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12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF ARIZONA**

14
15 1789 Foundation Inc., d/b/a Citizen AG,
and Lindsey Graham,

16
17 Plaintiff,

18 v.

19 Adrian Fontes, in his official capacity as
20 Arizona Secretary of State,

21 Defendant.

No. CV-24-02987-PHX-SPL

**ARIZONA SECRETARY OF
STATE'S ANSWER**

22
23 Defendant Adrian Fontes, in his official capacity as Arizona Secretary of State (the
24 "Secretary"), answers Plaintiffs' Verified Complaint and Request for Injunction (the
25 "Complaint") as follows:

26 **NATURE OF THE ACTION**

27 Plaintiffs begin their Complaint with an unnumbered "Nature of the Action" section,
28 which largely contains legal argument to which no response is required. The Secretary

1 denies that there were at least 1,222,367 Arizona registrants who were ineligible to vote
2 based on change of residence who remained on the voter registration rolls for the
3 November 5, 2024 election. The Secretary further denies that Plaintiffs submitted a public
4 records request to the Secretary on October 4, 2024. The Secretary admits that the quoted
5 language appeared in its October 7, 2024 email responding to Plaintiff 1789 Foundation
6 dba Citizen AG’s October 6, 2024 public records request. Except as expressly admitted
7 herein, the Secretary denies any other factual allegations in the “Nature of the Action”
8 section.

9 **JURISDICTION AND VENUE**

- 10 1. The Secretary admits the allegations in Paragraph 1.
11 2. The Secretary admits the allegations in Paragraph 2.
12 3. The Secretary denies the allegations in Paragraph 3.

13 **PARTIES**

14 4. The Secretary incorporates by reference his responses to the preceding
15 paragraphs.

16 5. The Secretary lacks knowledge or information sufficient to form a belief as
17 to the truth of the allegations in Paragraph 5 and therefore denies same.

18 6. The Secretary lacks knowledge or information sufficient to form a belief as
19 to the truth of the allegations concerning Lindsey Graham’s residence, membership in
20 Citizen AG and voting activity and therefore denies same. The Secretary denies the
21 remaining allegations in Paragraph 6.

- 22 7. The Secretary admits the allegations in Paragraph 7.

23 **STATUTORY BACKGROUND**

24 8. The Secretary incorporates by reference his responses to the preceding
25 paragraphs.

26 9. The Secretary admits that Paragraph 9 accurately quotes parts of 52 U.S.C.
27 § 20507(a)(4).

1 10. Paragraph 10 sets forth legal conclusions to which no response is required.

2 11. The Secretary admits the allegation in Paragraph 11.

3 12. Paragraph 12 contains legal conclusions to which no response is required.

4 13. The Secretary admits the allegations in Paragraph 13.

5 14. The Secretary lacks knowledge or information sufficient to form a belief as
6 to the truth of the allegations in Paragraph 14 and therefore denies same.

7 15. Paragraph 15 contains legal conclusions to which no response is required.

8 16. The Secretary admits the allegations in Paragraph 16.

9 17. The Secretary admits the allegations in Paragraph 17.

10 18. Answering Paragraph 18, the Secretary admits that it accurately quotes
11 portions of 52 U.S.C. § 20507(i). The remainder of Paragraph 18 states a legal conclusion
12 to which no response is required.

13 19. Answering Paragraph 19, the Secretary admits that it accurately quotes
14 portions of 52 U.S.C. § 20507(i)(2). The remainder of Paragraph 19 states a legal
15 conclusion to which no response is required.

16 20. The Secretary admits the allegations in Paragraph 20.

17 21. Paragraph 21 contains legal conclusions to which no response is required.

18 22. The Secretary denies the allegations in Paragraph 22.

19 **STATEMENT OF FACTS**

20 23. The Secretary incorporates by reference his responses to the preceding
21 paragraphs.

22 24. Paragraph 24 contains legal conclusions to which no response is required.

23 25. Paragraph 25 contains legal conclusions to which no response is required.

24 26. Paragraph 26 contains legal conclusions to which no response is required.

25 27. Paragraph 27 contains legal conclusions to which no response is required.

26 28. Paragraph 28 contains legal conclusions to which no response is required.

27 29. Paragraph 29 contains legal conclusions to which no response is required.

28

1 30. Paragraph 30 contains legal conclusions to which no response is required.

2 31. Paragraph 31 contains legal conclusions to which no response is required.

3 32. Paragraph 32 contains legal conclusions to which no response is required.

4 33. The Secretary admits the allegations in Paragraph 33.

5 34. The Secretary admits the allegations in Paragraph 34.

6 35. The Secretary admits the allegations in Paragraph 35.

7 36. The Secretary admits the allegations in Paragraph 36.

8 37. The Secretary admits the allegations in Paragraph 37.

9 38. Answering Paragraph 38, the Secretary admits that the EAC published the
10 2022 EAVS Report in June 2023. The Secretary also admits that the 2022 EAVS Report
11 is the most recent EAVS report and that it contains data and information related to the
12 November 8, 2022 federal general election. Paragraph 38 also contains legal conclusions
13 regarding “federal-election-cycle statutory waiting periods,” to which no response is
14 required. Except as expressly admitted herein, the Secretary denies any other factual
15 allegations in Paragraph 38.

16 39. Answering Paragraph 39, the Secretary admits that the EAC published the
17 2020 EAVS Report in August 2021. The Secretary also admits that the 2020 EAVS Report
18 contains information related to the November 3, 2020 federal general election. Paragraph
19 39 also contains legal conclusions regarding “federal-election-cycle statutory waiting
20 periods,” to which no response is required. Except as expressly admitted herein, the
21 Secretary denies any other factual allegations in Paragraph 39.

22 40. The Secretary admits that the 2020 EAVS Report contains the number of
23 confirmation notices sent and the number of responses to confirmation notices received
24 from voters categorized as “valid” and “invalid.” Paragraph 40 also contains legal
25 conclusions regarding the relevance of the 2020 and 2022 EAVS Reports to which no
26 response is required. Except as expressly admitted herein, the Secretary denies any other
27 factual allegations in Paragraph 40.

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1 41. The Secretary admits that the 2022 EAVS Report contains the number of
2 voter registration cancelations, the reasons for those cancelations, and the numbers of
3 voters removed for enumerated reasons. Paragraph 41 also contains legal conclusions
4 regarding the relevance of the 2022 EAVS Report, to which no response is required.
5 Except as expressly admitted herein, the Secretary denies any other factual allegations in
6 Paragraph 41.

7 42. The Secretary admits that the 2020 and 2022 EAVS Reports contain
8 information regarding the number of inactive voters on Arizona’s voter registration list.
9 The Secretary denies the remaining factual allegations in Paragraph 42, including those in
10 footnote 3.

11 43. The Secretary admits that the 2020 EAVS Report shows that Arizona
12 counties sent 2,480,620 confirmation notices during the time period between the close of
13 registration for the November 2018 general election through the close of registration for
14 the November 2020 general election. Except as expressly admitted herein, the Secretary
15 denies the remaining factual allegations in Paragraph 43.

16 44. The Secretary admits that the 2020 EAVS Report reflects that Arizona
17 counties sent 2,480,620 confirmation notices during the reporting period, that under the
18 heading “Received Confirmation from Voter,” the state reported 75,275 responses were
19 “Valid” and 422,319 voters’ responses were “Invalid,” and 328,161 under the heading
20 “Confirmation Returned as Undeliverable.” Except as expressly admitted herein, the
21 Secretary denies any remaining factual allegations in Paragraph 44.

22 45. The Secretary denies the allegations in Paragraph 45.

23 46. The Secretary admits that the 2022 EAVS Report states that Arizona
24 removed 81,637 individuals from the voter registration list for moving out of the
25 jurisdiction and 175,284 individuals due to those voters’ failure to respond to confirmation
26 notices and failure to vote in the two most recent federal elections. Except as expressly
27 admitted herein, the Secretary denies any remaining factual allegations in Paragraph 46.

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1 47. The Secretary denies the allegations in Paragraph 47.

2 48. The Secretary lacks knowledge or information sufficient to form a belief as
3 to the truth of the allegations concerning Plaintiffs' conduct in Paragraph 48, and therefore
4 denies same.

5 49. The Secretary denies the allegations in Paragraph 49.

6 50. The Secretary denies the allegations in Paragraph 50, including footnote 5.
7 Footnote 6 contains legal conclusions to which no response is required.

8 51. The Secretary lacks knowledge or information sufficient to form a belief as
9 to the truth of the allegations concerning Citizen AG's motivation for making a public
10 records request in Paragraph 51, and therefore denies same.

11 52. Answering Paragraph 52, the Secretary admits that someone named Eric with
12 the email address "eric@citizenag.org" made a public records request to the Secretary. The
13 Secretary denies that the request was received on October 4, 2024, and also denies that all
14 of the requested records were required to be maintained by the NVRA. To the extent that
15 Paragraph 52 contains legal conclusions, no response is required. Except as expressly
16 admitted herein, the Secretary denies the remaining factual allegations in Paragraph 52.

17 53. Answering Paragraph 53, the Secretary admits that eric@citizenag.org
18 submitted a public records request to the Secretary seeking records showing the number of
19 voters who did not respond to confirmation notices between November 7, 2018, and
20 November 3, 2020, but voted on either November 3, 2020, or November 8, 2022. To the
21 extent that Paragraph 53 contains legal conclusions, no response is required. Except as
22 expressly admitted herein, the Secretary denies the remaining factual allegations in
23 Paragraph 53.

24 54. The Secretary admits the allegations in Paragraph 54. The Secretary further
25 affirmatively alleges that the Secretary's October 7, 2024 email directed the records
26 requester to Arizona's 15 County Recorders, who maintain records of the NVRA
27 confirmation notices that they send and the responses received.

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1 66. The Secretary lacks knowledge or information sufficient to form a belief as
2 to the truth of the allegations in Paragraph 66, and therefore denies same.

3 67. The Secretary lacks knowledge or information sufficient to form a belief as
4 to the truth of the allegations in Paragraph 67, and therefore denies same.

5 68. The Secretary denies that he has failed to comply with NVRA. The Secretary
6 lacks knowledge or information sufficient to form a belief as to the truth of the remaining
7 allegations in Paragraph 68, and therefore denies same.

8 69. The Secretary denies that he has failed to comply with NVRA. The Secretary
9 lacks knowledge or information sufficient to form a belief as to the truth of the remaining
10 allegations in Paragraph 69, and therefore denies same.

11 70. The Secretary denies that he has failed to comply with NVRA. The Secretary
12 lacks knowledge or information sufficient to form a belief as to the truth of the remaining
13 allegations in Paragraph 70, and therefore denies same.

14 **FIRST CLAIM FOR RELIEF**

15 71. The Secretary incorporates by reference his responses to the preceding
16 paragraphs.

17 72. The Secretary affirmatively states that his office received a public records
18 request from Citizen AG on October 6, 2024. To the extent that Paragraph 72 states legal
19 conclusions regarding the public records request, no response is required. Except as
20 expressly stated herein, the Secretary denies the allegations in Paragraph 72.

21 73. The Secretary admits the allegations in Paragraph 73.

22 74. The Secretary admits the allegations in Paragraph 74. The Secretary further
23 affirmatively alleges that the Secretary's October 7, 2024 email directed the records
24 requester to Arizona's 15 County Recorders, who maintain records of the NVRA
25 confirmation notices that they send and the responses received.

26 75. Paragraph 75 contains legal conclusions to which no response is required.
27 To the extent a response is required, the Secretary admits that 52 U.S.C. § 20507(i)(1)
28

1 instructs “[e]ach State shall maintain for at least 2 years and shall make available for public
2 inspection . . . all records concerning the implementation of programs and activities
3 conducted for the purpose of ensuring the accuracy and currency of official lists of eligible
4 voters,” and 52 U.S.C. § 20507(i)(2) instructs “[t]he records maintained pursuant to
5 paragraph (1) shall include lists of the names and addresses of all persons to whom notices
6 . . . are sent, and information concerning whether or not each such person has responded to
7 the notice as of the date that inspection of the records is made.” Except as expressly
8 admitted herein, the Secretary denies any remaining factual allegations in Paragraph 75.

9 76. Paragraph 76 contains legal conclusions to which no response is required.
10 To the extent a response is required, the Secretary admits that the 2022 Midterm Election
11 took place on November 8, 2022. Except as expressly admitted herein, the Secretary denies
12 any remaining factual allegations in Paragraph 75.

13 77. The Secretary admits the allegations in Paragraph 77.

14 78. Paragraph 78 contains legal conclusions to which no response is required.
15 To the extent a response is required, the Secretary denies the allegations.

16 79. Paragraph 79 contains legal conclusions to which no response is required.
17 To the extent a response is required, the Secretary denies the allegations.

18 80. Paragraph 80 contains legal conclusions to which no response is required.
19 To the extent a response is required, the Secretary denies the allegations.

20 81. Paragraph 81 contains legal conclusions to which no response is required.
21 To the extent a response is required, the Secretary denies the allegations.

22 82. Paragraph 82 contains legal conclusions to which no response is required.
23 To the extent a response is required, the Secretary denies the allegations.

24 83. The Secretary lacks knowledge or information sufficient to form a belief as
25 to the truth of the allegations in Paragraph 83 concerning Citizen AG’s expenditure of
26 resources, and therefore denies same. The Secretary denies that he has failed to comply
27 with Arizona’s NVRA voter list maintenance obligations.

28

1 84. The Secretary lacks knowledge or information sufficient to form a belief as
2 to the truth of the allegations in Paragraph 84, and therefore denies same.

3 85. The Secretary lacks knowledge or information sufficient to form a belief as
4 to the truth of the allegations in Paragraph 85 concerning Citizen AG's use of resources,
5 and therefore denies same. The Secretary denies that he has failed to comply with
6 Arizona's NVRA voter list maintenance obligations.

7 86. The Secretary denies the allegations in Paragraph 86.

8 87. The Secretary denies the allegations in Paragraph 87.

9 **SECOND CLAIM FOR RELIEF**

10 88. The Secretary incorporates by reference his responses to the preceding
11 paragraphs.

12 89. The Secretary admits the allegations in Paragraph 89, except to the extent
13 that they allege that Citizen AG's public records request was received before Sunday,
14 October 6, 2024. The Secretary further affirmatively alleges that the Secretary's October
15 7, 2024 email directed the records requester to Arizona's 15 County Recordors, who
16 maintain records of the NVRA confirmation notices that they send and the responses
17 received. Except as expressly admitted herein, the Secretary denies any remaining
18 allegations in Paragraph 89.

19 90. The Secretary denies the allegations in Paragraph 90.

20 91. The Secretary denies the allegations in Paragraph 91.

21 **THIRD CLAIM FOR RELIEF¹**

22 92. The Secretary incorporates by reference his responses to the preceding
23 paragraphs.

24 93. Paragraph 93 contains legal conclusions to which no response is required.
25

26 ¹ Responding to footnote 7, the Secretary is without knowledge or information sufficient
27 to form a belief as to the truth of the allegations concerning Plaintiffs' access to information
28 or its "need" to allege the third claim for relief. The Secretary denies the remaining
allegations in footnote 7.

1 94. Paragraph 94 contains legal conclusions to which no response is required.
2 To the extent a response is required, the Secretary denies the allegations.

3 95. The Secretary admits the allegations in Paragraph 95.

4 96. Paragraph 96 contains legal conclusions to which no response is required.

5 97. Paragraph 97 contains legal conclusions to which no response is required.

6 98. The Secretary denies the allegations in Paragraph 98.

7 99. Answering Paragraph 99, the Secretary affirmatively states that the 2020
8 EAVS Report reflects under the heading “Received Confirmation from Voter,” the state
9 reported 75,275 responses were “Valid” and 422,319 voters’ responses were “Invalid.”
10 Except as expressly stated herein, the Secretary denies the allegations in Paragraph 99.

11 100. Answering Paragraph 100, the Secretary affirmatively states that the 2020
12 EAVS Report reflects under the heading “Received Confirmation from Voter,” the state
13 reported 75,275 responses were “Valid.” Except as expressly stated herein, the Secretary
14 denies the allegations in Paragraph 100.

15 101. The Secretary admits the allegations in Paragraph 101.

16 102. Answering Paragraph 102, the Secretary affirmatively states that the 2020
17 EAVS Report reflects under the heading “Received Confirmation from Voter,” the state
18 reported 422,319 voters’ responses were “Invalid.” Except as expressly stated herein, the
19 Secretary denies the allegations in Paragraph 102.

20 103. Paragraph 103 contains legal conclusions to which no response is required.
21 To the extent a response is required, the Secretary denies the allegations.

22 104. Answering Paragraph 104, the Secretary affirmatively states that in the 2020
23 EAVS Report, the state reported 2,480,620 Confirmation Notices Sent, and under the
24 heading “Confirmation Returned as Undeliverable” the state reported 328,161 such
25 notices. Except as expressly stated herein, the Secretary denies any remaining factual
26 allegations in Paragraph 104.

27 105. The Secretary denies the allegations in Paragraph 105.

28

1 106. The Secretary denies the allegations in Paragraph 106.

2 107. The Secretary denies the allegations in Paragraph 107.

3 108. Answering Paragraph 108, the Secretary affirmatively states that the 2022
4 EAVS Report Table 5: Voter List Maintenance Removal Actions reflects under the
5 headings “Reasons for Removal” and “Moved Out of Jurisdiction” 81,637 voters. Except
6 as expressly stated herein, the Secretary denies any remaining factual allegations in
7 Paragraph 108.

8 109. Answering Paragraph 109, the Secretary affirmatively states that the 2022
9 EAVS Report Table 5: Voter List Maintenance Removal Actions reflects under the
10 headings “Reasons for Removal” and “Failure to Return Confirmation Notice” 175,284
11 voters. Except as expressly stated herein, the Secretary denies any remaining factual
12 allegations in Paragraph 109.

13 110. The Secretary denies the allegations in Paragraph 110.

14 111. Answering Paragraph 111, the Secretary affirmatively states that the 2022
15 EAVS Report Table 5: Voter List Maintenance Removal Actions reflects under the
16 headings “Reasons for Removal” and “Total” 432,598 voters and that the listed reasons for
17 removal include “Voter Deceased,” “Voter’s Request,” “Felony or Conviction” “Mental
18 Incompetence,” and “Other.” Except as expressly stated herein, the Secretary denies any
19 remaining factual allegations in Paragraph 111.

20 112. The Secretary denies the allegations in Paragraph 112.

21 113. The Secretary denies the allegations in Paragraph 113.

22 114. The Secretary denies the allegations in Paragraph 114.

23 115. The Secretary denies the allegations in Paragraph 115.

24 **GENERAL DENIAL**

25 The Secretary denies any and all allegations made by Plaintiffs in their Complaint,
26 unless the Secretary has expressly admitted such.

27

28

1 **AFFIRMATIVE DEFENSES**

2 116. Plaintiffs' claims are barred in whole or in part because they lack standing.

3 117. Plaintiffs' claims are barred because they did not provide the Secretary with
4 written notice of a violation of NVRA before this action, as required by 52 U.S.C.
5 § 20510(b).

6 118. Plaintiffs' claims are barred by laches.

7 119. Plaintiffs have failed to state a claim upon which relief can be granted.

8 120. Plaintiffs' claims are barred in whole or in part because the Secretary has
9 produced all records that the NVRA requires be maintained that are responsive to Citizen
10 AG's public records request.

11 121. The Secretary reserves the right to assert additional defenses and to amend
12 this Answer at a later date.

13 **PRAYER FOR RELIEF**

14 Wherefore, having answered Plaintiffs' Complaint, the Secretary respectfully
15 requests that the Court deny all of Plaintiffs' requests for relief, order that Plaintiffs take
16 nothing, award the Secretary his costs and such other and further relief as the Court deems
17 just and appropriate, and enter judgment in favor of the Secretary and against Plaintiffs on
18 all claims.

19
20 RESPECTFULLY SUBMITTED this 21st day of February, 2025.

21 Kristin K. Mayes
22 Attorney General

23 /s/ Karen J. Hartman-Tellez
24 Karen J. Hartman-Tellez
25 Kara Karlson
26 Senior Litigation Counsel
27 Kyle Cummings
28 Assistant Attorney General
*Attorneys for Arizona Secretary of
State Adrian Fontes*

CERTIFICATE OF SERVICE

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I HEREBY CERTIFY that on this 21st day of February, 2025, I filed the forgoing document electronically through the CM/ECF system, which caused all parties or counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/Monica Quinonez

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