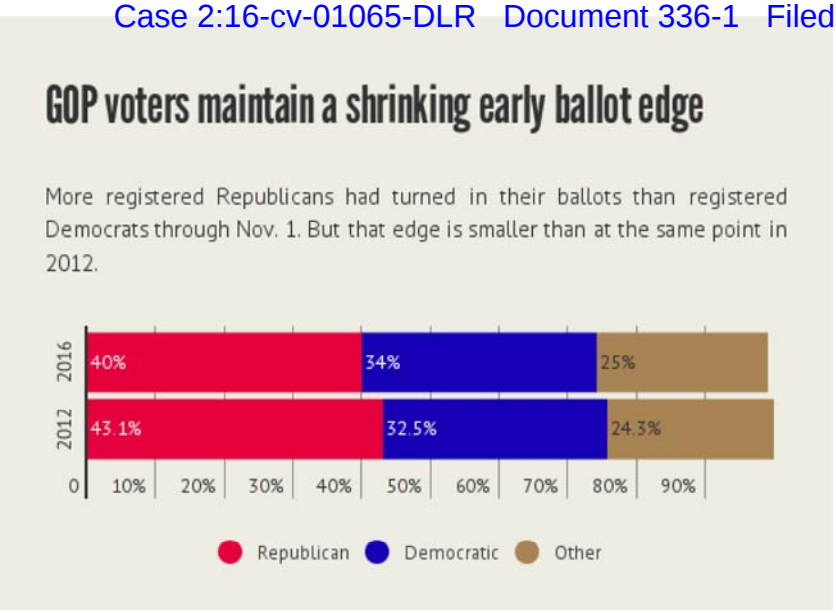
The 1st and 2nd districts are the ones to watch this year. Democrats had the edge in both through Oct. 31, but that's no guarantee they will keep it.

In the 1st District, Democrat Tom O'Halleran would appear to have a lead at a point when Republicans have typically led. Democrats historically do well in Election Day voting on tribal lands in the district. The Republican in the race is Paul Babeu, the Pinal County sheriff.

ELECTIONS: Take our survey about the 2016 election (http://static.azcentral.com/election-survey/) | Get to know the politics in Santa Cruz and Mohave counties (/story/news/politics/elections/2016/11/02/arizona-partisan-politics-santa-cruz-county-mohave-county/92736390/)

It's a different pattern in the 2nd District, where Democrat Matt Heinz would appear to have the early advantage. That is usually the case in the district. Republicans typically close ground on Election Day in the district, where polling has shown U.S. Rep. Martha McSally, R-Ariz., with a lead.

3. Democrats are trimming the GOP's edge

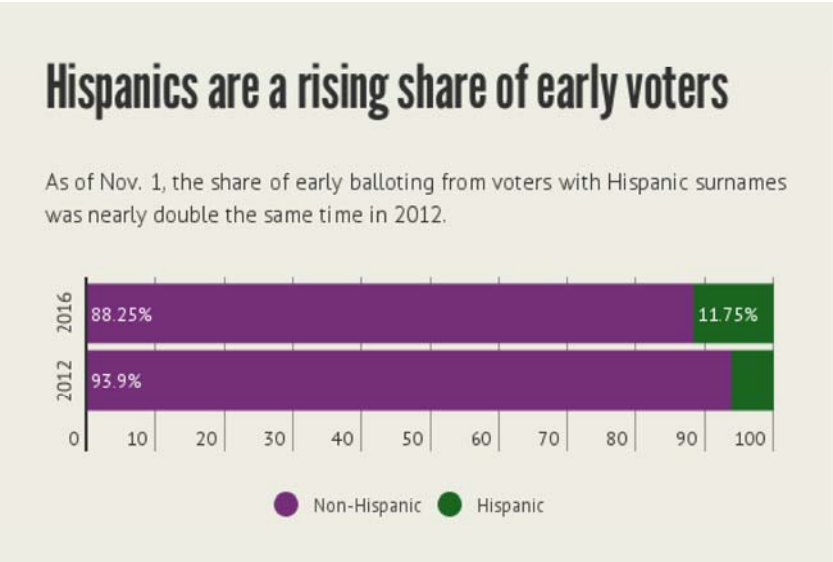


Registered Republican ballots made up the biggest share of votes cast statewide, but Democrats cut that advantage through Nov. 1.

Four years ago, Republicans had a 10 percentage-point lead over Democrats in early balloting at the end of October. This year, that lead was 6 percentage points.

Are Republicans more torn about how to vote? Are Democrats voting more conveniently? These are unanswered questions that have both parties scrambling in the final days to reach their base.

4. More Hispanics are voting early

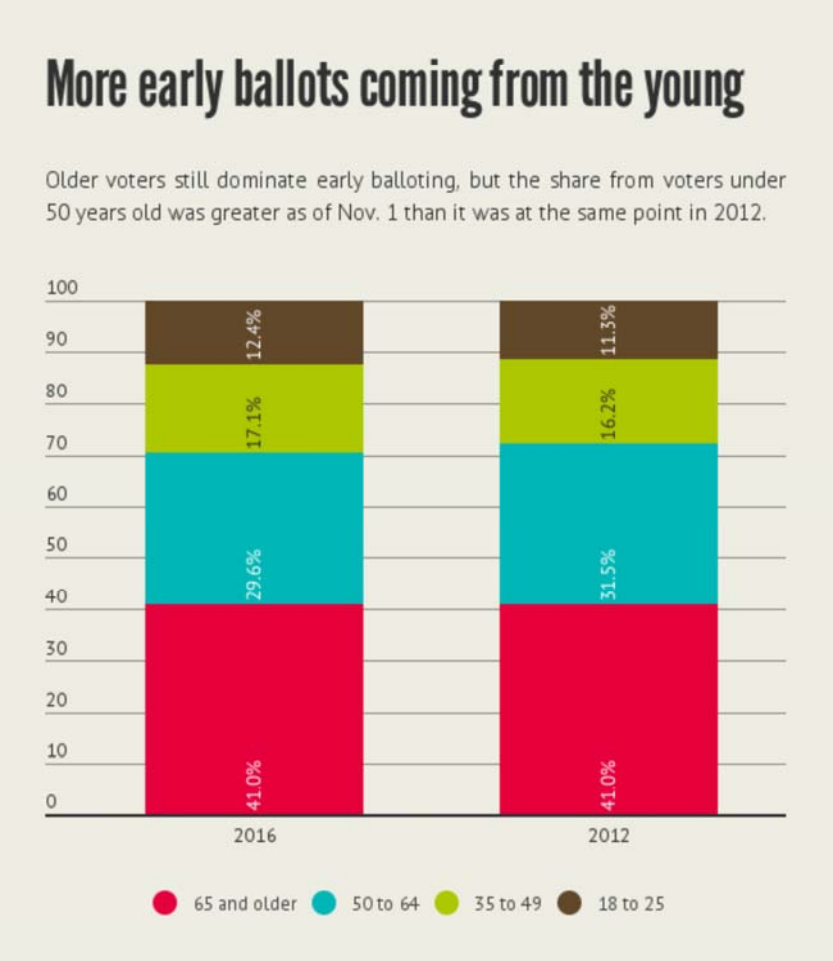


Every election cycle Democrats in Arizona say Hispanics are a bloc that could help turn the state from red to blue, and every cycle that group votes below its potential numbers.

This year Democrats see evidence that more Hispanic voters are casting ballots early. Through Nov. 1, voters who are believed to be Hispanic cast

nearly 12 percent of the early ballots. That's still a small share, but well ahead of the 6 percent at the same point four years ago.

5. Early voters are getting younger



OK, voters aren't really getting younger. (That might really change turnout.) But the share of early voters is skewing younger this year than in 2012.

The changes are small, but they point to another demographic group taking advantage of early voting in greater numbers.

Voters who are 65 or older was unchanged at 41 percent of early ballots through Nov. 1. There was a nearly 2 percentage point drop in the share of early ballots from those who are 50 to 64 years old.

At the same time, those between 35 and 49 years old went up nearly a percentage point. That also happened for voters between 25 and 34. And there was also a tiny bump for voters between 18 and 24.

Reach the reporter at ronald.hansen@arizonarepublic.com. Follow him on Twitter at @ronaldjhansen.

Politics in Santa Cruz and Mohave counties: Arizona's bluest of blues and reddest of reds
(http://www.azcentral.com/story/news/politics/elections/2016/11/02/arizona-partisan-politics-santa-cruz-county-mohave-county/92736390/)

My Ballot - #azvotes: azcentral politics' 2016 Voters Guide
(http://c3.thevoterguide.org/v/phoenix16/build.do)

Read or Share this story: http://azc.cc/2ffxkR4

Ex. 8
Arizona Democratic Party's Response to State Defendants' Revised Second Interrogatories

Daniel C. Barr (# 010149)
Sarah R. Gonski (# 032567)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: (602) 351-8000
Facsimile: (602) 648-7000
DBarr@perkinscoie.com
SGonski@perkinscoie.com

Marc E. Elias (WDC# 442007)*
Bruce V. Spiva (WDC# 443754)*
Elisabeth C. Frost (WDC# 1007632)*
Amanda R. Callais (WDC# 1021944)*
Alexander G. Tischenko (CA# 304743)†
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 600
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
Facsimile: (202) 654-6211
MElias@perkinscoie.com
BSpiva@perkinscoie.com
EFrost@perkinscoie.com
ACallais@perkinscoie.com
ATischenko@perkinscoie.com

Joshua L. Kaul (WI# 1067529)*
PERKINS COIE LLP
One East Main Street, Suite 201
Madison, Wisconsin 53703
Telephone: (608) 663-7460
Facsimile: (608) 663-7499
JKaul@perkinscoie.com

Attorneys for Plaintiffs

**Admitted pro hac vice*
† *Not yet admitted in Washington, D.C.*

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Arizona Democratic Party, et al.,

Plaintiffs,

v.

Michele Reagan, et al.,

Defendants.

No. CV-16-01065-PHX-DLR

ARIZONA DEMOCRATIC PARTY'S RESPONSE TO STATE DEFENDANTS' REVISED SECOND INTERROGATORIES

Pursuant to the Court's July 14 Minute Entry (Doc. 323), the Arizona Democratic Party ("ADP") hereby submits its Response to State Defendants' Revised Second Interrogatories to ADP.[1]

PRELIMINARY STATEMENT

These responses and objections are based on the information and documents currently available to ADP, and ADP reserves the right to supplement, amend, or otherwise modify these responses as appropriate under the rules.

GENERAL OBJECTIONS

1. These responses and objections are based on ADP's understanding of each individual interrogatory and not an admission or agreement with the State's use or interpretation of terms. To the extent the State asserts an interpretation of any interrogatory that is inconsistent with ADP's understanding, ADP reserves the right to supplement its responses and objections.

2. ADP objects to the Interrogatories to the extent that they (a) seek or call for information protected from discovery by the attorney-client privilege, the First Amendment privilege, and/or the attorney work product doctrine; (b) constitute trial preparation materials within the meaning of Rule 26 and/or constitute expert witness information that is not discoverable under Rule 26; (c) seek or call for information protected from discovery by any other applicable privileges, doctrines, or immunities; and/or (d) seek a level of detail beyond what a reasonably prepared 30(b)(6) deponent would be expected to answer during a live deposition. Nothing contained herein is intended as, or shall in any way be construed or deemed to be, a waiver of any such protections.

[1] Although ADP mirrors the State's use of the word "interrogatories" throughout these responses to minimize confusion, Plaintiffs restate their objection to characterizing these questions as "interrogatories" at all. *See* 7/20 Email from Joshua Kaul to Kara Karlson. ADP's understanding is that the Court ordered the State to provide written questions that the State believed had not been answered during the course of ADP's two 30(b)(6) depositions. Questions that seek a level of detail beyond that which is reasonably expected in the context of a live deposition constitute impermissible late written discovery and are not appropriate here.

3. ADP objects to the overly broad and unduly burdensome nature of the State's Interrogatories to the extent: (a) they seek information or documents obtainable from other sources that are more convenient, less burdensome, or less expensive; (b) they seek answers or information that may be derived or ascertained from a review, examination, audit, or inspection of the publicly available voter file where the burden of deriving or ascertaining such answers or information is substantially the same for ADP as for the State; (c) they are cumulative or duplicative of information or documents already in the possession of the State; or (d) they require the expenditure of time and resources that outweighs the likely benefit of such efforts and is not appropriate at this stage of the litigation.

4. ADP further objects to the Interrogatories to the extent that they seek or call for information that is not relevant to any party's claims or defenses or proportional to the needs of the case.

INTERROGATORIES TO ADP

INTERROGATORY NO. 1: Explain how the ADP uses census and geographic data to determine the race of its members.

RESPONSE TO INTERROGATORY NO. 1: ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329).

Subject to and without waiving the foregoing objection, ADP does use proprietary internal algorithms to project voters' probable race and ethnicity. Tameron Tr. 24:15-25:15, 30:4-9, 92:14-22. Those algorithms are protected by the First Amendment.

INTERROGATORY NO. 2: Does the ADP obtain or maintain data regarding the primary language spoken by Democratic voters, Republican voters, Independent voters, or the electorate as a whole? If the ADP does maintain this information, please provide the

primary language for White, Hispanic, Native American, and African American Democratic, Republican, and Independent voters.

RESPONSE TO INTERROGATORY NO. 2: ADP does not undertake any systematic effort to ascertain the primary language spoken by voters in Arizona. As Ms. Tameron testified, ADP volunteers track interactions with voters on a piecemeal basis using the Voter Activation Network (VAN). 34:4-35:11. Volunteers have a notation that they can mark when canvassing to show that a voter is Spanish-speaking and they occasionally note in VAN whether an individual voter prefers to communicate in a language other than English.

INTERROGATORY NO. 3: Provide the percentage of ADP members who are White, Hispanic, Native American, and African-American for each general election from 2004 to 2016.

RESPONSE TO INTERROGATORY NO. 3: ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). ADP also objects on the basis that this question is impermissibly vague; it is not clear what the State means by "ADP members," as ADP does not have an official membership list. Further, this question seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here.

Subject to and without waiving the foregoing objections, ADP states that, as set forth in Ms. Tameron's deposition testimony, the demographic makeup of registered Democrats in Arizona as of April 2017 is reflected in detail in Exhibit 2. *See also* Response to Interrogatory 27, *infra*.

INTERROGATORY NO. 4: Describe any information the ADP maintains that predicts or documents whether a voter has mail service at his or her home.

RESPONSE TO INTERROGATORY NO. 4: ADP objects to this question as duplicative; ADP answered substantially similar questions during both depositions and written discovery.

Subject to and without waiving the foregoing objection, ADP states that it does not maintain this information. *See* Tameron Tr. at 66:5-13 (STATE: "Does the Party have information about Arizona voters who do not have access to outgoing mail service at their homes." …TAMERON: "No."). ADP hereby incorporates the response it gave previously to a similar interrogatory. First Interrogatories, No. 11 (THE STATE: Provide the number of and identify the voters who do not have a mailbox near (within 0.4 miles) of their residence, including the name, address, birth year, and race and/or ethnicity of each identified voter…" … ADP: "ADP does not track this information.").

INTERROGATORY NO. 5: Describe the race or ethnicity of early voters from 2004 through 2016. Please include any information that could identify the race or ethnicity of Democratic, Republican, or Independent voters by county of residence and year.

RESPONSE TO INTERROGATORY NO. 5: ADP objects to this question as vague, unduly burdensome, and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Further, this question seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here.

INTERROGATORY NO. 6: Does the ADP maintain a list or other documentation of non-PEVL early voters who live within half a mile of an outgoing mailbox (including community and USPS mailboxes)?

RESPONSE TO INTERROGATORY NO. 6: ADP objects to this question as duplicative; ADP answered substantially similar questions during both depositions and written discovery.

Subject to and without waiving the foregoing objection, ADP states that it does not maintain any list of non-PEVL voters who live within half a mile of an outgoing mailbox. *See* Tameron Tr. at 66:5-13 (STATE: "Does the Party have information about Arizona voters who do not have access to outgoing mail service at their homes." …TAMERON: "No."). ADP also hereby incorporates its response to a duplicative question in the State's First Interrogatories. First Interrogatories, No. 11 (THE STATE: Provide the number of and identify the voters who do not have a mailbox near (within 0.4 miles) of their residence, including the name, address, birth year, and race and/or ethnicity of each identified voter…" … ADP: "ADP does not track this information.").

INTERROGATORY NO. 7: Does the ADP maintain a database containing information about voters? If so, does the database contain any of the following information:

a. Voter contact information;

b. Voter history;

c. Whether they vote early, at the polls, or by provisional ballot;

d. Whether ballot collection was requested by that voter; or

e. PEVL participation?

RESPONSE TO INTERROGATORY NO. 7: ADP objects to this question as duplicative; ADP answered nearly identical questions during both 30(b)(6) depositions.

Subject to and without waiving the foregoing objection, ADP states that it does maintain a database containing information about voters. Alexis Tameron testified that ADP tracks voters using the county voter file provided quarterly by Arizona's county recorders. Tameron Tr. 28:11-30:3. As provided by the counties, the voter file contains a voter's contact information, voter history, preferred method of voting, and PEVL

participation. *Id.* As Ms. Tameron further testified, ADP does not systematically maintain information in the voter file tracking whether ballot collection was requested by a voter. *Id.* at 35:12-41:4. Mr. Scharff also testified that ADP does not systematically maintain information tracking ballot collection requests or attempts. Scharff Tr. 62:19-64:24.

INTERROGATORY NO. 8: Does the ADP record any information on the race or ethnicity of:

a. Voters;

b. Early voters;

c. In-person voters;

d. OOP voters; or

e. Provisional voters?

RESPONSE TO INTERROGATORY NO. 8: ADP objects to this question as seeking information protected by the First Amendment. ADP objects to this question as duplicative; ADP answered similar questions during depositions.

Subject to and without waiving the foregoing objection, ADP states that no official records of race or ethnicity are available in the voter file. However, ADP does use proprietary internal algorithms to project voters' probable race and ethnicity. Tameron Tr. 24:15-25:15, 30:4-9, 92:14-22. Those algorithms are protected by the First Amendment.

INTERROGATORY NO. 9: If the ADP has recorded any of the race or ethnicity information of any group identified in Interrogatory 12, please provide the race or ethnicity composition of those groups for each general election from 2004 through 2016 for Democrats, Republicans, and Independents.

RESPONSE TO INTERROGATORY NO. 9: ADP objects to this question as vague, unduly burdensome, and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Further, this

question seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here.

INTERROGATORY NO. 10: Provide the number of ballots collected by the ADP in 2014, 2012, 2010, 2008, 2006, and 2004 broken down by election year, county in which the ballot was collected, and any information the ADP maintained that may indicate the race or ethnicity of the voter whose ballot was collected.

RESPONSE TO INTERROGATORY NO. 10: ADP objects to this question as unduly burdensome. This question also seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here. ADP further objects to this question as duplicative; ADP answered nearly identical questions during depositions and in written discovery.

Subject to and without waiving the foregoing objections, ADP states that it does not maintain such data. *See* Response to Interrogatory 7, *supra*; *see also* Tameron. Tr. at 35:12-41:4; Scharff Tr. 62:19-64:24.

INTERROGATORY NO. 11: How many voters attempted to use a ballot collection service provided by any individual, group, or organization between 2004 and 2016, broken down by election year and county of residence?

RESPONSE TO INTERROGATORY NO. 11: ADP objects to this question as unduly burdensome and vague. This question also seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here. ADP further objects to this question as duplicative; ADP answered nearly identical questions during both depositions and written discovery.

Subject to and without waiving the foregoing objections, ADP states that it does not maintain such data with respect to its own ballot collection activities. *See* Response to Interrogatory 7, *supra*; *see also* Tameron. Tr. at 35:12-41:4; Scharff Tr. 62:19-64:24. ADP has in its possession several documents reflecting the number of voters who used the

ballot collection services of the Maricopa Democratic Party in the 2014 general election. Those documents were produced to opposing counsel on May 18, 2017, as PLF00019493-PLF00019507.

INTERROGATORY NO. 12: Does the ADP have records of voters who contacted the ADP asking to have their ballots collected? If so, please identify for each election year, the number of voters who requested this service, any information that might identify the race or ethnicity and the county of residence of the voter requesting the service.

RESPONSE TO INTERROGATORY NO. 12: ADP objects to this question as unduly burdensome and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). This question also seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here. Additionally, ADP objects to the extent that this question seeks nearly identical information to that asked by the State in its First Interrogatories, No. 2 and 3. ADP hereby incorporates its responses to those interrogatories herein.

Subject to and without waiving the foregoing objections, ADP states that it does not have a comprehensive set of records of voters who contacted the ADP requesting ballot collection. *See* Response to Interrogatory 7, *supra*; *see also* Tameron. Tr. 35:12-41:4; Scharff Tr. 62:19-64:24. As Ms. Tameron testified, volunteers who interacted directly with voters may have occasionally left a freeform notation that a ballot had been requested by a particular voter; however, the information was not kept in any organized fashion such that a report could be compiled to draw conclusions regarding voter requests for ballot collection. Tameron. Tr. 35:12-41:4.

INTERROGATORY NO. 13: Describe complaints received by the ADP by any voter, stating that it would be difficult or impossible for them to vote their early ballot because of the ban on ballot collection.

RESPONSE TO INTERROGATORY NO. 13: ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). ADP further objects to this question to the extent that it seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here. ADP also objects to this question as duplicative; ADP answered nearly identical questions during both depositions and written discovery.

Subject to and without waiving the foregoing objections, ADP states that Spencer Scharff gave deposition testimony in response to this question. Scharff Tr. 62:19-64:24, *id.* 71:21-79:23. In addition, Plaintiffs answered a substantially similar question in response to State Defendants' First Interrogatories ("First Interrogatories") and hereby incorporate that answer. *See* First Interrogatories at No. 2 (THE STATE: "How many voters contacted you by phone, email, written correspondence, or in person, and communicated to you that they were unable to return their ballot because of H.B. 2023?"...ADP: "during the 2016 campaign cycle, ADP received some calls from disabled voters who indicated that they had difficulties voting in person or traveling to a polling location. Such voters were instructed to either mail their early voted ballot and/or to call the county recorder's office for assistance. Voters needing transportation were also referred to ADP's ride to the polls program or the Arizona Center for Disability Law, but ADP has no record as to whether these voters were ultimately able to return their ballots, nor can it verify whether these voters would have been able to return their ballot if H.B. 2023 had not been in place.").

INTERROGATORY NO. 14: Did any voter report to the ADP that they had problems returning their early ballot? If so, please describe the complaint, any information

that could identify the race or ethnicity of the voter, the voter's county of residence, and the year the complaint refers to.

RESPONSE TO INTERROGATORY NO. 14: ADP objects to this question as unduly burdensome and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). ADP further objects to this question to the extent that it seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here. ADP also objects to the extent the State seeks duplicative information; Plaintiffs answered a substantially similar question in response to State Defendants' First Interrogatories ("First Interrogatories") No. 2 and 3, and hereby incorporates that answer. *See* First Interrogatories at No. 3 ("ADP did not keep records of the race or ethnicity of any voter referenced in Interrogatory No. 2.").

Subject to and without waiving the foregoing objections, ADP states that it received such complaints but did not systematically track them. *See* Scharff Tr. 62:19-64:24, *id.* at 71:21-79:23. ADP also incorporates its response to Interrogatory 13, *supra*.

INTERROGATORY NO. 15: Does the ADP have any record of the race or ethnicity of voters who were unable to return their ballots due to H.B. 2023 in 2016? If so, please provide the number of those voters, the race or ethnicity of those voters, and each voter's county of residence.

RESPONSE TO INTERROGATORY NO. 15: ADP objects to this question to the extent that it seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here.

Subject to and without waiving the foregoing objections, ADP states that it did not systematically keep records regarding the numbers, race or ethnicity, or county of residence for voters unable to return their ballots due to HB2023. *See supra*, Responses to Interrogatories 13 and 14.

INTERROGATORY NO. 16: Did any person who complained about H.B. 2023 to the ADP ultimately vote by early ballot or at the polling place in 2016? If so, please provide the number of those voters who complained but were able to cast a vote, the race or ethnicity of those voters, and each voter's county of residence.

RESPONSE TO INTERROGATORY NO. 16: ADP objects to this question to the extent that it seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here.

Subject to and without waiving the foregoing objections, ADP states that it did not systematically track such complaints or demographic data about any voters making such complaints. *See supra*, Responses to Interrogatories 13 and 14.

INTERROGATORY NO. 17: Has the number of Hispanic, Native American, and African-American voters who voted in an election increased since H.B. 2023 was passed? Was the trend different for White voters?

RESPONSE TO INTERROGATORY NO. 17: ADP objects to this question as seeking information protected by the First Amendment. ADP objects to this question as duplicative; ADP answered similar questions during depositions. ADP also objects to this question as vague; it is not clear whether this question is referring to the absolute number of voters, voters as a share of the electorate, or percentage of voters within a group who have turned out to vote. Similarly, it is not clear which election(s) the State is using as a baseline for determining whether there has been an increase.

Subject to and without waiving the foregoing objection, ADP states that detailed statistics regarding minority turnout are available in the expert reports of Allan Lichtman and Jonathan Rodden.

INTERROGATORY NO. 18: Has the number of Hispanic, Native American, and African-American voters using vote-by-mail increased since H.B. 2023 was passed? Was the trend different for White voters?

RESPONSE TO INTERROGATORY NO. 18: ADP objects to this question as seeking information protected by the First Amendment. ADP also objects to this question as vague; it is not clear whether this question is referring to the absolute number of voters using vote by mail, voters who are signed up for PEVL, or percentage of voters signed up for vote by mail who actually cast a vote. Similarly, it is not clear which election(s) the State is using as a baseline for determining whether there has been an increase.

Subject to and without waiving the foregoing objection, ADP states that detailed statistics regarding minority turnout are available in the expert reports of Allan Lichtman and Jonathan Rodden.

INTERROGATORY NO. 19: Has the number of Democratic voters who voted in an election increased or decreased since H.B. 2023 was passed? Was the trend different for Republican or Independent voters?

RESPONSE TO INTERROGATORY NO. 19: ADP objects to this question as seeking information that may be readily ascertained from the state's voter file, which is already in the possession of the State. The burden of obtaining this information is substantially the same for ADP as for the State.

INTERROGATORY NO. 20: Has the number of Democratic voters using vote-by-mail increased or decreased since H.B. 2023 was passed? Was the trend different for Republican or Independent voters?

RESPONSE TO INTERROGATORY NO. 20: ADP objects to this question as seeking information that may be readily ascertained from the state's voter file, which is already in the possession of the State. The burden of obtaining this information is substantially the same for ADP as for the State.

INTERROGATORY NO. 21: Has the ADP commissioned reports on the voting patterns of racial minorities in Arizona for 2016? If so, please identify or describe:

a. When the reports were commissioned;

b. The analysis and conclusion of the reports;

c. Any increase or decrease in the number of minority voters who cast ballots in Arizona in the last ten years;

d. Any increase or decrease in the number of minority voters who cast early ballots in Arizona in the last ten years;

e. Any increase or decrease in the number of OOP voters in the last ten years, including the race or ethnicity of those voters;

f. How large the increase or decrease in voter turn-out was;

g. Whether minority voters complained that voter registration was more difficult;

h. Whether minority voters complained that their assigned polling place was difficult to identify;

i. Whether minority voters complained that the voting process was more difficult;

j. Whether any minority voters stated that voter registration, identifying their assigned polling place, or the voting process was easier in the 2016 than it had been in past years; and

k. Whether these reports were disclosed by the Plaintiffs. If so, please identify the disclosed reports.

RESPONSE TO INTERROGATORY NO. 21: ADP objects to this question as vague, unduly burdensome, and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). ADP further objects to this question to the extent that it seeks a level of detail far beyond what a 30(b)(6)

deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here.

.

INTERROGATORY NO. 22: Has the ADP engaged in polling of voting patterns of racial minorities in Arizona? If so, please identify or describe:

a. When the polls were commissioned;

b. The analysis and conclusion of the polls;

c. Any increase or decrease in the number of minority voters who cast ballots in Arizona in the last ten years;

d. Any increase or decrease in the number of minority voters who cast early ballots in Arizona in the last ten years;

e. Any increase or decrease in the number of OOP voters in the last ten years, including the race or ethnicity of those voters;

f. How large the increase or decrease in voter turn-out was;

g. Whether minority voters complained that voter registration was more difficult;

h. Whether minority voters complained that their assigned polling place was difficult to identify;

i. Whether minority voters complained that the voting process was more difficult;

j. Whether any minority voters stated that voter registration, identifying their assigned polling place, or the voting process was easier in the 2016 than it had been in past years; and

k. Whether these polls were disclosed by the Plaintiffs. If so, please identify the disclosed polls.

RESPONSE TO INTERROGATORY NO. 22: ADP objects to this question as vague, unduly burdensome, and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321)

at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). ADP further objects to this question to the extent that it seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here.

INTERROGATORY NO. 23: Has the ADP used the voter registration lists it obtains from the county recorders or any other source to analyze voting patterns of racial minorities in Arizona? If so, please identify and describe:

a. Which years the ADP conducted this analysis, between 2006 and 2016;

b. Aside from information provided by the county recorders, what other information the ADP used to analyze voting patterns of racial minorities in Arizona;

c. What did this analysis determine about voting patterns of racial minorities in Arizona;

d. Was this analysis disclosed by Plaintiffs? If so, please identify.

RESPONSE TO INTERROGATORY NO. 23: ADP objects to this question as unduly burdensome and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). ADP further objects to this question to the extent that it seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here. ADP also objects to the extent the State seeks information that is duplicative of information that has already been provided.

Subject to and without waiving the foregoing objections, ADP states that it uses the voter registration lists it obtains from the county recorders to analyze voting patterns of racial minorities in Arizona. Tameron Tr. 24:15-25:15. As to each subpart:

a. ADP has conducted this analysis regularly.

b. ADP objects to subpart b as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Subject to and without waiving the foregoing objections, ADP states that, as Ms. Tameron testified, the ADP supplements the information in the voter file with census data to generate models of race or ethnicity. Tameron Tr. 92:14-22; 30:4-9. Other types of data inputs may also be used.

c. ADP objects to subpart c as unduly burdensome, vague, and seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329).

d. ADP's internal analyses are protected by the First Amendment from disclosure. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Accordingly, they are included on ADP's First Amendment privilege logs.

INTERROGATORY NO. 24: Has the ADP relied on any national reports or studies to analyze the voting patterns of racial minorities in Arizona?

a. When were these national reports or studies published?

b. Identify the titles of the national reports or studies the ADP has relied upon to analyze the voting patterns of racial minorities in Arizona?

c. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to be registered to vote than minority voters in other states? If so, were Arizona minority voters more or less likely to be registered to vote? What is the break-down by race or ethnicity?

d. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote early than minority voters in

other states? If so, were Arizona minority voters more or less likely to vote early? What is the break-down by race or ethnicity?

e. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote than minority voters in other states? If so, were Arizona minority voters more or less likely to vote? What is the break-down by race or ethnicity?

f. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote by mail than minority voters in other states? If so, were Arizona minority voters more or less likely to vote by mail? What is the break-down by race or ethnicity?

g. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to vote in the wrong precinct than minority voters in other states? If so, were Arizona minority voters more or less likely to vote in the wrong precinct? What is the breakdown by race or ethnicity?

h. Did the national reports or studies conclude that minority voters in Arizona were more or less likely to have home mail service than minority voters in other states? If so, were Arizona minority voters more or less likely to have home mail service? What is the breakdown by race or ethnicity?

I,. Were these national reports or studies disclosed by Plaintiffs? If so, please identify.

RESPONSE TO INTERROGATORY NO. 24: ADP objects to this question as vague; it is not clear what the State means by asking whether ADP has "relied" on these studies. Further, ADP objects to the extent the State seeks information protected by the First Amendment; what types of public information ADP strategically selects and reviews for its own internal purposes is protected from disclosure. ADP also objects to this question on relevance grounds; it is irrelevant to this litigation what information ADP has

relied upon in other contexts. ADP further objects to this question to the extent that it seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here. And, ADP objects on the grounds that the burden of obtaining public information is substantially the same for ADP as for the State.

INTERROGATORY NO. 25: Does the ADP maintain a list of PEVL voters who live more than half a mile from an outgoing mailbox (including community and USPS mailboxes)?

RESPONSE TO INTERROGATORY NO. 25: ADP objects to this question as duplicative; ADP answered similar questions during both depositions and written discovery.

Subject to and without waiving the foregoing objection, ADP states that it does not maintain a list of PEVL voters who live more than half a mile from an outgoing mailbox. *See* Response to Interrogatory 4; *see also* Tameron Tr. at 66:5-13 (STATE: "Does the Party have information about Arizona voters who do not have access to outgoing mail service at their homes." …TAMERON: "No.").

INTERROGATORY NO. 26: Describe any complaints the ADP received between 2004 and 2016 from a voter who cast an OOP ballot that was not counted. Please include in the description any information on the race or ethnicity of the voter, the year the complaint was made, and the county from which the complaint originated.

RESPONSE TO INTERROGATORY NO. 26: ADP objects to this question as outside the scope of the four at-issue deposition topics identified in the State's Motion to Compel. Deposition topics 2, 4, 6, and 7 are the permissible subjects of inquiry here. This question seeks information within topic 8. Further, this question seeks a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition, and is therefore not an appropriate inquiry here. ADP also objects to this question as unduly

burdensome and to the extent that it seeks information protected from disclosure by the First Amendment privilege.

INTERROGATORY NO. 27: For the document attached hereto as Exhibit 1, provide the following information:

a. What time period or election does the document reflect?

b. Who created the document?

c. Identify the source or sources of the data used to create the document.

d. How were voters assigned to the race or ethnicity categories used in the document?

e. Native American voters are not a separately identified race or ethnicity category in the document, in which race or ethnicity category were Native Americans placed?

f. Did the ADP compile similar documents or data for elections or time periods not covered by this document?

i. If so, provide all of the information reflected in Exhibit 1 for those other time periods or elections.

ii. If so, please answer Interrogatories 6.a-e for each of those other time periods or elections.

RESPONSE TO INTERROGATORY NO. 27:

a. The document reflects data provided to ADP by the county recorders in the April 2017 iteration of the voter file.

b. Sam Almy, ADP's Data Director, created the document.

c. ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Subject to and without waiving the foregoing objections, ADP states that Mr. Almy created the document using the publicly available voter file in combination

with proprietary internal modeling, as described above in Response to Interrogatory 23.

d. ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Subject to and without waiving the foregoing objections, ADP refers the State to the information provided in response to Interrogatory 23.

e. ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Subject to and without waiving the foregoing objections, ADP states that it is not aware of which ethnicity includes Native American voters in Exhibit 1.

f. ADP objects to this question as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329). Subject to and without waiving the foregoing objections, ADP states that Exhibit 1 was created specifically for Alexis Tameron to answer the questions set forth in the State's email during her deposition. Because this document was created specifically during the deposition as an aide, there are no analogous documents for other elections. However, ADP does possess documents containing data or modeling for other elections that is similar to the data or modeling from which this report for April 2017 was derived, and such documents are listed on ADP's First Amendment privilege logs.

INTERROGATORY NO. 28: The article attached hereto as Exhibit 2, states that it is based on information provided by the ADP, please describe

a. Who provided the information to the *Arizona Republic*;

b. The source of the information provided to the *Republic*; and

c. What process the ADP used to determine which racial or ethnic group a voter belonged to.

RESPONSE TO INTERROGATORY NO. 28: ADP objects to this question to the extent that it seeks information that is not relevant and as seeking information protected by the First Amendment privilege. *See* ADP's Response in Opposition to the State's Motion to Compel (Doc. 321) at 2-7; *see also* Order Denying State's Motion to Compel (Doc. 329).

INTERROGATORY NO. 29: Identify the name of each person who answered each Interrogatory.

RESPONSE TO INTERROGATORY NO. 28: ADP objects to this question as seeking information protected by the attorney-client privilege and for seeking communications constituting attorney work product. The answers herein are provided on behalf of ADP as an organization.

Dated: July 27, 2017

s/ Sarah R. Gonski

Daniel C. Barr (# 010149)
Sarah R. Gonski (# 032567)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788

Marc E. Elias (WDC# 442007)*
Bruce V. Spiva (WDC# 443754)*
Elisabeth C. Frost (WDC# 1007632)*
Amanda R. Callais (WDC# 1021944)*
Alexander G. Tischenko (CA# 304743)†
PERKINS COIE LLP
700 Thirteenth Street N.W., Suite 600
Washington, D.C. 20005-3960

Joshua L. Kaul (WI# 1067529)*
PERKINS COIE LLP
One East Main Street, Suite 201
Madison, Wisconsin 53703

Attorneys for Plaintiffs the Arizona Democratic Party, the DSCC, and the Democratic National Committee

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 27, 2017, a true copy of the foregoing document was served via electronic mail to the following:

Attorneys for State Defendants:

Karen J. Hartman-Tellez (#021121)
Joseph E. La Rue (#031348)
Kara Karlson (#029407)
Assistant Attorneys General
1275 W. Washington Street
Phoenix, AZ 85007
Telephone (602) 542-4951
Facsimile (602) 542-4385
karen.hartman@azag.gov
joseph.larue@azag.gov
kara.karlson@azag.gov

Attorneys for Intervenor-Defendants:

Brett W. Johnson (#021527)
Sara J. Agne (#026950)
Colin P. Ahler (#023879)
Joy L. Isaacs (#030693)
SNELL & WILMER
One Arizona Center
400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
Telephone: 602.382.6312
Facsimile: 602.382.6070
bwjohnson@swlaw.com
sagne@swlaw.com
cahler@swlaw.com
jisaacs@swlaw.com

Timothy A. La Sota (#020539)
TIMOTHY A. LA SOTA, PLC
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016
Telephone: 602.515.2649
E-Mail: tim@timlasota.com

s/ Sarah R. Gonski

Ex. 9
Excerpts of the Deposition of Alexis Tameron

uNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Arizona Democratic Party, et al.,	) CV-16-01065-PHX-DLR
Plaintiffs,	)
vs.	)
Michele Reagan, et al.,	)
Defendants.	)

DEPOSITION OF ALEXIS CECILIA TAMERON KINSEY

(In her personal capacity and as a 30(b)(6) witness for Arizona Democratic Party)

May 10, 2017
Phoenix, Arizona
9:00 a.m.

PREPARED FOR:

ATTORNEY AT LAW

(COPY)

REPORTED BY:
Mary Davis, RPR
Arizona CCR No. 50271

AZ Registered Reporting Firm No. R1008

MR. LA RUE: Before you break --

MS. HARTMAN-TELLEZ: Oh, wait. Sorry.

MR. LA RUE: I don't know if you want to or not, but here was her question. Here was her answer. You might want to...

MS. HARTMAN-TELLEZ: Sure.

Let me clarify something from a little bit earlier.

BY MS. HARTMAN-TELLEZ:

Q. Previously I asked you whether you knew whether early voting had increased, and I believe you responded yes.

A. I believe I did, yes.

Q. So you know whether it has increased. Has it increased?

A. Early balloting?

Q. Use of early voting, yes.

A. Yes.

MS. HARTMAN-TELLEZ: Thank you.

All right. So we can go off the record.

(A recess was taken from 12:02 p.m. to 1:07.)

MS. HARTMAN-TELLEZ: Back on the record.

BY MS. HARTMAN-TELLEZ:

Q. Welcome back.

Before we dive in, were you able to obtain any information over the break that we had previously discussed?

MS. CALLAIS: So Ms. Tameron has refreshed her memory on what the Party's knowledge is of demographics. If you want to go through your questions --

MS. HARTMAN-TELLEZ: Sure.

MS. CALLAIS: I do want to reiterate it's not a memory test. So to the extent you're asking for super specific information, she will answer it to the best of her ability.

BY MS. HARTMAN-TELLEZ:

Q. So starting with the membership of the Arizona Democratic Party, do you know how many of your members are Hispanic or Latino?

A. Based upon our best assumption, approximately 26, 27 percent of registered Democrats are Latino.

Q. Okay. And that's based on the voter information that you receive from the counties with which you do modeling that takes into account census data and surname; is that correct?

A. Correct.

Q. And what about African-American voters? How many?

A. It's approximately 5 percent registered Democrats.

Q. And how many -- or what percentage of registered Democrats are Native American voters?

A. That information we don't have specific to Native Americans.

Q. Okay. Do you have information regarding Asian or Pacific Islander?

A. It's about 1-and-a-half percent.

Q. 1-and-a-half percent of registered Democrats are --

A. Yes.

Q. -- Asian-Pacific Islander?

And do you know what the percentage is of registered Democrats who are white?

A. I think it was about 70, 68 to 70 percent. Yeah, actually, I'm going to say it's in the 60s. It did not reach 70. So high 60s. So 68 is a good approximation.

Q. Yeah. The numbers would not add up if it --

A. Yeah.

Q. -- were 70.

A. I majored in political science, not math.

Q. Did you take any statistics courses as a political science major?

A. Unfortunately, you have to, to get your degree from ASU. I passed. I'll just say that.

Q. I won't make you tell me anything more.

Do you have information on registered Democrats that claim two or more races?

A. No, we don't.

Q. Were you able to obtain information about the primary language spoken by registered Democrats?

A. We don't have --

MS. CALLAIS: Objection; form.

THE WITNESS: We don't have that information. It's really what is obtained through volunteers, if they encounter someone who does not speak a language. And it's less than 1 percent that we have noted.

BY MS. HARTMAN-TELLEZ:

Q. Less than 1 percent whose primary language is not English?

A. Correct. It's specific to Spanish speakers.

Q. So do you have information about voters whose primary language is Navajo?

A. No.

MS. CALLAIS: Objection to form.

BY MS. HARTMAN-TELLEZ:

Q. Any other Native American language? Do you

have information about voters whose primary language is another Native American language?

MS. CALLAIS: Same objection.

THE WITNESS: No. It's not something we track.

BY MS. HARTMAN-TELLEZ:

Q. Were you able to obtain information regarding the demographics of the electorate at large, so all registered voters within Arizona?

A. Yes.

Q. Okay. So for all registered voters, do you know what percentage of them are Hispanic or Latino?

A. Approximately 17 percent.

Q. And for all registered voters in Arizona, what -- do you have information about what percentage of them are African-American?

A. I believe it was about 3 percent in which we had.

Q. Do you have information about Native American voters?

A. No.

MS. CALLAIS: Objection; form.

BY MS. HARTMAN-TELLEZ:

Q. And do you know what the percentage of Asian-Pacific Islander voters are within the -- among

total registered voters?

A. It was less than 2 percent.

Q. And white voters among all registered voters, what percentage are they?

A. It was low 70s, I believe.

Q. Do you have information about the race of voters who are on the Permanent Early Voter List?

MS. CALLAIS: Objection. Form.

THE WITNESS: Yes. If your question is do -- based upon what we're able to extrapolate, yes, in terms of PEVL.

BY MS. HARTMAN-TELLEZ:

Q. So of the -- I will ask it this way. If it doesn't work, we'll try again.

Of the registered Democrats who are on the Permanent Early Voter List, what percentage of those people are Latino?

A. I believe it was around 9 percent.

Q. 9 percent?

A. Correct.

Q. And what percentage of registered Democrats on the Permanent Early Voter List are African-American?

A. It was less than -- it was about 2 percent.

Q. And what percent of Asian-Pacific Island -- or what percent of Democratic -- registered Democrats on

the Permanent Early Voter List are Asian-Pacific Islander?

A. It was less than -- it was less than 1 percent. It was slightly less than what was Democrats in general.

Q. And for registered Democrats on the Permanent Early Voter List, what percentage of those are white voters?

A. 62, 63.

Q. And do you have information about Native American voters on the Permanent Early Voter List?

A. No.

MS. CALLAIS: Objection; form.

(Exhibit No. 5 was marked for identification.)

BY MS. HARTMAN-TELLEZ:

Q. The court reporter has handed you a document that is marked as Exhibit 5 to your deposition. This is the Declaration of Sheila Healy in Support of Plaintiffs' Reply in Support of their Motion for Preliminary Injunction of H.B. 2023.

Have you seen in document before?

A. I believe I have.

Q. Who's Sheila Healy?

A. Former executive director of the Arizona

Democratic Party.

Q. Is Ms. Healy presently suing the Democratic Party?

A. Yes.

Q. Do you know why she's suing the Party?

A. Dispute about a contract and bonus.

Q. If you could turn to paragraph 8 of this declaration. Do you see the second sentence of paragraph 8? I will let you -- we'll start with the first sentence. Sorry.

"ADP will also have to deploy additional resources to affect it's get-out-the-vote efforts in rural areas, in particular on tribal lands like the Navajo Nation. In those areas, we have relied on ballot collection as well as encouraging early in-person voting." Do you see that?

A. Yes.

Q. Are you aware that the Navajo language is not a written language?

A. Yes.

Q. Do you know how language assistance is provided to Navajo voters?

MS. CALLAIS: Objection; form.

THE WITNESS: I believe it's -- in terms of how it's provided, it's provided by assistance,

question back?

(The court reporter read the requested portion as follows:

"QUESTION: Do you have demographic information that supports the claim that Latino and Native American voters overwhelmingly vote for Democrats?")

THE WITNESS: Yes. And it's based upon more geographic -- my personal experience is it's based on more geographical areas in which voters of -- minority voters overwhelmingly vote Democratic, and it's bore out in who they elect, whether it's local office, legislative office, depending upon the district.

BY MS. HARTMAN-TELLEZ:

Q. So are you able to say what percentage of Latino registered voters vote for Democrats?

MS. CALLAIS: Objection; foundation.

THE WITNESS: I think we would do -- from our internal modeling, we would have a good idea of that information. Did that answer your question?

BY MS. HARTMAN-TELLEZ:

Q. If that's the answer you have --

A. Yeah.
Q. -- then that answered my question.
But you don't know the percentage?
A. No. The percentage -- Democratic -- what we would call Democratic performance, I don't have that information.
Q. Is that information that the Party has access to?
A. Yes. I believe so.
MS. CALLAIS: Karen, I'm going to -- I'm just going to state an objection to the extent you're getting into some modeling and projections that the Democratic Party performs to project turnout for various demographic groups because that's all protected under our first amendment and that's highly strategic, protected information.
I don't know that this line of questioning is getting there, but I want to be really careful about this because that information is highly proprietary and it's very key to the Party's mission so...
MS. HARTMAN-TELLEZ: It's also key to the Voting Rights Act claim in this case. The voting strength of particular minority groups is the crux of your case, so I think it's appropriate for us to ask

questions about it.

MS. CALLAIS: And we certainly have proffered experts who will talk about that and who will be able to use all the publicly available information which the state also has to look at those things.

But to the extent you're getting into questions that are looking very deeply at the internal modeling of the Party, I don't think that that is the same thing.

So you can continue with your line of questioning, but I want to make note that we have an objection to that.

MS. HARTMAN-TELLEZ: Certainly.

We're going back to testimony already provided in this lawsuit by the former executive director of the Arizona Democratic Party, that voters -- that Latino and Native American voters overwhelmingly vote for Democrats.

MS. CALLAIS: And you've certainly -- I mean, you've asked some questions along the lines of how do you know that these people vote. But when you're starting to get into these questions about the modeling specifically, I have an objection to that.

So you can keep --

MS. HARTMAN-TELLEZ: Sure.

MS. CALLAIS: -- asking your questions.

MS. HARTMAN-TELLEZ: Okay.

MS. CALLAIS: But I think there's a difference. I would argue that there's a difference between that type of question.

MS. HARTMAN-TELLEZ: You're welcome to object to any question I ask.

BY MS. HARTMAN-TELLEZ:

Q. Do you know the percentage of Native American registered Democrats -- I'm sorry, not registered -- the percentage of Native American registered voters who vote for Democratic candidates?

A. No, because we don't have the information on Native American voters.

Q. Do you know why Ms. Healy said that the Party believes that Native American voters overwhelmingly vote for Democrats?

A. That's based on personal -- I'm assuming she was basing it on personal experience. Personally, based upon who represents districts in Arizona that have a majority Native American or high Native American population based upon census, they are Democratic-elected officials.

MS. CALLAIS: I'm just going to say object to the foundation to the extent your question

was why -- do you know why Ms. Healy said something specifically.

BY MS. HARTMAN-TELLEZ:

Q. You testified earlier that you had done some ballot collection yourself in the past. I think you said somewhere around -- you had collected about two dozen ballots in your time?

A. Over the last 15-plus years.

Q. Do you recall the race or ethnicity of the people from whom you collected ballots?

A. No.

Q. Do you know what neighborhoods you collected those ballots in?

MS. CALLAIS: Karen, just to clarify, are you asking these in her personal capacity?

MS. HARTMAN-TELLEZ: Yes.

THE WITNESS: Well, based upon my volunteer experience, it would have either been in the City of Tempe -- based upon volunteer experience, it would have been in the congressional districts that I've volunteered in. So I don't remember specifically what neighborhoods I went to, but I know where, approximate neighborhoods.

BY MS. HARTMAN-TELLEZ:

Q. Do you speak Spanish?

Q. Okay.
A. It's like the meeting house. Like a post office in a rural county is the best kind of comparison.
Q. So did Mr. Quinlan have specific statements about the Party's ballot collection efforts at Chapter houses on the Nation?
A. Not specific. It was more of a question for me as to -- to confirm what I believed how we collected. And it was based on Chapter houses and having the ability to collect ballots there, or direct people to drop them off if they had them.
Q. Voters would bring their ballots to the Chapter house?
MS. CALLAIS: Objection; form.
THE WITNESS: Correct. That's what we would advise them to do.
BY MS. AGNE:
Q. And the Party would pick them up there?
A. Yes, or an organizer that was paid or worked for the Party.
Q. And take them to?
A. County recorder, depending on if they were Navajo or Apache.
Q. And then was this at each Chapter house on the

Reservation or more specific ones used?

MS. CALLAIS: Objection; form.

THE WITNESS: I believe more specific ones were used, but I couldn't tell you what specific ones they were.

BY MS. AGNE:

Q. Did you review any documents with Mr. Quinlan?

A. No.

Q. Do you know the scope of the Party's ballot collection efforts on the Navajo Nation in those years?

MS. CALLAIS: Objection; form.

THE WITNESS: The scope would be more general to get-out-the-vote, because ballot collection was a part of -- like a tool of our GOTV, the tool in the toolbox, GOTV. In terms of scope, it would be a portion of our education efforts.

BY MS. AGNE:

Q. Don't know how many ballots were collected?

A. No.

Q. How many voters were served with the education efforts?

MS. CALLAIS: Objection; form.

THE WITNESS: No.

BY MS. AGNE:

Q. What did you talk to Mr. Almy about?

A. Modeling.
Q. Data modeling?
A. Yes.
Q. Anything else?
A. No. It was primarily that.
Q. Related to ballot collection?
A. Ballot collection, voter registration, PEVL.
Q. Anything related to out-of-precinct provisional ballots?
A. No.
Q. Talk to anyone else besides counsel in preparation for your deposition before today?
A. No.
Q. Today we had a couple of lengthy breaks. The first break was from about 10:40 to 11:15. What did you do to prepare during that break?
MS. CALLAIS: Objection to the extent you're calling for privileged information about any conversations with counsel.
BY MS. AGNE:
Q. No. Not asking you for any conversations with counsel. Any other preparation you did?
A. No.
Q. Talk with anyone else on the break besides counsel?

A. No.
Q. Review any documents on the break?
A. No.
Q. The second break was a lunch break 12:00 to 1:00. I think we all got lunch. But did you talk to anyone at that point besides counsel in preparation for the 30(b)(6) portion of your deposition?
A. I talked to Sam Almy.
Q. What did you talk to Mr. Almy about?
A. Demographics, data, the modeling.
Q. Did he provide you with any documents?
A. He provided me with the numbers that I provided you when we came back from the break.
Q. Were those numbers reflected on documents?
A. They were reflected on an e-mail.
MS. AGNE: Can we get that e-mail disclosed?
MS. CALLAIS: I'll have to check and see.
MS. AGNE: Okay.
It seems like she's been discussing data modeling and demographics with Sam. So if those are independent of discussions with counsel, then we need to see the information she is using to prepare to discuss these topics.
MS. CALLAIS: What do you mean, the

information she's using? Like the modeling that Sam is looking at to see what their projections are? Is that what you're asking for?

MS. AGNE: The e-mail containing the demographics numbers, which are clearly on topic and she used to refresh her recollection and prepare as a 30(b)(6) witness.

MS. CALLAIS: I'll have to check and see.

BY MS. AGNE:

Q. Talk to anyone else besides Sam and counsel at the break?

A. No.

Q. Do anything else today to prepare for the 30(b)(6) portion of your deposition?

A. No.

Q. Do anything else, separate from what we've discussed, to prepare for the personal portion of your deposition?

A. Separate than?

Q. Than the items you've discussed preparing as a 30(b)(6) deponent?

A. No.

Q. Talk to anyone else?

A. No.

MS. AGNE: Okay. I think we've put on

the record sufficiently that we have concerns about preparation. There were concerns earlier.

She did some things at the break to remedy that. I think there were still some topics and time periods for which she is a designated witness that we had concerns about her ability to testify.

To the extent we can't get that information from Spencer Scharff, we will object to that, and we need to keep the 30(b)(6) open after his deposition.

MS. CALLAIS: What were the specific time periods that you were concerned about outside of the -- I think it was well stated the concerns about demographic information, but...

MS. AGNE: We haven't seen those numbers that she used to prepare. She wasn't initially prepared to discuss that. We're going to need -- and I know we've been proceeding question by question, but we want to raise an objection now because we have an overall concern about preparation.

MR. LA RUE: Additionally, there were some questions about modeling that you objected to. And as I recall, she wasn't prepared to answer. And so we weren't sure whether the question was one that should be allowed or whether your objection had merit.

And so to the extent that those remain a live dispute after we look at the transcript and determine what to ask Mr. Scharff, I think that would fit within the parameters of what Ms. Agne is discussing.

MS. CALLAIS: I'm just going to be very clear. This is a 30(b)(6) deposition, not a memory test, and Ms. Tameron has certainly prepared adequately. That she could not remember specific numbers, which we were more than happy to go and check on and get, these are statistical numbers.

General questions that were asked here are very general. So there is certainly no way to know which specific breakdowns and things are going to be asked.

We're certainly happy for you to ask your questions to Mr. Scharff. If there's specific things that you have concerns about, though, that you feel were not answered here, that -- for years or things that you want, I have -- you know, I can't know what those are unless you let me know, to know if we have a dispute about something or whether or not we can make sure Mr. Scharff is prepared about it.

So if you want to let me know what that is, I'm happy to move forward with that.

MS. KARLSON: Amanda, we may choose to do that. However, I would like to state that Rule 30 does not require us to provide you with, you know, every single question that we might ask. It requires us to provide broad categories of topics that we would like to inquire of.

So to the extent that your objection is that we did not provide you with every specific question we might ask, I think that that objection is not well-founded.

MS. CALLAIS: And I'm not objecting that you didn't provide me with every single question.

But what Ms. Agne has stated is simply that there are certain years that there are concerns about or they're still concerned. And I understood the objections and the concerns about the statistical information, and we certainly made sure that Ms. Tameron's recollection was refreshed on that and that she understood that information. We were happy to do so. But I haven't heard anything else that was stated in here.

So if there's specific years or specific concerns you have, that's what I'm saying.

MS. KARLSON: Yes. And we appreciate that.

Ex. 10
Arizona Republican Party's Response to Plaintiffs' 1st Requests for Production

Brett W. Johnson (#021527)
Sara J. Agne (#026950)
Colin P. Ahler (#023879)
Joy L. Isaacs (#030693)
SNELL & WILMER L.L.P.
One Arizona Center
400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
Telephone: 602.382.6000
Facsimile: 602.382.6070
E-Mail: bwjohnson@swlaw.com
sagne@swlaw.com
cahler@swlaw.com
jisaacs@swlaw.com

Timothy A. La Sota (#020539)
TIMOTHY A. LA SOTA, PLC
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016
Telephone: 602.515.2649
E-Mail: tim@timlasota.com

Attorneys for Intervenor-Defendants Arizona Republican Party, Bill Gates, Suzanne Klapp, Debbie Lesko, and Tony Rivero

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Leslie Feldman, et al.,

Plaintiffs,

v.

Arizona Secretary of State's Office, et al.,

Defendants.

No. CV-16-01065-PHX-DLR

ARIZONA REPUBLICAN PARTY'S RESPONSES TO PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION

Pursuant to Fed. R. Civ. P. 34, Intervenor-Defendant the Arizona Republican Party ("ARP"), for its answers to Plaintiffs' First Set of Requests for Production, states as follows:

REQUEST FOR PRODUCTION NO. 1: All documents relating to the topics of "voter fraud," "ballot integrity," "ballot security," "elections security," "elections

integrity," and/or "voter confidence". This includes, but is not limited to:

A. Communications regarding the same;

B. Studies, reports, presentations, or analysis that you have conducted, authorized or considered in relation to voter fraud, ballot integrity, ballot security, elections integrity, elections security, or voter confidence, within the last ten years;

C. Public opinion polling on voter fraud, voter confidence, ballot integrity, ballot security, elections integrity, or elections security;

D. Documents relating to the use of voter fraud, ballot integrity, ballot security, elections security, elections integrity, ballot collection, ballot harvesting, or voter confidence as a talking point or otherwise for partisan advantage or disadvantage;

E. Documents indicating the number of reports, investigations, and/or prosecutions related to incidents of suspected or proven voter fraud in the last ten years;

F. Any information that would assist a reasonable person in determining the demographics of any person suspected or convicted of voter fraud in Arizona in the past ten years;

G. Any information that would assist a reasonable person in determining the demographics of any person making accusations of voter fraud in Arizona in the past ten years;

H. All documents relating to and supporting the statements in ARP's March 10, 2016 Updated News Release titled "Ballot Harvesting Tactics Illegal: New Law Eliminates Opportunity for Election Tampering," attached hereto as Exhibit A; and

I. Any documents relating to your claim that HB2023 will prevent fraud or will otherwise further ballot security, the integrity of elections in Arizona, or promote voter confidence in Arizona elections.

RESPONSE: ARP objects to this request and its multiple subparts as vague, overly broad, disproportionate to the needs of the case, and encompassing documents that are irrelevant to Plaintiffs' claims and/or defenses. It provides notice that any such documents may be available in publicly available documents, transcripts, and legislative

Snell & Wilmer L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

history. Additionally, when considered in conjunction with Plaintiffs' simultaneous discovery requests on the other Intervenor-Defendants, the Plaintiffs' requests far exceed the number of Requests for Production permitted per side by this Court's standard case management order. ARP also objects to the extent this request and/or its subparts seek information protected by the attorney-client privilege.

ARP further objects to multiple subparts of this request as they demand the disclosure of information protected by the First Amendment. The Ninth Circuit has ruled that a political committee's communications and activities encompass a vastly wider range of sensitive material protected by the First Amendment than would be true in the normal discovery context. *See Perry v. Schwarzenegger*, 591 F.3d 1126, 1138 (9th Cir. 2009) (citing *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367 (2004)). As a result, the required disclosure of information can have a deterrent effect on political participation, and on the free flow of information within political associations. *See id.,* at 1141-42. The United States Supreme Court "has long recognized that the compelled disclosure of political affiliations and activities can impose just as substantial a burden on First Amendment rights as can direct regulation." *Am. Fed. of Labor and Cong. of Indus. Orgs. v. Fed. Election Comm'n*, 333 F.3d 168, 175 (D.D.C. 2003). Additionally, the requests infringe upon the ARP's First Amendment right of free association. *See id.*, at 177 ("[T]he Supreme Court has concluded that extensive interference with political groups' internal operations and with their effectiveness does implicate significant First Amendment interests in associational autonomy."); *see also, Sierra Club v. BNSF Ry. Co.*, 2016 WL 4528452, at *2–3 (W.D. Wash. Aug. 30, 2016) (granting a protective order prohibiting a 30(b)(6) deposition in response to a subpoena seeking information regarding a third party's programs or activities when prima facie showing was made that the information subpoenaed infringes on organization's First Amendment right of free association by encompassing a wide range of internal strategies and affairs and party serving subpoena failed to show that the information sought was highly relevant to its defense).

Snell & Wilmer L.L.P. LAW OFFICES One Arizona Center, 400 E. Van Buren, Suite 1900 Phoenix, Arizona 85004-2202 602.382.6000

However, pursuant to Fed. R. Civ. P. 34(b)(2)(C), no documents are being withheld on the basis of these objections, other than those protected by attorney-client privilege. In good faith, without waiving its objections and subject to ARP's objections herein, ARP directs Plaintiffs to the following documents: FELDMAN_ARP000001-7. A privilege log regarding the communications withheld on the basis of attorney-client privilege is also produced contemporaneously with these responses.

REQUEST FOR PRODUCTION NO. 2: All documents relating to ballot collection, HB2023, HB2305, SB1412, or "ballot harvesting". This includes, but is not limited to:

A. Communications regarding the same;

B. Any formal or informal training, instruction, advice, or direction to your employees, staff, volunteers, agents, constituents, supporters, and/or associates regarding ballot collection and any changes to those trainings, instructions, or directions pursuant to HB2023 (including, e.g., any training, guidance, instruction, direction, or advice given to poll watchers or poll observers related to the same);

C. Any plans or efforts to contact, inform, educate, or communicate with voters, candidates, or office holders regarding ballot collection or HB2023 (including, e.g., marketing, outreach or public education plans or campaigns);

D. Any meeting regarding ballot collection, HB2023, HB2305, SB1412, including but not limited to meeting agendas, notes, and minutes;

E. Any plans or efforts to monitor or otherwise take any action regarding the enforcement of HB2023, HB2305, and SB1412;

F. Any ballot collection performed or supported by you in relation to Arizona elections anytime during the past ten years;

G. All documents discussing, analyzing, or otherwise relating to the partisan use of, or advantages or disadvantages to any political party of, ballot collection (including, e.g., documents related to the use of ballot collection by political parties or advocacy organizations in Arizona; documents related to the perceived or anticipated impact of

Snell & Wilmer L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

ballot collection on the outcome of prior or future elections and/or a political party's electoral success generally; and, documents related to believed, known, hypothesized, or anticipated political predilections, affiliations or leanings of voters who use or are believed to use ballot collection);

H. All documents discussing, analyzing, or otherwise relating to the known, perceived, believed, hypothesized, or anticipated demographics of voters who use or are believed to use or otherwise benefit from ballot collection;

I. Any studies, reports, presentations, or analysis that you have conducted, authorized or considered in relation to ballot collection within the last ten years;

J. All documents supporting the statement made by Tim Sifert of the Arizona Republican Party to The Arizona Republic that "tens of thousands of ballots had been collected by unauthorized individuals" in elections prior to the passage of HB2023, attached hereto as Exhibit B; and

K. All documents relating to your support of and involvement in the concept, drafting, and passage of HB2023 or any predecessor draft legislation (whether introduced in the Arizona State Legislature or not) restricting, prohibiting or otherwise related to ballot collection, including HB 2305 and SB1412.

RESPONSE: ARP objects to this request and its multiple subparts as vague, overly broad, disproportionate to the needs of the case, and encompassing documents that are irrelevant to Plaintiffs' claims and/or defenses. It provides notice that any such documents may be available in publicly available documents, transcripts, and legislative history. Additionally, when considered in conjunction with Plaintiffs' simultaneous discovery requests on the other Intervenor-Defendants, the Plaintiffs' requests far exceed the number of Requests for Production permitted per side by this Court's standard case management order. ARP also objects to the extent this request and/or its subparts seek information protected by the attorney-client privilege.

ARP further objects to multiple subparts of this request as they demand the disclosure of information protected by the First Amendment. The Ninth Circuit has ruled

Snell & Wilmer L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

that a political committee's communications and activities encompass a vastly wider range of sensitive material protected by the First Amendment than would be true in the normal discovery context. *See Perry v. Schwarzenegger*, 591 F.3d 1126, 1138 (9th Cir. 2009) (citing *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367 (2004)). As a result, the required disclosure of information can have a deterrent effect on political participation, and on the free flow of information within political associations. *See id.,* at 1141-42. The United States Supreme Court "has long recognized that the compelled disclosure of political affiliations and activities can impose just as substantial a burden on First Amendment rights as can direct regulation." *Am. Fed. of Labor and Cong. of Indus. Orgs. v. Fed. Election Comm'n*, 333 F.3d 168, 175 (D.D.C. 2003). Additionally, the requests infringe upon the ARP's First Amendment right of free association. *See id.*, at 177 ("[T]he Supreme Court has concluded that extensive interference with political groups' internal operations and with their effectiveness does implicate significant First Amendment interests in associational autonomy."); *see also, Sierra Club v. BNSF Ry. Co.*, 2016 WL 4528452, at *2–3 (W.D. Wash. Aug. 30, 2016) (granting a protective order prohibiting a 30(b)(6) deposition in response to a subpoena seeking information regarding a third party's programs or activities when prima facie showing was made that the information subpoenaed infringes on organization's First Amendment right of free association by encompassing a wide range of internal strategies and affairs and party serving subpoena failed to show that the information sought was highly relevant to its defense).

However, pursuant to Fed. R. Civ. P. 34(b)(2)(C), no documents are being withheld on the basis of these objections, other than those protected by attorney-client privilege. In good faith, without waiving its objections and subject to ARP's objections herein, ARP directs Plaintiffs to the following documents: FELDMAN_ARP000001-7. A privilege log regarding the communications withheld on the basis of attorney-client privilege is also produced contemporaneously with these responses.

Snell & Wilmer
L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

REQUEST FOR PRODUCTION NO. 3: All documents related to the blog post "Voter Fraud in Arizona's 2014 Election? You be the Judge," by A.J. LaFaro, Chairman of the Maricopa County Republican Party, including any documents related to any subsequent legal actions stemming from the post. *See* http://www.gilbertwatch.com/index.cfm/blog/voter-fraud-in-arizona-s-2014-election-you-be-the-judge/. This request includes, but is not limited to, any documents that indicate how the video referenced in the blog post was obtained.

RESPONSE: ARP objects to this request as overly broad and encompassing documents that are irrelevant to Plaintiffs' claims and/or defenses. It provides notice that any such documents may be available in publicly available documents and transcripts. Additionally, when considered in conjunction with Plaintiffs' simultaneous discovery requests on the other Intervenor-Defendants, the Plaintiffs' requests far exceed the number of Requests for Production permitted per side by this Court's standard case management order.

ARP further objects to this request as it is not in the possession or control of any documents used by Mr. LaFaro in the development of his cited blog post.

Pursuant to Fed. R. Civ. P. 34(b)(2)(C), no documents are being withheld on the basis of these objections. ARP has examined the requests and documents in its possession, custody, and control, and has no documents which are responsive.

REQUEST FOR PRODUCTION NO. 4: All documents relating to voting patterns of Latinos, African Americans, Native Americans, and/or other minority populations in Arizona.

RESPONSE: ARP objects to this request and its multiple subparts as vague, overly broad, disproportionate to the needs of the case, and encompassing documents that are irrelevant to Plaintiffs' claims and/or defenses. It provides notice that any such documents may be available in publicly available documents and transcripts. Additionally, when considered in conjunction with Plaintiffs' simultaneous discovery requests on the

Snell & Wilmer L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

other Intervenor-Defendants, the Plaintiffs' requests far exceed the number of Requests for Production permitted per side by this Court's standard case management order. ARP also objects to the extent this request and/or its subparts seek information protected by the attorney-client privilege.

ARP further objects to multiple subparts of this request as they demand the disclosure of information protected by the First Amendment. The Ninth Circuit has ruled that a political committee's communications and activities encompass a vastly wider range of sensitive material protected by the First Amendment than would be true in the normal discovery context. *See Perry v. Schwarzenegger*, 591 F.3d 1126, 1138 (9th Cir. 2009) (citing *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367 (2004)). As a result, the required disclosure of information can have a deterrent effect on political participation, and on the free flow of information within political associations. *See id.,* at 1141-42. The United States Supreme Court "has long recognized that the compelled disclosure of political affiliations and activities can impose just as substantial a burden on First Amendment rights as can direct regulation." *Am. Fed. of Labor and Cong. of Indus. Orgs. v. Fed. Election Comm'n*, 333 F.3d 168, 175 (D.D.C. 2003). Additionally, the requests infringe upon the ARP's First Amendment right of free association. *See id.*, at 177 ("[T]he Supreme Court has concluded that extensive interference with political groups' internal operations and with their effectiveness does implicate significant First Amendment interests in associational autonomy."); *see also, Sierra Club v. BNSF Ry. Co.*, 2016 WL 4528452, at *2–3 (W.D. Wash. Aug. 30, 2016) (granting a protective order prohibiting a 30(b)(6) deposition in response to a subpoena seeking information regarding a third party's programs or activities when prima facie showing was made that the information subpoenaed infringes on organization's First Amendment right of free association by encompassing a wide range of internal strategies and affairs and party serving subpoena failed to show that the information sought was highly relevant to its defense).

However, pursuant to Fed. R. Civ. P. 34(b)(2)(C), no documents are being withheld on the basis of these objections, other than those protected by attorney-client

Snell & Wilmer L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

privilege. A privilege log regarding the communications withheld on the basis of attorney-client privilege is produced contemporaneously with these responses. ARP has examined the requests and documents in its possession, custody, and control, and has no documents which are non-privileged and responsive.

REQUEST FOR PRODUCTION NO. 5: All documents regarding out-of-precinct provisional voting.

RESPONSE: ARP objects to this request and its multiple subparts as vague, overly broad, disproportionate to the needs of the case, and encompassing documents that are irrelevant to Plaintiffs' claims and/or defenses. It provides notice that any such documents may be available in publicly available documents, transcripts, and legislative history. Additionally, when considered in conjunction with Plaintiffs' simultaneous discovery requests on the other Intervenor-Defendants, the Plaintiffs' requests far exceed the number of Requests for Production permitted per side by this Court's standard case management order. ARP also objects to the extent this request and/or its subparts seek information protected by the attorney-client privilege.

ARP further objects to multiple subparts of this request as they demand the disclosure of information protected by the First Amendment. The Ninth Circuit has ruled that a political committee's communications and activities encompass a vastly wider range of sensitive material protected by the First Amendment than would be true in the normal discovery context. *See Perry v. Schwarzenegger*, 591 F.3d 1126, 1138 (9th Cir. 2009) (citing *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367 (2004)). As a result, the required disclosure of information can have a deterrent effect on political participation, and on the free flow of information within political associations. *See id.*, at 1141-42. The United States Supreme Court "has long recognized that the compelled disclosure of political affiliations and activities can impose just as substantial a burden on First Amendment rights as can direct regulation." *Am. Fed. of Labor and Cong. of Indus. Orgs. v. Fed. Election Comm'n*, 333 F.3d 168, 175 (D.D.C. 2003). Additionally, the requests infringe

Snell & Wilmer
L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

upon the ARP's First Amendment right of free association. *See id.*, at 177 ("[T]he Supreme Court has concluded that extensive interference with political groups' internal operations and with their effectiveness does implicate significant First Amendment interests in associational autonomy."); *see also, Sierra Club v. BNSF Ry. Co.*, 2016 WL 4528452, at *2–3 (W.D. Wash. Aug. 30, 2016) (granting a protective order prohibiting a 30(b)(6) deposition in response to a subpoena seeking information regarding a third party's programs or activities when prima facie showing was made that the information subpoenaed infringes on organization's First Amendment right of free association by encompassing a wide range of internal strategies and affairs and party serving subpoena failed to show that the information sought was highly relevant to its defense).

However, pursuant to Fed. R. Civ. P. 34(b)(2)(C), no documents are being withheld on the basis of these objections, other than those protected by attorney-client privilege. A privilege log regarding the communications withheld on the basis of attorney-client privilege is produced contemporaneously with these responses. ARP has examined the requests and documents in its possession, custody, and control, and has no documents which are non-privileged and responsive.

REQUEST FOR PRODUCTION NO. 6: All documents relating to voters who have cast out-of-precinct provisional ballots in Arizona elections, as defined herein, as well as in special elections, including documents indicating whether the voter was aware they were voting in the incorrect precinct and that their vote would not count.

RESPONSE: ARP objects to this request and its multiple subparts as vague, overly broad, disproportionate to the needs of the case, and encompassing documents that are irrelevant to Plaintiffs' claims and/or defenses. It provides notice that any such documents may be available in publicly available documents, transcripts, and legislative history. Additionally, when considered in conjunction with Plaintiffs' simultaneous discovery requests on the other Intervenor-Defendants, the Plaintiffs' requests far exceed the number of Requests for Production permitted per side by this Court's standard case

Snell & Wilmer L.L.P. LAW OFFICES One Arizona Center, 400 E. Van Buren, Suite 1900 Phoenix, Arizona 85004-2202 602.382.6000

management order. ARP also objects to the extent this request and/or its subparts seek information protected by the attorney-client privilege.

ARP further objects to multiple subparts of this request as they demand the disclosure of information protected by the First Amendment. The Ninth Circuit has ruled that a political committee's communications and activities encompass a vastly wider range of sensitive material protected by the First Amendment than would be true in the normal discovery context. *See Perry v. Schwarzenegger*, 591 F.3d 1126, 1138 (9th Cir. 2009) (citing *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367 (2004)). As a result, the required disclosure of information can have a deterrent effect on political participation, and on the free flow of information within political associations. *See id.,* at 1141-42. The United States Supreme Court "has long recognized that the compelled disclosure of political affiliations and activities can impose just as substantial a burden on First Amendment rights as can direct regulation." *Am. Fed. of Labor and Cong. of Indus. Orgs. v. Fed. Election Comm'n*, 333 F.3d 168, 175 (D.D.C. 2003). Additionally, the requests infringe upon the ARP's First Amendment right of free association. *See id.*, at 177 ("[T]he Supreme Court has concluded that extensive interference with political groups' internal operations and with their effectiveness does implicate significant First Amendment interests in associational autonomy."); *see also, Sierra Club v. BNSF Ry. Co.*, 2016 WL 4528452, at *2–3 (W.D. Wash. Aug. 30, 2016) (granting a protective order prohibiting a 30(b)(6) deposition in response to a subpoena seeking information regarding a third party's programs or activities when prima facie showing was made that the information subpoenaed infringes on organization's First Amendment right of free association by encompassing a wide range of internal strategies and affairs and party serving subpoena failed to show that the information sought was highly relevant to its defense).

However, pursuant to Fed. R. Civ. P. 34(b)(2)(C), no documents are being withheld on the basis of these objections, other than those protected by attorney-client privilege. A privilege log regarding the communications withheld on the basis of attorney-client privilege is produced contemporaneously with these responses. ARP has examined

Snell & Wilmer
L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

the requests and documents in its possession, custody, and control, and has no documents which are non-privileged and responsive.

REQUEST FOR PRODUCTION NO. 7: Any studies, reports, presentations, or analysis that you have conducted, authorized, or considered in relation to out-of-precinct voting within the last ten years. This request includes any information that would assist a reasonable person in determining the race, ethnicity, gender, age, or partisan affiliation of the person who cast an out-of-precinct provisional ballot.

RESPONSE: ARP objects to this request and its multiple subparts as vague, overly broad, disproportionate to the needs of the case, and encompassing documents that are irrelevant to Plaintiffs' claims and/or defenses. It provides notice that any such documents may be available in publicly available documents, transcripts, and legislative history. Additionally, when considered in conjunction with Plaintiffs' simultaneous discovery requests on the other Intervenor-Defendants, the Plaintiffs' requests far exceed the number of Requests for Production permitted per side by this Court's standard case management order. ARP also objects to the extent this request and/or its subparts seek information protected by the attorney-client privilege.

ARP further objects to multiple subparts of this request as they demand the disclosure of information protected by the First Amendment. The Ninth Circuit has ruled that a political committee's communications and activities encompass a vastly wider range of sensitive material protected by the First Amendment than would be true in the normal discovery context. *See Perry v. Schwarzenegger*, 591 F.3d 1126, 1138 (9th Cir. 2009) (citing *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367 (2004)). As a result, the required disclosure of information can have a deterrent effect on political participation, and on the free flow of information within political associations. *See id.*, at 1141-42. The United States Supreme Court "has long recognized that the compelled disclosure of political affiliations and activities can impose just as substantial a burden on First Amendment rights as can direct regulation." *Am. Fed. of Labor and Cong. of Indus. Orgs. v. Fed.*

Snell & Wilmer L.L.P. LAW OFFICES One Arizona Center, 400 E. Van Buren, Suite 1900 Phoenix, Arizona 85004-2202 602.382.6000

Election Comm'n, 333 F.3d 168, 175 (D.D.C. 2003). Additionally, the requests infringe upon the ARP's First Amendment right of free association. *See id.*, at 177 ("[T]he Supreme Court has concluded that extensive interference with political groups' internal operations and with their effectiveness does implicate significant First Amendment interests in associational autonomy."); *see also, Sierra Club v. BNSF Ry. Co.*, 2016 WL 4528452, at *2–3 (W.D. Wash. Aug. 30, 2016) (granting a protective order prohibiting a 30(b)(6) deposition in response to a subpoena seeking information regarding a third party's programs or activities when prima facie showing was made that the information subpoenaed infringes on organization's First Amendment right of free association by encompassing a wide range of internal strategies and affairs and party serving subpoena failed to show that the information sought was highly relevant to its defense).

However, pursuant to Fed. R. Civ. P. 34(b)(2)(C), no documents are being withheld on the basis of these objections, other than those protected by attorney-client privilege. A privilege log regarding the communications withheld on the basis of attorney-client privilege is produced contemporaneously with these responses. ARP has examined the requests and documents in its possession, custody, and control, and has no documents which are non-privileged and responsive.

REQUEST FOR PRODUCTION NO. 8: All documents relating to any formal or informal training, instruction, advice, or direction you have given to employees, staff, volunteers, agents, constituents, supporters, and/or associates regarding interactions with or instructions given to voters who attempt to vote at a precinct other than that to which they are assigned.

RESPONSE: ARP objects to this request and its multiple subparts as vague, overly broad, disproportionate to the needs of the case, and encompassing documents that are irrelevant to Plaintiffs' claims and/or defenses. It provides notice that any such documents may be available in publicly available documents, transcripts, and legislative history. Additionally, when considered in conjunction with Plaintiffs' simultaneous

Snell & Wilmer L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

discovery requests on the other Intervenor-Defendants, the Plaintiffs' requests far exceed the number of Requests for Production permitted per side by this Court's standard case management order. ARP also objects to the extent this request and/or its subparts seek information protected by the attorney-client privilege.

ARP further objects to multiple subparts of this request as they demand the disclosure of information protected by the First Amendment. The Ninth Circuit has ruled that a political committee's communications and activities encompass a vastly wider range of sensitive material protected by the First Amendment than would be true in the normal discovery context. *See Perry v. Schwarzenegger*, 591 F.3d 1126, 1138 (9th Cir. 2009) (citing *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367 (2004)). As a result, the required disclosure of information can have a deterrent effect on political participation, and on the free flow of information within political associations. *See id.,* at 1141-42. The United States Supreme Court "has long recognized that the compelled disclosure of political affiliations and activities can impose just as substantial a burden on First Amendment rights as can direct regulation." *Am. Fed. of Labor and Cong. of Indus. Orgs. v. Fed. Election Comm'n*, 333 F.3d 168, 175 (D.D.C. 2003). Additionally, the requests infringe upon the ARP's First Amendment right of free association. *See id.*, at 177 ("[T]he Supreme Court has concluded that extensive interference with political groups' internal operations and with their effectiveness does implicate significant First Amendment interests in associational autonomy."); *see also, Sierra Club v. BNSF Ry. Co.*, 2016 WL 4528452, at *2–3 (W.D. Wash. Aug. 30, 2016) (granting a protective order prohibiting a 30(b)(6) deposition in response to a subpoena seeking information regarding a third party's programs or activities when prima facie showing was made that the information subpoenaed infringes on organization's First Amendment right of free association by encompassing a wide range of internal strategies and affairs and party serving subpoena failed to show that the information sought was highly relevant to its defense).

However, pursuant to Fed. R. Civ. P. 34(b)(2)(C), no documents are being withheld on the basis of these objections, other than those protected by attorney-client

Snell & Wilmer L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

privilege. A privilege log regarding the communications withheld on the basis of attorney-client privilege is produced contemporaneously with these responses. ARP has examined the requests and documents in its possession, custody, and control, and has no documents which are non-privileged and responsive.

REQUEST FOR PRODUCTION NO. 9: All documents discussing, analyzing, or otherwise relating to the partisan use of, or advantages or disadvantages to any political party of, vote center models as compared to precinct-based voting models, including but not limited to documents discussing, analyzing, or otherwise relating to the anticipated or likely partisan impact of permitting the counting of out-of-precinct provisional ballots for races in which voters would otherwise be eligible to vote, had they cast their ballot in the precinct to which they were assigned in any given election.

RESPONSE: ARP objects to this request and its multiple subparts as vague, overly broad, disproportionate to the needs of the case, and encompassing documents that are irrelevant to Plaintiffs' claims and/or defenses. It provides notice that any such documents may be available in publicly available documents, transcripts, and legislative history. Additionally, when considered in conjunction with Plaintiffs' simultaneous discovery requests on the other Intervenor-Defendants, the Plaintiffs' requests far exceed the number of Requests for Production permitted per side by this Court's standard case management order. ARP also objects to the extent this request and/or its subparts seek information protected by the attorney-client privilege.

ARP further objects to multiple subparts of this request as they demand the disclosure of information protected by the First Amendment. The Ninth Circuit has ruled that a political committee's communications and activities encompass a vastly wider range of sensitive material protected by the First Amendment than would be true in the normal discovery context. *See Perry v. Schwarzenegger*, 591 F.3d 1126, 1138 (9th Cir. 2009) (citing *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367 (2004)). As a result, the required disclosure of information can have a deterrent effect on political participation, and on the

Snell & Wilmer L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

free flow of information within political associations. *See id.,* at 1141-42. The United States Supreme Court "has long recognized that the compelled disclosure of political affiliations and activities can impose just as substantial a burden on First Amendment rights as can direct regulation." *Am. Fed. of Labor and Cong. of Indus. Orgs. v. Fed. Election Comm'n*, 333 F.3d 168, 175 (D.D.C. 2003). Additionally, the requests infringe upon the ARP's First Amendment right of free association. *See id.*, at 177 ("[T]he Supreme Court has concluded that extensive interference with political groups' internal operations and with their effectiveness does implicate significant First Amendment interests in associational autonomy."); *see also, Sierra Club v. BNSF Ry. Co.*, 2016 WL 4528452, at *2–3 (W.D. Wash. Aug. 30, 2016) (granting a protective order prohibiting a 30(b)(6) deposition in response to a subpoena seeking information regarding a third party's programs or activities when prima facie showing was made that the information subpoenaed infringes on organization's First Amendment right of free association by encompassing a wide range of internal strategies and affairs and party serving subpoena failed to show that the information sought was highly relevant to its defense).

However, pursuant to Fed. R. Civ. P. 34(b)(2)(C), no documents are being withheld on the basis of these objections, other than those protected by attorney-client privilege. A privilege log regarding the communications withheld on the basis of attorney-client privilege is produced contemporaneously with these responses. ARP has examined the requests and documents in its possession, custody, and control, and has no documents which are non-privileged and responsive.

REQUEST FOR PRODUCTION NO. 10: Any documents discussing, analyzing, or otherwise relating to anticipated or likely impact on "down-ticket" races if out-of-precinct provisional ballots were counted for races in which voters would otherwise be eligible to vote, had they cast their ballot in the precinct to which they were assigned in any given election.

RESPONSE: ARP objects to this request and its multiple subparts as vague,

Snell & Wilmer L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

overly broad, disproportionate to the needs of the case, and encompassing documents that are irrelevant to Plaintiffs' claims and/or defenses. It provides notice that any such documents may be available in publicly available documents, transcripts, and legislative history. Additionally, when considered in conjunction with Plaintiffs' simultaneous discovery requests on the other Intervenor-Defendants, the Plaintiffs' requests far exceed the number of Requests for Production permitted per side by this Court's standard case management order. ARP also objects to the extent this request and/or its subparts seek information protected by the attorney-client privilege.

ARP further objects to multiple subparts of this request as they demand the disclosure of information protected by the First Amendment. The Ninth Circuit has ruled that a political committee's communications and activities encompass a vastly wider range of sensitive material protected by the First Amendment than would be true in the normal discovery context. *See Perry v. Schwarzenegger*, 591 F.3d 1126, 1138 (9th Cir. 2009) (citing *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367 (2004)). As a result, the required disclosure of information can have a deterrent effect on political participation, and on the free flow of information within political associations. *See id.,* at 1141-42. The United States Supreme Court "has long recognized that the compelled disclosure of political affiliations and activities can impose just as substantial a burden on First Amendment rights as can direct regulation." *Am. Fed. of Labor and Cong. of Indus. Orgs. v. Fed. Election Comm'n*, 333 F.3d 168, 175 (D.D.C. 2003). Additionally, the requests infringe upon the ARP's First Amendment right of free association. *See id.*, at 177 ("[T]he Supreme Court has concluded that extensive interference with political groups' internal operations and with their effectiveness does implicate significant First Amendment interests in associational autonomy."); *see also, Sierra Club v. BNSF Ry. Co.*, 2016 WL 4528452, at *2–3 (W.D. Wash. Aug. 30, 2016) (granting a protective order prohibiting a 30(b)(6) deposition in response to a subpoena seeking information regarding a third party's programs or activities when prima facie showing was made that the information subpoenaed infringes on organization's First Amendment right of free association by

Snell & Wilmer L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

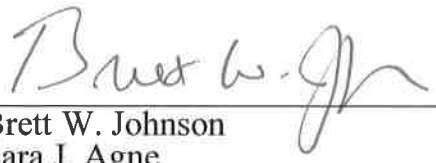
encompassing a wide range of internal strategies and affairs and party serving subpoena failed to show that the information sought was highly relevant to its defense).

However, pursuant to Fed. R. Civ. P. 34(b)(2)(C), no documents are being withheld on the basis of these objections, other than those protected by attorney-client privilege. A privilege log regarding the communications withheld on the basis of attorney-client privilege is produced contemporaneously with these responses. ARP has examined the requests and documents in its possession, custody, and control, and has no documents which are non-privileged and responsive.

DATED this 9th day of February, 2017.

Respectfully submitted,

SNELL & WILMER L.L.P.

By: 

Brett W. Johnson
Sara J. Agne
Colin P. Ahler
Joy L. Isaacs
One Arizona Center
400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202

Timothy A. La Sota
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016

Attorneys for Intervenor-Defendants Arizona Republican Party, Bill Gates, Suzanne Klapp, Debbie Lesko, and Tony Rivero

Snell & Wilmer L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 9, 2017, a true copy of the foregoing document was served via electronic mail.

Daniel C. Barr (# 010149)
Sarah R. Gonski (# 032567)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
DBarr@perkinscoie.com
SGonski@perkinscoie.com

Marc E. Elias (WDC# 442007)*
Bruce V. Spiva (WDC# 443754)*
Elisabeth C. Frost (WDC# 1007632)*
Amanda R. Callais (WDC# 1021944)*
PERKINS COIE LLP
700 Thirteenth Street NW, Suite 600
Washington, D.C. 20005-3960
MElias@perkinscoie.com
BSpiva@perkinscoie.com
EFrost@perkinscoie.com
ACallais@perkinscoie.com

Joshua L. Kaul (WI# 1067529)*
PERKINS COIE LLP
One East Main Street, Suite 201
Madison, Wisconsin 53703
JKaul@perkinscoie.com
Attorneys for Plaintiffs the Arizona Democratic Party, the DSCC, and the Democratic National Committee

Kara Karlson (#029407)
Karen J. Hartman-Tellez (#021121)
Joseph E. La Rue (#031348)
Assistant Attorneys General
1275 W. Washington Street
Phoenix, AZ 85007
kara.karlson@azag.gov
karen.hartman@azag.gov
joseph.larue@azag.gov
Attorneys for State Defendants

Tracy Hobbes

25712580

Snell & Wilmer L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
602.382.6000

Ex. 11
The Secretary's Responses and Objections to Plaintiffs' 1st Requests for Production

MARK BRNOVICH
Attorney General
Firm Bar No. 14000
Kara Karlson (029407)
Karen J. Hartman-Tellez (021121)
Joseph E. La Rue (031348)
Assistant Attorneys General
1275 W. Washington Street
Phoenix, AZ 85007
Telephone (602) 542-4951
Facsimile (602) 542-4385
kara.karlson@azag.gov
karen.hartman@azag.gov
joseph.larue@azag.gov
Attorneys for State Defendants

UNITED STATES DISCTRICT COURT
DISTRICT OF ARIZONA

Arizona Democratic Party, et al., Plaintiffs, v. Arizona Secretary of State's Office, et al., Defendants.	Case No. CV-16-01065-PHX-DLR **RESPONSES AND OBJECTIONS TO PLAINTIFFS' FIRST REQUESTS FOR PRODUCTION TO THE ARIZONA SECRETARY OF STATE'S OFFICE AND MICHELE REAGAN**

Defendants Secretary of State Michele Reagan and the Arizona Secretary of State's Office (collectively, the "Secretary") hereby object and respond to the Plaintiffs' First Requests for Production of Documents (the "Requests") served on the Secretary on or about January 6, 2017. The Secretary's investigation for responsive documents is ongoing. The Secretary notes that she reserves the right to supplement these responses, and will do so, should further investigation or discovery disclose additional information or responsive material. A privilege log describing the documents that have been withheld

from production, and the asserted privilege under which they are withheld, is forthcoming.

GENERAL OBJECTIONS

1. The Secretary objects to each of Plaintiffs' Requests to the extent that the Requests seek documents protected from disclosure by any privilege or immunity, including attorney-client privilege, attorney work product protection, common-interest privilege, or any other privilege, immunity, principle, doctrine, or rule of confidentiality. If any protected information or material is disclosed, such disclosure is not intentional and shall not be deemed a waiver of any privilege or protection.

2. The Secretary objects to each Request to the extent it seeks to impose obligations in excess of those set forth in the Federal Rules of Civil Procedure, and applicable local rules.

3. To the extent a Request requires the disclosure of protected material, including but not limited to confidential information or any information implicating privacy interests, the Secretary's response shall be subject to the Protective Order entered on February 1, 2017 (Doc. 252) and any other protective order entered by the Court in this matter.

4. The Secretary objects to each of the Requests to the extent that the Requests seek documents that are not relevant or reasonably calculated to lead to the discovery of evidence admissible in this action. To the extent the Secretary provides documents in response to these Requests, the Secretary does not concede that the documents are admissible in evidence, or relevant to the issues raised by the Plaintiffs or in this action generally.

5. The Secretary objects to each Request that is not limited to a reasonable time period as vague, ambiguous, overly broad, and unduly burdensome.

6. The Secretary objects to each of the Plaintiffs' Requests insofar as the Requests seek documents that are unreasonably cumulative or duplicative, already in the

possession of the Plaintiffs or related parties, or obtainable from other sources that are less burdensome or expensive.

7. The Secretary objects to each of the Requests seeking "all" or "any" of the referenced documents on the grounds that such requests are overly broad and unduly burdensome, seek irrelevant information, and seek to impose obligations beyond those imposed by law.

8. The Secretary objects to each of the Requests to the extent any Request seeks voluminous information that the Secretary can only locate and copy at substantial expense, or that would be disproportionate to the probative value or relevance of the material sought. The Secretary will construe all Requests to ask the Secretary to use reasonable diligence to locate responsive non-privileged documents, based on examination of those sources that may reasonably be expected to yield such documents.

9. The Secretary objects to these Requests to the extent that they, together with the Requests for Production of Documents propounded on Arizona Attorney General Mark Brnovich, and Intervenor Defendants the Arizona Republican Party, Bill Gates, Suzanne Klapp, Debbie Lesko, and Tony Rivero, far outnumber the Court's presumptive limit for requests for production of documents of forty, including subparts, per side. Not counting the expedited discovery requests propounded in May 2016 and the subpoenas duces tecum that Plaintiffs served on all fifteen Arizona counties, several members of the Arizona Legislature, and the United States Postmaster General, Plaintiffs have propounded eighty-seven separate Requests for Production, not counting their subparts.

10. To the extent the Secretary responds to a Request, the response does not waive the Secretary's foregoing objections, nor does that response concede that any documents requested or provided are relevant to any claim or defense of any party in the pending action. The Secretary expressly reserves:

a. The right to object, on the grounds of competency, admissibility, relevance, materiality, privilege, or any other applicable ground, to the use of responses provided to this request for production or the subject matter thereof, in any subsequent proceeding in, or the hearing of, this or any other action;

b. The right to object on any ground to other document requests, interrogatories, or other discovery proceedings involving or relating to the subject matter of the request for production; and

c. The right to supplement these responses should further investigation or discovery disclose additional information or responsive material.

RESPONSES AND OBJECTIONS

REQUEST FOR PRODUCTION NO. 1. Provide a Snapshot of the Arizona statewide voter registration database as of the following dates: the registration cut-off dates for the August 2008, 2010, 2014, and 2016 primary and general elections, and as of December 1, 2008, 2010, 2014, and 2016. This request includes, without limitation, the name, address, date of birth, gender, race, ethnicity, voter identification number, precinct, polling place location and absentee voter status for every voter listed in the database as well as a complete voting history for each voter since the year 2000, indicating, where applicable, the method by which the voter cast their ballot in each election (e.g., by mail, in-person, early, provisionally, etc.) and their voter status (e.g., active, inactive, etc.). This shall include all data dictionaries, guides, keys, or other documents that describe files, the contents of files, or the location of sub-files or data within the voter file.

RESPONSE TO RFP NO. 1. The Secretary objects to RFP No. 1 to the extent that it is overbroad and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in the Secretary's custody, control, or ability to obtain. Specifically, the Statewide Voter Registration Database (the "Database") is not maintained in a way that the Secretary can

provide "snapshots" from specific dates. The Secretary can only provide a copy of the Database as of the day the copy is made. In addition, the counties do not submit to the Database and the Secretary does not otherwise obtain or maintain information regarding the polling location, gender, race, or ethnicity of individual voters. Furthermore, RFP No. 1 seeks information that the parties had previously agreed would not be disclosed, including but not limited to full birthdates.

Subject to and without waiving the foregoing general and specific objections the Secretary has produced a copy of the same fields and tables from the Database that it produced in response to Plaintiffs' Expedited Discovery Requests in May-July 2016. The Secretary's Response is in the folder labeled "RFP 1" on the thumb drive provided with these Responses. All information provided in response to RFP 1 is subject to the Amended Protective Order entered in this case on or about February 1, 2017 (Doc 252) (the "Protective Order").

REQUEST FOR PRODUCTION NO. 2. Any documents or data identifying the following for the August 2016 primary election and November 2016 general election: (1) the number of provisional ballots cast in Arizona; (2) the number of provisional ballots cast in Arizona that were counted; (3) the number of provisional ballots cast in Arizona that were rejected and/or not counted; (4) the stated reasons that the ballots described in subsection 3 were cast or rejected and/or not counted; and (5) the race, age, and gender of the voters casting each of the ballots described in 1-4. If the information requested at 1-5 is available at both the state-wide level and broken down by county, precinct, and/or by polling location, the information should be produced on each of these levels. For provisional ballots cast because the voter was in the right county but attempted to vote in a precinct other than the one to which he or she was assigned (i.e.,

"out-of-precinct" provisional voting), provide any documents or data identifying the voter's county, the voter's assigned precinct, and the precinct in which the voter cast the out-of-precinct provisional ballot.

RESPONSE TO RFP NO. 2. The Secretary objects to RFP No. 2 to the extent that it is overbroad and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in the Secretary's custody, control, or ability to obtain. Specifically, under Arizona law, counties are responsible for processing provisional ballots, including deciding whether to count them, and determining the reasons for accepting or rejecting them. Moreover, neither the counties nor the Secretary maintain records reflecting the race or gender of voters.

Subject to and without waiving the foregoing general and specific objections, the Secretary is producing documents received the counties or derived from information provided by the counties regarding provisional ballots cast in the 2016 Primary and General Elections. These documents are located in the folder labeled "RFP 2" on the thumb drive provided with these Responses. In addition, the copy of the Statewide Voter Registration Database to be produced pursuant to RFP No. 1 contains information regarding provisional ballots.

REQUEST FOR PRODUCTION NO. 3. All documents identifying which counties in Arizona used a "vote center" polling place model, which used a precinct based polling place model, and which used a hybrid or mixed model in the August 2016 primary election and November 2016 general election, including any proposed plans for

which model or models will be used by the counties future Arizona elections known to you.

RESPONSE TO RFP NO. 3. The Secretary objects to RFP No. 3 to the extent that it seeks information that is not in the Secretary's custody, possession, or control. Specifically, information regarding the use of voter centers or precinct polling places is maintained by the counties. Beginning in 2011, A.R.S. § 16-411 allowed each county board of supervisors to choose voting centers or precinct polling places. 2011 Ariz. Sess. Laws ch. 331. To the extent documents possessed by the Secretary contain information on whether counties used voting centers or precinct polling places in any election in 2016, such information is only available based on other information produced by each county, and the Secretary is unable to ensure the veracity of the information. Additionally, the request seeks information that is more easily obtained by subpoena to each county or obtaining the meeting minutes from the relevant county board of supervisors approving the list of polling places.

Subject to and without waiving the foregoing general and specific objections, the Secretary is producing documents in the folder labeled "RFP 3 & 4" on the thumb drive provided with these Responses.

REQUEST FOR PRODUCTION NO. 4. All documents identifying the locations of all vote centers or polling locations in each county in Arizona in the August 2016 primary election and November 2016 general election, as well as the corresponding precincts assigned to the polling locations in any precinct-based elections. This includes any list of polling locations used in each election, and all documents that identify, or would assist a reasonable person in deciphering, the precincts to which those polling

locations were assigned and the individual voters assigned to such polling locations. This further includes all documents that contain, or that would assist a reasonable person in deciphering, a breakdown of voters assigned to polling locations by name, date of birth, race, ethnicity, gender, partisan affiliation, address, precinct, voter identification number, and/or social security number.

RESPONSE TO RFP NO. 4. The Secretary objects to RFP No. 4 to the extent that it is overbroad and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in the Secretary's custody, control, or ability to obtain. Specifically, the counties are responsible for locating their vote centers or precinct polling places and do not systematically report those locations to the Secretary. In addition, neither the counties nor the Secretary gather or maintain information regarding voters' race, ethnicity, or gender, and the Protective Order entered in this matter requires the Secretary not disclose voters' day and month of birth or social security numbers. Furthermore the information requested in RFP No. 4 is more easily obtained by subpoena to each county.

Subject to and without waiving the foregoing general and specific objections, the Statewide Voter Registration Database produced subject to the Protective Order in response to RFP No. 1 contains some of the information requested in RFP No. 4, and the Secretary is producing documents in the folder labeled "RFP 3 & 4" on the thumb drive provided with these Responses.

REQUEST FOR PRODUCTION NO. 5. All documents regarding voters who left polling locations without casting a provisional ballot in the 2008, 2010, 2012, 2014, and/or 2016 elections because they presented to vote at a precinct other than that to which

they were assigned. This includes documents regarding the number of voters who did so as well as all documents that contain, or that would assist a reasonable person in deciphering, such information by any or all of the following: (1) voter name; (2) voter's assigned precinct; (3) precinct where the voter presented to vote; (4) voter age; (5) voter race; (6) voter ethnicity; (7) voter gender; and/or (8) voter partisan affiliation.

RESPONSE TO RFP NO. 5. The Secretary objects to RFP No. 5 to the extent that it is overbroad and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in the Secretary's custody, control, or ability to obtain. Specifically, the counties are responsible for the operation of precinct polling places and do not systematically report information about voters who left polling locations without voting for any reason to the Secretary. In addition, neither the counties nor the Secretary gather or maintain information regarding voters' race, ethnicity, or gender.

Subject to and without waiving the foregoing general and specific objections and the Protective Order , the Secretary produces the documents in the folder labeled "RFP 5" on the thumb drive provided with these Responses.

REQUEST FOR PRODUCTION NO. 6. All documents relating to any plans and/or efforts to contact, inform, educate, or communicate with voters regarding out-of-precinct provisional voting for all statewide elections since 2008. This includes any marketing, outreach or public education plans or campaigns.

RESPONSE TO RFP NO. 6. The Secretary objects to RFP No. 6 to the extent that it is vague, overbroad, and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not

in the Secretary's custody, control, or ability to obtain. Specifically, RFP No. 6 does not limit the "plans and/or efforts" to those of the Secretary.

Subject to and without waiving the foregoing general and specific objections, the Secretary is producing the publicity pamphlets and other documents in the folder labeled "RFP 6" on the thumb drive provided with these Responses. The Secretary may supplement this response.

REQUEST FOR PRODUCTION NO. 7. Any written or recorded educational or training materials provided by you to poll workers and/or election administrators regarding the distribution and counting of provisional ballots, including any materials indicating information poll workers were instructed to provide voters who attempt to vote in a polling location other than their assigned precinct for the August 2016 primary election and/or November 2016 general election. This includes, but is not limited to, any current, proposed or pending changes to the Arizona Election Procedures Manual related to the same.

RESPONSE TO RFP NO. 7. The Secretary objects to RFP No. 7 to the extent that it is vague, overbroad, and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in the Secretary's custody, control, or ability to obtain. Specifically, the counties are responsible for training and providing instructions to poll workers.

Subject to and without waiving the foregoing general and specific objections, the Secretary is producing the election officer training materials in the folder labeled "RFP 7" on the thumb drive provided with these Responses. The Secretary may supplement this response.

REQUEST FOR PRODUCTION NO. 8. Any studies, reports, presentations, or analysis that you have conducted, authorized or considered in relation to the casting and/or rejection of provisional ballots in Arizona since Defendants' previous production of documents in response to Plaintiffs' expedited discovery requests.

RESPONSE TO RFP NO. 8. The Secretary objects to RFP No. 8 to the extent that it is vague or ambiguous. RFP No. 8 does not define "studies, reports, presentations, or analysis."

Subject to and without waiving the foregoing general and specific objections, after diligent searches, the Secretary has not identified any documents specifically responsive to this request. The Secretary may supplement this response.

REQUEST FOR PRODUCTION NO. 9. All documents relating to any training, instruction, or direction to elections administrators and/or poll workers regarding ballot collection or any changes to those trainings, instructions, or directions pursuant to HB2023 including, but not limited to, any current, proposed or pending changes to the Arizona Election Procedures Manual related to ballot collection in general and/or HB2023 specifically.

RESPONSE TO RFP NO. 9. The Secretary objects to RFP No. 9 to the extent that it is vague, overbroad, and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in the Secretary's custody, control, or ability to obtain. Specifically, the counties are responsible for training and providing instructions to poll workers.

Subject to and without waiving the foregoing general and specific objections, the Secretary produces the documents in the folder labeled "RFP 9" on the thumb drive provided with these Responses.

REQUEST FOR PRODUCTION NO. 10. All documents relating to any plans or efforts to contact, inform, educate, or communicate with Arizona citizens regarding ballot collection or HB2023. This includes any marketing, outreach or public education plans or campaigns.

RESPONSE TO RFP NO. 10. The Secretary objects to RFP No. 10 to the extent that it is vague, overbroad, and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in the Secretary's custody, control, or ability to obtain. Specifically, RFP No. 10 does not limit the "plans or efforts" to those of the Secretary.

Subject to and without waiving the foregoing general and specific objections, the Secretary produces the documents in the folder labeled "RFP 10" on the thumb drive provided with these Responses. The Secretary may supplement this response.

REQUEST FOR PRODUCTION NO. 11. All documents relating to ballot collection for each election, including special elections, held since January 1, 2008. This includes, but is not limited to, documents indicating the number of ballots turned into election officials by ballot collectors, documents regarding persons collecting ballots or turning them in to elections officials, any records regarding voters who turned in their ballot via a collector, any records of voters who called you for assistance in turning in

their ballots, including, but not limited to any information that would assist a reasonable person in deciphering the voter's name, date of birth, race, ethnicity, gender, age, partisan affiliation, and address.

RESPONSE TO RFP NO. 11. The Secretary objects to RFP No. 11 to the extent that it is overbroad and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in the Secretary's custody, control, or ability to obtain. Specifically, the counties are responsible for receipt of voted ballots and do not systematically maintain or report information about who delivers ballots to the county recorder to the Secretary. In addition, neither the counties nor the Secretary gather or maintain information regarding voters' race, ethnicity, or gender.

Subject to and without waiving the foregoing general and specific objections, the Secretary produces the documents in the folder labeled "RFP 11" on the thumb drive provided with these Responses. To the extent responsive documents include Voter Registration Information, those documents are produced subject to the Protective Order.

REQUEST FOR PRODUCTION NO. 12. All documents regarding the number of ballots rejected in Arizona because they were received after the mail-in deadline in any election, including any special elections, held since January 1, 2008. If the information is available at both the state-wide level and broken down by county, precinct, and/or by polling location, you should produce it on each of these levels. This request includes, but is not limited to, any information that would assist a reasonable person in deciphering the name, date of birth, race, ethnicity, gender, age, partisan affiliation, and/or address of voters whose ballots were rejected because they were received after the mail-in deadline.

RESPONSE TO RFP NO. 12. The Secretary objects to RFP No. 12 to the extent that it is overbroad and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in the Secretary's custody, control, or ability to obtain. Specifically, the counties are responsible for receipt of early ballots and do not systematically report information about early ballots received after 7:00 pm on election day to the Secretary. In addition, neither the counties nor the Secretary gather or maintain information regarding voters' race, ethnicity, or gender.

Subject to and without waiving the foregoing general and specific objections, and subject to the Protective Order, the Secretary produces the documents in the folder labeled "RFP 12" on the thumb drive provided with these Responses. Additionally, some of the information requested in RFP No. 12 may be available from the Statewide Voter Registration Database produced subject to the Protective Order in response to RFP No. 1.

REQUEST FOR PRODUCTION NO. 13. All documents related to any meeting regarding ballot collection, HB2023, HB2305, SB1412, or any changes in election procedures made pursuant to HB2023, HB2305, SB1412, including but not limited to meeting agendas, notes, and minutes. This includes all documents relating to your plans and efforts to enforce or not enforce HB2023, HB2305, and SB1412.

RESPONSE TO RFP NO. 13. The Secretary objects to RFP No. 13 to the extent that it is overbroad and unduly burdensome and seeks records that are not relevant nor likely to lead to the discovery of admissible evidence. Specifically, the Secretary has no authority to enforce HB2023, a criminal law. In addition, HB2305 and SB1412 were omnibus election bills that covered numerous subjects beyond ballot collection.

Subject to and without waiving the foregoing general and specific objections, the Secretary produces the documents in the folder labeled "RFP 13" on the thumb drive provided with these Responses.

REQUEST FOR PRODUCTION NO. 14. All documents communicated between or among you, and/or the Arizona State Legislature, Arizona Attorney General, the Arizona Republican Party, or the Counties regarding or related to any of the following topics:

a. HB2023

b. HB2305

c. SB1412

d. Ballot Collection

e. Out-of-Precinct Provisional Ballots

f. Voter fraud

RESPONSE TO RFP NO. 14. The Secretary objects to RFP No. 14 to the extent that it seeks attorney-client communications and communications among attorneys that are protected from disclosure by the attorney-client privilege, work product protection, or the common interest doctrine, or communications that are protected by the legislative privilege. The Secretary further objects to RFP No. 14 to the extent that it is vague, overbroad, and unduly burdensome, seeks documents that are not relevant or likely to lead to the discovery of admissible evidence, and seeks documents that are not within the Secretary's custody or control. Specifically, the term "voter fraud" is vague and ambiguous. The Secretary construes it to mean violations of criminal laws relating to elections. In addition, HB2305 and SB1412 address subjects other than ballot collection that are not relevant to this action.

Subject to and without waiving the foregoing general and specific objections, after diligent search, the Secretary has located no records responsive to RFP No. 14 that are not subject to privilege. That document or documents will be described in the Secretary's forthcoming privilege log, as well as the privilege or privileges the Secretary asserts. The Secretary may supplement this response.

REQUEST FOR PRODUCTION NO. 15. Digitized boundaries of all precincts in each of Arizona's County for each of the 2008, 2010, 2012, 2014, and 2016 elections in shapefile format.

RESPONSE TO RFP NO. 15. The Secretary objects to RFP No. 15 to the extent that it is overbroad and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in the Secretary's custody, control, or ability to obtain. Specifically, the counties are responsible for creating precinct boundaries and do not systematically provide shapefiles to the Secretary. In addition, the information requested in RFP No. 15 is more easily obtained by subpoena to each county.

Subject to and without waiving the foregoing general and specific objections, and subject to the Protective Order, the Secretary produces the documents in the folder labeled "RFP 15" on the thumb drive provided with these Responses.

REQUEST FOR PRODUCTION NO. 16. Any election results for all precincts in Arizona for the 2000, 2004, 2008, 2010, 2012, 2014, and 2016 elections. This includes the total number of registered voters, the total number of votes cast, and the total number of votes cast for each candidate in each precinct (i.e., precinct-level results). This further includes all documents that contain, or that would assist a reasonable person in

deciphering, a breakdown of the same by age, race, ethnicity, gender, and/or partisan affiliation.

RESPONSE TO RFP NO. 16. The Secretary objects to RFP No. 16 to the extent that it is overbroad and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in the Secretary's custody, control, or ability to obtain. Specifically, the counties are responsible for counting ballots and they do not systematically report election results to the Secretary on a precinct-level basis. In addition, neither the counties nor the Secretary gather or maintain information regarding voters' race, ethnicity, or gender. Furthermore, the information requested in RFP No. 16 is more easily obtained by subpoena to each county.

Subject to and without waiving the foregoing general and specific objections, and subject to the Protective Order, the Secretary produces the documents in the folder labeled "RFP 16" on the thumb drive provided with these Responses. Additionally, some of the information requested in RFP No. 16 may be available from the Statewide Voter Registration Database produced subject to the Protective Order in response to RFP No. 1.

REQUEST FOR PRODUCTION NO. 17. All documents regarding demographic information of the voting age population in Arizona from January 1, 2008. This includes, but it not limited to all documents that contain, or that would assist a reasonable person in deciphering, a breakdown of the same by age, race, ethnicity, gender, and/or partisan affiliation.

RESPONSE TO RFP NO. 17. The Secretary objects to RFP No. 17 to the extent that it is vague, overbroad and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in

the Secretary's custody, control, or ability to obtain. Specifically, the term "demographic information," even as defined by the RFP, is vague and ambiguous. In addition, RFP No. 17 is vague and ambiguous because it covers an eight-year period during which the characteristics of the voting age population have not remained static. Furthermore, the Secretary does not maintain information regarding voters' race, ethnicity, or gender.

Subject to and without waiving the foregoing general and specific objections, after diligent searches, the Secretary has thus far been unable to locate any documents responsive to RFP No. 17. The Secretary may supplement.

REQUEST FOR PRODUCTION NO. 18. All documents relating to financial data, budgets, or monetary effects of H.B. 2023.

RESPONSE TO RFP NO. 18. The Secretary objects to RFP No. 18 as seeking documents that are irrelevant and unlikely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing general and specific objections, after diligent search, the Secretary has not located any documents responsive to RFP No. 18.

REQUEST FOR PRODUCTION NO. 19. All documents relating to information prepared or provided for use in relation to any submission to the Department of Justice pursuant to Section 5 of the Voting Rights Act from 2008 to present regarding ballot collection or out-of-precinct provisional voting. This includes, but is not limited to, any documents related to SB1412.

RESPONSE TO RFP NO. 19. The Secretary objects to RFP No. 19 to the extent that it is overbroad and unduly burdensome, seeks records that are not relevant nor likely

to lead to the discovery of admissible evidence, seeks records that are not in the Secretary's custody, control, or ability to obtain, or seeks documents that are protected from disclosure by the attorney-client privilege. Specifically, all changes to election laws and procedures—including those not at issue in this action—were subject to Section 5 preclearance from 2008 and 2013. In addition, SB1412, a 2011 law, is not at issue in this action. Furthermore, in its capacity as attorney for the Secretary, the Arizona Attorney General's Office was responsible for Section 5 submissions.

Subject to and without waiving the foregoing general and specific objections, the Secretary produces the documents in the folder labeled "RFP 19" on the thumb drive provided with these Responses.

REQUEST FOR PRODUCTION NO. 20. All documents relating to suspected or proven voter fraud of any kind in Arizona within the past ten years. This includes, but is not limited to, suspected of proven instances of voter fraud in connection with ballot collection in Arizona, and all documents indicating the number of reports, investigations, and/or prosecutions initiated for each suspected of proven instance of voter fraud. For suspected or proven instances of voter fraud in connection with ballot collection, this request includes, but is not limited to, any information that would assist a reasonable person in determining the demographics of the person whose ballot was collected and the collector of the ballot, including, race, ethnicity, age, partisan affiliation, and access to mail delivery and pick-up.

RESPONSE TO RFP NO. 20. The Secretary objects to RFP No. 20 to the extent that it is vague, overbroad and unduly burdensome, seeks records that are not relevant nor likely to lead to the discovery of admissible evidence, and seeks records that are not in

the Secretary's custody, control, or ability to obtain. Specifically, the term "voter fraud," is not defined by the RFP and is vague and ambiguous. In addition, the Secretary has no authority under Arizona law to prosecute violations of criminal laws relating to elections.

Subject to and without waiving the foregoing general and specific objections, and subject to the Protective Order, the Secretary produces the documents in the folder labeled "RFP 20" on the thumb drive provided with these Responses.

REQUEST FOR PRODUCTION NO. 21. All documents relating to Michele Reagan's speech at the March 2016 Conservative Political Action Conference (CPAC). See https://www.youtube.com/watch?v=sv0LBe9155M.

RESPONSE TO RFP NO. 21. The Secretary objects to RFP No. 21 as seeking documents that are irrelevant and unlikely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing general and specific objections, the Secretary produces the documents in the folder labeled "RFP 21" on the thumb drive provided with these Responses. The Secretary may supplement this response.

REQUEST FOR PRODUCTION NO. 22. All documents relating to Elections Director Eric Spencer's statements regarding HB2023 at the Voting Rights Forum at Arizona State University titled "Voting: Protecting our Fundamental Right," held on April 21, 2016. See Exhibit A, attached hereto.

RESPONSE TO RFP NO. 22. The Secretary objects to RFP No. 22 as seeking documents that are irrelevant and unlikely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing general and specific objections,

after diligent search, the Secretary has not located any documents responsive to RFP No. 22.

REQUEST FOR PRODUCTION NO. 23. All documents relating to lobbying efforts by you encouraging the restriction of ballot collection.

RESPONSE TO RFP NO. 23. The Secretary objects to RFP No. 23 to the extent that it seeks attorney-client communications and communications among attorneys that are protected from disclosure by the attorney-client privilege, work product protection, or the common interest doctrine, or communications that are protected by the legislative privilege. The Secretary further objects to RFP No. 23 to the extent that it is vague, overbroad, and unduly burdensome and seeks documents that are irrelevant and unlikely to lead to the discovery of admissible evidence. Specifically, the term "lobbying efforts" is vague and ambiguous.

Subject to and without waiving the foregoing general and specific objections, the Secretary produces the documents in the folder labeled "RFP 23" on the thumb drive provided with these Responses.

REQUEST FOR PRODUCTION NO. 24. All documents related to your involvement in any ballot collection efforts. This request includes, but is not limited to, all documents supporting the offer to collect ballots made on March 22, 2016 and reported by the Arizona Republic. See Exhibit B, attached hereto.

RESPONSE TO RFP NO. 24. The Secretary objects to RFP No. 24 as seeking documents that are irrelevant and unlikely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing general and specific objections,

after diligent search, the Secretary has not located any documents responsive to RFP No. 24. The Secretary may supplement this response.

REQUEST FOR PRODUCTION NO. 25. All documents discussing, analyzing, or otherwise relating to the partisan use of, or advantages or disadvantages to any political party of, ballot collection. This request includes, but is not limited to any documents related to the use of ballot collection by political parties or advocacy organizations in the past in Arizona; documents related to the perceived or anticipated impact of ballot collection on the outcome of prior or future elections and/or a political party's electoral success generally; and, documents related to believed, known, hypothesized, or anticipated political predilections or affiliations of voters who use or are believed to use ballot collection.

RESPONSE TO RFP NO. 25. The Secretary objects to RFP No. 25 as seeking documents that are irrelevant and unlikely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing general and specific objections, after diligent search, the Secretary has not located any documents responsive to RFP No. 25. The Secretary may supplement this response.

REQUEST FOR PRODUCTION NO. 26. All documents discussing, analyzing, or otherwise relating to the known, perceived, believed, hypothesized, or anticipated demographics of voters who use or are believed to use or otherwise benefit from ballot collection.

RESPONSE TO RFP NO. 26. The Secretary objects to RFP No. 26 to the extent that it is vague, overbroad, and unduly burdensome and seeks records that are not

relevant nor likely to lead to the discovery of admissible evidence. Specifically, the term "demographics," even as defined by the RFP, is vague and ambiguous.

Subject to and without waiving the foregoing general and specific objections, after diligent search, the Secretary has not located any documents responsive to RFP No. 26. The Secretary may supplement this response.

REQUEST FOR PRODUCTION NO. 27. All documents related to legislation that you are sponsoring, proposing, and/or supporting in the 2017 session of the Arizona State Legislature regarding ballot collection and/or out-of-precinct provisional voting. This request includes, but is not limited to, all documents regarding any such proposed legislation, the rationale or basis upon which the legislation is based, and all documents related thereto.

RESPONSE TO RFP NO. 27. The Secretary objects to RFP No. 27 as seeking documents that are irrelevant and unlikely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing general and specific objections, after diligent search, the Secretary has not located any documents responsive to RFP No. 27.

DATED this 7th day of February, 2017.

MARK BRNOVICH
Attorney General

By: s/ Karen J. Hartman-Tellez
Kara Karlson
Karen J. Hartman-Tellez
Joseph E. La Rue
Assistant Attorneys General
1275 West Washington Street
Phoenix, Arizona 85007

Attorneys for State Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2017, I served the foregoing responses by email to the following:

Daniel C. Barr
DBarr@perkinscoie.com
Sarah R. Gonski
SGonski@perkinscoie.com
Perkins Coie LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788

Marc E. Elias
MElias@perkinscoie.com
Bruce V. Spiva
BSpiva@perkinscoie.com
Elisabeth C. Frost
EFrost@perkinscoie.com
Amanda R. Callais
ACallais@perkinscoie.com
Perkins Coie LLP
700 Thirteenth Street NW, Suite 600
Washington, D.C. 20005-3960

Joshua L. Kaul
JKaul@perkinscoie.com
Perkins Coie LLP
One East Main Street, Suite 201
Madison, Wisconsin 53703

Brett W. Johnson
bwjohnson@swlaw.com
Sara J. Agne
sagne@swlaw.com
Colin P. Ahler
cahler@swlaw.com
Joy L. Isaacs
jisaacs@swlaw.com
Snell & Wilmer LLP
One Arizona Center
400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202

Timothy A. La Sota
tim@timlasota.com
Timothy A. La Sota, PLC
2198 E. Camelback Road, Suite 305
Phoenix, Arizona 85016

s/ Karen J. Hartman-Tellez

5750246

Ex. 12
Kaul Email (Aug. 2, 2017)

From:	Kaul, Joshua L. (Perkins Coie)
To:	Hartman-Tellez, Karen; Gonski, Sarah R. (Perkins Coie); Barr, Daniel (Perkins Coie); Callais, Amanda R. (Perkins Coie); Tischenko, Alexander G. (Perkins Coie); Frost, Elisabeth C. (Perkins Coie); Spiva, Bruce V. (Perkins Coie); Elias, Marc (Perkins Coie)
Cc:	Agne, Sara (sagne@swlaw.com); "Johnson, Brett W. (PHX)" (bwjohnson@swlaw.com); Ahler, Colin (cahler@swlaw.com); Karlson, Kara; La Rue, Joseph
Subject:	RE: ADP v. Reagan -- Meet and Confer re 30(b)(6) Issues
Date:	Wednesday, August 02, 2017 8:46:12 PM

Karen,

Thanks for your email and for suggesting a possible compromise. We cannot agree to the proposed compromise, however, and we stand by our objections.

With respect to the first request in your proposed compromise (for certain demographic information), we note that the 2016 Electorate Breakdown was created specifically as an aid to Alexis Tameron for the purpose of her deposition and that no exact corollary document exists for other elections. Our understanding is that it is not possible for ADP to create a similar Electorate Breakdown for earlier elections (even if it had an obligation to do so, which it does not) because ADP can only create such breakdowns for the current version of the voter file. As to currently existing documents in ADP's possession, ADP cannot agree to produce them because these documents are the very same ones that the Court recently found to be protected by the First Amendment. *See* Order Denying State's Motion to Compel (Doc. 329) at 3 ("The Court has no trouble concluding that Plaintiffs have established a prima facie case of arguable First Amendment privilege with respect to these requests"); *id.* at 5 ("The Court finds that the State Defendants have not carried their burden to overcome Plaintiffs' First Amendment privilege."). Contrary to your arguments below, these documents clearly fall within the First Amendment privilege because they would not have been created and/or shared if ADP had anticipated that they would have to be disclosed to the defendants, intervenor-defendants, or the public. Indeed, as you note below, *Perry* focused on the problems of chilling participation and muting the internal exchange of ideas.

Your waiver argument is also without merit. ADP expressly produced the Electorate Breakdown subject to and without waiving any applicable privileges and protections, and the document was produced pursuant to Federal Rule of Evidence 612—which doesn't apply to the other information you have requested. In addition, the production of a single document and the information contained in that document cannot plausibly be understood to constitute a broad waiver of protected information from other election cycles.

With respect to the second request in your proposed compromise (for "documents or information provided to *The Arizona Republic*"), such documents would likewise be privileged. Order at 8-9. However, in an effort to resolve the dispute efficiently without

further Court intervention, we provide the following information, subject to and without waiving any objections provided previously as to the production of these documents: It is now our understanding that ADP did not provide the information to *The Arizona Republic.* Shortly after publication of the article, an ADP representative called the author of the article and objected to the Republic's mis-attribution of the data to ADP. In response, the *Republic* relayed to ADP that it had received the information from an individual who does not work for ADP, who said that he or she had obtained the data from ADP. The reporter refused to reveal the identity of the individual who turned over the information to the reporter and did not identify or provide the source information to ADP. ADP did not authorize any individual to release the information to the *Republic*. ADP does not know precisely what document(s) or data were provided to the reporter, and it cannot even confirm that the information came from ADP. Accordingly, ADP lacks knowledge to comply with the State's request to produce "documents or information provided to *The Arizona Republic* on which the *Republic* based the November 2, 2016 article 'What We Know About Arizona Early Voting in 5 Charts.'"

We disagree with, or would like to clarify, other aspects of your email as well. While your email states that the questions you sent us were narrowed "after negotiation," we note that we raised several objections to your original questions and you then narrowed them, but—as we made clear after receiving your revised questions and in our response to those questions—we continued broadly to object to your questions.

In addition, we disagree about what a 30(b)(6) witness can be expected to testify to, particularly given the breadth of the topics you noticed. No witness can reasonably be expected to be able to recite detailed demographic information from multiple elections. And, as we previously explained, your attempt to use your questions to obtain information that couldn't plausibly have been obtained in a live deposition (and effectively to re-open discovery) is inconsistent with the purpose of your being permitted to ask these questions in the first place—specifically, so that you could ask any 30(b)(6) deposition questions that you claim went unanswered.

If you'd like to discuss any of these matters further, please let us know.

Josh

From: Hartman-Tellez, Karen [mailto:Karen.Hartman@azag.gov]
Sent: Tuesday, August 01, 2017 12:45 PM
To: Gonski, Sarah R. (PHX); Barr, Daniel (PHX); Kaul, Joshua L. (MSN); Callais, Amanda R. (WDC); Tischenko, Alexander G. (WDC); Frost, Elisabeth C. (WDC); Spiva, Bruce V. (WDC); Elias, Marc (WDC)
Cc: Agne, Sara (sagne@swlaw.com); 'Johnson, Brett W. (PHX)' (bwjohnson@swlaw.com); Ahler, Colin (cahler@swlaw.com); Karlson, Kara; La Rue, Joseph
Subject: ADP v. Reagan -- Meet and Confer re 30(b)(6) Issues

Dear Counsel:

As mentioned during the July 31, 2017 status conference, we have reviewed the ADP's Response to State Defendants' Revised Second Interrogatories and believe that Plaintiffs have not met their obligation under Fed. R. Civ. P. 30(b)(6) and the Court's July 14, 2017 Order (Doc. 323). In particular, the Court ordered that:

> Defendants shall identify for the plaintiffs the specific questions they seek to be answered. Plaintiffs shall answer those questions through an affidavit or an interrogatory, if possible, otherwise another Rule 30(b)(6) deposition is to be scheduled with a new witness. If this issue is not resolved by the week of 7/24/17, the parties shall contact the Court to schedule another hearing.

As you know, the State Defendants submitted the specific questions we sought to be answered to you, and after negotiation narrowed those questions to the ones to which you responded on July 27, 2017. You asserted a First Amendment privilege in response to more than half of the questions, as well as asserting that many of the questions sought "a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a live deposition." For the following reasons, we do not believe that these objections justify your withholding of the information requested.

With respect to information in the possession of political parties, the First Amendment privilege is designed to prevent "(1) harassment, membership withdrawal, or discouragement of new members, or (2) other consequences which objectively suggest an impact on, or 'chilling' of, the members' associational rights." *Brock v. Local 375, Plumbers Int'l Union of Am.*, 860 F.2d 346, 349-50 (9th Cir. 1988) (discussing subpoena for information about a fund to which union members voluntarily contributed); *see also Perry v. Schwarzenegger*, 591 F.3d 1126, 1142-43 (9th Cir. 2009) (focusing on the problems of chilling participation and muting internal exchange of ideas). The demographic information that the State Defendants seek will not result in those harms. Indeed, the membership of the ADP is known to all the parties, as it includes all of those who are registered to vote in Arizona who have chosen to register as Democrats. Disclosing demographic information as gathered and calculated by the ADP, without including voters' personally identifying information, will not chill their associational rights.

In addition, you did not assert a First Amendment defense when Ms. Tameron provided the information derived from the Electorate Breakdown document, nor did you do so when you produced the Electorate Breakdown. You have not demonstrated that the same type of information for previous elections is different from that provided for the 2016 general election in such a way that it is entitled to First Amendment protection.

With respect to the information that you provided to *The Arizona Republic*, providing information to the news media for publication is conduct inconsistent with maintaining a privilege. Moreover, the reporter's privilege does not shield a source from producing information. Indeed, the Ninth Circuit and the Arizona Court of Appeals have recognized that to overcome the reporter's privilege, one must first go **to the source** to try to obtain the information. *See Shoen v. Shoen*, 5 F.3d 1289, 1296-

97 (9th Cir. 1993) ("*Shoen I*") (directing defamation plaintiffs who were seeking journalist's notes to first depose the defendant about his conversations with the journalist); *Phoenix Newspapers, Inc. v. Reinstein*, 381 P.3d 236, 241 (Ariz. Ct. App. 2016) (requiring criminal defendant to demonstrate that he had sought to interview victim who had spoken to reporter before subpoenaing reporter).

Finally, with respect to your objections that the questions "seek a level of detail far beyond what a 30(b)(6) deponent would be expected to answer in a deposition," we disagree. A 30(b)(6) witness must be prepared to provide such detail because he or she is testifying not about what he or she knows or recalls, but what is within the knowledge of the organization. *Calzaturficio S.C.A.R.P.A. s.p.a. v. Fabiano Shoe Co., Inc.*, 201 F.R.D. 33, 37 (D. Mass 2001). Examining a witness live, which permits follow up questions, is often the best way to gather information, and that "[w]ritten interrogatories are rarely, if ever, and adequate substitute for a deposition . . . ." *Shoen I*, 5 F.3d at 1297. However, because Plaintiffs have declined to provide a third 30(b)(6) witness, we were forced to use the interrogatory format.

While we believe that the State Defendants are entitled to all of the information requested in the interrogatories, we are willing to resolve this matter and forego a second motion to compel if you will agree to timely provide the following information to us:

1. Demographic information about voters similar to that provided in the Electorate Breakdown document created to assist Alexis Tameron in answering questions during her 30(b)(6) for each general election from 2004 to 2014. We will accept either the "documents containing data or modeling for other elections that is similar to the data or modeling from which [the Electorate Breakdown] was derived" or the same information in a format similar to the Electorate Breakdown, with the year of the general election identified.

2. The documents or information provided to *The Arizona Republic* on which the *Republic* based the November 2, 2016 article "What We Know About Arizona Early Voting in 5 Charts."

In order to meet the Court's August 4, 2017 deadline, we would appreciate your providing the above information no later than noon on Wednesday, August 2. If you would prefer to discuss the above by phone, please let me know your availability today or Wednesday for a call.

Regards,
Karen

Karen J. Hartman-Tellez
Assistant Attorney General
Agency Counsel Section
Office of the Attorney General
1275 West Washington Street
Phoenix, Arizona 85007
Phone: 602.542.7902

Email: karen.hartman@azag.gov

Ex. 13
First Declaration of Kara Karlson

MARK BRNOVICH
Attorney General
Firm Bar No. 14000

Kara Karlson (029407)
Karen J. Hartman-Tellez (021121)
Joseph E. La Rue (031348)
Assistant Attorneys General
1275 W. Washington Street
Phoenix, AZ 85007
Telephone (602) 542-4951
Facsimile (602) 542-4385
Kara.Karlson@azag.gov
Karen.Hartman@azag.gov
Joseph.Larue@azag.gov
Attorneys for State Defendants

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Arizona Democratic Party, et al., Plaintiffs, v. Michele Reagan, et al., Defendants.	Case No. CV-16-01065-PHX-DLR **FIRST DECLARATION OF KARA KARLSON**

PURSUANT TO 28 U.S.C. § 1746, I, Kara Karlson, declare:

1. I am an attorney employed by the Office of the Arizona Attorney General as an Assistant Attorney General and I represent Arizona Secretary of State Michele Reagan, and Arizona Attorney General Mark Brnovich (collectively, the "State Defendants") in this matter.

2. I have personal knowledge as to the matters about which I offer testimony in this declaration.

3. On May 10, 2017, I attended the deposition of Alexis Tameron, one of the Arizona Democratic Party's designated Rule 30(b)(6) deponents in this matter.

4. I personally heard Ms. Tameron's counsel, Amanda Callais, indicate in response to numerous deposition questions that Spencer Scharff was the Arizona Democratic Party's designated 30(b)(6) witness for particular areas of questioning.

5. I also personally heard Ms. Tameron indicate that she did not know the answers to numerous questions.

6. On June 6, 2017, I took the deposition of Spencer Scharff, the other Rule 30(b)(6) deponents designated by the Arizona Democratic Party.

7. The deposition was originally noticed for May 17, 2017, which was within the fact discovery period, but was postponed due to a death in Mr. Scharff's family.

8. I prepared for the deposition beforehand.

9. My preparation included, among other things, reading the deposition transcript of Alexis Tameron and noting the questions that her counsel indicated that Mr. Scharff would answer, as well as the other questions that she did not answer.

10. My preparation also included creating a list of deposition questions that I intended to ask Mr. Scharff.

11. When I took Mr. Scharff's deposition, he was unable to answer many of my questions.

12. Mr. Scharff also indicated that there were whole topics that we had noticed in his notice of deposition, which he was not prepared to answer.

13. Mr. Scharff did not have documents with him with which he might refresh his recollection; or, if he did have such documents, he did not ask to refresh his recollection.

14. Because Mr. Scharff indicated that he was unprepared to answer questions related to certain topics, I refrained from asking most or all of the questions that I had prepared related to those topics. I concluded that asking those questions would prove a

waste of everyone's time, since Mr. Scharff had indicated that he was not prepared to answer them.

15. Furthermore, I sometimes refrained from asking follow-up questions that I had planned to ask, because Mr. Scharff responded to my initial question by indicating that he did not have knowledge about the subject matter.

16. As a result, I left unasked many questions that I had planned to ask, and that I would have asked, had Mr. Scharff been properly prepared for the deposition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 4, 2017.

s/ Kara Karlson
Kara Karlson
Assistant Attorney General
1275 West Washington Street
Phoenix, Arizona 85007
Attorney for the State Defendants

#6122107-v2

Ex. 14
Fourth Declaration of Karen Hartman-Tellez

MARK BRNOVICH
Attorney General
Firm Bar No. 14000

Kara Karlson (029407)
Karen J. Hartman-Tellez (021121)
Joseph E. La Rue (031348)
Assistant Attorneys General
1275 W. Washington Street
Phoenix, AZ 85007
Telephone (602) 542-4951
Facsimile (602) 542-4385
kara.karlson@azag.gov
karen.hartman@azag.gov
joseph.larue@azag.gov
Attorneys for State Defendants

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Arizona Democratic Party, et al., Plaintiffs, v. Michele Reagan, et al., Defendants.	Case No. CV-16-01065-PHX-DLR **FOURTH DECLARATION OF KAREN J. HARTMAN-TELLEZ**

Pursuant to 28 U.S.C. § 1746, I, Karen J. Hartman-Tellez, declare:

1. I am an attorney employed by the Office of the Arizona Attorney General as an Assistant Attorney General and I represent Arizona Secretary of State Michele Reagan and Arizona Attorney General Mark Brnovich (collectively, the "State Defendants") in this matter.

2. I have personal knowledge of the facts stated in this declaration and if called upon could and would testify competently thereto.

3. On May 10, 2017, I took the deposition of Alexis Tameron, one of the witnesses designated under Fed. R. Civ. 30(b)(6) to testify on behalf of Plaintiff the Arizona Democratic Party ("ADP") in this matter.

4. During examination of Ms. Tameron, Plaintiffs' counsel Amanda Callais indicated in response to numerous deposition questions that Spencer Scharff was the ADP's designated 30(b)(6) witness for particular areas of questioning.

5. Ms. Tameron also testified that ADP Data Director Sam Almy was the person with knowledge on certain topics about which I questioned her.

6. In response to numerous deposition questions, Ms. Tameron stated that she did not know the answers.

7. Ms. Tameron did not have documents with her with which she could refresh her recollection; or, if she had such documents, she did not ask to use them to refresh her recollection.

8. After a break in the deposition, Ms. Tameron or her counsel informed me that Ms. Tameron had obtained additional information regarding voter demographic data maintained by the ADP. Ms. Tameron was able to answer some questions about the demographics of voters eligible to vote in the 2016 general election, but her answers were not precise, and she was unable to answer all of my questions on that topic.

9. Because Ms. Tameron was unprepared to answer questions regarding voter demographics for elections before the 2016 General Election, I refrained from asking her detailed questions on that topic.

10. Because Ms. Tameron or her counsel had indicated that Spencer Scharff was the ADP's designated 30(b)(6) witness for certain topics, I refrained from asking her most of the questions that I had prepared related to those topics.

11. I concluded that asking questions for which Ms. Tameron or her counsel had stated she was not prepared would prove a waste of time for all attending the deposition.

12. Even when I asked questions, I sometimes refrained from asking follow-up questions that I had planned, because Ms. Tameron responded to my initial question by indicating that she did not have knowledge about the subject matter.

13. As a result, I left unasked many questions that I had planned to ask, and that I would have asked, had Ms. Tameron been properly prepared for the deposition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 4, 2017.

s/ Karen J. Hartman-Tellez

Karen J. Hartman-Tellez
Assistant Attorney General
1275 West Washington Street
Phoenix, Arizona 85007
Attorney for the State Defendants

Ex. 15
Callais Email (June 22, 2017)

Hartman-Tellez, Karen

From: Callais, Amanda R. (Perkins Coie) <ACallais@perkinscoie.com>
Sent: Thursday, June 22, 2017 7:29 PM
To: Agne, Sara; Johnson, Brett W. (PHX); Karlson, Kara; Hartman-Tellez, Karen; La Rue, Joseph
Cc: Kaul, Joshua L. (Perkins Coie); Spiva, Bruce V. (Perkins Coie); Gonski, Sarah R. (Perkins Coie); Frost, Elisabeth C. (Perkins Coie); Tischenko, Alexander G. (Perkins Coie)
Subject: ADP, et al. v. Reagan, et al. -- A. Tameron Errata

Counsel,

Ms. Tameron would like to submit an errata to a portion of her deposition transcript. Her correction is below. Would you stipulate to the admission of this errata?

Tameron Errata

During Ms. Tameron's deposition she testified that in each general election from 2006 forward, Latino participation in the election has increased (73: 22-25), and that it was her understanding that Latino participation in the 2016 election was greater than Latino participation in the 2012 election (74:18-21). Ms. Tameron would like to clarify that these assertions were based off of her assumption that Latino turnout has generally increased since 2006. Since her deposition, she has become aware that public exit polls indicate that Latino participation may have gone down in the 2016 election.

Best,

Amanda Callais | **Perkins Coie LLP**
Associate, Political Law Group
700 Thirteenth Street, NW Suite 600
Washington, D.C. 20005-3960
D. +1.202.654.6396
F. +1.202.654.9995
E. ACallais@perkinscoie.com

General Information

Court	United States District Court for the District of Arizona; United States District Court for the District of Arizona
Federal Nature of Suit	Civil Rights - Voting[441]
Docket Number	2:16-cv-01065
Status	CLOSED