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Attorney for Cochise County and Lisa Marra, in her official capacity as Cochise County Elections Director

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA, TUCSON DIVISION

Kathleen Hoffard,)	No. 4:20-CV-00243-SHR
)	
Plaintiff,)	
)	DEFENDANTS ANSWER TO
v.)	PLAINTIFF'S FIRST AMENDED
)	COMPLAINT FOR INJUNCTIVE
Cochise County, Arizona; Lisa Marra)	AND DECLARATORY RELIEF
In her official capacity as Director of)	
)	
Cochise County Elections Department)	(Jury Trial Demanded)
)	
Defendants.)	(Assigned to the Hon. Scott H. Rash)
)	

Defendants Cochise County (the "County") and Lisa Marra, in her official capacity as Director of the Cochise County Elections (collectively "Defendants"), through undersigned counsel, and in response to Plaintiff's First Amended Complaint for Injunctive and Declaratory Relief ("FAC") admit, deny, and allege as follows:

JURISDICTION AND VENUE

1
2 1. As to the allegations contained in Paragraph 1 of the FAC, Defendants admit
3 that jurisdiction and venue are proper.
4

5 2. As to the allegations contained in Paragraph 2 of the FAC, Defendants admit
6 that venue is proper.

PARTIES

7
8 3. As to the allegations in Paragraph 3 of the FAC, Defendants admit the
9 allegations.
10

11 4. As to the allegations in Paragraph 4 of the FAC, Defendants admit the
12 allegations.

13 5. As to the allegations in Paragraph 5 of the FAC, Defendants admit that Lisa
14 Marra is the Director of Elections for Cochise County, she administers, prepares, and
15 conducts elections within Cochise County. Defendants deny the remaining allegations in
16 Paragraph 5.
17

STATEMENT OF FACTS

18
19 6. As to the allegations in Paragraph 6 of the FAC, Defendants do not have
20 sufficient information at this time to form a belief about the truth of the allegations, and
21 so denies them at this time.
22

23 7. As to the allegations in Paragraph 7 of the FAC, Defendants do not have
24 sufficient information at this time to form a belief about the truth of the allegations, and
25 so denies them at this time.

1 8. As to the allegations in Paragraph 8 of the FAC, Defendants do not have
2 sufficient information at this time to form a belief about the truth of the allegations, and
3 so denies them at this time.
4

5 9. As to the allegations in Paragraph 9 of the FAC, Defendants admit the
6 allegations.
7

8 10. As to the allegations in Paragraph 10 of the FAC, Defendants do not have
9 sufficient information at this time to form a belief about the truth of the allegations, and
10 so denies them at this time.
11

12 11. As to the allegations in Paragraph 11 of the FAC, Defendants admit that a
13 mid-term election was held across the United States, and in Cochise County, on November
14 6, 2018. Defendants do not have sufficient information at this time to form a belief about
15 the truth of the remaining allegations, and so denies them at this time.
16

17 12. As to the allegations in Paragraph 12 of the FAC, Defendants deny the
18 allegation that Plaintiff was faced with a choice of being disenfranchised or struggling to
19 exit her vehicle and navigate the polling location. Defendants do not have sufficient
20 information at this time to form a belief about the truth of the remaining allegations, and
21 so denies them at this time.
22

23 13. As to the allegations in Paragraph 13 of the FAC, defendants deny that the
24 pavement in the parking lot and the rugs in the interior of the Vote Center posed trip
25 hazards. Defendants do not have sufficient information at this time to form a belief about
the truth of the remaining allegations, and so denies them at this time.

1 14. As to the allegations in Paragraph 14 of the FAC, Defendants admit that
2 Plaintiff cast her ballot at a Vote Center on November 6, 2018. Defendants deny the
3 remaining allegations.
4

5 15. As to the allegations in Paragraph 15 of the FAC, Defendants do not have
6 sufficient information at this time to form a belief about the truth of the remaining
7 allegations, and so denies them at this time.

8 16. As to the allegations in Paragraph 16 of the FAC, Defendants deny the
9 allegations.
10

11 17. As to the allegations in Paragraph 17 of the FAC , Defendants deny the
12 allegations.

13 18. As to the allegations in Paragraph 18 of the FAC, Defendants admit the
14 allegations.
15

16 19. As to the allegations in Paragraph 19 of the FAC, Defendants admit the
17 allegations.

18 20. As to the allegations in Paragraph 20 of the FAC, Defendants admit the
19 allegations.
20

21 21. As to the allegations in Paragraph 21 of the FAC, Defendants admit the
22 allegations.

23 22. As to the allegations in Paragraph 22 of the FAC, Defendants admit the
24 allegations.
25

DECLARATORY AND INJUNCTIVE RELIEF ALLEGATIONS

23. As to the allegations in Paragraph 23 of the FAC, Defendants deny the allegations.

24. As to the allegations in Paragraph 24 of the FAC, Defendants deny the allegations.

25. As to the allegations in Paragraph 25 of the FAC, Defendants deny the allegations.

26. As to the allegations in Paragraph 26 of the FAC, Defendants deny the allegations.

27. As to the allegations in Paragraph 27 of the FAC, Defendants deny the allegations.

28. As to the allegations in Paragraph 28 of the FAC, Defendants deny the allegations.

STATEMENT OF CLAIMS

COUNT 1

[Discrimination on the Basis of Disability in Violation of Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131, *et seq.*]

29. As to the allegations in Paragraph 29 of the FAC, Defendants reassert and incorporate Defendants' responses to Paragraphs 1-28, above.

30. As to the Allegations in Paragraph 30 of the FAC, no response is required as this is a statement of law and not a factual allegation.

1 31. As to the allegations in Paragraph 31 of the FAC, no response is required as
2 this is a statement of law and not a factual allegation.

3 32. As to the allegations in Paragraph 32 of the FAC, no response is required as
4 this is a statement of law and not a factual allegation.

5 33. As to allegations in Paragraph 33 of the FAC, no response is required as this
6 is a statement of law and not a factual allegation.

7 34. As to the allegations in Paragraph 34 of the FAC, no response is required as
8 this is a statement of law and not a factual allegation.

9 35. As to the allegations in Paragraph 35 of the FAC, Defendants do not have
10 sufficient information at this time to form a belief about the truth of Plaintiff's physical
11 impairments and limitations and whether she qualifies as an individual with a disability
12 as defined by the ADA and so, at this time denies the remaining allegations.

13 36. As to the allegations in Paragraph 36 of the FAC, Defendants admit that
14 Plaintiff is a duly qualified and registered elector in Cochise County. Defendants have
15 insufficient information at this time to form a belief about the truth of Plaintiff's physical
16 impairments and whether she qualifies as an individual with a disability, and so, at this
17 time, denies the remaining allegations.

18 37. As to the allegations in Paragraph 37 of the FAC, no response is required as
19 this is a statement of law and not a factual allegation.

20 38. As to allegations in Paragraph 38 of the FAC, Defendants admit the
21 allegations.

1 39. As to the allegations in Paragraph 39 of the FAC, no response is required as
2 this is a statement of law and not a factual allegation.

3 40. As to the allegations in Paragraph 40 of the FAC, Defendants admit it must
4 provide individuals with disabilities with access to the voting process. Defendants deny
5 the remaining of the allegations.
6

7 41. As to the allegations in Paragraph 41 of the FAC, Defendants deny the
8 allegations.
9

10 42. As to the allegations in Paragraph 42, Defendants deny the allegations.
11 Further, Defendants allege that curbside voting is no longer offered in Cochise County
12 because all of the County's seventeen (17) Vote Centers are fully ADA accessible and
13 ADA compliant, all equipment utilized at the Vote Centers are fully ADA accessible, and
14 the County is not required to offer curbside voting in this circumstance.
15

16 43. As to the allegations in Paragraph 43, Defendants deny the allegations.

17 44. As to the allegations in Paragraph 44, Defendants deny the allegations.

18 45. As to the allegations in Paragraph 45, this is a conclusion of law that does
19 not require a response and not a factual allegation. But in any event, Defendants deny the
20 allegations.
21

22 COUNT II

23 [Discrimination on the Basis of Disability in Violation of Section 504 of the 24 Rehabilitation Act of 1973, 29 U.S.C. § 794] 25

1 46. As to the allegations in Paragraph 46 of the FAC, Defendants reassert and
2 incorporate Defendants' responses to Paragraphs 1-45, above.

3 47. As to the allegations in Paragraph 47 of the FAC, no response is required as
4 this is a statement of law and not a factual allegation.

5 48. As to the allegations in Paragraph 48 of the FAC, no response is required as
6 this is a statement of law and not a factual allegation.

7 49. As to the allegations in Paragraph 49 of the FAC, no response is required as
8 this is a statement of law and not a factual allegation.

9 50. As to the allegations in Paragraph 50 of the FAC, no response is required as
10 this is a statement of law and not a factual allegation.

11 51. As to the allegations in Paragraph 51 of the FAC, no response is required as
12 this is a statement of law and not a factual allegation.

13 52. As to the allegations in Paragraph 52, Defendants have insufficient
14 information at this time to form a belief about the truth of Plaintiff's physical impairments
15 and whether she qualifies as an individual with a disability, and so, at this time, denies the
16 remaining allegations.

17 53. As to the allegations in Paragraph 53 of the FAC, Defendants admit that
18 Plaintiff is a duly qualified and registered elector in Cochise County. Defendants deny
19 the remaining allegations.

20 54. As to the allegations in Paragraph 54 of the FAC, Defendants admit the
21 allegations.
22
23
24
25

AFFIRMATIVE DEFENSES

1. Any allegation not specifically admitted is hereby denied.

2. Defendants assert that they acted lawfully at all times under both state and federal law.

3. Defendants reserve their right to raise any other form of defense or avoidance and to affirmatively assert the defenses listed in Federal Rules of Civil Procedure 8(c) and 12(b) should future discovery show that any of these defenses are applicable to this case.

PRAYER FOR RELIEF

WHEREFORE, having fully answered Plaintiff's FAC, Defendants respectfully requests that this Court enter the following relief in their favor:

1. An Order that Plaintiff fails to state a claim upon which relief may be granted;

2. Dismissal of the allegations against the Defendants with prejudice;

3. An award of costs and fees, including attorneys' fees if applicable, incurred in defending against Plaintiff's claims;

4. Trial by jury on all issues; and

5. Any further and additional relief that this Court deems just and appropriate under the circumstances.

JURY DEMAND

Defendants, pursuant to F.R.C.P, Rule 38, respectfully request a trial by jury on all issues.

RESPECTFULLY SUBMITTED this 13th day of July, 2021.

BRIAN M. MCINTYRE,
COCHISE COUNTY ATTORNEY

By: /s/ Christine J. Roberts
Christine J. Roberts
Chief Civil Deputy County Attorney

I hereby certify that on July 13, 2021,
I electronically transmitted the attached
Document to the Clerk's Office using the
CM/ECF System for filing and transmittal
of Notice of Electronic Filing to those
attorneys registered with CM/ECF.

A copy of the foregoing emailed
this 13th day of July, 2021, to:

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