UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Leslie Feldman, et al.,

Plaintiffs,

v.

Arizona Secretary of State's Office, et al.,

Defendants.

No. CV-16-01065-PHX-DLR

[PROPOSED] ORDER GRANTING PLAINTIFFS' JOINT MOTION FOR PRELIMINARY INJUNCTION ON POLLING PLACE ALLOCATION AND PROVISIONAL BALLOT CLAIMS

Before the Court is Plaintiffs' and Plaintiff-Intervenor's (together, "Plaintiffs") Joint Motion for Preliminary Injunction on Polling Place Allocation and Provisional Ballot Claims. This matter came before the Court for a hearing on August 12, 2016. Having considered the parties' pleadings and arguments of counsel, together with the record submitted in this case, and finding good cause existing, the motion is GRANTED.

THE COURT HEREBY FINDS AND ORDERS:

1. Plaintiffs have demonstrated a likelihood of success on the merits of their claims that Maricopa County's arbitrary means of making polling allocation decisions and the State's practice of not counting ballots cast "out of precinct" in elections run pursuant to a precinct-based model violate Section 2 of the Voting Rights Act and the Equal Protection Clause of the 14th Amendment to the U.S. Constitution.

2. Plaintiffs have demonstrated that absent the injunction they, their members, their constituents, and thousands of other Arizonans will likely suffer irreparable harm, including to their fundamental right to vote.

3. Plaintiffs have demonstrated that both the balance of the equities and the public interest weigh in favor of granting the injunction.

4. Having so found, the Court ORDERS the following:

a. Defendants the Maricopa County Board of Supervisors, the Members of the Maricopa County Board of Supervisors, the Maricopa County Recorder and Elections Department (together, the "Maricopa County Defendants"), and all of the foregoing's officers, agents, servants, employees, and attorneys, and all other persons who are in active concert or participation with them are hereby ENJOINED from implementing a polling allocation plan for the upcoming November 8, 2016 general election to be held in Maricopa County that:

i. is likely to result in disparate impact on the County's minority voters to participate in the election and elect candidates of their choice, in violation of Section 2 of the Voting Rights Act; or

ii. is not reasonably based on readily available information about likely turnout (including of eligible and non-eligible voters, provisional and non-provisional voters, and how that will vary from precinct to precinct) and the anticipated time that it will take to process each voter (including provisional and non-provisional voters and how that will vary from precinct to precinct given both anticipated turnout and likely share of provisional voters).

b. The Maricopa County Defendants shall submit to the Court by no later than September, ___, 2016, a summary of the County's polling

allocation plan for the general election that includes the following information and an explanation for the basis for the County's conclusion that the plan will neither violate Section 2, nor unduly burden the voting rights of the County's voters without appropriate justification:

i. whether the County intends to hold the election under a vote center model, a precinct-based model, or a hybrid model;

ii. the number and type of polling locations that will be operating on election day;

iii. how the locations were chosen;

iv. the expected turnout at each polling location and the basis for those estimates;

v. the number of provisional ballots likely to be cast at each polling location and the basis for those estimates;

vi. the estimated number of voters that each polling location will be able to process per hour, and the basis for those estimates;

vii. the number of check in lines planned for each polling location;

viii. the process for curbside voting at each polling location;

ix. the anticipated peak times for voting and how those will be managed;

x. the County's emergency plan for addressing long lines should they occur and how that plan will be implemented by both the County and individual polling locations; and

xi. the County's plans for addressing potential confusion by voters attempting to drop off early ballots, especially if HB2023 is not enjoined and the polling places are faced with large numbers of voters not accustomed to doing so presenting at the polls for that purpose.

5. Defendants, their officers, agents, servants, employees, and attorneys, and all other persons who are in active concert or participation with them are hereby ENJOINED from rejecting wholesale ballots cast out of precinct in jurisdictions that opt to hold the General Election under a precinct-based model. Provided that the voter casting the ballot is otherwise eligible to vote, Defendants shall count all such ballots for all races in which the voter would have been eligible to cast a regular ballot in his or her assigned precinct.

6. Given the strong public interest in ensuring that the fundamental right to vote is not unduly denied, abridged or infringed, the Court finds that waiver of the security requirement is appropriate and exercises its discretion to do so. *See, e.g.*, *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719, 738 (C.D. Cal. 1996); *Calif. Hosp. Ass'n v. Maxwell-Jolly*, 776 F. Supp. 2d 1129, 1160 (E.D. Cal. 2011). *See also Doctor John's, Inc. v. City of Sioux City, Iowa*, 305 F. Supp. 2d 1022, 1043 (N.D. Iowa 2004) ("[R]equiring a bond to issue before enjoining potentially unconstitutional conduct by a governmental entity simply seems inappropriate, because the rights potentially impinged by the governmental entity's actions are of such gravity that protection of those rights should not be contingent upon an ability to pay.").

7. No person who has notice of this injunction shall fail to comply with it, nor shall any person subvert the injunction by sham, indirection or other artifice.