

Sarah R. Gonski (Bar. No. 032567)
Alexis E. Danneman (Bar. No. 030478)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: 602.351.8201
Facsimile: 602.648.7000
SGonski@perkinscoie.com
ADanneman@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
Amanda R. Callais*
K'Shaani O. Smith*
Zachary J. Newkirk*
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
znewkirk@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Voto Latino Foundation, Priorities USA, and
Shelby Aguallo,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION**

ORAL ARGUMENT REQUESTED

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	STATEMENT OF FACTS	2
A.	Arizona Relies Heavily on Voting by Mail.	2
B.	The Election Day Receipt Deadline Disenfranchises Thousands of Voters.	3
C.	The Election Day Receipt Deadline Has a Disproportionate Effect on Hispanic and Latino and Native American Voters and Voters in Rural Areas.	6
D.	Arizona Has No Legitimate Interest in Enforcing the Receipt Deadline.	9
III.	ARGUMENT	10
A.	Plaintiffs Are Likely to Succeed on The Merits.	10
1.	Plaintiffs Are Likely to Succeed on Their First and Fourteenth Amendments Claims.	10
2.	Plaintiffs Are Likely to Succeed on the Merits of the Procedural Due Process Claim.	14
B.	Plaintiffs Will Suffer Irreparable Harm Absent an Injunction.	15
C.	The Balance of the Equities and the Public Interest Favor an Injunction.	17
IV.	CONCLUSION	17

TABLE OF AUTHORITIES

CASES

<i>All. for the Wild Rockies v. Cottrell</i> , 632 F.3d 1127 (9th Cir. 2011)	10
<i>Anderson v. Celebrezze</i> , 460 U.S. 780 (1983)	12, 13
<i>Burdick v. Takushi</i> , 504 U.S. 428 (1992)	10, 11, 13
<i>Crawford v. Marion Cty. Election Bd.</i> , 553 U.S. 181 (2008)	11
<i>Democratic Nat’l Comm., et al. v. Hobbs</i> , 948 F.3d 989 (9th Cir. 2020)	passim
<i>Doe v. Walker</i> , 746 F. Supp. 2d 667 (D. Md. 2010)	16
<i>Ga. Coal. for People’s Agenda, Inc. v. Kemp</i> , 347 F. Supp. 3d 1251 (N.D. Ga. 2018)	11, 15, 16, 17
<i>Ga. Coal. for the Peoples’ Agenda, Inc. v. Deal</i> , 214 F. Supp. 3d 1344 (S.D. Ga. 2016)	16
<i>Isabel v. Reagan</i> , No. CV-128-03217, 2019 WL 5684195 (D. Ariz. Nov. 1, 2019)	17
<i>League of Women Voters of Fla. v. Browning</i> , 863 F. Supp. 2d 1155 (N.D. Fla. 2012)	17
<i>League of Women Voters of Fla. v. Cobb</i> , 447 F.Supp. 2d 1314 (S.D. Fla. 2006)	16
<i>League of Women Voters of N.C. v. North Carolina</i> , 769 F.3d 224 (4th Cir. 2014)	11, 16
<i>Ne. Ohio Coal. for the Homeless v. Husted</i> , 696 F.3d 580 (6th Cir. 2012)	11
<i>Norman v. Reed</i> , 502 U.S. 279 (1992)	11, 13

1	<i>Nozzi v. Hous. Auth. of City of L.A.</i> ,	
2	806 F.3d 1178 (9th Cir. 2015)	14
3	<i>Obama for Am. v. Husted</i> ,	
4	697 F.3d 423 (6th Cir. 2012)	15
5	<i>One Wis. Inst., Inc. v. Thomsen</i> ,	
6	198 F. Supp. 3d 896 (W.D. Wis. 2016)	11
7	<i>Pub. Integrity All., Inc. v. City of Tucson</i> ,	
8	836 F.3d 1019 (9th Cir. 2016)	11
9	<i>Purcell v. Gonzalez</i> ,	
10	549 U.S. 1 (2006).....	11, 12, 15, 17
11	<i>Raetzl v. Parks/Bellemont Absentee Election Bd.</i> ,	
12	762 F. Supp. 1354 (D. Ariz. 1990)	14, 15
13	<i>Saucedo v. Gardner</i> ,	
14	335 F. Supp. 3d 202 (D.N.H. 2018).....	14
15	<i>Taylor v. Louisiana</i> ,	
16	419 U.S. 522 (1975).....	15, 17
17	<i>United States v. Cunningham</i> ,	
18	No. 3:08-cv-709, 2009 WL 3350028 (E.D. Va. Oct. 15, 2009)	16
19	<i>Winter v. Nat. Res. Def. Council, Inc.</i> ,	
20	555 U.S. 7 (2008).....	10
21	STATUTES	
22	A.R.S. § 1-218(A).....	4
23	A.R.S. § 16-134(C)(2)	4
24	A.R.S. § 16-542(C).....	4
25	A.R.S. § 16-544(A).....	2
26	A.R.S. § 16-548(A).....	1, 3, 4
27	A.R.S. § 16-550	9, 13
28	A.R.S. § 16-642(A).....	9, 13
	A.R.S. § 20-191	4

1	Voting Rights Act Section 2.....	3
2	OTHER AUTHORITIES	
3	Ariz. Admin. Code 17-4-304.....	4
4	Federal Rule of Civil Procedure 65	1
5	U.S. Const. amend. XIV, § 1	14
6		
7		
8		
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12		
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Pursuant to Federal Rule of Civil Procedure 65, Plaintiffs Voto Latino Foundation, Priorities USA, and Shelby Aguillo, respectfully move for an order preliminarily enjoining Secretary of State Hobbs and her respective agents, officers, employees, successors, and all person acting in concert with each or any of them, from enforcing A.R.S. § 16-548(A), and relevant portions of the 2019 Elections Procedures Manual, which has the force of law, and preliminarily enjoining them from rejecting ballots that arrive at the respective county recorder's office within, at a minimum, five business days of Election Day and contain indicia, such as a postmark, identifying those ballots as sent on or before Election Day.

I. INTRODUCTION

This case concerns an Arizona voting law that requires election officials to reject all ballots submitted by mail before or on Election Day simply because they arrive after 7:00 p.m. on Election Day. Since 2008, more than 17,000 lawful Arizona voters have had their ballots discarded because of this "Election Day Receipt Deadline." In one election after another, thousands of voters are arbitrarily disenfranchised by this Deadline—including Arizona's rural, Hispanic and Latino, and Native American voters who are disenfranchised at disparate rates—a result that flows from Arizona's pervasive use of voting by mail, its failure to provide clear guidance on complying with the Election Day Receipt Deadline, and factors such as unreliable mail delivery, unequal mail access, and the on-going effects of discrimination, all of which are well beyond the voters' control.

There is no legitimate state interest, much less the type of compelling interest that Arizona must show, to support this deprivation of Arizonans' most fundamental constitutional right—the right to vote. Indeed, justifications such as finality, confidence in elections, and administrative convenience fall flat, as they are directly undermined by the Election Day Receipt Deadline and are incapable of withstanding the severe burden the law imposes. Accordingly, this Court must protect the rights of Arizona voters in the upcoming November 2020 elections by preliminarily enjoining the Election Day Receipt Deadline and ensuring that all eligible Arizona voters who cast their ballot before or on Election Day have their votes counted.

II. STATEMENT OF FACTS

A. Arizona Relies Heavily on Voting by Mail.

Arizonans have increasingly turned to voting by mail as the preferred method for exercising their constitutional right to vote. In the 2008 general election, just over a million Arizonans voted by mail.¹ Ex. 4 at 24. In 2016, nearly two million Arizonans voted by mail in the general election; more than 1.9 million did so in the 2018 midterm election. Ex. 1 at 9; Ex. 5 at 23; Ex. 6 at 29. All told, approximately 80% of Arizonans who vote in statewide elections now use mail ballots, making Arizona more dependent on voting by mail than almost any other state. Ex. 1 at 9-10 (explaining that only three states, which have all mail voting systems, exceed Arizona’s mail voting rates); Ex. 6 at 29–30. The sharp increase in voting by mail in Arizona is, in part, the result of a concerted effort to encourage its use. In 2007, Arizona began maintaining a Permanent Early Voter List (“PEVL”) that allows voters to automatically receive a mail ballot for every election. A.R.S. § 16-544(A). Arizona has successfully encouraged voters to sign up for PEVL. *See* Quinlan Decl. ¶ 4; *see also* Ex. 1 at 10 (95.2% of all mail voters in 2018 were on PEVL). Arizona’s decision to close or move hundreds of polling places also has materially increased voters’ reliance on mail ballots. *See* Quinlan Decl. ¶ 5; Ex. 2 at 10; *see also* *Democratic Nat’l Comm., et al. v. Hobbs*, 948 F.3d 989, 1045 (9th Cir. 2020) (“Arizona changes polling places with extraordinary frequency, and often locates them in inconvenient and misleading places.”).

Of the millions of Arizonans who receive mail ballots, approximately 90% return them through the mail instead of delivering them in person. Ex. 7 at 2. While voters can drop off mail ballots in-person, multiple factors often prevent them from doing so. Many voters are unable to leave work during the limited hours that polling places are open. Ex. 2 at 27-28; *see also* Figueroa Decl. ¶ 4; Quezada Decl. ¶ 12. Some voters cannot afford the child care needed to leave their homes mid-day to deliver a ballot. *See* Quinlan Decl. ¶ 11; Arias Decl. ¶ 6; *Hobbs*, 948 F.3d at 1006. Others lack transportation to drop of a ballot in

¹ All citations to Exhibits are materials attached to the Declaration of John Devaney.

1 person. *See* Quezada Decl. ¶ 11; Quinlan Decl. ¶ 11; *see also* *Hobbs*, 948 F.3d at 1006.
 2 Rural voters also typically live long distances from ballot drop-off locations. Ex. 2 at 18-
 3 20. College students who attend school outside their home county often must return a mail
 4 ballot in person because of the distances they would have to travel. *See* Aguallo Decl. ¶¶ 5,
 5 8; Bixby Decl. ¶ 8; Armour Decl. ¶ 4. Additionally, many counties have few or no drop-off
 6 boxes. *See* Bixby Decl. ¶¶ 9-10. Thus, in the 2016 general election, only about 10% of
 7 Arizonans who voted by mail delivered them in-person. Ex. 7 at 2.

8 Legislative action also prompted the shift to mail voting. Thousands of Arizonans
 9 had, for decades, relied on ballot collection to cast their votes—giving their ballot to a
 10 trusted individual for personal delivery. *See* *Hobbs*, 948 F.3d at 1004-07, 1031-34. This
 11 practice was common in Arizona’s minority communities; voters in Latino and Native
 12 American communities used ballot collection to overcome challenges they faced with mail-
 13 in ballots, like unreliable mail service and a lack of transportation to drop-off locations. *Id.*
 14 at 1006-07. In 2016, however, Arizona prohibited ballot collection.² *Id.* at 1009. In a
 15 potentially more dramatic shift, in 2019, the Legislature contemplated banning all methods
 16 of returning ballots except via mail. S.B. 1046 (2019). The bill’s sponsor stated that she will
 17 re-introduce the legislation next session. With Arizona’s intentional shift toward voting by
 18 mail comes a profound responsibility to have clear procedures for this voting method. *See*
 19 Ex. 2 at 10-11 (describing lack of procedures to meet deadline). But, as evidenced by the
 20 thousands of Arizonans whose mail ballots are rejected as a result of Arizona’s Election
 21 Day Receipt Deadline, A.R.S. § 16-548(A), Arizona has failed to meet this responsibility.

22 **B. The Election Day Receipt Deadline Disenfranchises Thousands of Voters.**

23 Arizona has the dubious distinction of being the state in which voters are least likely
 24 be confident that their ballots will be counted. Ex. 7 at 3. Arizona voters are the most likely

25
 26 ² In *Hobbs*, the *en banc* Ninth Circuit struck down Arizona’s ban on ballot collection,
 27 finding it had been passed with discriminatory intent and failed the results test under Section
 28 2 of the Voting Rights Act. The mandate from *Hobbs* is currently stayed while the Attorney
 General petitions to the U.S. Supreme Court. Accordingly, the ban remains in place and,
 until the stay is lifted, will remain in place, which means that it may be in effect during the
 2020 General Election.

1 to say they are “not too confident” or “not at all confident” that others’ votes are counted. *Id.*
2 at 4. The Deadline, and the confusion it generates, adds to this notable lack of confidence.
3 A review of Deadline’s related statutory and regulatory scheme explains voters’ skepticism.

4 Election officials in each Arizona county must send mail ballots to all voters enrolled
5 in the PEVL or who request a mail ballot 24 to 27 days before an election. A.R.S. § 16-
6 542(C). The ballots must be accompanied by a postage-prepaid return envelope, an
7 affidavit, and instructions. *See* Ex. 3 at 56. To be counted, a voter’s ballot and affidavit must
8 be received by 7:00 p.m. on Election Day. A.R.S. § 16-548(A). Ballots received after that
9 time are rejected, even if mailed days before the election. Ex. 3 at 56.

10 Many Arizona voters logically believe their ballot will count if mailed by Election
11 Day. *See* Aguallo Decl. ¶ 6; Johnson Decl. ¶ 5; Quezada Decl. ¶ 7; Quinlan Decl. ¶ 9;
12 Schneider Decl. ¶¶ 7-8. That belief is rooted in voters’ lifetime experiences with mailing
13 deadlines. With nearly all mail-related deadlines in modern life, mail is considered timely
14 if it is postmarked by the applicable deadline. *See* Ex. 2 at 22. Postmarks are often used to
15 assess the timeliness of payments, applications, and other documents submitted to the
16 government. *Id.*; *see also* A.R.S. § 1-218(A) (tax documents); A.R.S. § 20-191 (insurance
17 premium payments); Ariz. Admin. Code 17-4-304 (vehicle registrations). Voter registration
18 applications are timely if postmarked by the registration deadline and received within five
19 days of that postmark deadline. *See* A.R.S. § 16-134(C)(2). When it comes to casting
20 ballots, however, Arizona turns voters’ reasonable expectations upside down.

21 Not only is a voter’s ballot rejected if postmarked before Election Day but received
22 after the Election Day Receipt Deadline, but Arizona law also effectively imposes a second
23 deadline on voters, the “Pre-Election Cutoff.” This is the date by which a voter must mail a
24 ballot to have a reasonable certainty that it will be counted. While counties are now, for the
25 first time, instructed to provide guidance to voters on the Pre-Election Cutoff, Ex. 3 at 56,
26 there has been considerable inconsistency among counties on this deadline. In 2016,
27 Maricopa publicized this deadline as Tuesday, November 1 while Pima publicized it as
28 Thursday, November 3. *See* Exs. 13 at 2 & 15 at 1. Equally problematic, the Pre-Election

Cutoff is inconsistent from election to election even within the same county. In Pima, the suggested deadline in 2014 was four days before Election Day; in 2016, it changed to five days; and in 2018, it was six days. Ex. 2 at 11-12; *see also* Ex. 13 at 2. In 2018, Pima bewilderingly promoted two different recommended Pre-Election Cutoffs. Ex. 13 at 3, 6. In Maricopa, the 2016 mailing deadline was seven days before the general election; for 2018, it was six days. Ex. 2 at 11; Ex. 15. In Yuma, the 2018 recommendation was six days; in 2020, Yuma is directing voters to mail their ballots “well in advance of the deadline date.” Ex. 2 at 12; Ex. 14 at 5. Other counties suggest mailing ballots as much as ten days before the election. Ex. 2 at 12-13; Ex. 16. Given these inconsistent deadlines, it is hardly surprising that Arizonans lack confidence their votes will be counted and are confused about when to mail ballots. It is unlikely that providing new guidance, *see* Ex. 3 at 56, will remedy this confusion. *See* Ex. 2 at 19, 31.

In view of the confusion created by the Election Day Receipt Deadline and the ever-shifting Pre-Election Cutoff, it is no wonder that thousands of Arizonans have their ballots rejected. Between the 2008 and 2018 General Elections, Arizona rejected at least 17,463 ballots for arriving after the Election Day Receipt Deadline.³ Ex. 1 at 42 (Table C). In 2008, at least 1,611 ballots were rejected, even though many of them were mailed days before Election Day. *Id.* In 2012, more than double that number—4,107 ballots—were rejected. *Id.* And in the 2018 midterm election, a lower turnout general election than either 2008 or 2012, more than 3,000 ballots were rejected. *Id.* Many of these ballots would have been counted if Arizona had accepted ballots postmarked on or before Election Day.⁴

Arizona’s rejection of these ballots has serious consequences for disenfranchised voters and for elections: in every election year, dozens of races are decided by margins of

³ This figure, as with all aggregate figures cited herein, undercount the actual number of ballots rejected, as many counties do not maintain records of these rejections. Ex. 1 at 6-8. Likewise, there is no way to account for the individuals who do not mail their ballots at all because they missed the Pre-Election Cutoff and assumed they had missed the actual deadline or assumed their ballots would arrive after Election Day.

⁴ The use of the term “postmark” is intended to encompass any indicia, such as a barcode or other marking, made by the U.S. Postal Service to track or record the time that a ballot entered the postal system.

mere hundreds or even a few dozen votes. Ex. 1 at 25-26. In the 2018-2019 election season, there were at least thirteen races in Cochise, Mohave, Navajo, and Santa Cruz in which the margins were less than the number of late mail-in ballots rejected. Ex. 1 at 26-27. In 2016, in the Republican primary for Arizona's 5th Congressional District ("CD5"), the margin was only 27 votes, which is significantly less than the average number of late mail-in ballots rejected in Maricopa County, where CD5 is located. Ex. 9; Ex. 10; *see also* Ex. 1 at 26. And in 2010, Proposition 112 passed by just 194 votes statewide, Ex. 1 at 25, while Maricopa County alone rejected more than 2,680 late mail-in ballots.⁵ *Id.* at 42 (Table C).

Finally, by forcing voters to send their ballots in a week to ten days before Election Day, the Deadline deprives voters of information that arises in the election's last week. *See* Ex. 2 at 40-41; Aguillo Decl. ¶¶ 10-11; Arias Decl. ¶¶ 9-10; Johnson Decl. ¶ 8. Campaigns and voters often consider the final week as critical for canvassing and other get-out-the vote activities. *See* Sutton Decl. ¶¶ 7-8; Quinlan Decl. ¶ 7; Schneider Decl. ¶ 7; Ex. 1 at 12; Ex. 2 at 16-17. In addition, late-breaking news can change a race's landscape. *See* Ex. 2 at 38-39; *see also* Sutton Decl. ¶ 5. Voters reasonably expect to be able to evaluate candidates and issues up to Election Day. *See* Aguillo Decl. ¶¶ 10-11; Arias Decl. ¶¶ 9-10; *see also* Ex. 1 at 12; Ex. 2 at 38-39. Indeed, history is replete with examples of elections that were affected by late-breaking developments days before an election.⁶ *See* Ex. 2 at 38-39.

C. The Election Day Receipt Deadline Has a Disproportionate Effect on Hispanic and Latino and Native American Voters and Voters in Rural Areas.

The Election Day Receipt Deadline is particularly harsh on Arizona's minority voters, who comprise a disproportionately significant portion of citizens whose ballots are rejected. Ex. 1 at 28. In Maricopa, the Deadline is four times more likely to disenfranchise

⁵ Other examples of such elections are present in nearly every election cycle. *See* Ex. 1 at 25-26.

⁶ For instance, in the 2016 presidential preference election, Senator Marco Rubio withdrew from the race before Election Day, yet, received 72,304 votes, thousands of which were no doubt cast by Arizonans who mailed their ballots before Rubio's announcement in order to comply with the Election Day Receipt Deadline. Ex. 11 at 2. Five days before the 2000 presidential election, then-Governor George W. Bush acknowledged a DUI conviction, thereby losing millions of evangelical votes, according to advisor Karl Rove. Ex. 8 at 241.

1 Hispanic and Latino voters, and Native American voters are 5.5 times more likely to be
2 disenfranchised. Ex. 1 at 28-29. In rural counties like Cochise, Coconino, Graham,
3 Greenlee, and Santa Cruz, Hispanic and Latino voters are 4.2 times more likely to be
4 disenfranchised. *Id.* at 23. In counties with large Hispanic and Native American
5 populations—Apache, Santa Cruz, Yuma, Navajo, and Greenlee—the late rejection rate is
6 6.12 for every 1000 mail ballots. *Id.* at 19. Santa Cruz, where 83% of the population is
7 Hispanic/Latino, has the highest rate of late-rejected ballots: 7.6 rejections for every 1000
8 mail ballots counted. *Id.* at 11; *but see infra* at 8 (Maricopa County’s rejection rate).

9 The reasons for this disparity are varied, but each is traceable to Arizona’s long
10 history of discrimination against minority voters. Ex. 2 at 28-31. As the Ninth Circuit
11 recently found, “Arizona has a long history of race-based discrimination against its
12 American Indian [and] Hispanic [] citizens. Much of that discrimination is directly relevant
13 to those citizens’ ability to register, to vote, or otherwise to participate in the democratic
14 process.” *Hobbs*, 948 F.3d at 1017. The fall-out from this sad history is pervasive and is
15 found in the persistent education gaps that have left Arizona’s minority voters less educated
16 than their white counterparts, which makes them less likely to be aware of the Deadline.⁷
17 Ex. 2 at 32-33; Ex. 17. The Ninth Circuit recognized this in *Hobbs*, explaining that “[d]ue
18 to their lower levels of [English] literacy and education, minority voters are more likely to
19 be unaware of certain technical [voting] rules, such as the requirement that early ballots be
20 received by the county recorder, rather than merely postmarked, by 7:00 p.m. on Election
21 Day.” *Hobbs*, 948 F.3d at 1028 (quotation marks omitted and alterations in original).
22 Coupled with lower levels of education are high rates of poverty among Hispanics (20%)
23 and Native-Americans (35%) in Arizona as compared to Whites. Ex. 2 at 27. And poverty’s
24 burdens limit minority voters’ access to reliable transportation and flexible work schedules,
25 making mail delivery of ballots their only realistic option. Ex. 2 at 17-18. The lower levels
26

27 ⁷ Hispanics and Native Americans are less likely to graduate high school in Arizona
28 than whites. Ex. 2 at 32. Since at least 2005, studies have shown consistent racial disparities
among Hispanic and Native language minorities in all categories of testing. *Id.* at 33.

1 of education, along with bans on bilingual education, also create language challenges for
2 Hispanic and Native American voters in understanding instructions about the Election Day
3 Receipt Deadline. Ex. 2 at 34. Relatedly, Spanish-speaking voters in Arizona historically
4 have received incorrect and misleading information—including wrong election dates—
5 from election officials. *Hobbs*, 948 F.3d at 1025.

6 The Election Day Receipt Deadline also particularly disenfranchises Arizonans in
7 rural counties. The most populous counties in Arizona have lower incidences of rejected
8 late mail ballots than less populous counties. For example, Maricopa and Pima rejected
9 ballots at rates of 1.3 and 2.05 per 1000 mail ballots, respectively, in 2018. Ex. 1 at 30. In
10 contrast, the rejection rate in Navajo, Cochise, and Santa Cruz were 5.82, 6.65, and 7.63,
11 respectively. *Id.* The same pattern persisted in 2016. *Id.* While Maricopa rejected late ballots
12 at a rate of 1.23 per 1000 mail ballots, Navajo rejected 20.8 mail ballots per every 1000. *Id.*
13 at 12. In rural areas, mail service is unreliable and slow. *See* Johnson Decl. ¶¶ 6-7. Instead
14 of going directly from one rural address to another nearby address, mail is re-routed through
15 a central processing facility in Phoenix, which increases delivery times. *See* Ex. 2 at 15; Ex.
16 16. In addition, rural voters often do not have home mailboxes and do not receive personal
17 mail delivery services. Ex. 2 at 26-27; *see also Hobbs*, 948 F.3d at 1006-07, 1034. Instead,
18 they must travel to a post office miles away from where they live, to pick up and drop off
19 mail. Ex. 2 at 27-28; *see also Hobbs*, 948 F.3d at 1006. Many of these voters are unable to
20 visit post offices with regularity. Ex. 2 at 19; *see also Hobbs*, 948 F.3d at 1006. It is
21 particularly difficult for rural voters to pick up ballots at a post office a few weeks before
22 an election and then drop them off shortly thereafter to meet the Deadline.

23 Rural Arizona also contains many communities that are predominately populated by
24 minority voters, compounding the effects of the Deadline on those voters. As the Ninth
25 Circuit recently explained, “[r]eady access to reliable and secure mail service is
26 nonexistent” in some of these communities. *Hobbs*, 948 F.3d at 1034 (quotation and citation
27 omitted). Native American voters, in particular, struggle with mail service because of,
28 among other things, a severe lack of postal service infrastructure. *See id.* at 1006. Rural

Latino voters face similar problems in accessing secure, reliable mail service. *Id.* In *Hobbs*, the Ninth Circuit found that in heavily Hispanic San Luis and Somerton, voters often lack home delivery mail service or live miles from the post office.⁸ *Id.* Given the travel distances, visits to the post office are infrequent. *Id.*

D. Arizona Has No Legitimate Interest in Enforcing the Receipt Deadline.

Arizona law gives county election officials 20 days post-election to count votes and certify results. A.R.S. § 16-642(A). This is among the longest post-election periods in the country. *See* Ex. 18. Arizona law also recognizes that some ballots may be incomplete when voters submit them and provides voters up to five business days—a full calendar week—after an election to cure them. *Id.* § 16-550; *see also* Ex. 2 at 20. County officials also have up to ten days after Election Day to process provisional ballots. *Id.* § 16-135(D); *see also* Ex. 2 at 20. Because of these provisions, Arizona has a well-known history of not certifying election results until many days or even weeks after Election Day. *See* Exs. 19, 20.

Given Arizona’s statutorily-based history of not finalizing vote tallies and certifying elections until after Election Day, there is no valid reason for rejecting ballots postmarked on or before Election Day that arrive a few days after the election. Ex. 2 at 20. The purported justification for the Deadline is to ensure that all votes are counted and elections are certified within a reasonable time. *Id.* at 41-42. By law, a reasonable time is within 20 days of an election and, in practice, Arizona election officials have typically certified election results within approximately two weeks of an election. Exs. 19, 20. Neither of these timeframes would be threatened—and Arizona could avoid disenfranchising thousands of voters—if election officials were required to accept ballots *postmarked* by Election Day and received within a reasonable time—at least five business days—thereafter. The five-business day cure period for incomplete ballots demonstrates that Arizona law already recognizes that a similar period does not compromise its interest in certifying elections as final. Ex. 2 at 20.

⁸ In San Luis, which is 98% Hispanic, nearly all the city’s residents must rely on a single post office located across a major highway to send and receive mail, even though the vast majority of San Luis’ residents lack reliable transportation. *Id.*

Further, one elections administrator who has overseen elections in several states that use postmark deadlines explains that reliance on postmarks provides certainty and increases voters' confidence in elections. *See* Konopasek Decl. ¶¶ 5, 11. Postmark deadlines also do not increase administrative burdens, even in jurisdictions that rely heavily on voting by mail. *See id.* ¶¶ 6-8. By contrast, a *receipt* deadline creates more administrative burdens; administrators must coordinate with the Postal Service to arrange for the physical handoff of ballots in every postal location on Election Day and must ensure "late" ballots do not become intermingled with other ballots. *See id.* ¶¶ 8-9.

III. ARGUMENT

To succeed on a motion for preliminary injunction, Plaintiffs must demonstrate that: (1) they are likely to succeed on the merits, (2) they are likely to suffer irreparable harm absent an injunction, (3) the balance of the equities tip in their favor, and (4) an injunction serves the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). These elements are balanced on a sliding scale, and a preliminary injunction is appropriate if Plaintiffs demonstrate "that serious questions going to the merits were raised and the balance of hardships tips sharply in plaintiff's favor." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011) (citations omitted).

A. Plaintiffs Are Likely to Succeed on The Merits.

1. Plaintiffs Are Likely to Succeed on Their First and Fourteenth Amendments Claims.

Arizona's Election Day Receipt Deadline arbitrarily disenfranchises thousands of voters—and particularly Arizona's rural, Hispanic and Latino, and Native American voters—by unduly and severely burdening their right to vote. Under the *Anderson/Burdick* balancing test, the Supreme Court requires courts to "weigh 'the character and magnitude of the asserted injury to the rights . . . that the plaintiff seeks to vindicate' against 'the precise interests put forward by the State as justifications for the burden imposed by its rule,'" considering "'the extent to which those interests make it necessary to burden the plaintiff's rights.'" *Burdick v. Takushi*, 504 U.S. 428, 434 (1992) (quoting *Anderson v. Celebrezze*,

1 460 U.S. 780, 788–89 (1983)). This inquiry is highly fact-specific and may not be
 2 undertaken by rote. Rather, the court applies a “flexible standard.” *Id.* When voting rights
 3 are severely restricted, a law “must be narrowly drawn to advance a state interest of
 4 compelling importance.” *Norman v. Reed*, 502 U.S. 279, 280 (1992). But even less severe
 5 burdens remain subject to balancing: “[h]owever slight” the burden on voting rights may
 6 appear, “it must be justified by relevant and legitimate state interests ‘sufficiently weighty
 7 to justify the limitation.’” *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 191 (2008)
 8 (controlling op.) (quoting *Norman*, 502 U.S. at 288–89). In evaluating the burden a law
 9 imposes, a court must focus on both the burden on the general electorate and the effect on
 10 the actual individuals affected by the law. *Id.* at 201; *see also Pub. Integrity All., Inc. v. City*
 11 *of Tucson*, 836 F.3d 1019, 1024 n.2 (9th Cir. 2016).

12 It is well-established that disenfranchisement severely burdens the right to vote—
 13 and that even disenfranchising a small number of voters can give rise to a severe burden.
 14 *See, e.g., League of Women Voters of N.C. (“LOWV”) v. North Carolina*, 769 F.3d 224,
 15 244 (4th Cir. 2014); *see also Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (“[T]he possibility
 16 that qualified voters might be turned away from the polls would caution any district judge
 17 to give careful consideration to the plaintiffs’ challenges.”); *Ne. Ohio Coal. for the*
 18 *Homeless (“NEOCH”) v. Husted*, 696 F.3d 580, 597 (6th Cir. 2012).

19 The Election Day Receipt Deadline disenfranchises thousands of eligible voters who
 20 cast their ballot on or before Election Day, simply because their ballots do not arrive by
 21 7:00 p.m. on Election Day. There can be no question that preventing this many Arizonans
 22 from having their votes counted severely burdens the right to vote. In fact, courts have
 23 regularly found a severe burden where voting laws disenfranchised far fewer voters than
 24 the number of Arizonans disenfranchised here. *See, e.g., NEOCH*, 696 F.3d at 593, 597
 25 (disqualifying provisional ballots that constituted less than 0.3% of total votes inflicted
 26 “substantial” burden on voters); *Ga. Coal. for People’s Agenda, Inc. v. Kemp*, 347 F. Supp.
 27 3d 1251, 1264 (N.D. Ga. 2018) (finding severe burden where 3,141 individuals ineligible
 28 to register); *One Wis. Inst., Inc. v. Thomsen*, 198 F. Supp. 3d 896, 948–49 (W.D. Wis. 2016)

1 (finding severe burden when less than 100 qualified voters were disenfranchised).

2 While the burden for Arizona’s general electorate is severe, it is particularly severe
3 for rural, Latino and Hispanic, and Native American voters, all of whom are disparately
4 likely to be disenfranchised due to the Deadline. *See supra* at 6-9. Rural Arizona voters are
5 more likely to experience unreliable and delay-ridden mail service. *Id.* at 8. Not only is it
6 more likely that their ballots will arrive after the Deadline, but it is harder for these voters
7 (and their local election officials) to properly estimate the Pre-Election Cutoff, placing these
8 voters at a severe disadvantage with respect to voters in more urban counties. *Id.* Given the
9 uncertainty surrounding mail delivery, rural voters have no way to guarantee that mailing
10 their ballots even in the recommended time period before Election Day will ensure that they
11 arrive on time—and the evidence indicates that it is typical for ballots in some counties to
12 take much longer to arrive. *Id.* The only solution then is for rural voters to mail their ballots
13 far earlier than voters in non-rural areas, depriving them of new information that arises in
14 the election’s final days. *See supra* at 6-9. This knowledge deficit interferes with rural
15 voters’ ability to cast a fully informed vote, placing additional, disproportionate burdens on
16 their right to vote. *See Anderson*, 460 U.S. at 798 (“A State’s claim that it is enhancing the
17 ability of its citizenry to make wise decisions by restricting the flow of information to them
18 must be viewed with some skepticism.”).

19 The burden on Latino, Hispanic, and Native American voters generally, and
20 particularly those who live in rural counties, is further compounded by the effects of
21 Arizona’s long history of discrimination against these populations: lower levels of
22 education and literacy, higher levels of poverty, language barriers, and decreased access to
23 transportation. *See supra* at 7-8. These factors, combined with the uncertainties surrounding
24 the Pre-Election Cutoff and compromised access to reliable mail service, make it especially
25 difficult for these voters to ensure that ballots—cast prior to Election Day—are also
26 delivered by the Election Day Receipt Deadline. *Id.* The resulting disproportionate effect is
27 indisputable and material to measuring the burden they face under *Anderson-Burdick*.
28 Because the resulting burdens on voters as a whole—and rural, Latino, Hispanic, and Native

1 American voters in particular—are severe, the Election Day Receipt Deadline must be
2 narrowly drawn to advance a state interest of compelling importance. *Norman*, 502 U.S. at
3 280. It plainly fails this test.

4 No “precise interest” Arizona articulates can justify the burdens the Deadline inflicts
5 on its voters. *Anderson*, 460 U.S. at 789. While the state has an interest in ensuring the
6 finality of elections, rejecting validly cast ballots that happen to arrive after 7:00 p.m. on
7 Election Day does not serve that interest. As described, A.R.S. § 16-642(A) firmly
8 establishes that finality for this purpose is 20 days after an election, not Election Day;
9 Arizona election officials therefore regularly count votes after Election Day, and typically
10 do not certify election results until weeks thereafter. *See supra* at 9-10. Given this law and
11 practice in Arizona, there is hardly “a state interest of compelling importance” in rejecting
12 all mail-in ballots that arrive after 7:00 p.m. on Election Day.

13 The ten-day period for processing provisional ballots and the five-business day
14 period for curing mail-in ballots further undercuts any compelling state interest. *See supra*
15 at 9-10. If there were such an interest in receiving all valid ballots by Election Day, Arizona
16 law would not provide for this week-long cure period. Indeed, its existence proves that the
17 Election Day Receipt Deadline is not “narrowly drawn.” *Burdick*, 504 U.S. at 434. The cure
18 period demonstrates that the state’s interest in certifying and finalizing election results
19 within 20 days of Election Day can be accomplished without imposing an Election Day
20 Receipt Deadline. A narrowly tailored deadline would allow for at least the five business
21 days A.R.S. § 16-550 provides, avoiding disenfranchising thousands of voters.

22 The state’s interest in increasing confidence in elections also cannot justify the
23 Election Day Receipt Deadline. The Deadline injects significant uncertainty into the voting
24 process; neither voters nor election officials can accurately predict the Pre-Election Cutoff
25 for mailing a ballot to ensure the ballot arrives on time. *See supra* at 4-5. In turn, this
26 uncertainty causes voters to lose confidence in Arizona’s election system, leading them to
27 believe that lawful voters’ ballots will not be counted. *Id.* at 4. In rural areas especially, the
28 Deadline leads voters to conclude they have less time than voters elsewhere to evaluate

1 candidates and issues before mailing their ballots. *Id.* at 6-9. The Deadline is not narrowly
 2 tailored—or even remotely linked—to increasing confidence in elections.

3 **2. Plaintiffs Are Likely to Succeed on the Merits of the**
 4 **Procedural Due Process Claim.**

5 Plaintiffs are also likely to succeed on their procedural due process claim. Arizona
 6 cannot deprive any person of liberty without “due process of law,” U.S. Const. amend. XIV,
 7 § 1. The Election Day Receipt Deadline does just that. Courts must first consider “the nature
 8 of the interest that will be affected by the official action, and in particular, to the ‘degree of
 9 potential deprivation that may be created.’” *Nozzi v. Hous. Auth. of City of L.A.*, 806 F.3d
 10 1178, 1192–93 (9th Cir. 2015) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 341 (1976)).
 11 Next, “courts must consider the ‘fairness and reliability’ of the existing procedures and the
 12 ‘probable value, if any, of additional procedural safeguards.’” *Id.* at 1193 (quoting *Mathews*,
 13 424 U.S. at 343). Finally, “courts must assess the public interest, which ‘includes the
 14 administrative burden and other societal costs that would be associated with’ additional or
 15 substitute procedures.” *Id.* (quoting *Mathews*, 424 U.S. at 347).

16 Each of these factors weighs heavily in Plaintiffs’ favor here. *First*, the right to vote
 17 is unquestionably a liberty interest and cannot be “confiscated without due process.” *Raetzel*
 18 *v. Parks/Bellemont Absentee Election Bd.*, 762 F. Supp. 1354, 1357 (D. Ariz. 1990). This
 19 liberty interest extends to mail voting in Arizona, which is statutorily conferred. *See, e.g.*,
 20 *Saucedo v. Gardner*, 335 F. Supp. 3d 202, 215 (D.N.H. 2018) (“voter has a sufficient liberty
 21 interest once ‘the State permits voters to vote absentee.’”) (quoting *Zessar v. Helander*,
 22 2006 WL 642646, at *5 (N.D. Ill. Mar. 13, 2006)).

23 *Second*, the degree of deprivation resulting from the Election Day Receipt Deadline
 24 is extraordinarily high. This deprivation is neither hypothetical nor speculative; it is
 25 established by public data from Arizona counties showing that thousands of voters’ mail-in
 26 ballots have been rejected in every general election since at least 2008. *See* Ex. 1 at 42
 27 (Table C). These data also confirm the disproportionate effect the Deadline has on rural,
 28 Latino, Hispanic, and Native American voters. *Id.* at 28-29. Moreover, once a voter’s ballot

arrives after the Deadline and their liberty interest is deprived, “the election procedures do not give some form of post-deprivation notice to the affected individual so that any defect in eligibility can be cured and the individual is not continually and repeatedly denied so fundamental a right.” *Raetzel*, 762 F. Supp. at 1358; *see also* Figueroa Decl. ¶ 7; Johnson Decl. ¶ 4. Thus, the Election Day Deadline Receipt can deprive the same voters of their rights repeatedly because there is no post-deprivation notice to voters that their ballot was not counted. *Raetzel*, 762 F. Supp at 1358 (“The disqualified voter may never ascertain the justification for the rejection of their vote in order to cure the defect for future eligibility.”).

Third, the Election Day Receipt Deadline is neither fair nor reliable. The Pre-Election Cut-Off that results from the Deadline varies from county to county and from one election to another, making it patently unreliable, and confusing to voters. At best, these projected mail dates are rough estimations as to when voters should mail their ballots; unforeseeable events can impact the timing, such as mail delivery times and routes, traffic accidents, and weather. Likewise, given the disparities in the impact of the Election Day Receipt Deadline there is also no question that it is unfair. *See supra* at 6-9. This is particularly true given that impacted voters are not only eligible to vote, but have all made the effort to complete and cast their ballot prior to Election Day, but are disenfranchised because the ballot arrives late, a factor over which they have little to no control. *Id.* at 3-6.

Finally, the public interest favors procedures protecting voting rights. The Supreme Court has emphasized that the public has a “strong interest in exercising the fundamental political right to vote.” *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006). As outlined above, none of the justifications Arizona can proffer overcome that interest; administrative ease cannot impinge on the fundamental right at stake here and, as a result, the Election Day Receipt Deadline violates the Due Process Clause of the Fourteenth Amendment. *Taylor v. Louisiana*, 419 U.S. 522, 535 (1975) (“administrative convenience” cannot justify practices that impinge upon fundamental rights); *see also Kemp*, 347 F. Supp. 3d at 1268.

B. Plaintiffs Will Suffer Irreparable Harm Absent an Injunction.

Disenfranchisement constitutes irreparable injury. *Obama for Am. v. Husted*, 697

1 F.3d 423, 436 (6th Cir. 2012); *LOWV*, 769 F.3d at 247 (“Courts routinely deem restrictions
 2 on fundamental voting rights irreparable injury.”) (citations omitted). Once the election
 3 comes and goes, “there can be no do-over and no redress.” *LOWV*, 769 F.3d at 247. Here,
 4 as has occurred in every general election for the past decade, the mail-in ballots of thousands
 5 of voters—including those of Voto Latino and Priorities’ constituents and likely Plaintiff
 6 Aguallo’s—will not be counted in the November 2020 election because of the Election Day
 7 Receipt Deadline. There will be no second chance for them to exercise their most basic
 8 constitutional right and, consequently, the harm to them is irreparable. *See, e.g., Ga. Coal.*
 9 *for the Peoples’ Agenda, Inc. v. Deal*, 214 F. Supp. 3d 1344, 1345 (S.D. Ga. 2016) (granting
 10 preliminary injunction to extend registration deadline and observing “an individual’s loss
 11 of the right to vote is clearly an irreparable injury that outweighs any damage caused by
 12 extending the deadline”); *Doe v. Walker*, 746 F. Supp. 2d 667, 677 (D. Md. 2010)
 13 (extending deadline to count votes after UOCAVA challenge); *United States v.*
 14 *Cunningham*, No. 3:08-cv-709, 2009 WL 3350028, at *4 (E.D. Va. Oct. 15, 2009) (same).
 15 Indeed, Plaintiff Aguallo, who was disenfranchised as a result of the Deadline in 2018, faces
 16 a substantial risk of disenfranchisement again as she must again cast a mail ballot in 2020
 17 under virtually the same circumstances as she did in 2018. Aguallo Decl. ¶¶ 5-10.

18 Moreover, every day that the Deadline is in effect, Plaintiffs Priorities USA and Voto
 19 Latino are irreparably harmed by having to divert resources to help their constituencies
 20 overcome the burden imposed by the law and to effectuate their missions. *See, e.g., Kemp.*,
 21 347 F. Supp. 3d at 1268 (finding irreparable harm where plaintiff’s organizational mission
 22 would be harmed and it would have to engage in additional voter registration and
 23 mobilization efforts); *League of Women Voters of Fla. v. Cobb*, 447 F. Supp. 2d 1314, 1339
 24 (S.D. Fla. 2006) (same). Indeed, the Deadline directly impacts Priorities USA’s mission of
 25 turning out Latino, Hispanic, and Native American voters in Arizona. Cecil Decl. ¶ 4. If the
 26 law remains in effect, Priorities USA must divert resources otherwise spent on issue and
 27 candidate advocacy to building and executing a campaign to educate voters about the
 28 Deadline. Cecil Decl. ¶¶ 5-10. Similarly, Voto Latino, an organization focused on giving a

voice and the vote to Latino and Hispanic citizens, will have to divert resources from activities such as its voter registration campaign in Arizona to educate current voters about the Deadline. Kumar Decl. ¶¶ 9-13. Thus, Plaintiffs have demonstrated irreparable harm.

C. The Balance of the Equities and the Public Interest Favor an Injunction.

The balance of the equities favor Plaintiffs. On the one hand, there is the vindication of the fundamental right to vote—a right this Court “wholeheartedly agrees” is both “precious” and “fundamental.” *Isabel v. Reagan*, No. CV-128-03217, 2019 WL 5684195, at *5 (D. Ariz. Nov. 1, 2019) (citations omitted). On the other hand, Arizona would only be restrained from enforcing a ballot-counting deadline that is not necessary to protect the finality of elections, decreases voter confidence and certainty, will not result in any administrative burdens, but has resulted in recurring disenfranchisement. Any harms to balance on the state’s side are either non-existent or *de minimis* compared to the severe harm Plaintiffs and thousands of Arizona voters face. *See, e.g., Taylor*, 419 U.S. at 535; *Kemp*, 347 F. Supp. 3d at 1268. Finally, issuing the requested injunction would be in the public interest. Indeed, “[t]he vindication of constitutional rights . . . serve[s] the public interest almost by definition,” including specifically when the right at issue is the right to vote. *League of Women Voters of Fla. v. Browning*, 863 F. Supp. 2d 1155, 1167 (N.D. Fla. 2012). This is because the public has a “strong interest in exercising the fundamental political right to vote.” *Purcell*, 549 U.S. at 4. Here, thousands of Arizona voters’ ballots will count and their voices—which they will have already exercised before Election Day—will be heard if the Court enjoins the Election Day Receipt Deadline. This plainly weighs in the public interest and in favor of an injunction.

IV. CONCLUSION

For these reasons, Plaintiffs respectfully request that this Court issue a preliminary injunction as set forth in the proposed order.

1 Dated: February 25, 2020

s/ Alexis E. Danneman

Alexis E. Danneman (# 030478)

Sarah R. Gonski (# 032567)

PERKINS COIE LLP

2901 North Central Avenue, Suite 2000

Phoenix, Arizona 85012-2788

Marc E. Elias*

John Devaney*

Amanda R. Callais*

K'Shaani O. Smith*

Zachary J. Newkirk*

Christina A. Ford*

PERKINS COIE LLP

700 Thirteenth Street NW, Suite 800

Washington, D.C. 20005-3960

**Admitted pro hac vice*

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on February 25, 2020, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing.

s/ Michelle DePass

INDEX OF EXHIBITS TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Exhibit No.	Description
1	Declaration of Shelby Aguallo
2	Declaration of Carmen Arias
3	Declaration of Jacob Armour
4	Declaration of Elizabeth Bixby
5	Declaration of Guy Cecil
6	Declaration of Gerardina Figueroa
7	Declaration of Leslea Johnson
8	Declaration of Scott Konopasek
9	Declaration of Maria Teresa Kumar
10	Declaration of Senator Martin Quezada
11	Declaration of DJ Quinlan
12	Declaration of Kiersten Schneider
13	Declaration of Jon Sutton

Sarah R. Gonski (Bar No. 032567)
Alexis E. Danneman (Bar No. 030478)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: 602.351.8201
Facsimile: 602.648.7000
SGonski@perkinscoie.com
ADanneman@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
Amanda R. Callais*
K'Shaani O. Smith*
Zachary J. Newkirk**
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
znewkirk@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

***Pro hac vice application pending*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Voto Latino, Inc. and Priorities USA,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF SHELBY
AGUALLO IN SUPPORT OF
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, Shelby Aguallo, declare as follows:

2 1. My name is Shelby Aguallo. I am over the age of 18, have personal knowledge
3 of the facts stated in this declaration, and can competently testify to their truth.

4 2. I am a longtime resident of Arizona. I was raised in Greenlee County, in a
5 small mining town called Morenci. Greenlee County is Arizona's smallest county in terms
6 of population, and quite remote. My hometown of Morenci, for example, is several hours
7 away from the nearest large metropolitan area of Tucson.

8 3. Today, I am a law student at the University of Arizona James E. Roger College
9 of Law. In 2018, I was an undergraduate at Northern Arizona University (NAU). Even
10 before law school, I always considered myself to be civic-minded and interested in
11 government. In 2016, for example, I served on the Arizona Governor's Youth Commission,
12 where I represented Greenlee County.

13 4. Because I was too young to participate in the 2016 presidential election, 2018
14 was the first major election in which I could vote. I was excited to participate in that
15 election.

16 5. In the fall of 2018, I was a student at NAU in Flagstaff, Arizona. At the time,
17 I was registered to vote in Greenlee County, which I consider to be my home. Because my
18 university was a six-hour drive one way from my home, I decided to vote by mail.

19 6. That fall, to the best of my memory, I completed my mail ballot on the Monday
20 immediately preceding Election Day. I am certain, however, that I completed my ballot
21 before the polls closed on Election Day. At the time I completed my ballot, I believed that
22 Arizona would count my ballot as long as my ballot was in the mail by Election Day. I had
23 no idea that my ballot would never be counted because it would not reach Greenlee County
24 by 7 p.m. on Election Day.

25 7. I now understand that my ballot was never counted in the 2018 General
26 Election because it did not arrive until Thursday, November 8th, 2018—two days after
27 Election Day. I was both surprised and upset when I learned that my vote did not count in
28 that election, and I want to ensure that never happens again.

1 8. This upcoming fall, I plan to vote in the 2020 General Election. I am still a
2 registered voter in my hometown in Greenlee County and still consider it to be my home,
3 although I now attend law school in Tucson. Because my school is a three-hour drive one
4 way from my hometown, I will need to vote by mail again. As a law student, I do not have
5 the resources or time to make a six-hour trip to home and back to cast my ballot, even
6 though voting is extremely important to me.

7 9. Given what happened in the fall of 2018, I am afraid that my vote will not
8 count again in the upcoming election. In my experience, it takes a long time for mail to
9 reach Greenlee County because it is such a remote part of Arizona. Mail traveling outside
10 Greenlee County or to Greenlee County, for example, must first pass through a processing
11 center in Phoenix, which tends to increase the time of delivery.

12 10. Given how long it takes mail to reach Greenlee County, it is difficult to know
13 exactly when I need to send my ballot back to ensure that it will be counted, though I will
14 try to send my ballot back to Greenlee County at least a week before this upcoming election.
15 If I am unable to mail my ballot back that early for any reason, given my experience in the
16 2018 election, it seems unlikely that my vote will count. And even if I am able to send my
17 ballot back at least a week before the election, I will not be able to incorporate any
18 information or news that breaks in the last week of the election into my decision about the
19 candidates I should vote for.

20 11. I take voting and my civic duty very seriously, and I find it frustrating that,
21 moving forward, I will not be able to consider all the candidates and the issues up through
22 Election Day. I believe that everyone should be able to vote on equal terms, and that my
23 vote should count as long as it is cast by Election Day.

24
25 I declare under penalty of perjury that the foregoing is true and correct.

26 DATED: February 13, 2020
27
28

DocuSigned by:
By: Shelby Aguallo
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Shelby Aguallo

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Sarah R. Gonski (Bar No. 032567)
Alexis E. Danneman (Bar No. 030478)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: 602.351.8201
Facsimile: 602.648.7000
SGonski@perkinscoie.com
ADanneman@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
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Zachary J. Newkirk**
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
znewkirk@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

***Pro hac vice application pending*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Voto Latino, Inc. and Priorities USA,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF CARMEN O.
ARIAS IN SUPPORT OF
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, Carmen O. Arias, declare as follows:

2 1. My name is Carmen O. Arias. I am over the age of 18, have personal
3 knowledge of the facts stated in this declaration, and can competently testify to their truth.

4 2. I am a U.S. citizen, a resident of Phoenix, Arizona, and am otherwise eligible
5 and registered to vote in Maricopa County, Arizona.

6 3. I live in a low-income area on the south side of Phoenix. In my neighborhood,
7 mail service is unreliable and is not always delivered on a timely basis. I believe this is
8 largely because our neighborhood is on a training route for the post office. While I do not
9 believe that the missed deliveries are intentional, they have real consequences for our
10 neighborhood. My neighbor's pension check, for example, has previously been delivered
11 as much as two weeks late.

12 4. Additionally, the mail in my neighborhood is not always picked up on a timely
13 basis. Just last week, mail that I left for the postman was not picked up from my mailbox,
14 and I found it there the next day.

15 5. Like many people in Arizona, I vote early with a mail ballot. But given the
16 unreliability of mail service in my neighborhood, I am always worried about actually
17 sending my ballot in through the postal service. These fears are not unique to me—it is well-
18 known in my neighborhood and among my neighbors that we cannot trust mail delivery or
19 pickup to be on time in our community. Because of those fears, when ballot collection was
20 still legal, my neighbors used to ask me to deliver their ballot for them in-person so that
21 they would not have to rely on the mail.

22 6. Because I worry that my ballot will not count if I have to rely on the postal
23 service, I try to physically deliver my mail ballot and drop it off in person when I am able.
24 But I know that I will not be able to do this for much longer. I am 72 years old, and I can
25 tell that my physical and mental abilities are slowing down. I am also currently responsible
26 for taking care of my two great-grandchildren several days during the week, which limits
27 my ability to leave the house.
28

Sarah R. Gonski (Bar No. 032567)
Alexis E. Danneman (Bar No. 030478)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: 602.351.8201
Facsimile: 602.648.7000
SGonski@perkinscoie.com
ADanneman@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
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Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
znewkirk@perkinscoie.com
christinaford@perkinscoie.com

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***Pro hac vice application pending*

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Voto Latino, Inc. and Priorities USA,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF JACOB
ARMOUR IN SUPPORT OF
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, Jacob Armour, declare as follows:

2 1. My name is Jacob Armour. I am over the age of 18, have personal knowledge
3 of the facts stated in this declaration, and can competently testify to their truth.

4 2. I am currently an attorney practicing in Arizona. Prior to my current job, in the
5 2018 General Election, I served as the outreach director and recount counsel to the 2018
6 Coordinated Campaign of the Arizona Democratic Party on voter protection matters.

7 3. In advance of the 2018 General Election, the state party developed a hotline
8 for Arizona voters to call if they were experiencing difficulties in casting their ballot. The
9 hotline was staffed by staff and volunteers who were trained to assist these voters and help
10 resolve any issues. The state party also developed a team of staff and volunteers to respond
11 to voter protection related inquiries that arose through the Coordinated Campaign's digital
12 and field outreach.

13 4. In the lead up to the 2018 General Election, our staff and volunteers received
14 a substantial number of digital inquiries and calls from out-of-state Arizona college students
15 who had never received their mail ballot despite requesting one, or whose mail ballot was
16 delivered quite late. When we discussed this issue with some County Recorder's offices,
17 we were informed that a certain percentage of ballots are typically delayed or lost in the
18 mail and the only remedy is for the voter to request a replacement ballot or vote in person.
19 Accordingly, we could do little to help those out-of-state voters whose ballots never arrived.
20 But equally troubling, we also could do little to help those voters who had not received their
21 ballot until either the weekend before or the Monday before Election Day.

22 5. While we encouraged those voters to still send in their ballot if that voter had
23 no other option to vote, we were concerned that those ballots would not arrive in Arizona
24 by 7 p.m. on Election Day to be counted. Both our team and the voters we spoke to were
25 frustrated that there was little we could do to remedy the situation.

26 6. Our team spoke to one college student who was fortunate to have reached out
27 to us with enough time before Election Day and to have the resources to FedEx her ballot
28 overnight back to Arizona, but many students do not have those resources.

I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:
By: *Jacob Armour*
85D10C3A68564C2...

Sarah R. Gonski (Bar No. 032567)
Alexis E. Danneman (Bar No. 030478)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: 602.351.8201
Facsimile: 602.648.7000
SGonski@perkinscoie.com
ADanneman@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
Amanda R. Callais*
K'Shaani O. Smith*
Zachary J. Newkirk**
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
znewkirk@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

***Pro hac vice application pending*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Voto Latino, Inc. and Priorities USA,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF ELIZABETH
BIXBY IN SUPPORT OF
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, Elizabeth Bixby, declare as follows:

2 1. My name is Elizabeth Bixby. I am over the age of 18, have personal knowledge
3 of the facts stated in this declaration, and can competently testify to their truth.

4 2. I am a graduate of Stanford Law School and Arizona State University. I am
5 currently an attorney practicing in California. Prior to my current job, in the 2018 General
6 Election, I served as counsel to the Arizona Democratic Party on voter protection matters,
7 where my work included a special emphasis on our get-out-the-vote (“GOTV”) efforts.

8 3. In advance of the 2018 General Election, the Party developed a digital platform
9 and a hotline to connect with Arizona voters who were experiencing difficulties in casting
10 their ballot. Through the digital platform, we were able to text directly with Arizona voters
11 to try to resolve any voting-related issues they were facing.

12 4. Both the digital platform and the hotline were staffed by employees and
13 volunteers who were trained to assist these voters and help resolve any issues. Throughout
14 the period leading up to the election, I responded to thousands of voters’ inquiries myself
15 and oversaw a team of employees and volunteers who were working to answer voters’
16 questions. In total, I remember that our digital platform received approximately 15,000 to
17 20,000 texts from Arizona voters who needed our assistance to cast a ballot.

18 5. In the several weeks leading up to the 2018 General Election, we received a
19 substantial number of calls and texts from Arizona voters who had not received a mail ballot
20 at all despite requesting one or being on the Permanent Early Voter List (“PEVL”), or who
21 had received their mail ballot too late to send it back in the mail. In general, not having
22 received a mail ballot despite requesting one or being on PEVL was an extremely common
23 inquiry from voters in 2018.

24 6. During this time period, myself and my team heard from a surprisingly large
25 number of voters who believed they could not vote in person *at all* if they were registered
26 for PEVL but ended up not being able to vote by mail by for some reason. We did our best
27 to clear up this confusion, and to share the options for voting in person with those voters.
28 But not every voter had the time or means to vote in person.

1 7. If a voter did not receive a mail ballot within the expected time period, and
2 that voter was not able to vote in person, our team would help the voter to figure out how
3 to request a replacement ballot. By the time that voter was able to receive a replacement
4 ballot, however, it was sometimes too late for the voter to send their ballot back for it to be
5 received by Election Day—and sometimes voters never even received the replacement
6 ballots they had requested.

7 8. In particular, our team received a large number of texts for help from college-
8 age students who were enrolled in school in a different county than the county in which
9 they were registered to vote. We did our best to help those students request that a mail ballot
10 be sent to their school address and to then send that mail ballot back to the recorder's office
11 in their home county, but those ballots often took a long time to arrive, and sometimes
12 would not arrive with enough time for the voter to mail their ballot back so that it could be
13 received by Election Day. Because many of those students were not allowed to drop a ballot
14 off in the county where they went to school since they were not registered there, and were
15 also unable to make the drive back to their home county to drop off their ballot in person,
16 many of these voters had no viable way to return their mail ballot in time for it to arrive by
17 Election Day and be counted. Both our team and the voters we spoke to were frustrated that
18 there was so little that they or we could do to remedy the situation.

19 9. Had Arizona employed a postmark system in the 2018 General Election, those
20 voters' ballots likely would have been counted as long as they were mailed by Election Day.
21 As a result, those voters would not have been disenfranchised by Arizona's current deadline
22 to receive ballots.

23 10. In the lead up to Election Day, we also received a large number of inquiries
24 from voters who needed help figuring out where they could return their mail ballot if they
25 had not been able to put their ballot in the mail early enough. From this process, we learned
26 that there were significant disparities in the availability and accessibility of mail-ballot
27 drop-boxes among Arizona's 15 counties. While some counties operated 24/7 drop-boxes
28 for mail ballots, others were available on a much more restricted basis. Other counties had

1 no mail-ballot drop-boxes at all. To the best of my knowledge, Cochise, Mohave, Pima,
2 Pinal, and Yuma counties did not have any mail-ballot drop-boxes where voters could drop
3 off their mail ballot in the 2018 General Election.

4 11. A number of counties in Arizona also did little to effectively advertise the
5 availability of mail-ballot drop-boxes, meaning that the accessibility of those drop-boxes,
6 even if they did exist, were not well-known to many voters. In preparation to answer
7 questions from voters for our hotline and digital platform, my team researched the locations
8 and hours of mail-ballot drop-boxes. For some counties, there was little information online,
9 and we had to call the county to find out the exact locations and hours of the drop-boxes.
10 Other counties had not updated their websites to reflect current mail-ballot drop-box
11 locations, and were still promoting drop-box locations from prior election years, some of
12 which were not accurate for the 2018 General Election. And even for counties that had an
13 accurate list of drop-box *locations* available on their website, we learned from voters that
14 the *hours* of those drop-box locations were not always correct.

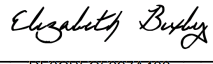
15 12. On Election Day itself, our team also received many inquiries for help from
16 voters who attempted to turn their mail ballots in in-person at a polling location but were
17 turned away, were improperly told to wait in the regular in-person voting line, or were
18 required to show identification to drop off their ballot. While a voter in Arizona should
19 legally be able to drop off their ballot at *any* polling location within their county on Election
20 Day, we heard from a number of voters that they were turned away when they attempted to
21 drop off their mail ballot at a location that was not their assigned polling location. Similarly,
22 although Arizona law does *not* require voters who drop off their mail ballots in person to
23 show identification—under state law, the voter’s signature is the means by which the voter’s
24 identity is verified for mail ballots—we heard from voters who were unable to drop off their
25 mail ballots because they had not brought sufficient, or any, identification with them.
26 Likewise, although voters who wish to drop off their mail ballots at a polling location are
27 not supposed to have to wait in the same line as in-person voters, we heard from voters who
28 had attempted to drop off their mail ballots only to be told they had to wait in the in-person

1 voting lines—which at times stretched for hours on Election Day, particularly in Maricopa
2 County. Finally, the majority of counties in Arizona require voters who request a mail ballot
3 (either through PEVL or otherwise) to cast a provisional ballot if the voter ultimately
4 decides to vote in person. That requirement created a great deal of confusion among the
5 voters who contacted us, many of whom had concerns that their provisional ballot would
6 not be counted.

7 13. Overall, a significant trend that we saw in 2018 from our calls and texts with
8 voters were voters who wished to vote by mail but could not do so, despite their best efforts,
9 in time for their vote to be counted. From that experience, I believe that had Arizona
10 employed a system in which it counted ballots that were cast by Election Day, instead of
11 received by Election Day, substantially more voters would have been able to cast a valid
12 ballot in that election and would not have been burdened or disenfranchised by Arizona's
13 Election Day deadline.

14 I declare under penalty of perjury that the foregoing is true and correct.

15 DATED: February 17, 2020

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17 DocuSigned by:
18 By: 
19 Elizabeth Bixby
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Sarah R. Gonski (Bar No. 032567)
Alexis E. Danneman (Bar No. 030478)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: 602.351.8201
Facsimile: 602.648.7000
SGonski@perkinscoie.com
ADanneman@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
Amanda R. Callais*
K'Shaani O. Smith*
Zachary J. Newkirk*
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
znewkirk@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Voto Latino, Inc. and Priorities USA,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF GUY CECIL
IN SUPPORT OF PLAINTIFFS'
MOTION FOR A PRELIMINARY
INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, Guy Cecil, declare as follows:

2 1. My name is Guy Cecil. I am over the age of 18, have personal knowledge of
3 the facts stated in this declaration, and can competently testify to their truth.

4 2. I am currently Chairman of Priorities USA, a 501(c)(4) nonprofit, voter-centric
5 progressive advocacy and service organization. Its broad mission is to build a powerful
6 progressive movement to persuade and mobilize Americans around issues that affect their
7 lives. It accomplishes that mission by turning out voters across the country to support
8 progressive candidates and policies.

9 3. Priorities USA has made and will continue to make contributions and
10 expenditures in the millions of dollars to educate, mobilize, and turn out voters in upcoming
11 state and federal elections around the country. Priorities USA has committed, for example,
12 to spending significant sums—in the tens of millions of dollars—in crucial states such as
13 Michigan, Wisconsin, and Pennsylvania in anticipation of the 2020 election. But Priorities
14 also intends to invest in—and has already invested in—the state of Arizona, a state with
15 growing Latino and Native American communities. The state of Arizona, like the key states
16 mentioned above, is expected to have competitive elections in 2020.

17 4. In particular, turning out Latino and Native American voters to vote in 2020
18 will be crucial to Priorities USA's work of building a progressive movement and electing
19 progressive candidates to office. Therefore, a significant focus of Priorities USA's current
20 work in Arizona includes digital advertising to persuade voters, and particularly Latino and
21 Native American voters, to support progressive issues and to turn out to vote.

22 5. It is my understanding that a majority of voters in Arizona cast ballots by mail,
23 and that Arizona currently rejects mail ballots that are cast and mailed before or on Election
24 Day if those ballots are not received by 7:00pm on Election Day. This receipt deadline
25 disproportionately disenfranchises Arizona's Latino and Native American voters, which
26 frustrates our mission to turnout these voters and to build a progressive movement.

27 6. Specifically, the disenfranchisement of voters due to the receipt deadline will
28 decrease not only the total number of ballots counted overall, but also particularly among

1 the Latino and Native American voters whom Priorities USA is targeting for engagement
2 in the political process in Arizona.

3 7. Because upcoming elections in Arizona are expected to be very competitive,
4 the disenfranchisement of a few thousand voters—and particularly voters from Priorities
5 USA's core constituencies—frustrates our ability to elect progressive candidates and
6 support progressive causes in Arizona.

7 8. Should the current receipt deadline remain in place, Priorities USA will have
8 to (and intends to) expend additional resources and staff time designing, building, and
9 implementing a voter education campaign in Arizona that is specifically focused towards
10 educating Arizona voters that they must mail their ballots well before Election Day to
11 ensure that their ballots will be counted. Should the current receipt deadline remain in place,
12 Priorities USA also anticipates expending significant monetary resources to promote that
13 voter education campaign in Arizona to ensure that Arizona voters know that they must
14 mail their ballots in well before Election Day to ensure that their ballots will count.

15 9. Were Arizona to count ballots that were cast on or before Election Day and
16 received within a reasonable amount of time after Election Day, Priorities USA would
17 otherwise allocate those resources (including monetary resources and staff time) towards
18 other activities, such as organizing campaigns to support progressive movements in other
19 key states, or designing and funding digital persuasion advertisements in other swing states.
20 In Arizona, specifically, we would use those resources towards persuading Arizona voters
21 to support progressive candidates and causes, instead of educating voters on when to cast
22 their ballots.

23 10. Overall, any resources Priorities USA spends on general voter education
24 campaigns are resources that are taken away from the organization's persuasion campaigns
25 and advertisements, which focus on persuading voters to support progressive candidates
26 and issues. These persuasion campaigns are crucial towards Priorities USA's mission of
27 building a lasting, progressive movement, and it is critical that Priorities USA be able to
28 focus its resources on that work.

1 I declare under penalty of perjury that the foregoing is true and correct.

2 DATED: 2/21/20

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By: 
Guy Cecil
Chairman, Priorities USA

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Alexis E. Danneman (#030478)
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
ADanneman@perkinscoie.com
SGonski@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
Amanda R. Callais*
K'Shaani O. Smith*
Zachary J. Newkirk**
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

***Pro hac vice application pending*

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Voto Latino, Inc. and Priorities USA,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF
GERARDINA FIGUEROA IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, Gerardina Figueroa, declare as follows:

2 1. My name is Gerardina Figueroa. I am over the age of 18, have personal
3 knowledge of the facts stated in this declaration, and can competently testify to their truth.

4 2. I am a resident of Rio Rico, Arizona a small town about 15 miles from the
5 Mexican border in Santa Cruz County. I have lived here since moving to Arizona from
6 California in 2006. Upon moving to Arizona, I registered to vote in Rio Rico. I have been
7 registered to vote in the places where I have lived since I was 18 years old. I believe I have
8 cast a ballot in every major election since I registered.

9 3. Since registering to vote in Arizona, I have voted in-person once or twice but,
10 because of my work schedule as a federal law enforcement officer with the U.S. Customs
11 and Border Protection agency, I primarily vote by mail. To the best of my knowledge, I am
12 enrolled in the Permanent Early Voter List (PEVL).

13 4. As a law enforcement officer, I work long hours and my shifts can be
14 unpredictable. Each shift lasts eight hours at a minimum but sometimes, depending on the
15 need, a shift can last anywhere from 12 to 16 hours. Shifts can also span the course of an
16 entire day, beginning at 8:00 a.m. and ending at 12:00 a.m. in the morning. Often, I do not
17 know how long my shift will be until shortly before it begins. For example, during the most
18 recent pay period, I was told to work a 12-hour shift the morning my shift started, even
19 though I originally expected it to last eight hours. If my superiors need somebody to work,
20 they will order me to show up and/or stay late. This makes planning things like chores and
21 errands difficult. It is also why I vote by mail, since I can be sure that my vote will be cast
22 and that an unexpected shift will not keep me from voting on Election Day.

23 5. I understand that my ballot was not counted in the 2018 general election
24 because it arrived three days after Election Day. This is very upsetting. Voting is important
25 to me, and I want my vote to count. In fact, it is precisely because voting is so important to
26 me that I have taken steps to ensure that I can vote, by signing up for the PEVL and voting
27 by mail. I also make every effort to send my ballot in by the recommended date for mailing
28 the ballot, even though I do not appreciate having to vote several days in advance of Election

1 Day since I try to look at all the candidates, issues, and take into account the most recent
2 information about the candidates. I would like to be able to consider information or news
3 that breaks in the last week of the election cycle.

4 6. While I do not recall the exact day I sent my ballot, I am confident I mailed it
5 at least three to four days before Election Day. It is my usual practice to mail documents
6 with a deadline, such as bills and ballots, several days before they are due. That way, I can
7 build in enough time to make sure it has been received on time.

8 7. While I now understand that my 2018 ballot was received after Election Day
9 and not counted, I never received any official notification of that from Santa Cruz County
10 or the State. I also find this very concerning. If I had received some sort of notification, it
11 would have alerted me to the fact that I need to send my ballot in even earlier next election
12 to ensure that it is counted. A lot of other situations alert you when there will be a late fee,
13 like paying bills, returning a library book, or responding to a jury duty summons, so you
14 can avoid being late in the future. I do not understand why my right to vote should be treated
15 differently.

16 8. Even though knowing my mail-in vote did not count in 2018, I plan to vote by
17 mail in the future, including the 2020 general election. It is simply the only way for me to
18 ensure that I will be able to vote given my demanding and unpredictable work schedule.
19 While I will attempt to mail my ballot in by the suggested mail date in advance of Election
20 Day, given my experience in 2018, I fear that it will arrive late and will not be counted. This
21 makes me less confident in Arizona's election system.

22 9. I take voting seriously. I believe all voters should be treated on equal terms
23 and that ballots mailed on or before Election Day should count, even if they do not arrive
24 until after Election Day.

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I declare under penalty of perjury that the foregoing is true and correct.

DATED: February 19, 2020

DocuSigned by:
Gerardina Figueroa
By: E1DE3FBB850E452

Gerardina Figueroa

Alexis E. Danneman (#030478)
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
ADanneman@perkinscoie.com
SGonski@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
Amanda R. Callais*
K'Shaani O. Smith*
Zachary J. Newkirk*
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Voto Latino, Inc. and Priorities USA,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF LESLEA
JOHNSON IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, Leslea Johnson, declare as follows:

2 1. My name is Leslea Johnson. I am over the age of 18, have personal knowledge
3 of the facts stated in this declaration, and can competently testify to their truth.

4 2. I am a resident of Tubac, Arizona, a small town less than 25 miles from the
5 border with Mexico in Santa Cruz County. I have lived here since 2015. Before moving to
6 Santa Cruz County, I lived in Pima County for 17 years. In total, I have lived in Arizona for
7 about 40 years. I previously served in the United States Air Force, and am now a disabled
8 veteran. I work from home as an artist.

9 3. I am a registered Arizona voter. I registered to vote at my Tubac address when
10 I got a new driver's license in Santa Cruz County, and I primarily vote by mail. Before
11 moving to Santa Cruz, I was registered in Pima County and have voted by mail in Arizona
12 since living in Pima County.

13 4. In 2018, I voted by mail in Santa Cruz. I understand that because my ballot did
14 not arrive until three days after Election Day, it was not counted in the 2018 general election.
15 I wish my vote counted because voting is important to me. I never received notice that my
16 ballot was too late and that it did not count.

17 5. I do not recall the exact day I sent my ballot, but I remember it was close to
18 Election Day. I thought that as long as I mailed the ballot by Election Day it would count.
19 This made sense to me since that is how I remember bills working (before I switched to
20 paperless billing). I do not remember any instructions on the ballot or envelope
21 recommending when I should have mailed my ballot for it to arrive in time to be counted.

22 6. Santa Cruz County is very rural, and I have experienced some longer-than-
23 typical times to receive mail—sometimes as long as several weeks. Last year, for example,
24 I received Christmas cards as late as February. I even received a birthday card from my
25 church which is just five miles down the road in March. My birthday, however, is in early
26 February. I know that they sent the birthday card before my birthday.

27 7. Because of the uncertainty with the post office, I switched to electronic billing
28 so I can make sure I pay my bills on time. Otherwise, my payments would arrive late, and

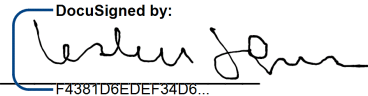
1 I would be assessed late fees. I did not anticipate that the problems with mail receipt would
2 impact my mail ballot though, since I thought that as long as I mailed it before Election Day
3 it would count.

4 8. I plan to vote by mail again including in the 2020 general election. Learning
5 my ballot was not counted in 2018 was discouraging. In the future, I will try to put my ballot
6 in the mailbox very early, even though this means I will have to miss out on information
7 about candidates and issues during the last few days of the campaign, and this will prevent
8 me from learning all I can possibly learn before voting. Since the postal service has been
9 late with Christmas and birthday cards, I am now concerned my ballot might also be
10 delayed, even if I mail it early.

11 9. I take voting seriously. I believe all voters should be treated on equal terms
12 and that ballots mailed on or before Election Day should count, even if they do not arrive
13 until after Election Day.

14
15 I declare under penalty of perjury that the foregoing is true and correct.

16 DATED: February 19, 2020

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19 By: 
20 Leslea Johnson
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Sarah R. Gonski (Bar No. 032567)
Alexis E. Danneman (Bar No. 030478)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: 602.351.8201
Facsimile: 602.648.7000
SGonski@perkinscoie.com
ADanneman@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
Amanda R. Callais*
K'Shaani O. Smith*
Zachary J. Newkirk**
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
znewkirk@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

***Pro hac vice application pending*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
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Voto Latino, Inc. and Priorities USA,

Plaintiffs,

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF SCOTT O.
KONOPASEK IN SUPPORT OF
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, Scott O. Konopasek, declare as follows:

2 1. My name is Scott O. Konopasek. I am over the age of 18, have personal
3 knowledge of the facts stated in this declaration, and can competently testify to their truth.

4 2. I have worked as an elections administrator for over 25 years. I currently serve
5 as the Assistant Registrar of Voters for Contra Costa County in California. In this role, I act
6 as the Director of Elections for the county. Prior to working in Contra Costa County, I also
7 worked in election administration in Utah, where I served as the Director of Elections for
8 Salt Lake County, and in Washington State, where I served as the Director of Elections and
9 Voter Registration for Snohomish County. Before my work as an elections administrator, I
10 served in the military for 14 years as a counterintelligence and security officer.

11 3. All three of the states in which I have served as an elections administrator—
12 California, Washington, and Utah—are postmark states. A postmark state is a state in which
13 a voter's ballot is counted as long as it is mailed by a certain date and received by the state
14 within a certain amount of time after Election Day.

15 4. The specific dates and deadlines for sending and receiving ballots varies
16 among these three states. In California, ballots are counted as long as they are postmarked
17 by Election Day and received no later than three days after Election Day. In Washington
18 State, ballots are counted as long as they are postmarked by Election Day and received the
19 day before the certification date, which is typically a couple of weeks after Election Day.
20 In Utah, ballots were counted as long as they are postmarked the day before Election Day
21 and received within six days of Election Day.

22 5. In my experience, postmark deadlines increase certainty for both election
23 administrators and for voters. With a postmark deadline, both election administrators and
24 voters have a clear day on which a ballot must be mailed for it to be counted.

25 6. My experience with Contra Costa County also shows that postmark systems
26 can work even in counties with large populations. Contra Costa County, located in the East
27 Bay region of the San Francisco Bay area, is home to well over 1 million residents and over
28

1 650,000 registered voters. Almost three-quarters of Contra Costa voters rely on voting by
2 mail to cast their ballot.

3 7. Despite the large number of mail ballots that we receive every election, Contra
4 Costa County is able to count every ballot mailed by Election Day and received by the
5 Friday after Election Day without issue. Although California typically has 28 to certify its
6 elections, we are able to finish counting mail ballots well before that deadline. In fact, we
7 typically finish counting our mail ballots between three to five days after Election Day. We
8 are able to do this without issue despite the fact that we do not start counting a substantial
9 number of our ballots until after Election Day. In the 2016 General Election, for example,
10 Contra Costa County counted approximately 37% of all its ballots after Election Day. These
11 ballots included mail ballots that were dropped off at a polling location or drop-box on
12 Election Day itself, as well as ballots received in the mail after Election Day.

13 8. From my perspective as an elections administrator, having a postmark
14 deadline, instead of a receipt deadline, has actually decreased administrative burdens on our
15 office. When I first began working as an elections administrator in California, for example,
16 the state did not have a postmark deadline. When California instead had a receipt deadline,
17 we were required to have physical possession of all ballots by 8 p.m. on Election Day. This
18 required us to coordinate with U.S.P.S. and arrange to have staff at every postal location for
19 staff to take physical custody of the ballots on Election Night. Now that our staff no longer
20 has to coordinate this handoff and be physically present for the handoff on Election Night,
21 our staff is free to accomplish other important Election Day logistics.

22 9. Further, when California had a receipt deadline, we were also required to hand-
23 stamp every ballot that was received after 8 p.m. on Election Day to ensure that those ballots
24 would not be counted. This required physically segregating those ballots to make sure that
25 they would not be intermingled with other ballots. This process added an extra
26 administrative burden to the counting process.

27 10. Importantly, it has been my experience managing elections in postmark states
28 that postmark deadlines increase the number of voters who are able to participate in

1 elections. This is evident in recent elections from Contra Costa County. In November 2018,
2 for example, 12,086 voters relied on our postmark system to mail in their ballot on Election
3 Day itself. Had any of those voters been unable to reach a polling place on Election Day—
4 an increasing reality for voters with family care responsibilities, work responsibilities, or a
5 lack of transportation—they may not have been able to cast their ballot in a non-postmark
6 state.

7 11. From my experience managing elections in postmark states, I also believe that
8 postmark deadlines increase confidence in elections because voters are more likely to know
9 that their vote counted and voters have a clear deadline by which they must submit their
10 ballot. Unlike voters in non-postmark states, voters in postmark states do not need to guess
11 when they must send in their ballot.

12 12. I understand that both political campaigns and the media may prefer to know
13 the results instantaneously, but an election administrator's job is to ensure that all eligible
14 voters' ballots are counted. A postmark system ensures that all ballots are counted as long
15 as they were properly cast by Election Day.

16 I declare under penalty of perjury that the foregoing is true and correct.

17 DATED: February 18, 2020

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20 By: 
21 Scott O. Konopasek
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Sarah R. Gonski (Bar No. 032567)
Alexis E. Danneman (Bar No. 030478)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: 602.351.8201
Facsimile: 602.648.7000
SGonski@perkinscoie.com
ADanneman@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
Amanda R. Callais*
K'Shaani O. Smith*
Zachary J. Newkirk*
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
znewkirk@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Voto Latino Foundation and Priorities USA,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF MARÍA
TERESA KUMAR IN SUPPORT
OF PLAINTIFFS' MOTION FOR
A PRELIMINARY INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, María Teresa Kumar, declare as follows:

2 1. My name is María Teresa Kumar. I am over the age of 18, have personal
3 knowledge of the facts stated in this declaration, and can competently testify to their truth.

4 2. Voto Latino Foundation is a 501(c)(3) nonprofit organization that engages,
5 educates, and empowers Latino communities across the United States. Voto Latino's
6 mission is to ensure that Latinos are enfranchised and included in the democratic process
7 and to increase civic participation among Latino communities.

8 3. To accomplish its mission, Voto Latino Foundation works in key states which
9 have significant Latino populations, such as California, Arizona, Nevada, Colorado,
10 Florida, Texas, New Mexico, and Georgia, among other states.

11 4. Since its inception, one of Voto Latino Foundation's main priorities has been
12 to register eligible Latino voters to vote. To date, Voto Latino Foundation has registered
13 over 500,000 voters across the country. In 2018 specifically, Voto Latino registered over
14 10,000 new voters in the state of Arizona. Of the voters that Voto Latino registered in
15 Arizona in 2018, an estimated 76% turned out to vote.

16 5. In the 2018 election cycle, Voto Latino Foundation was also heavily involved
17 in get-out-the-vote ("GOTV") efforts across its key states, including in Arizona. These
18 nationwide efforts included targeting 500,000 voters to encourage them to vote, arranging
19 and funding almost 10,000 rides to the polls in critical states, and holding 70 grassroots
20 events in key markets across the country.

21 6. In 2018, in Arizona specifically, Voto Latino Foundation concentrated on
22 engaging and mobilizing Latino millennials through a digital engagement strategy, in
23 addition to its regular voter registration efforts in Arizona. Voto Latino Foundation worked
24 with partners on the ground in Arizona to coordinate voter engagement events including
25 GOTV activities in the Phoenix metro area.

26 7. In 2020, Voto Latino Foundation intends to continue its efforts to register and
27 mobilize Latino voters across the country. In particular, Voto Latino Foundation is aiming
28 to register 1 million voters by the 2020 election, including in Arizona.

1 8. In particular, Voto Latino Foundation estimates that there are approximately
2 300,000 unregistered but eligible Latino voters in Arizona. In advance of the upcoming
3 2020 election, Voto Latino has already begun and plans to continue a year-long voter
4 registration effort in Arizona. This effort will primarily include funding digital
5 advertisements to encourage eligible but unregistered Latinos to register to vote.

6 9. As the 2020 election approaches, Voto Latino Foundation intends to continue
7 its voter registration efforts and voter turnout ad program. Voto Latino Foundation will also
8 recruit and train volunteers and organizers in its key states to help organize Latino
9 communities and turn them out to vote.

10 10. But all of this work that Voto Latino Foundation does means little if Latino
11 voters' ballots are not counted.

12 11. I am aware that a significant majority of voters in Arizona cast ballots by mail.
13 I am also aware that Arizona currently rejects mail ballots that are cast and mailed before
14 or on Election Day if those ballots are not received by 7:00pm on Election Day. I am aware,
15 and particularly concerned, that this receipt deadline disproportionately disenfranchises
16 Arizona's Latino voters—the very communities which Voto Latino Foundation seeks to
17 engage and mobilize. Arizona's refusal to count these ballots frustrates Voto Latino
18 Foundation's mission of and efforts in mobilizing and turning out Latino voters.

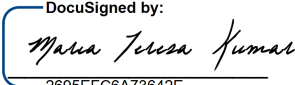
19 12. Should the current receipt deadline remain in place, Voto Latino Foundation
20 intends to expend additional resources and staff time to educate Arizona's Latino voters on
21 when and how to cast their mail ballots. Specifically, Voto Latino Foundation will have to
22 dedicate staff time towards launching a digital educational campaign aimed at educating
23 Latino voters on the cutoff to mail back their mail ballot and will have to expend
24 corresponding financial resources to advertise and promote that campaign. Such a campaign
25 would particularly target millennial and Generation Z Latino voters in Arizona.

26 13. Were Arizona to count ballots that were cast on or before Election Day and
27 received within a reasonable amount of time after Election Day, Voto Latino Foundation
28 would otherwise allocate those resources and staff time towards its other core activities,

1 such as registering new voters or engaging in GOTV activities to turnout Latino voters in
2 Arizona or other states. As a relatively small organization, Voto Latino Foundation has
3 limited resources to do its work—any resources spent on general voter education
4 necessarily takes away from our other key activities.

5 I declare under penalty of perjury that the foregoing is true and correct.

6 DATED: February 25, 2020

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9 By: 
10 2695EFC6A73642E...
11 María Teresa Kumar
12 President and Executive Director
13 Voto Latino Foundation
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Sarah R. Gonski (Bar No. 032567)
Alexis E. Danneman (Bar No. 030478)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: 602.351.8201
Facsimile: 602.648.7000
SGonski@perkinscoie.com
ADanneman@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
Amanda R. Callais*
K'Shaani O. Smith*
Zachary J. Newkirk**
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
znewkirk@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

***Pro hac vice application pending*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Voto Latino, Inc. and Priorities USA,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF SENATOR
MARTÍN QUEZADA IN
SUPPORT OF PLAINTIFFS'
MOTION FOR A PRELIMINARY
INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, Martín Quezada, declare as follows:

2 1. My name is Martín Quezada. I am over the age of 18, have personal knowledge
3 of the facts stated in this declaration, and can competently testify to their truth.

4 2. I am a lifelong Arizonan, a U.S. Citizen, and a registered voter in Maricopa
5 County.

6 3. I also currently serve as a State Senator in the Arizona Senate, where I
7 represent the Twenty-Ninth Senate District. My district is located in central Maricopa
8 County and encompasses western portions of Phoenix. I represent just over 200,000
9 constituents, nearly 80% of whom are ethnic minorities. Hispanic citizens in particular
10 compromise nearly two-thirds of the population of my district—the highest percentage of
11 any Senate district in the state of Arizona. Many of my constituents speak Spanish as their
12 primary language, and my district is a primarily working-class community.

13 4. Before I became a State Senator in 2015, I also served in the Arizona House
14 of Representatives. Over the past ten years, I have run eight campaigns for office, including
15 for both statewide and local office. During those campaigns and my years in office, I have
16 spoken with thousands of voters in my community about many different issues of public
17 interest, including issues relating to the process for Arizona citizens to exercise their
18 fundamental right to vote in elections.

19 5. Voter education has been an essential part of each of my campaigns. In
20 particular, given that a large percentage of Arizona citizens cast their votes by mail, I have
21 worked extensively, along with members of my campaigns, to ensure that voters understand
22 the process for voting by mail and return their mail ballots on time. A significant part of my
23 campaigns' voter education and get-out-the-vote efforts has been to help voters navigate
24 Arizona's complex and confusing process for voting by mail.

25 6. Over the past ten years, the number of voters who have come to rely on vote-
26 by-mail has substantially increased. As a candidate, I am confident that elections can be
27 won and lost in Arizona by how effectively a campaign is able to educate its voters on how
28 and when to return ballots by mail.

1 7. Educating voters on how and when to return their mail ballots is particularly
2 crucial in my district. A large number of voters in my district do not understand that they
3 must put their ballot in the mail multiple days before Election Day to ensure that it will
4 reach the County Recorder's Office by 7 p.m. on Election Day and be counted under current
5 Arizona law. And I understand the confusion—it defies common logic and everyday
6 experience with common deadlines to expect that you need to cast a ballot so far in advance
7 of Election Day for it to count.

8 8. Moreover, even for those who theoretically know that they must send their
9 ballot back early, it is not always as easy as simply dropping their ballot off in the mailbox.
10 Approximately half of the communities in my district, including the community that I live
11 in, lack an easily accessible outgoing mailbox. In my apartment community, for example,
12 there is one community mailbox to which everyone's incoming mail is delivered. There
13 used to be a slot for outgoing mail, but it has been long blocked for security reasons. For
14 many voters in communities like my own, it may be easier to receive a ballot in the mail
15 than it is to send it back.

16 9. For many other voters in my district who intend to put their ballot in the
17 mailbox well before Election Day, family care and work responsibilities can get in the way.
18 These stressors are particularly prevalent among the working-class voters that I represent,
19 many of whom rely on public transportation to reach their workplace and work long-shifts
20 or multiple jobs to get by.

21 10. Moreover, many of my constituents have told me that they prefer to wait to
22 vote until Election Day to take advantage of all possible information before making a
23 decision. Under current Arizona law, voters who rely on the mail to vote must forego any
24 information that develops during the last week of an election. I am certain that, for at least
25 some of the voters in my district, voting by mail is the only way that they can vote. While
26 my campaign hopes to offer rides to the polls for as many voters as possible, it is not
27 possible to reach everyone.
28

1 11. Similarly, it is not easy for many voters in my district to drop off their mail
2 ballot in-person or cast a ballot in person if they misunderstand or forget the deadline to
3 send in a mail ballot. Many of my constituents rely on public transportation, which does not
4 always run near a PEVL drop-box or a polling location.

5 12. Finally, from my conversations with voters in my district, many of them would
6 not be able to take the time to vote in-person, even if they were able to reach a polling
7 location. Many of my constituents remember how difficult it was to vote in person in the
8 2016 presidential preference primary, which resulted in lines to vote that were several hours
9 long. Some voters in my district even waited upwards of five hours to cast a ballot. While
10 some voters were able to wait in line, many others were deterred by the lines and unable to
11 be away from work and family responsibilities. After that experience, I understand why
12 some voters would be hesitant to vote in-person if they were unable to vote by mail.

13 13. I firmly believe that it should not be difficult to vote. While voting by mail
14 does expand the options available to voters in my district, there are still serious barriers to
15 participating in the vote by mail system in Arizona. From my ten years speaking with voters
16 and running for office in Arizona, I believe the current deadline to send in a mail ballot is
17 among the most significant of those barriers.

18 I declare under penalty of perjury that the foregoing is true and correct.

19 DATED: February 14, 2020

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22 By: 
23 State Senator Martín Quezada
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Sarah R. Gonski (Bar No. 032567)
Alexis E. Danneman (Bar No. 030478)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: 602.351.8201
Facsimile: 602.648.7000
SGonski@perkinscoie.com
ADanneman@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
Amanda R. Callais*
K'Shaani O. Smith*
Zachary J. Newkirk**
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
znewkirk@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

***Pro hac vice application pending*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Voto Latino, Inc. and Priorities USA,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF DJ
QUINLAN IN SUPPORT OF
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, DJ Quinlan, declare as follows:

2 1. My name is DJ Quinlan. I am over the age of 18, have personal knowledge of
3 the facts stated in this declaration, and can competently testify to their truth.

4 2. I have extensive experience with elections and campaigns in Arizona, having
5 worked in Arizona politics for the past ten years. I formerly served as the Executive Director
6 of the Arizona Democratic Party from 2012-2015, as the Elections Director of the Arizona
7 Democratic Party from 2010-2012, and as a campaign manager for a congressional
8 candidate in Arizona from 2012-2013. Before my time working on Arizona elections, I
9 served in the United States Air Force.

10 3. In the past ten years, voters in Arizona have become increasingly reliant on
11 voting by mail to cast their ballot. When I first started working in Arizona elections (about
12 ten years ago), I would estimate that less than half of voters in Arizona relied on the mail to
13 cast their ballot. Through my experience over the past ten years, I have seen that number
14 grow and today an overwhelming majority of voters in Arizona rely on the mail to cast their
15 ballot.

16 4. This increase in the use of mail ballots is no surprise given Arizona's creation
17 of the Permanent Early Voter List (PEVL), which sends a mail ballot to every voter who
18 has signed up for the list for every election. The state has also widely encouraged voters to
19 use mail ballots, and some municipalities in Arizona have even come to rely entirely on
20 mail ballots to hold their elections.

21 5. Voters in Arizona also increasingly depend on the mail to cast their ballots
22 because Arizona has closed hundreds of polling places statewide over the past several years.
23 This means that voters now live further from a physical polling location than they used to.
24 Rural voters, in particular, often depend on the mail to cast their ballot because they live far
25 from their polling locations. Additionally, because polling locations in Arizona have
26 changed locations so many times in recent years, in my experience many voters do not even
27 know where their current polling location is anymore.

1 6. While voting by mail does expand opportunities for many voters in Arizona to
2 participate in elections, voting by mail also presents significant challenges for a substantial
3 number of voters, many of whom are confused by and may miss the relevant deadlines to
4 send back a mail ballot.

5 7. Through my get-out-the-vote activities in Arizona, I have learned that many
6 voters do not think about the election until the weekend just before Election Day, when it
7 may be too late to mail a ballot. This is understandable—voters have busy lives, and most
8 voters do not have the time to sit down and read through Arizona’s ballot (which is typically
9 very long and complicated) well before the election. In my experience, it is difficult to
10 motivate voters to think about mailing their ballots a week or more before Election Day,
11 when most voters have just started to tune into the issues, and before they have had time to
12 read voter guides or before they have received multiple reminders to vote from campaigns.
13 Unfortunately, for many of those voters, especially those who live in more rural parts of the
14 state, they have missed the “deadline” to return their ballot if they have not mailed their
15 ballot well before the weekend before Election Day—that is, their ballots are not likely to
16 arrive at their county by 7 p.m. on Election Day and therefore they will not be counted.

17 8. In my experience, the current requirement to send a mail ballot back to the
18 state well in advance of Election Day also confuses voters.

19 9. While I cannot quantify the number of voters who believe that Arizona is a
20 postmark state, in my experience, a substantial number of voters in the state believe that
21 they do not need to mail their ballot in until Election Day. But even if less than 5% of voters
22 in the state believe that they need to mail in their ballot on Election Day for it to be counted,
23 that translates thousands of voters whose ballots are not counted but who otherwise cast a
24 ballot up through Election Day.

25 10. Conversely, I have also encountered voters in Arizona who hear that the
26 deadline to send in their mail ballot is the Wednesday before Election Day and, as a result,
27 believe that “deadline” is the actual deadline. Those voters may not send their ballot back
28 on the Thursday, Friday, or Saturday before Election Day due to this confusion, even though

1 some of those ballots would still reach the state on time, especially if they live in the more
2 urban areas of the state.

3 11. While I understand that voters can drop off a mail ballot at a polling location
4 on Election Day if voters are unable to mail their ballot early enough, I have found that in-
5 person drop off is a not realistic solution for those voters who have family-care
6 responsibilities, inflexible schedules, or a lack of transportation. Additionally, given the
7 closures of polling places across Arizona, there are fewer and fewer polling locations that
8 Arizona voters can actually use to return those ballots in-person on Election Day. Of course,
9 because there are fewer polling locations than there used to be, it is also increasingly likely
10 that any particular polling location is further from those voters.

11 12. Based on my experience, I believe a postmark deadline for returning ballots
12 would level the playing field between all voters in the state and would create a clear deadline
13 by which voters would understand when to cast their ballots. A postmark deadline would
14 also allow all voters, regardless of where they live, to participate in Arizona elections up
15 until Election Day itself, whether or not they have the means or ability to vote in-person on
16 Election Day.

17 13. While I understand the desire to find out election results on Election Day itself,
18 from my experience overseeing many campaigns in Arizona, election results are never truly
19 final on election night in Arizona.

20 14. Finally, I have found from my interactions with voters that they are particularly
21 distressed when they learn or believe that their vote will not count. For example, I have seen
22 many voters become discouraged and upset when they are asked to cast a provisional ballot,
23 believing that ballot will not count. From those experiences, I think it is very likely that
24 voters as a whole would be more discouraged by having their ballot rejected than by not
25 having a final result on election night.

26 I declare under penalty of perjury that the foregoing is true and correct.

27 DATED: February 13, 2020

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DocuSigned by:
By: 
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DJ Quinlan

Sarah R. Gonski (Bar No. 032567)
Alexis E. Danneman (Bar No. 030478)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: 602.351.8201
Facsimile: 602.648.7000
SGonski@perkinscoie.com
ADanneman@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
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Zachary J. Newkirk**
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
znewkirk@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

***Pro hac vice application pending*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Voto Latino, Inc. and Priorities USA,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF KIERSTEN
SCHNEIDER IN SUPPORT OF
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, Kiersten Schneider, declare as follows:

2 1. My name is Kiersten Schneider. I am over the age of 18, have personal
3 knowledge of the facts stated in this declaration, and can competently testify to their truth.

4 2. I am a native Arizonan. In 2018, the year after I graduated college, I decided
5 that I wanted to become involved with elections in my home state and became a Field
6 Organizer for the Arizona Democratic Party from June 2018 through November 2018.

7 3. Field organizers on a campaign are typically assigned to a specific
8 neighborhood or region. My assignment was in northern Phoenix, in a largely suburban
9 neighborhood.

10 4. In the summer of 2018, my role as a Field Organizer was to begin making
11 connections with the people in my neighborhood, register them to vote if they were eligible
12 and not already registered, and talk with voters about issues important to our community.
13 My other primary role was to recruit volunteers to help in that effort.

14 5. By the fall of 2018, my role had changed to get-out-the-vote (“GOTV”)
15 activities. GOTV efforts include identifying the people in my neighborhood who were
16 eligible to vote, persuading them to vote, educating them about how to vote, and training
17 volunteers who could assist in these efforts.

18 6. In the lead up to the 2018 General Election, both myself and my volunteers
19 knocked on doors of eligible voters in our neighborhood. Like a lot of Arizona voters, voters
20 in my neighborhood relied primarily on voting by mail to cast their ballot. Many of those
21 voters were on the Permanent Early Voter List (“PEVL”), which entitles a voter in Arizona
22 to be sent a mail ballot for every election.

23 7. In the last week of the election, while knocking on doors, I specifically
24 remember meeting voters who did not understand that their ballot needed to be mailed
25 before Election Day for it to count. Instead, those voters believed that their ballot would
26 count as long as it was mailed by Election Day. These voters often appeared confused when
27 I explained that they would need to try to drop their ballot off in person if they wanted their
28 ballot to count. I believe this confusion stemmed from the fact that, as PEVL voters, these

1 voters believed that all they would ever have to do to vote is drop off their ballot in the
2 mailbox.

3 8. Multiple volunteers who worked under me shared similar stories about
4 encountering voters who misunderstood or were confused about the deadlines to send in a
5 ballot, with many voters believing that they had until Election Day to put their ballot in the
6 mail.

7 9. These voters were very grateful that we cleared up the confusion for them, but
8 I am sure that we were not able to reach and inform every voter who was similarly
9 misinformed or confused about the deadline to send in a mail ballot.

10 10. When a voter realized that mailing was no longer an option, myself and my
11 volunteers would attempt to help the voter figure out how they could still cast their ballot.
12 Assuming that voter was not able to vote in-person on Election Day, the options to cast a
13 ballot were limited and not always accessible to voters. While some areas in Arizona had
14 24/7 drop boxes where voters could drop off a PEVL ballot at any time of the day, the PEVL
15 drop boxes in my neighborhood were often only open certain days and for certain hours.
16 Additionally, the PEVL drop boxes were not always conveniently located.

17 11. I specifically remember meeting at least one voter in my neighborhood who,
18 having unintentionally missed the deadline to send in his mail ballot, could not find a PEVL
19 drop-off location that would be accessible to him. I do not know if that voter ultimately cast
20 a ballot, but when I left his home, we had not been able to make a plan that would enable
21 him to cast his ballot.

22 12. These experiences with voters were frustrating for both myself and my
23 volunteers. But as someone who has worked on a campaign, these encounters were also not
24 surprising—many voters simply do not know the rules, and understandably, they assumed
25 a postmark deadline. Though we tried our best to help voters to figure out alternate options
26 to vote, I am confident that at least some voters who wished to cast a ballot were not able
27 to do so because of Arizona's receipt deadline for mail ballots.

28 I declare under penalty of perjury that the foregoing is true and correct.

1 DATED: February 13, 2020

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3 By: 
4 Kiersten Schneider
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Sarah R. Gonski (Bar No. 032567)
Alexis E. Danneman (Bar No. 030478)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788
Telephone: 602.351.8201
Facsimile: 602.648.7000
SGonski@perkinscoie.com
ADanneman@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
Amanda R. Callais*
K'Shaani O. Smith*
Zachary J. Newkirk**
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
znewkirk@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

***Pro hac vice application pending*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Voto Latino, Inc. and Priorities USA,

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**DECLARATION OF JON
SUTTON IN SUPPORT OF
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

1 Pursuant to 20 U.S.C. § 1746, I, Jon Sutton, declare as follows:

2 1. My name is Jon Sutton. I am over the age of 18, have personal knowledge of
3 the facts stated in this declaration, and can competently testify to their truth.

4 2. I have spent the past ten years working in support of various campaigns and
5 causes, both in Arizona and in other states. In particular, from 2017 to 2019, I served as the
6 Field Director for the Arizona Democratic Party. Today, I am the Campaign Manager for
7 an Arizona congressional candidate. My role on the campaigns I've worked for, including
8 as the Field Director for the Party, has often been to oversee field operations, which means
9 that I am responsible for overseeing the campaign's contact with voters to ensure that voters
10 turn out to vote. Campaigns traditionally make this contact with voters by calling them or
11 knocking on their doors. When campaign staff or volunteers have conversations with voters,
12 they inform them about the various candidates and issues, encourage them to vote, and
13 educate them about how they can cast their ballot.

14 3. Today, Arizona relies primarily on voting by mail to conduct its elections,
15 which makes elections in the state quite different from elections in most other states.

16 4. Because voting by mail is the single most important feature of elections in
17 Arizona, the Arizona campaigns that I have worked on have learned that they must educate
18 voters on how to effectively participate in the vote by mail system. Despite our best efforts,
19 from my experience working on elections in Arizona, I believe that a significant number of
20 voters do not know or understand when they must mail back their ballots to ensure that they
21 are counted.

22 5. Through my campaign work, I have been in a position to watch how many
23 ballots are returned week-by-week, and then day-by-day, in the month leading up to an
24 election. From those experiences, it is clear that by the last week leading up to Election Day,
25 a significant proportion of the population has not yet mailed their ballots back to their
26 county recorder's office.

27 6. The reason that a voter may not return his or her mail ballot until the end of an
28 election period varies from person to person, but overall, in my experience, a significant

1 reason is that many voters are not able to engage with the election and make their choices
2 until that last week. Most voters have busy and hectic lives, and, unlike a campaign's most
3 ardent supports, many voters may need more time to think about their choices before they
4 feel ready to fill out their ballot.

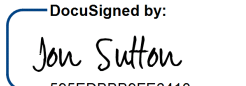
5 7. From my experiences working on elections in Arizona, I have learned that
6 while a campaign's most enthusiastic voters may vote right away, the vast majority of voters
7 need several reminders to vote. It is well-understood in campaigns that the more times a
8 campaign can make contact with a voter through get-out-the-vote ("GOTV") efforts, the
9 more likely that voter is to actually cast a ballot.

10 8. Because Arizona requires that ballots be received in the mail by a certain time
11 on Election Day, GOTV efforts in Arizona, unlike GOTV efforts in other states, can be
12 difficult the last week of an election. Because a ballot may not count if it is mailed the
13 Thursday, Friday, or Saturday before an election (depending on where that voter lives),
14 campaigns must train volunteers on the precise language to use with voters in the last week
15 of an election. Volunteers encourage voters to vote in the last week, but must carefully
16 navigate (and ultimately, offer a guess) on whether it is safe for that voter to put their ballot
17 on the mail or not. These conversations can be confusing for voters and the volunteers alike.

18 9. From my experiences overseeing field operations in Arizona, I am confident
19 that many more voters would be able to vote in the state's elections were Arizona to accept
20 ballots that were cast and mailed up through Election Day.

21 I declare under penalty of perjury that the foregoing is true and correct.

22
23 DATED: February 13, 2020

24
25 By: 
26 Jon Sutton
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Alexis E. Danneman (#030478)
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
ADanneman@perkinscoie.com
SGonski@perkinscoie.com
DocketPHX@perkinscoie.com

Marc E. Elias*
John Devaney*
Amanda R. Callais*
K'Shaani O. Smith*
Zachary J. Newkirk*
Christina A. Ford*
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
jdevaney@perkinscoie.com
acallais@perkinscoie.com
kshaanismith@perkinscoie.com
christinaford@perkinscoie.com

**Admitted pro hac vice*

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Voto Latino Foundation, Priorities USA, and
Shelby Aguallo

Plaintiffs,

v.

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

Defendant.

No. 2:19-cv-05685-DWL

**PROPOSED ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Upon consideration of Plaintiffs' Motion for Preliminary Injunction, supporting
authorities, the response from the Defendant, and the evidence and pleadings of record, the

1 Court finds that and finds that Plaintiffs are (1) likely to succeed on the merits of their First
2 and Fourteenth Amendment and Due Process Clause challenges to A.R.S. § 16-548(A), (2)
3 likely to suffer irreparable harm absent an injunction, (3) the balance of the equities tip in
4 their favor, and (4) an injunction serves the public interest. *Winter v. Nat. Res. Def. Council,*
5 *Inc.*, 555 U.S. 7, 24 (2008). Accordingly, Plaintiffs' motion is **GRANTED**. Accordingly,
6 **IT IS ORDERED:**

- 7 1. The Secretary of State, her respective agents, officers, employees, and
8 successors, and all persons acting in concert with each or any of them, are
9 **PRELIMINARY ENJOINED** from rejecting ballots that are postmarked on
10 or before Election Day and arrive at a county recorder's office within, at a
11 minimum, five business days of Election Day.
- 12 2. The Secretary of State is **ORDERED** to publish in the Elections Procedures
13 Manual instructions for county election officials to accept and tabulate
14 otherwise valid ballots that contain indicia, such as a postmark, identifying
15 them as sent on or before Election Day and arrive at a county recorder's office
16 within, at a minimum, five business days of Election Day.