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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,

Plaintiffs,

v.

Adrian Fontes, in his official capacity as
Arizona Secretary of State, et al.,

Defendants.

AND CONSOLIDATED CASES

No. 2:22-cv-00509-SRB (Lead)

**SUPPLEMENTAL PROTECTIVE
ORDER**

(Before the Hon. Susan R. Bolton)

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

1 The Court recognizes that documents and information (“**Materials**” as defined
 2 herein) being sought through discovery in this matter are considered confidential by the
 3 parties. The parties have agreed to be bound by the terms of this Supplemental Protective
 4 Order (“**Order**”)¹ to facilitate document production and disclosure, and to protect the
 5 parties’ respective interests in their confidential information. This Order shall remain in
 6 effect unless modified pursuant to the terms contained in this Order.

7 Accordingly,

8 **IT IS ORDERED** that the parties’ stipulation (Doc. __) is granted and the
 9 following provisions shall be enforced. Nothing in this Supplemental Protective Order
 10 supersedes the prior Protective Order entered (Doc. 353), which remains in full force and
 11 effect.

12 **I. Definitions**

13 The following Definitions apply in this Order:

14 **A.** The term “**Confidential Information**” means information contained or
 15 disclosed in any materials, including documents, portions of documents, answers to
 16 interrogatories, responses to requests for admissions, trial testimony, deposition
 17 testimony, and transcripts of trial testimony and depositions, including data, summaries,
 18 and compilations derived therefrom that is deemed to be Confidential Information by any
 19 party.

20 **B.** The term “**Materials**” includes, but is not limited to: documents;
 21 correspondence; memoranda; financial information; emails; specifications; marketing
 22 plans; marketing budgets; customer information; materials that identify customers or
 23 potential customers; price lists or schedules or other matter identifying pricing; minutes;
 24 letters; statements; cancelled checks; contracts; invoices; drafts; books of account;

25
 26
 27 ¹ At the parties’ request, the Court previously entered a Protective Order specifically
 28 designed to protect voter registration information. (*See* Doc. 353 at 3–4.) The present
 Supplemental Protective Order is designed to protect confidential information more
 generally.

worksheets; forecasts; notes of conversations; desk diaries; appointment books; expense accounts; recordings; photographs; motion pictures; sketches; drawings; notes of discussions with third parties; other notes; business reports; instructions; disclosures; other writings; records of website development; and internet archives.

C. The term “**Counsel**” means all counsel of record throughout the litigation, including outside counsel of record, and other attorneys, paralegals, secretaries, and support staff employed in the office of any counsel of record.

II. Supplemental Protective Order Provisions

The following provisions apply in this litigation:

1. Each party to this litigation that produces or discloses any Materials, answers to interrogatories, responses to requests for admission, trial testimony, deposition testimony, and/or transcripts of trial testimony and depositions that the producing party believes should be subject to this Supplemental Protective Order may designate the same as “CONFIDENTIAL” or “CONFIDENTIAL – FOR COUNSEL ONLY.”

a) Designation as “CONFIDENTIAL”: Any party may designate information as “CONFIDENTIAL” only if, in the good faith belief of such party and its Counsel, the unrestricted disclosure of such information could be harmful to the business or operations of such party.

b) Designation as “CONFIDENTIAL – FOR COUNSEL ONLY”: Any party may designate information as “CONFIDENTIAL – FOR COUNSEL ONLY” only if, in the good faith belief of such party and its Counsel, the information is among that considered to be most sensitive by the party.

2. In the event the producing party elects to produce Materials for inspection, no marking need be made by the producing party in advance of the initial inspection. For purposes of the initial inspection, all Materials produced will be considered as “CONFIDENTIAL – FOR COUNSEL ONLY,” and must be treated as such pursuant to the terms of this Order. Thereafter, upon selection of specified Materials for copying by

1 the inspecting party, the producing party must, within a reasonable time prior to producing
2 those Materials to the inspecting party, mark the copies of those Materials that contain
3 Confidential Information with the appropriate confidentiality marking.

4 3. Whenever a deposition taken on behalf of any party involves the disclosure
5 of Confidential Information of any party:

6 a) The deposition or portions of the deposition must be designated as
7 containing Confidential Information subject to the provisions of this
8 Order. Such designation must be made on the record whenever
9 possible, but a party may designate portions of depositions as
10 containing Confidential Information after transcription of the
11 proceedings. A party will have until thirty (30) days after receipt of
12 the deposition transcript to inform the other party or parties to the
13 action of the portions of the transcript to be designated
14 “CONFIDENTIAL” or “CONFIDENTIAL – FOR COUNSEL
15 ONLY.”

16 b) Prior to the disclosure of Confidential Information, the disclosing
17 party will have the right to exclude from attendance at the deposition
18 any person other than the deponent, Counsel (including their staff
19 and associates), the court reporter, and the person(s) agreed upon
20 pursuant to paragraph 8, below.

21 c) The originals of the deposition transcripts and all copies of the
22 deposition must bear the legend “CONFIDENTIAL” or
23 “CONFIDENTIAL – FOR COUNSEL ONLY,” as appropriate, and
24 the original or any copy ultimately presented to a court for filing
25 must not be filed unless it can be accomplished under seal, identified
26 as being subject to this Order, and protected from being opened
27 except by order of this Court.

1 4. All Confidential Information designated as “CONFIDENTIAL” or
2 “CONFIDENTIAL – FOR COUNSEL ONLY” must not be disclosed by the receiving
3 party to anyone other than those persons designated within this Order, must be handled
4 in the manner set forth below, and must not be used for any purpose other than in
5 connection with this litigation, unless and until such designation is removed either by
6 agreement of the parties or by order of the Court.

7 5. Information designated “CONFIDENTIAL – FOR COUNSEL ONLY”
8 may be viewed only by:

- 9 a) Counsel (as defined in paragraph C, above) of the receiving party;
10 b) Independent experts and stenographic and clerical employees
11 associated with such experts. Prior to receiving any Confidential
12 Information of the producing party, the expert must execute a copy
13 of the “Agreement to Be Bound by Stipulated Supplemental
14 Protective Order,” attached hereto as Exhibit A. Counsel for the
15 receiving party must retain executed copies of such exhibits;
16 c) The Court and any Court staff and administrative personnel;
17 d) Any court reporter employed in this litigation and acting in that
18 capacity; and
19 e) Any person indicated on the face of the document to be its author or
20 co-author, or any person identified on the face of the document as
21 one to whom a copy of such document was sent before its production
22 in this action.

23 6. Information designated “CONFIDENTIAL” may be viewed only by the
24 individuals listed in paragraph 5 above, and by the additional individuals listed below:

- 25 a) Party principals or executives who are required to participate in
26 policy decisions with reference to this action;
27 b) Technical personnel of the parties with whom Counsel for the parties
28 find it necessary to consult in preparation for trial of this action; and

1 c) Stenographic and clerical employees associated with the individuals
2 identified in paragraph 6(a) or 6(b).

3 7. All information that has been designated as “CONFIDENTIAL – FOR
4 COUNSEL ONLY” by the producing or disclosing party, and any and all reproductions
5 of that information, must be retained in the custody of the Counsel for the receiving party,
6 except that independent experts authorized to view such information under the terms of
7 this Order may retain custody of copies as necessary for their participation in this
8 litigation, but only during the course of this litigation. The principals, employees or other
9 agents of the parties who received information prior to and apart from this litigation that
10 was subsequently disclosed in this litigation as being either “CONFIDENTIAL” or
11 “CONFIDENTIAL – FOR COUNSEL ONLY” may also retain copies of that information
12 as is necessary for use in their respective businesses.

13 8. Before any Materials produced in discovery, answers to interrogatories,
14 responses to requests for admissions, deposition transcripts, or other documents which
15 are designated as Confidential Information are filed with the Court for any purpose, the
16 party seeking to file such material must seek permission of the Court to file the material
17 under seal. **The parties must follow the procedural requirements of LRCiv 5.6.**
18 Nothing in this order shall be construed as automatically permitting a party to file under
19 seal. Every motion to seal, including stipulations pursuant to LRCiv 5.6(d), must identify
20 the legal standard applicable to the document at issue and explain why the material sought
21 to be sealed meets that standard. The party seeking leave of Court shall show “compelling
22 reasons” (where the motion is more than tangentially related to the merits of the case) or
23 “good cause” for filing under seal. *See Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809
24 F.3d 1092, 1101 (9th Cir. 2016). Furthermore, the mere fact the parties have designated
25 certain materials or information as confidential pursuant to an agreement or stipulation
26 does not establish that any legal standard for placing those materials or information under
27 seal has been met. *Id.* Where a party seeks to seal only certain portions of a given
28 document, the unredacted version of the document, which should be lodged under seal

1 pursuant to LRCiv 5.6(c), must include **highlighting** to indicate which portions of the
2 document the party seeks to redact. Additionally, a party seeking to file under seal shall,
3 within the applicable deadline, file a redacted, unsealed version of any motion, response
4 or reply if the party is waiting for a ruling from the Court on filing an unredacted, sealed
5 version of the same document. Further, no portion of the trial of the matter shall be
6 conducted under seal.

7 9. Confidential Information and Materials designated “CONFIDENTIAL” or
8 “CONFIDENTIAL – FOR COUNSEL ONLY” shall be used solely for the prosecution
9 or defense of this action. A party that wishes to use Confidential Information and/or
10 Materials designated “CONFIDENTIAL” or “CONFIDENTIAL – FOR COUNSEL
11 ONLY” for a purpose other than the prosecution or defense of this action must request
12 permission, in writing, from Counsel for the producing party. The receiving party’s
13 request must identify the Confidential Information and/or Materials designated
14 “CONFIDENTIAL” or “CONFIDENTIAL – FOR COUNSEL ONLY” that the receiving
15 party wishes to use and must identify the purpose for using it. If the parties cannot resolve
16 the question of whether the receiving party can use Confidential Information and/or
17 Materials designated “CONFIDENTIAL” or “CONFIDENTIAL – FOR COUNSEL
18 ONLY” for a purpose other than the prosecution or defense of this action within fourteen
19 (14) days of the producing party’s receipt of such a request, the receiving party may move
20 the Court for a ruling on the receiving party’s request. In the event any party files a
21 motion seeking to use Confidential Information and/or Materials designated
22 “CONFIDENTIAL” or “CONFIDENTIAL – FOR COUNSEL ONLY” for a purpose
23 other than the prosecution or defense of this action, the Confidential Information and/or
24 Materials designated “CONFIDENTIAL” or “CONFIDENTIAL – FOR COUNSEL
25 ONLY” shall be submitted to the Court, under seal, for an in-camera inspection. Any
26 Confidential Information and/or Materials designated “CONFIDENTIAL” or
27 “CONFIDENTIAL – FOR COUNSEL ONLY” at issue must be treated as Confidential
28

1 Information, as designated by the producing party, until the Court has ruled on the motion
2 or the matter has been otherwise resolved.

3 10. At any stage of these proceedings, any party may object to a designation of
4 confidentiality. The party objecting to confidentiality must submit written objections and
5 the grounds for the objections to Counsel for the producing party. If the dispute is not
6 resolved consensually between the parties within fourteen (14) days of receipt of
7 objections, the objecting party may move the Court for a ruling on the objection. In the
8 event any party files a motion challenging the designation or redaction of information,
9 the document shall be submitted to the Court, under seal, for an in-camera inspection.
10 The Materials at issue must be treated as Confidential Information, as designated by the
11 producing party, until the Court has ruled on the objection or the matter has been
12 otherwise resolved.

13 11. At any stage of these proceedings, any party may request that it be permitted
14 to disclose Materials designated as Confidential Information to individuals not permitted
15 by this Order to view such Materials. The party must submit to Counsel for the producing
16 party a written notice identifying the relevant Materials and the individuals to whom the
17 party wishes to disclose the Materials. If the request is not resolved consensually between
18 the parties within fourteen (14) days of receipt of such a request, the requesting party may
19 move the Court for a ruling allowing such disclosure. In the event any party files a motion
20 requesting such disclosure, the Materials shall be submitted to the Court, under seal, for
21 an in-camera inspection. The Materials at issue must be treated as Confidential
22 Information, as designated by the producing party, until the Court has ruled on the request.

23 12. All Confidential Information must be held in confidence by those
24 inspecting or receiving it. To the extent the Confidential Information has not been
25 disclosed prior to and apart from this litigation, it must be used only for purposes of this
26 action. If the Confidential Information was exchanged between the parties prior to and
27 apart from this litigation for purposes of conducting their respective businesses, the
28 parties may continue to use that otherwise Confidential Information for that purpose. The

1 parties may not distribute the Confidential Information beyond those persons or entities
2 that had received the Confidential Information prior to this litigation. In addition, counsel
3 for each party, and each person receiving Confidential Information, must take reasonable
4 precautions to prevent the unauthorized or inadvertent disclosure of such information. If
5 Confidential Information is disclosed to any person other than a person authorized by this
6 Order, the party responsible for the unauthorized disclosure must immediately bring all
7 pertinent facts relating to the unauthorized disclosure to the attention of the other parties
8 and, without prejudice to any rights and remedies of the other parties, make every effort
9 to prevent further disclosure by the party and by the person(s) receiving the unauthorized
10 disclosure.

11 13. No party will be responsible to another party for disclosure of Confidential
12 Information under this Order if the information in question is not labeled or otherwise
13 identified as such in accordance with this Order.

14 14. If a party, through inadvertence, produces any Confidential Information
15 without labeling or marking or otherwise designating it as such in accordance with this
16 Order, the producing party may give written notice to the receiving party that the
17 Materials produced are deemed Confidential Information, and that the Materials produced
18 should be treated as such in accordance with that designation under this Order. The
19 receiving party must treat the Materials as confidential once the producing party so
20 notifies the receiving party. If the receiving party has disclosed the Materials before
21 receiving the designation, the receiving party must notify the producing party in writing
22 of each such disclosure. Counsel for the parties will agree on a mutually acceptable
23 manner of labeling or marking the inadvertently produced Materials as
24 “CONFIDENTIAL” or “CONFIDENTIAL – FOR COUNSEL ONLY” – SUBJECT TO
25 SUPPLEMENTAL PROTECTIVE ORDER.

26 15. Nothing within this Order will prejudice the right of any party to object to
27 the production of any discovery material on the grounds that the material is protected as
28 privileged or as attorney work product.

1 16. Nothing in this Order will bar Counsel from rendering advice to their clients
2 with respect to this litigation and, in the course thereof, relying upon any information
3 designated as Confidential Information, provided that the contents of the information
4 must not be disclosed.

5 17. This Order will be without prejudice to the right of any party to oppose
6 production of any information for lack of relevance or any other ground other than the
7 mere presence of Confidential Information. The existence of this Order must not be used
8 by either party as a basis for discovery that is otherwise improper under the Federal Rules
9 of Civil Procedure.

10 18. Information designated Confidential pursuant to this Order also may be
11 disclosed if: (a) the party or non-party making the designation consents to such disclosure;
12 (b) the Court, after notice to all affected persons, allows such disclosure; or (c) the party
13 to whom Confidential Information has been produced thereafter becomes obligated to
14 disclose the information in response to a lawful subpoena, provided that the subpoenaed
15 party gives prompt notice to Counsel for the party which made the designation, and
16 permits Counsel for that party sufficient time to intervene and seek judicial protection
17 from the enforcement of this subpoena and/or entry of an appropriate protective order in
18 the action in which the subpoena was issued.

19 19. Nothing in this Confidentiality Order shall limit any producing party's use
20 of its own documents or shall prevent any producing party from disclosing its own
21 Confidential Information to any person. Such disclosures shall not affect any confidential
22 designation made pursuant to the terms of this Order so long as the disclosure is made in
23 a manner which is reasonably calculated to maintain the confidentiality of the
24 information. Nothing in this Order shall prevent or otherwise restrict Counsel from
25 rendering advice to their clients, and in the course thereof, relying on examination of
26 stamped confidential information.

27 20. Within thirty (30) days of the final termination of this action, including any
28 and all appeals, Counsel for each party must purge all Confidential Information from all

1 machine-readable media on which it resides and must either (a) return all Confidential
2 Information to the party that produced the information, including any copies, excerpts,
3 and summaries of that information, or (b) destroy it. With respect to paper copies, return
4 or destruction of Confidential Information is at the option of the producing party.
5 Notwithstanding the foregoing, Counsel for each party may retain all pleadings, briefs,
6 memoranda, motions, and other documents filed with the Court that refer to or incorporate
7 Confidential Information, and will continue to be bound by this Order with respect to all
8 such retained information, after the conclusion of this litigation. Further, attorney work
9 product Materials that contain Confidential Information need not be destroyed, but, if
10 they are not destroyed, the person in possession of the attorney work product will continue
11 to be bound by this Order with respect to all such retained information after the conclusion
12 of this litigation. Nothing in this paragraph shall be interpreted as superseding legal
13 retention obligations of public entities.

14 21. The restrictions and obligations set forth within this Order do not apply to
15 any information that: (a) the parties agree should not be designated Confidential
16 Information; (b) the parties agree, or the Court rules, is already public knowledge; or (c)
17 the parties agree, or the Court rules, has become public knowledge other than as a result
18 of a violation of this Order.

19 22. Any party may designate as “CONFIDENTIAL” or “CONFIDENTIAL –
20 FOR COUNSEL ONLY” any Materials that were produced during the course of this
21 action without such designation before the effective date of this Order, as follows:

- 22 a) Parties to this action may designate such Materials by sending
23 written notice of such designation, accompanied by copies of the
24 designated Materials bearing the appropriate legend of
25 “CONFIDENTIAL” or “CONFIDENTIAL – FOR COUNSEL
26 ONLY” to all other parties in possession or custody of such
27 previously undesignated Materials. Any party receiving such notice
28 and copies of designated Materials pursuant to this subparagraph

1 shall return to the producing party all undesignated copies of such
2 Materials in its custody or possession, or shall affix the appropriate
3 legend to all copies of the designated Materials in its custody or
4 possession.

5 b) Upon notice of designation pursuant to this paragraph, parties shall
6 also: (i) make no disclosure of such designated Materials or
7 information contained therein except as allowed under this Order;
8 and (ii) take reasonable steps to notify any persons known to have
9 possession of such designated Materials or information of the effect
10 of such designation under this Order.

11 c) All such designations must be made within thirty (30) days of the
12 date of this Order.

13 23. Transmission by e-mail, facsimile, or other reliable electronic means is
14 acceptable for all notification purposes within this Order.

15 24. This Order may be modified by agreement of the parties, subject to approval
16 by the Court.

17 25. The Court may modify the terms and conditions of this Order for good
18 cause, or in the interest of justice, or on its own order at any time in these proceedings.

19 26. After termination of this action, the provisions of this Order shall continue
20 to be binding, except with respect to those documents and information that became a
21 matter of public record. This Court retains and shall have continuing jurisdiction over
22 the parties and recipients of Confidential Information and Materials designated as
23 confidential for enforcement of the provisions of this Order following termination of this
24 litigation.

EXHIBIT A

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

Mi Familia Vota, et al.,

Plaintiffs,

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Adrian Fontes, in his official capacity as
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Defendants.

AND CONSOLIDATED CASES

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No. CV-22-01381-PHX-SRB

No. CV-22-01602-PHX-SRB

No. CV-22-01901-PHX-SRB

I, _____, declare and say that:

1. I am employed as _____
by _____.

2. I have read the Stipulated Supplemental Protective Order (the
“Order”) entered in _____ and have received a copy of the
Order.

3. I promise that I will use any and all “Confidential” or “Confidential –
For Counsel Only” information, as defined in the Order, given to me only in a
manner authorized by the Order, and only to assist Counsel in the litigation of this
matter.

1 4. I promise that I will not disclose or discuss such “Confidential” or
2 “Confidential – For Counsel Only” information with anyone other than the persons
3 described in paragraphs 3, 8 and 9 of the Order.

4 5. I acknowledge that, by signing this agreement, I am subjecting myself
5 to the jurisdiction of the United States District Court for the District of Arizona with
6 respect to the enforcement of the Order.

7 6. I understand that any disclosure or use of “Confidential” or
8 “Confidential – For Counsel Only” information in any manner contrary to the
9 provisions of the Supplemental Protective Order may subject me to sanctions for
10 contempt of court.

11 7. I will return all “Confidential” or “Confidential – For Counsel Only”
12 Materials (as defined in the Order) to the attorney who provided it to me, upon request of
13 that attorney, and I shall not retain any copies of said Materials or any information
14 contained within “Confidential” or “Confidential – For Counsel Only” Materials.

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

16
17 Date: _____

Signature