

**KRISTIN K. MAYES
ATTORNEY GENERAL**

Hayleigh S. Crawford (No. 032326)
Joshua M. Whitaker (No. 032724)
Robert J. Makar (No. 033579)
Kathryn E. Boughton (No. 036105)
Assistant Attorneys General
2005 N. Central Avenue
Phoenix, Arizona 85004
Telephone: (602) 542-5200
Email: Hayleigh.Crawford@azag.gov
Email: Joshua.Whitaker@azag.gov
Email: Robert.Makar@azag.gov
Email: Kathryn.Boughton@azag.gov
Email: ACL@azag.gov

FENNEMORE CRAIG, P.C.

Douglas C. Northup (No. 013987)
Timothy J. Berg (No. 004170)
Emily Ward (No. 029963)
2394 E. Camelback Road, Suite 600
Phoenix, Arizona 85016
Telephone: (602) 916-5000
Email: dnorthup@fennemorelaw.com
Email: tberg@fennemorelaw.com
Email: eward@fennemorelaw.com

*Attorneys for Defendants
Attorney General Kristin K. Mayes and
State of Arizona*

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Mi Familia Vota, et al.,

Plaintiffs,

v.

Adrian Fontes, et al.,

Defendants.

No. CV-22-00509-PHX-SRB (Lead)

**DEFENDANTS ATTORNEY
GENERAL KRISTIN K. MAYES
AND STATE OF ARIZONA'S
STATEMENT OF FACTS IN
SUPPORT OF MOTION FOR
PARTIAL SUMMARY JUDGMENT**

AND CONSOLIDATED CASES.

No. CV-22-00519-PHX-SRB
No. CV-22-01003-PHX-SRB
No. CV-22-01124-PHX-SRB
No. CV-22-01369-PHX-SRB
No. CV-22-01381-PHX-SRB
No. CV-22-01602-PHX-SRB
No. CV-22-01901-PHX-SRB

Defendants State of Arizona and Attorney General Kristin K. Mayes (collectively “the State”) submit the following statements of fact in support of their Motion for Partial Summary Judgment:

1. On March 30, 2022, the Arizona Legislature enacted and the Governor signed House Bill 2492 into law. *See* Bill Status Inquiry: HB 2492, available at <https://apps.azleg.gov/BillStatus/BillOverview/76970> (last accessed May 4, 2023). A copy of HB 2492 is attached hereto as **Exhibit A**.

2. On July 6, 2022, the Arizona Legislature enacted and the Governor signed House Bill 2243 into law. *See* Bill Status Inquiry: HB 2243, available at <https://apps.azleg.gov/BillStatus/BillOverview/76698> (last accessed May 4, 2023). A copy of HB 2243 is attached hereto as **Exhibit B**.

3. The U.S. Election Assistance Commission created the National Voter Registration Application Form under the authority conferred by the National Voter Registration Act (“NVRA”), 52 U.S.C. § 20508.

4. A current copy of the National Voter Registration Application Form, as well as its accompanying General Instructions, Application Instructions, and State-specific Instructions, are available at https://www.eac.gov/sites/default/files/eac_assets/1/6/Federal_Voter_Registration_ENG.pdf, and are attached hereto as **Exhibit C**.

5. The General Instructions explain how to submit an application—namely by submitting a completed National Voter Registration Application Form either in person or by mail:

How to Submit Your Application

Mail your application to the address listed under your State in the State Instructions. Or, deliver the application in person to your local voter registration office. The States that are required to accept the national form will accept copies of the application printed from the computer image on regular paper stock, signed by the applicant, and mailed in an envelope with the correct postage.

See Exhibit C at 2.

1 6. A copy of the Arizona Voter Registration Form and its instructions can be
2 accessed at https://azsos.gov/sites/default/files/voter_registration_form.pdf and is attached
3 hereto as **Exhibit D**.

4 7. Since 2003, Arizona has placed a check box to affirm U.S. citizenship on the
5 Arizona Voter Registration Form. *See* 2003 Ariz. Legis. Serv. Ch. 260 (S.B. 1075) (West)
6 (revising A.R.S. § 16-152(A)(14)), attached hereto as **Exhibit E**.

7 8. In 2004, Arizona law specified that checking the box to affirm an applicant's
8 U.S. citizenship was a condition for being "presumed to be properly registered." *See* 2004
9 Ariz. Legis. Serv. Ch. 184 (S.B. 1250) (West) (revising A.R.S. § 16-121.01(A)), attached
10 hereto as **Exhibit F**.

11 9. Since 1979, Arizona's voter registration form has contained a space for
12 prospective voters to write their "state or country of birth." *See* 1979 Ariz. Sess. Laws Ch.
13 209, at 823 (codified then at A.R.S. § 16-152(A)(9)), attached hereto as **Exhibit G**.

14 10. A copy of the U.S. Department of State's Foreign Affairs Manual is available
15 at <https://fam.state.gov/fam/08fam/08fam040304.html> (last updated Apr. 19, 2022), and is
16 attached hereto as **Exhibit H**.

17 11. The U.S. Department of State's Foreign Affairs Manual states: "[T]he United
18 States will not issue a U.S. passport with non POB [Place of Birth] listing. The POB
19 designation is an integral part of establishing an individual's identity. It distinguishes that
20 individual from other persons with similar names and/or dates of birth, and helps identify
21 claimants attempting to use another person's identity." Exhibit H at 8 FAM 403.4-6(A).

22 12. The following states have a space on their voter registration applications for
23 place of birth: Alabama, Louisiana, Missouri, Nebraska, Nevada, North Carolina,
24 Tennessee, Utah, and Vermont. The voter registration applications for these states are
25 attached hereto in alphabetical order as **Exhibit I**.

26 13. The following states appear to require an applicant state place of birth in order
27 to be registered: Alabama (see form itself in Exhibit I), Nevada (see form itself in Exhibit I),
28 Tennessee (Tenn. Code Ann. § 2-2-116), and Vermont (17 V.S.A. § 2145).

