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COCHISE COUNTY ATTORNEY

2 By: PAUL CORREA
Civil Deputy County Attorney
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6 *Attorney for Cochise County and Lisa Marra, in her official capacity as Cochise County*
7 *Elections Director*

8
9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF ARIZONA, TUCSON DIVISION**

11
12 Kathleen Hoffard,)
Plaintiff,)
13)
14 vs.)
15 Cochise County, Arizona; Lisa Marra,)
In her official capacity as Director of)
16 Cochise County Elections Department,)
17 Defendants.)
18 _____)

No. 4:20-CV-00243-SHR

**RESPONSE IN OPPOSITION TO
PLAINTIFF'S MOTION TO
COMPEL RE-INSPECTION
AND FOR SANCTIONS**

**Assigned to the Honorable
Judge Scott H. Rash**

19 The Court should deny Plaintiff's Motion to Compel Re-Inspection. First, Plaintiff
20 did not engage in any conference prior to filing the instant motion, beyond threatening to
21 file such a motion on the day of the inspection. Second, there is no reason to grant the
22 relief requested. Plaintiff's counsel and experts did not manage their allotted time at the
23 first church building scheduled for inspection but spent the better part of their allotted
24 hour examining a restroom far from the voting area. Plaintiff's experts were able to
25 complete the next two inspections without a problem, after correcting their approach to

1 the inspections. Plaintiff's poor use of its time in the first inspection is not any basis for
2 this Court to order a new inspection or to sanction defendant Cochise County. Moreover,
3 religious entities are exempt from the ADA, making Plaintiff's pursuit of a second
4 inspection of the church bathrooms unnecessary and irrelevant.

5 FACTS

6
7 Plaintiff has set forth the relevant dates and basic facts on which it bases its motion
8 but omitted the undisputed unfavorable facts. Defendant provides this other side of the
9 story that shows Plaintiff's motion is spurious.

- 10 1. On January 21, 2022, Plaintiff served a Request for Entry Upon Land sought to
11 conduct an inspection of all Cochise County Voting Centers – a total of 17.
12 Defendant Cochise County objected, and the Court limited the inspection to
13 three located in Sierra Vista, where the Plaintiff lives and votes. [Doc. 50-2].
- 14 2. Following this direction, the Cochise County Election Director coordinated
15 with the three churches that voluntarily permit the use of rooms in their
16 properties to be used as voting centers. On February 25, 2022, Defendant
17 provided Plaintiff with a date and time and a proposed schedule for the
18 inspection of three voting centers. (See Exhibit A to this motion, Roberts Dec.,
19 Attachment A.)
- 20 3. The parties reached an agreement that the inspections would occur on March
21 31, 2022 and had agreed to a schedule allowing one hour of inspection at each
22 building, with flexibility if needed. (Id., Attachment B, email correspondence.)
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24
25

- 1 4. Although Defendant's counsel had been cooperating and communicated with
2 Plaintiff's counsel, Plaintiff's counsel filed a Motion Regarding Entry Upon
3 Land, rather than a stipulation, on March 4, 2022. (Id., Doc 47.)
- 4 5. The first church on the schedule was Shiloh Christian Ministries and the
5 inspection was scheduled for 9:30 to 10:30. (Id.) Shiloh has a large church
6 building and large parking lot. (See Exhibit B hereto, Declaration of Alan
7 Gordon at ¶ 4 and [related video](#).)
- 8 6. On the morning of the inspection, representatives of Cochise County were the
9 first to arrive to the church property, followed by Plaintiff's experts. Before
10 Plaintiff's counsel arrived, the experts began to make an informal survey of the
11 parking lot which was part of the ADA survey subject matter. Counsel for the
12 County asked them to wait until all parties arrived. (See Exhibit C hereto,
13 Correa declaration at ¶ 6.)
- 14 7. When counsel for Plaintiff arrived, introductions were made, and the group
15 proceeded to the church building. Counsel for Cochise County showed the
16 plaintiff group the room where voting is conducted. Directly across the hall
17 from this room is a bathroom. Plaintiff's experts did not inspect the voting room
18 or the bathroom adjacent to it. Instead, they proceeded to a bathroom located
19 quite some distance away on the other side of the large church entrance and
20 lobby area. (Exhibit B at ¶ 5 Part A).
- 21 8. Plaintiff's experts began a thorough inspection of the bathroom located far from
22 the voting room, taking numerous measurements. (Id.)
- 23
24
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1 9. Deputy County Attorney Paul Correa spoke with Plaintiff's counsel and asked
2 her why the experts were inspecting the bathrooms near the lobby instead of
3 inspecting the room used for voting. He was told that bathrooms were included
4 in the agreed scope of the inspection. (Correa Dec. ¶ 10.)

5 10. As 10:30 approached, and Plaintiff's expert had not yet begun to inspect the
6 voting room, Deputy County Attorney Paul Correa walked over to the area and
7 admonished them that time was growing short. Plaintiff ignored this
8 admonishment. (Id. ¶ 11).

9 11. When time allotted for the inspection had almost expired, Chief Civil Deputy
10 County Attorney Christine J. Roberts walked over to the bathroom area outside
11 the lobby and advised Plaintiff's counsel and experts that they had almost run
12 out of time. (Roberts Dec. ¶ 14.)

13 12. Plaintiff's counsel argued that the parties had agreed to be flexible with time.
14 Counsel for the county informed her that this was private property, and that the
15 agreed-upon allotment of time had expired. Plaintiff's experts then began to
16 inspect the voting room and the bathroom across the hall from the voting room
17 before leaving the building.

18 13. Video shows that the Plaintiffs used around 49 minutes of the allotted hour
19 before leaving the restroom furthest from the voting center. At that time, the
20 expert asked Plaintiff's counsel: "So timewise, what are we looking at right
21 now?" Plaintiff's counsel responded: "Uh – if we could be on our way in half
22 an hour, that would be excellent." (Exhibit B, Alan Gordon Declaration at ¶ 5
23
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1 Part C). Plaintiff's counsel also stated: "It's okay with me if this is the only
2 bathroom we do." (Id.)

3 14. The experts then proceeded to inspect the entrance used during voting and the
4 room used for voting. When they were finished, Plaintiff's counsel asked them:
5 "Is everything done in here?" The expert answered: "I think so." Plaintiff's
6 counsel and the experts discussed surveying the parking lot outside. The experts
7 then decided to return to the bathrooms across the lobby in the building and to
8 survey a family restroom. (Id., Part E).

9 15. After exiting the building, Plaintiff's experts took additional time to survey the
10 parking lot and sidewalks. (Id. Part G).

11 16. At the following two church buildings on the schedule, Plaintiff was able to
12 perform the inspection within the allotted time.

13 17. At the end of the day, after the inspections had concluded, counsel for Plaintiff
14 called Deputy County Attorney Paul Correa and asked for an agreement that
15 the experts could return to Shiloh to conduct further inspection. Because the
16 County had no agreement with Shiloh Christian Ministries to allow this and the
17 property is private, Mr. Correa stated that this was not possible. Counsel for
18 Plaintiff then threatened that she would file a discovery motion and seek
19 sanctions.

20 ARGUMENT

21 A. Plaintiff Cannot Certify that a Conference Was Conducted Before This
22 Motion Was Filed.
23
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1 As stated above, the only discussion about this motion was a non-specific threat
2 from Plaintiff's counsel that she would file a discovery motion and obtain sanctions. This
3 does not satisfy the spirit of the rule requiring a pre-motion conference nor does it comply
4 with the Court's Scheduling Order. Plaintiff has never provided the Court with an
5 opportunity to resolve her new request for an order for a second inspection and for an
6 award of sanctions for the cost of that second inspection. The Court should summarily
7 deny her motion.
8

9 B. Plaintiff Wasted Its Time.

10 Actual video of the inspection belies Plaintiff's arguments. Plaintiff's experts
11 wasted time. That's all there is to it. Plaintiff's counsel was asked why her experts were
12 inspecting bathrooms far from the voting room and she was warned at least two times that
13 her experts were running out of time and had not yet inspected the voting room. She failed
14 to accept these friendly warnings or to correct course. Instead, she allowed her experts to
15 spend most of the allotted hour surveying a bathroom far from the voting area. The Court
16 should not excuse or reward Plaintiff for this error.
17

18 Moreover, contrary to the arguments made in their motion, the video shows that
19 Plaintiff's experts believed that they had adequately inspected the voting room and
20 entrance – the only areas that might be at issue based on the allegations in the Complaint.
21 Plaintiff's experts stated that they felt they had adequately examined the voting room area.
22 Plaintiff's counsel told her experts that she was okay with only one bathroom being
23 inspected. These recorded admissions do not support Plaintiff's motion for a second
24 inspection and sanctions.
25

1 Plaintiff argues that the parties had agreed that the one-hour inspection schedule
2 would be flexible. However, the only agreement was that there could be flexibility if
3 necessary. This was a professional courtesy – not an alternative schedule. It was not an
4 invitation for Plaintiff to conduct a full-scale ADA audit of areas of the buildings unrelated
5 to her claim. Her decision to engage in an intrusive fishing expedition for potential ADA
6 violations unrelated to the complaint did not create any need for additional time or justify
7 a request for “flexibility.” Plaintiff’s experts spent only a few minutes inspecting the
8 voting area and entrance that is put into issue by the allegations in the Complaint. There
9 was never any need for flexibility because Plaintiff had plenty of time to inspect the things
10 that matter to this case.
11

12
13 It might be pointed out that even if Plaintiff had a basis to perform an ADA
14 assessment of the bathrooms, that it ought to have been limited to: 1) the bathroom across
15 the hall from the voting room, and 2) the women’s restroom. However, as stated below,
16 there was never any reason to inspect any restrooms in the building.
17

18 C. Inspection of the Bathrooms Is Beyond the Scope of Discovery.

19 Plaintiff’s focus on bathrooms is beyond the scope of discovery for numerous
20 reasons. To begin with, there is no allegation in the Complaint regarding bathrooms.
21 Second, even if there was, religious organizations are exempt from the ADA. An ADA
22 audit of the church bathrooms is thus a complete waste of time. Even when the Shiloh
23 Christian Ministries building is used as a voting center, it is not subject to the ADA
24 requirements for non-religious buildings regarding restrooms. Title III by its terms does
25 not apply to “religious organizations or entities controlled by religious organizations,

1 including places of worship.” 42 U.S.C. § 12187; PGA Tour, 121 S.Ct. at 1897 n. 51
2 (2001) (noting that Congress “expressly exempted” religious organizations or entities
3 from Title III's coverage).

4 28 C.F.R. Pt. 36, App. B states:

5 The ADA’s exemption of religious organizations and religious entities
6 controlled by religious organizations is very broad, encompassing a wide
7 variety of situations. Religious organizations and entities controlled by
8 religious organizations have no obligations under the ADA. Even when a
9 religious organization carries out activities that would otherwise make it a
10 public accommodation, the religious organization is exempt from ADA
11 coverage. Thus, if a church itself operates a day care center, a nursing home,
12 a private school, or a diocesan school system, the operations of the center,
13 home, school, or schools would not be subject to the requirements of the
14 ADA or this part. The religious entity would not lose its exemption merely
15 because the services provided were open to the general public. The test is
16 whether the church or other religious organization operates the public
17 accommodation, not which individuals receive the public accommodation's
18 services.

15 Thus, for example, in *White v. Denver Seminary*, 157 F. Supp. 2d 1171, 1173 (D. Colo.
16 2001), the trial court properly found that an accredited graduate school operated by a
17 religious entity was exempt from ADA requirements of accessibility.

19 Third, the United States Department of Justice provides guidance for voting centers
20 such as the one at issue. See <https://www.ada.gov/votingchecklist.pdf>. These guidelines
21 do not include any requirement that the bathrooms in church voting centers be brought
22 into compliance with the same regulations that apply to non-religious buildings. They do
23 not provide any specific guidance concerning bathrooms in voting centers at all.

25 This Court should not entertain Plaintiff’s quest to create new judge-made
requirements for either curbside voting or for ADA-compliant restrooms in a voting center

1 in a religious organization's building. Neither the ADA nor DOJ guidelines mandate those
2 things.

3 Last, it should be noted, that if there was a finding that the bathrooms at Shiloh
4 Christian Ministries building were non-ADA compliant and if it was found that this made
5 the voting center inaccessible, Shiloh would nevertheless remain exempt from the ADA.
6 Under Title III of the ADA, the burden for ensuring the accessibility of polling sites is
7 placed upon state and local governments - not on exempt religious entities. The result of
8 an order requiring voting centers to have ADA-compliant restrooms would be that
9 Cochise County would need to find such locations, and this would very likely result in
10 closing any existing polling places before the November mid-term elections in 2022. The
11 perverse result would be that an overly broad and legally incorrect interpretation of the
12 ADA would reduce accessibility and voter participation in Cochise County. No one would
13 be well-served by that outcome.

14 For these reasons, the Court should DENY Plaintiff's Motion for Reinspection and
15 Sanctions.

16 DATED this 19th day of May, 2022.

17 BRIAN M. MCINTYRE,
18 COCHISE COUNTY ATTORNEY

19 By: /s/ Paul Correa
20 Paul Correa
21 Civil Deputy County Attorney
22
23
24
25

1 A copy of the foregoing emailed
2 this 19th day of May, 2022, to:

3 Rose Daly-Rooney
4 rdalyrooney@azdisabilitylaw.org

5 Maya Abela
6 mabela@azdisabilitylaw.org

7 Tamaraingsey In
8 sun@azdisabilitylaw.org

9 Meaghan Kramer
10 mkramer@azdisabilitylaw.org

EXHIBIT - A

1 BRIAN M. MCINTYRE
COCHISE COUNTY ATTORNEY

2 By: PAUL CORREA
Civil Deputy County Attorney
3 Arizona Bar No. 017187
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4 Bisbee, AZ 85603
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6 *Attorney for Cochise County and Lisa Marra, in her official capacity as Cochise County*
7 *Elections Director*

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

10 Kathleen Hoffard,

11 Plaintiff,

12 vs.

13
14 Cochise County, Arizona; Lisa Marra,
In her official capacity as Director of
15 Cochise County Elections Department,

16 Defendants.

) **No. 4:20-CV-00243-SHR**
)
)
)

) **DECLARATION OF**
) **CHRISTINE J. ROBERTS**
)

) **Assigned to the Honorable**
) **Judge Scott H. Rash**
)

17
18 STATE OF ARIZONA)

19 : ss.

20 County of Cochise)

21 I, CHRISTINE J. ROBERTS, declare the following facts to be true under penalty
22 of perjury:

23 1. I am the Chief Civil Deputy of the Civil Division of the Cochise County
24 Attorney's Office. I am over the age of 18, and if called as a witness, I could and would
25

1 testify competently to the facts stated herein, all of which is my personal knowledge.

2 2. I am counsel of record for Defendants Cochise County and Lisa Marra, in
3 her official capacity as Cochise County Elections Director (“Defendants”), in this lawsuit.

4 3. Plaintiff’s January 21, 2022 Request for Entry Upon Land sought to
5 conduct an inspection of all Cochise County Vote Centers – a total of 17. Defendants
6 objected, and the Court limited the inspection to three located in Sierra Vista, where the
7 Plaintiff lives and votes. [Doc. 50-2].

9 4. Following this direction, our Elections Director coordinated with the three
10 churches that voluntarily permit the use of rooms in their properties to be used as vote
11 centers. On February 25, 2022, I provided Plaintiff with a date and time and a proposed
12 schedule for the inspection of three vote centers. (See Attachment A hereto.)

14 5. The parties had communications regarding the scheduling of the inspections
15 and had reached an agreement that the inspections would occur on March 31, 2022 and
16 agreed to a schedule allowing one hour of inspection at each building, with flexibility if
17 needed due to an unforeseen event. (See Attachment B hereto, email correspondence.)

19 6. Although Defendants’ counsel had been cooperating and communicated
20 with Plaintiff’s counsel, Plaintiff’s counsel filed a Motion Regarding Entry Upon Land,
21 rather than a stipulation, on March 4, 2022. (Id., Doc 47.)

22 7. The first church on the schedule was Shiloh Christian Ministries and the
23 inspection was scheduled for 9:30 to 10:30. (Id.) Shiloh has a large church building and
24 large parking lot. (See Exhibit B hereto, Declaration of Alan Gordon, Video)

1 8. On the morning of the inspection, representatives of Cochise County were
2 the first the first to arrive to the church property, followed by Plaintiff's experts. Before
3 Plaintiff's counsel arrived, the experts began to make an informal survey of the parking
4 lot which was part of the ADA survey subject matter. Counsel for the County
5 immediately approached them and asked them to wait until all parties arrived. (Id. at __)

6
7 9. When counsel for Plaintiff arrived, introductions were made, and the group
8 proceeded to the church building. Much of the entire inspection was recorded on video by
9 Cochise County Employee Alan Gordon. (Exhibit B.)

10 10. Counsel for Cochise County showed the plaintiff group the room where
11 voting is conducted. Across the hall from this room is a bathroom. Plaintiff's experts did
12 not inspect the voting room or the bathroom adjacent to it. Instead, they proceeded to a
13 bathroom located quite some distance away on the other side of the large church entrance
14 and lobby area. (Id.)

15
16 11. Plaintiff's experts began a thorough inspection of the bathroom located far
17 from the voting room, including taking measurements and video in the women's restroom,
18 the men's restroom, and a family room. (Id.)

19
20 12. Deputy County Attorney Paul Correa spoke with Plaintiff's counsel and
21 asked her why the experts were inspecting the bathrooms near the lobby instead of
22 inspecting the room used for voting. He was told that bathrooms were included in the
23 agreed scope of the inspection. (See Declaration of Paul Correa, filed in support of this
24 Response.)
25

1 13. As 10:30 a.m. approached, and Plaintiff's Expert had not yet begun to
2 inspect the voting room, Deputy County Attorney Paul Correa walked over to the area
3 and admonished them that time was growing short. Plaintiff ignored this admonishment.
4 (Id.)

5 14. When time for the inspection had almost expired, I walked over to the
6 bathroom area outside the lobby and advised Plaintiff's counsel and experts that they had
7 almost run out of time.
8

9 15. Plaintiff's counsel argued that the parties had agreed to be flexible with
10 time. Counsel for Defendants informed her that this was private property, and that the
11 agreed-upon allotment of time had expired. Plaintiff's experts then began to inspect the
12 voting room and the bathroom across the hall from the voting room before leaving the
13 building.
14

15 16. After exiting the building, Plaintiff's experts surveyed the parking lot and
16 sidewalks.
17

18 17. At the following two church buildings on the schedule, Plaintiff was able to
19 perform the inspection within the allotted time.

20 Pursuant to 28. U.S.C. § 1746, I declare under penalty of perjury that the foregoing
21 is true and correct.
22
23
24
25

DECLARED, SUBSCRIBED AND SWORN under perjury this 17th day of

may, 2022, by Christine J. Roberts.


Christine J. Roberts

EXHIBIT - B

BRIAN M. MCINTYRE
COCHISE COUNTY ATTORNEY

By: PAUL CORREA
Civil Deputy County Attorney
Arizona Bar No. 017187
P.O. Drawer CA
Bisbee, AZ 85603
(520) 432-8700

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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,)	
)	
vs.)	DECLARATION OF
)	ALAN GORDON
)	
Cochise County, Arizona; Lisa Marra,)	
In her official capacity as Director of)	
Cochise County Elections Department,)	
)	Assigned to the Honorable
Defendants.)	Judge Scott H. Rash
)	

STATE OF ARIZONA)
: ss.
County of Cochise)

I, Alan Gordon, declare the following facts to be true under penalty of perjury:

1. I am an employee of Cochise County and work in the IT department. I am over the age of 18, and if called as a witness, I could and would testify competently to the facts stated herein, all of which is my personal knowledge.

2. Plaintiff's January 21, 2022 Request for Entry Upon Land sought to conduct an inspection of all Cochise County Voting Centers – a total of 17. Defendant Cochise County objected, and the Court limited the inspection to three located in Sierra Vista, where the Plaintiff lives and votes. [Doc. 50-2].

3. On March 31, 2022, I was present during the inspection of three voting centers in Cochise County, conducted by experts for the Plaintiff. I made recordings of the inspections.

4. The first church on the schedule was Shiloh Christian Ministries and the inspection was scheduled for 9:30 to 10:30. Shiloh has a large church building.

5. Submitted with my declaration are a number of segments of video that show in real time the inspection of the Shiloh Christian Ministries Church Building. These may be viewed by the court and counsel at the URL location linked and footnoted here¹.

A	0331220937.mp4	Inspection party enters building, is shown voting room, and walks to another area of the building to survey bathrooms near the lobby. Duration: 10:46
B	0331220948.mp4	Inspectors continue to measure and audit bathroom near lobby. Duration: 5:28

¹ https://cochise-my.sharepoint.com/personal/tjohnson_cochise_az_gov/_layouts/15/onedrive.aspx?id=%2Fpersonal%2Ftjohnson%5Fcochise%5Faz%5Fgov%2FDocuments%2FHoffard%204%2020%2Dcv%2D00423%20%2D%20Alan%20Gordon%20Declaration&ga=1

1	C	0331220955.mp4	Inspectors continue to measure and audit bathroom near lobby. Duration: 33:21
2			
3			Note: At 32:30 Plaintiff's counsel speaks with inspectors
4			regarding the time left to finish audit and states that "It's
5			okay with me if this is the only bathroom we do."
6			
7	D	0331221025.mp4	Inspectors and Plaintiff counsel leave lobby bathroom
8			area and walk over to the voting room. Duration: 00:05
9	E	0331221028.mp4	Inspectors begin survey of entrance to voting area.
10			Inspectors measure height of sign.
11			Inspectors enter voting rooms and conduct survey at
12			04:49.
13			Inspectors complete audit of voting area at 08:05.
14			Plaintiff's counsels asks: "Is everything done in here?"
15			and expert answers: "I think so." Expert says: "We
16			haven't touched the parking lot."
17			Expert decides to return to the lobby area and do an
18			overview survey of the family bathroom in that area and
19			returns to that part of the building at 8:40.
20			Duration: 08:52
21			
22	F	0331221037.mp4	Plaintiff's expert audits the family restroom near the
23			lobby. Duration 00:28
24			
25			

G	0331221038.mp4	Plaintiff's experts complete survey of family restroom and proceed to parking lot. Duration 09:17
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6. At some point during the inspection, the Plaintiff's Expert had not yet begun to inspect the voting room, Deputy County Attorney Paul Correa walked over to the area and admonished the experts that time was growing short. I did not record this interaction in video, but I observed it.

7. When time for the inspection had almost expired and Plaintiffs experts were still in the bathroom by the lobby, Chief Civil Deputy Christine J. Roberts walked over to the area and advised Plaintiff's counsel and experts that they had almost run out of time. I did not record this interaction in video, but I observed it.

Pursuant to 28. U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

DECLARED, SUBSCRIBED AND SWORN under perjury this 19 day of May, 2022, by Alan Gordon.

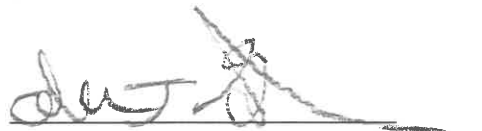

Alan Gordon

EXHIBIT - C

BRIAN M. MCINTYRE
COCHISE COUNTY ATTORNEY

By: PAUL CORREA
Civil Deputy County Attorney
Arizona Bar No. 017187
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(520) 432-8700

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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,
Plaintiff,

vs.

Cochise County, Arizona; Lisa Marra,
In her official capacity as Director of
Cochise County Elections Department,
Defendants.

No. 4:20-CV-00243-SHR

**DECLARATION OF
PAUL CORREA**

**Assigned to the Honorable
Judge Scott H. Rash**

STATE OF ARIZONA)
: ss.
County of Cochise)

I, PAUL CORREA, declare the following facts to be true under penalty of
perjury:

1. I am a Civil Deputy of the Civil Division of the Cochise County Attorney's
Office. I am over the age of 18, and if called as a witness, I could and would

1 testify competently to the facts stated herein, all of which is my personal knowledge.

2 2. I am counsel of record for Defendants Cochise County and Lisa Marra, in
3 her official capacity as Cochise County Elections Director, in this lawsuit.

4 3. Plaintiff's January 21, 2022 Request for Entry Upon Land sought to
5 conduct an inspection of all Cochise County Voting Centers – a total of 17. Defendant
6 Cochise County objected, and the Court limited the inspection to three located in Sierra
7 Vista, where the Plaintiff lives and votes. [Doc. 50-2].
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9 4. On March 31, 2022, I was present during the inspection of three voting
10 centers in Cochise County, conducted by experts for the Plaintiff.

11 5. The first church on the schedule was Shiloh Christian Ministries and the
12 inspection was scheduled for 9:30 to 10:30. Shiloh has a large church building.
13

14 6. On the morning of the inspection, representatives of Cochise County were
15 the first to arrive to the church property, followed by Plaintiff's experts. Before Plaintiff's
16 counsel arrived, the experts began to make an informal survey of the parking lot which
17 was part of the ADA survey subject matter. I approached them and asked them to wait
18 until all parties arrived.
19

20 7. When counsel for Plaintiff arrived, introductions were made, and the group
21 proceeded to the church building.

22 8. Counsel for Cochise County showed the plaintiff group the room where
23 voting is conducted. A bathroom is right across the hall from this room. Plaintiff's
24 experts did not inspect the voting room or the bathroom adjacent to it. Instead, they
25

1 proceeded to a bathroom located quite some distance away on the other side of the large
2 church entrance and lobby area. (This can be seen in the first segment of video made by
3 Alan Gordon).

4 9. I watched Plaintiff's experts begin a detailed inspection of the bathroom
5 located far from the voting room, including taking numerous measurements and video in
6 the women's restroom. (Id.)
7

8 10. Concerned that this was an unwarranted fishing expedition and could
9 potentially impair the relationship between the County and Shiloh Christian Ministries, I
10 spoke with Plaintiff's counsel and asked her why the experts were inspecting the
11 bathrooms near the lobby instead of inspecting the room used for voting. She pointed out
12 that the scope of the inspection includes the phrase "including restrooms." As Ms.
13 Kramer correctly points out in her declaration, both Chief Civil Deputy Christine Roberts
14 and I expressed that the inspection of the restrooms was not appropriate. (Kramer Dec. at
15 17).
16

17 11. As 10:30 approached, and Plaintiff's Expert had not yet begun to inspect
18 the voting room, I walked over to the area and admonished them that time was growing
19 short. Plaintiff ignored this admonishment. (Id.)
20

21 12. When time for the inspection had almost expired and Plaintiffs experts
22 were still in the bathroom by the lobby, Chief Civil Deputy Roberts walked over to the
23 area and advised Plaintiff's counsel and experts that they had almost run out of time.
24
25

1 13. Plaintiff's counsel argued that the parties had agreed to be flexible with
2 time. Counsel for the county informed her that this was private property, and that the
3 agreed-upon allotment of time had expired. Plaintiff's experts then began to inspect the
4 voting room and the bathroom across the hall from the voting room before leaving the
5 building.

6 14. After exiting the building, Plaintiff's experts surveyed the parking lot and
7 sidewalks. They concluded significantly beyond 10:30 a.m. and arrived at the next
8 location just on time to begin on schedule.

9 15. At the following two church buildings on the schedule, Plaintiff was able to
10 perform the inspection within the allotted time.

11 Pursuant to 28. U.S.C. § 1746, I declare under penalty of perjury that the foregoing
12 is true and correct.

13 DECLARED, SUBSCRIBED AND SWORN under perjury this 17th day of
14 May, 2022, by Paul Correa.

15
16
17
18 
19 Paul Correa
20
21
22
23
24
25