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14 Arizona Secretary of State

15 **IN THE UNITED STATES DISTRICT COURT**  
16 **FOR THE DISTRICT OF ARIZONA**

17 Project Vote, Inc.,

18 Plaintiff,

19 v.

20 Michele Reagan, et al.

21 Defendants.

No. CV-16-01253-PHX-DLR

**SECRETARY OF STATE'S MOTION  
FOR AN ORDER ENJOINING  
PARAGRAPH 3 OF THE  
SETTLEMENT AGREEMENT  
BETWEEN PROJECT VOTE AND  
MARICOPA COUNTY, (DOC. 71-1),  
AS APPLIED TO VOTERS WHOSE  
ADDRESSES ARE PROTECTED BY  
STATE LAW.**

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25 The Defendant Secretary of State moves this honorable Court for an Order  
26 enjoining Paragraph 3 of the Settlement Agreement between Plaintiff Project Vote and  
27 Defendant Maricopa County (the "Settlement Agreement") (Doc. 71-1), solely as it  
28 applies to certain voters whose addresses are protected pursuant to A.R.S. §§ 16-153 et

1 seq. and 41-161 et seq. The Secretary requests that this Court make its injunction  
 2 effective until Project Vote and Maricopa County rewrite Paragraphs 7(a) and (c) of the  
 3 Settlement Agreement to conform with state law and provide the legally required level of  
 4 confidentiality for these addresses.

5 This Motion is made on the basis of the attached Memorandum of Points and  
 6 Authorities, as well as the declarations of Eric L. Spencer and Betty H. McEntire,  
 7 attached as Exhibits 1 and 2 to this Motion.

## 8 **MEMORANDUM OF POINTS AND AUTHORITIES**

### 9 **INTRODUCTION**

10 Paragraph 3 of the Settlement Agreement requires Maricopa County to release  
 11 certain information, including voters' street addresses, precinct information, and county  
 12 of residence, to Project Vote and other members of the public who request it. Paragraph  
 13 7(c) purports to require the redaction of confidential information related to voters who are  
 14 part of the state's Address Confidentiality Program, established by A.R.S. § 41-161 et  
 15 seq. But because Paragraph 7(c) does not comport with state law, it places the physical  
 16 safety—and perhaps even the lives—of seventy-five Maricopa County voters and their  
 17 families at risk.

18 These seventy-five voters are victims of domestic violence, sexual abuse, and  
 19 stalking. The State determined that those who victimized them are a continuing danger to  
 20 them. Accordingly, the State has placed them within the Address Confidentiality  
 21 Program to protect the complete confidentiality of their residential, work, and school  
 22 addresses. The Address Confidentiality Program requires the State to provide  
 23 participants with false, substitute addresses that they may use anytime they are required  
 24 to provide their addresses pursuant to state law. And the law requires both the state and  
 25 its political subdivisions to keep their actual addresses secret. In fact, the law prohibits  
 26 counties from even acknowledging that those who are part of this program live within a  
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1 particular county. Because Paragraph 7(c) does not require the redaction of this  
2 confidential information—and Paragraph 3 requires its disclosure unless Paragraph 7  
3 provides an exception—the Settlement Agreement will cause Maricopa County to  
4 produce the precinct information and the county of residence of voters who participate in  
5 the Address Confidentiality Program to Project Vote. Worse still, Paragraph 7(c) only  
6 applies to voter registration information that Maricopa County provides to Project Vote.  
7 Therefore, under the plain terms of the Settlement Agreement, Maricopa County would  
8 be required to provide the full street address, telephone number, precinct information, and  
9 county of residence of a registered voter participating in the Address Confidentiality  
10 Program to any member of the public who asks—including those who want to harm that  
11 voter.  
12

13 Similarly, some former elected officials, members of law enforcement,  
14 prosecutors, public defenders, and judges, among others, are part of a confidentiality  
15 program, established by A.R.S. § 16-153, that prohibits the government from disclosing  
16 their street addresses, precinct information, and telephone numbers. Paragraph 7(a)  
17 properly requires this information to be redacted before Maricopa County provides  
18 information about these voters to Project Vote. But it does not require the information to  
19 be redacted when other members of the public request it. As a result, Paragraph 3  
20 requires Maricopa County to release the street addresses, telephone numbers, and  
21 precinct information of these public servants when anyone other than Project Vote asks  
22 for it.

23 The Secretary therefore asks this Court to enjoin Paragraph 3 of the Settlement  
24 Agreement as it applies to voters whose addresses are protected by these state laws, until  
25 Maricopa County and Project Vote bring Paragraphs 7(a) and (c) into compliance with  
26 the law to ensure the safety of this vulnerable group of Arizonans.  
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## **ARGUMENT**

### **I. Arizona’s Laws Protecting the Confidentiality of Certain Addresses Further the State’s Interest in Protecting the Safety and Wellbeing of Its Citizens.**

#### **A. Arizona’s Address Confidentiality Program Protects Domestic Violence, Sexual Abuse, and Stalking Victims and Their Families.**

The Address Confidentiality Program, codified at A.R.S. § 41-161 et seq., was designed to protect victims of domestic violence, sexual abuse, or stalking. A.R.S. § 41-162(A). It helps survivors stay safe by providing them a substitute address they can disclose on any government form requiring their address. *Id.* This substitute address is not related to their real address. (Ex. 2, Declaration of Betty L. McEntire (“McEntire Decl.”) at ¶ 7.) Participants are able to utilize this substitute address instead of their home, work, or school addresses when they are required to provide their address on government forms. A.R.S. § 41-166(A). All state and local government agencies must accept the substitute address. *Id.* at (B).

To become a participant in the Address Confidentiality Program, an individual is screened by an “application assistant,” designated by the Secretary, to prepare the application and recommend that individual for participation in the program. A.R.S. § 41-163(A). The application must include, among other things, attestation under oath and subject to perjury that the participant is a victim of domestic violence, sexual offense, or stalking. *Id.* at (C). It also must include evidence to that effect. *Id.* Specifically, the applicant must provide at least one of the following: a law enforcement report, documentation from a domestic violence program or facility, documentation from a sexual assault program, or documentation from a “religious, medical or other professional” from whom the individual has sought help. *Id.* at (C)(2). In addition to protecting the participant, these provisions apply to, and so protect, minors and other people who reside with the participant. *Id.* at (C)(10).

The Address Confidentiality Program protects four critical pieces of personal

1 information from public disclosure: residential, work, and school addresses; telephone  
2 number; precinct number; and, county of residence. *See* A.R.S. § 41-165(E) (prohibiting  
3 the disclosure of a participant’s “actual address or telephone number” by an employee of  
4 a “local government entity”) *and* A.R.S. § 41-161(1) (defining actual address as  
5 “residential, work or school address . . . and includes the county and voting precinct  
6 number”). Disclosure of this information is a class 1 misdemeanor. A.R.S. § 41-165(F).

7  
8 There are 637 households in Arizona that have an adult in the Address  
9 Confidentiality Program. (McEntire Decl. at ¶ 18.) Over 900 children live in those  
10 households. (*Id.* at ¶ 25.) Some 349 of the adult participants in the Address  
11 Confidentiality Program are registered to vote. (*Id.* at ¶ 21.) Seventy-five of those  
12 registered voters reside in Maricopa County. (*Id.* at ¶ 22.) These voters (“ACP Protected  
13 Voters”) depend on the protections provided by the Address Confidentiality Program to  
14 register to vote while still protecting the confidentiality of their residences and, hence,  
15 their safety. ACP Protected Voters may not register to vote if that person knows that  
16 their home address, neighborhood, or county, might be provided to the public. (*Id.* at  
17 ¶ 26.)

18 An ACP Protected Voter’s precinct is a key piece of information that a stalker or  
19 abuser can use to determine where his victim lives. (McEntire Decl., ¶ 13.) Essentially,  
20 a precinct is often a voter’s neighborhood. Some precincts in Maricopa County are as  
21 small as 123 square yards—just slightly larger than the length of a football field. (Ex. 1,  
22 Declaration of Eric H. Spencer, (“Spencer Decl.”) at ¶ 22.) The twenty smallest precincts  
23 in Maricopa County are smaller than a half square mile. (*Id.* at ¶ 21.) Identifying a  
24 voter’s precinct is tantamount to identifying her neighborhood, and would provide an  
25 abuser with a targeted way to find his or her victim. (*Id.* at ¶ 23.) Even identifying an  
26 ACP Protected Voter’s county of residence can compromise her safety. (McEntire Decl.  
27 at ¶ 14.) These pieces of information can be used by stalkers and abusers to locate their  
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1 victims. (*Id.* at ¶¶12-14.) By protecting the confidentiality of Program participants’ full  
 2 addresses, including their precinct and county of residence, the ACP Program furthers the  
 3 compelling state interest in protecting the safety and well-being of this small, but very  
 4 vulnerable group, of Arizonans.

5  
 6 **B. Arizona’s Public Official Address Protection Law Protects Public Servants  
 and Their Families.**

7 Arizona law also protects the confidentiality of certain public servants’ residential  
 8 addresses, telephone numbers, and precinct numbers. A.R.S. § 16-153(A). This  
 9 protection is available to certain former elected officials, as well as certain members of  
 10 law enforcement, judges and justices, prosecutors, and public defenders, among others.  
 11 *Id.* at (K)(4). To qualify for the protection, the public servant must reasonably believe  
 12 that her life or safety is in danger, and must swear to such in an affidavit. *Id.* at (B).  
 13 Those requesting that their addresses and phone numbers be kept confidential are only  
 14 placed on the protected list “if the presiding judge [of the superior court] determines that  
 15 this action will reduce a danger to the life or safety of the affiant.” *Id.* at (E).

16  
 17 **II. Paragraph 3 of the Settlement Agreement Violates State Law and  
 Endangers Address-Protected Voters and Their Families.**

18 Paragraph 3 of the Settlement Agreement requires Maricopa County to provide,  
 19 among other things, a voter’s county of residence, residential address, precinct  
 20 information, and telephone number. *See* Settlement Agreement (when used as a citation,  
 21 “SA”), at ¶ 3(b) (requiring the disclosure of “[a]ll Identifying Information”) and  
 22 Definition 4 (defining “Identifying Information” to include county of residence,  
 23 residential address, precinct information, and telephone number). Maricopa County must  
 24 provide this information to Project Vote and all other members of the public who request  
 25 it. *Id.* at ¶ 3. Paragraph 7 recognizes that “[c]ertain information” must be “treated as  
 26 confidential” pursuant to Arizona statutes. *Id.* at ¶ 7 (the “Redaction Clause”). But the  
 27 Redaction Clause only applies to information Maricopa County produces to Project Vote;  
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1 it does not apply to any information Maricopa County discloses to any other person or  
 2 entity that may request voter registration information. This puts the safety of these voters  
 3 at risk, and violates state law, for two reasons.

4 **A. The Redaction Clause Only Applies to Information Disclosed to Project Vote,**  
 5 **But the Settlement Agreement Requires Information to be Disclosed to the**  
 6 **General Public As Well.**

7 The Redaction Clause requires Maricopa County to redact the residential  
 8 addresses and telephone numbers of ACP Protected Voters before providing those voters'  
 9 information to Project Vote. SA at ¶ 7(c). Even with regard to information given to  
 10 Project Vote, this redaction is not enough. *See infra*, Part II.B. But with regard to  
 11 information that must be provided to the general public pursuant to the Settlement  
 12 Agreement, the Redaction Clause is a life-threatening failure. It provides no protection  
 13 for ACP Protected Voters, and requires the public disclosure of their actual address to  
 14 anyone who asks.

15 The Settlement Agreement requires Maricopa County to produce voter registration  
 16 information to any member of the public who asks for it. SA at ¶ 3. This includes a  
 17 voter's actual address. *Id.* So, if a member of the public—including a victim's abuser or  
 18 stalker—requests the address of an ACP Protected Voter, the Settlement Agreement  
 19 requires Maricopa County to release that information because the Redaction Clause only  
 20 applies to information provided to Project Vote. *Id.* at 7(c) (“[F]or a Record subject to  
 21 protection under Title 41 Section 161, *et seq.*, the Recorder's Office shall redact any  
 22 address or telephone number before providing it to Project Vote.”). The failure to ensure  
 23 redaction of confidential and sensitive information before releasing it to the general  
 24 public will endanger the lives and safety of the seventy-five ACP Protected Voters  
 25 residing in Maricopa County, as well as their children and anyone else living with them.  
 26 (McEntire Decl. at ¶¶ 14-17, 25).

27 This same result occurs with regard to the Redaction Clause's treatment of former  
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1 elected officials, members of law enforcement, prosecutors and public defenders, and  
 2 justices and judges, whose addresses and telephone numbers are protected pursuant to  
 3 A.R.S. 16-153. The Redaction Clause requires that Maricopa County make the legally  
 4 required redactions before producing these voters' information to Project Vote. SA at ¶  
 5 7(a). But it does not require redaction when Maricopa County responds to requests for  
 6 this information from other members of the public. Because Paragraph 3 of the  
 7 Settlement Agreement requires Maricopa County to disclose voters' residential addresses,  
 8 precinct numbers, and telephone numbers to the general public, the absence of a standard  
 9 redaction requirement that applies to any information produced pursuant to the  
 10 Settlement Agreement will place the lives of public servants and their families at risk.

11 **B. The Redaction Clause Does Not Require Redaction of ACP Protected Voters'**  
 12 **County of Residence and Precinct Numbers.**

13 The Settlement Agreement executed by Maricopa County and Project Vote  
 14 requires Maricopa County to identify for Project Vote all ACP Protected Voters residing  
 15 within its borders, and supply their precinct numbers. This requirement violates state law  
 16 and places the lives and safety of ACP Protected Voters at risk.

17 Arizona law prohibits the state or any of its political subdivisions or their  
 18 employees from disclosing ACP Protected Voters' *actual addresses*. A.R.S. § 41-165(E).  
 19 The statute defines "actual address" to include the county in which the ACP Protected  
 20 Voter lives, as well as their precinct information. A.R.S. § 41-161(1). Anyone who  
 21 discloses the county in which an ACP Protected Voter resides, or the precinct in which  
 22 they vote, commits a class 1 misdemeanor. A.R.S. § 41-165(F). Thus, Maricopa County  
 23 is prohibited from even acknowledging that an ACP Protected Voter resides within the  
 24 county. It is also prohibited from disclosing those voters' precinct information.

25 **CONCLUSION**

26 To comport with Arizona law, and to protect the safety of ACP Protected Voters,  
 27 Paragraph 7(c) of the Redaction Clause must be rewritten to require the redaction of all  
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1 identifying information related to ACP Protected Voters, including their names. And the  
2 Redaction Clause must apply to requests for information from anyone, not just requests  
3 from Project Vote. Paragraph 7(a), meanwhile, must be rewritten to require the redaction  
4 of the identified information when Maricopa County responds to anyone's request for  
5 voter information, not just when it responds to Project Vote's requests.

6 For the foregoing reasons, the Secretary respectfully requests that the Court grant  
7 her motion.  
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10 RESPECTFULLY SUBMITTED this 28th day of March, 2017.

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12 Arizona Attorney General

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 28, 2017, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a notice of electronic filing to the EM/ECF registrants.

s/ Maureen Riordan

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