

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

KRIS W. KOBACH, <i>et al.</i>)	
)	
Plaintiffs,)	
)	
vs.)	CIVIL ACTION NO.
)	5:13-CV-4095-EFM-DJW
)	
UNITED STATES ELECTION)	
ASSISTANCE COMMISSION, <i>et al.</i>)	
)	
Defendants,)	
)	
and,)	
)	
PROJECT VOTE, INC.)	
)	
Defendant-Intervenor.)	
_____)	

ANSWER OF DEFENDANT-INTERVENOR TO PLAINTIFFS' COMPLAINT

1. The allegations in the first sentence of paragraph 1 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in the first sentence of paragraph 1 of the complaint. The allegations in the second sentence of paragraph 1 of the complaint purport to interpret language in a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

2. The allegations in paragraph 2 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 2, and specifically denies that “the proposed modifications are necessary” or that “the EAC and Miller are under a nondiscretionary duty to make the

proposed modifications . . . Plaintiffs deem necessary to assess the eligibility of voter registration applicants.”

3. The allegations in paragraph 3 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 3.

4. The allegations in paragraph 4 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 4.

5. The allegations in paragraph 5 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor refers to the Supreme Court’s *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S.Ct. 2247 (2013), decision for its full and complete contents, and denies anything inconsistent therewith.

6. Intervenor admits the allegations in the first sentence of paragraph 6 of the complaint. The allegations in the second sentence of paragraph 6 are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations in the second sentence of paragraph 6.

7. Intervenor admits the allegations in the first sentence of paragraph 7 of the complaint. The allegations in the second sentence of paragraph 7 are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations in the second sentence of paragraph 7.

8. Intervenor admits the allegations in paragraph 8 of the complaint.

9. Intervenor admits the allegations in paragraph 9 of the complaint.

10. The allegations in paragraph 10 of the complaint are statements of law or conclusions

of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations of the first sentence of paragraph 10 of the complaint. Intervenor specifically denies that there is an “ongoing responsibility to develop” the Federal Form, and notes that the Federal Form must be developed in accordance with federal law, 42 U.S.C. § 1973gg-7.

11. Intervenor lacks sufficient information to either admit or deny the allegations in paragraph 11, and therefore denies the same.

12. The allegations in paragraph 12 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits that Plaintiffs assert jurisdiction under various provisions of the U.S. Code and the Constitution, but specifically denies that Defendants “owe” a duty to Plaintiffs and denies that Plaintiffs are entitled to any relief.

13. The allegations in paragraph 13 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 13, and denies that Plaintiffs are entitled to any relief.

14. The allegations in paragraph 14 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations in paragraph 14, but denies that Plaintiffs are entitled to any relief.

15. The allegations in paragraph 15 of the complaint are statements of law or conclusions of law to which no response is required. The allegations in paragraph 15 of the complaint purport to quote or summarize Public Law 103-31; Intervenor refers to Public Law 103-31 for its full and complete contents and denies anything inconsistent therewith. To the extent a response is deemed required, Intervenor admits that the NVRA initially assigned certain functions to the

Federal Election Commission. Intervenor denies the remaining allegations in paragraph 15.

16. The allegations in paragraph 16 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations of the first sentence of paragraph 16 and further admits that 42 U.S.C. §15532 assigned all functions which the Federal Election Commission exercised under section 42 U.S.C. 1973gg-7(a) to the EAC. Intervenor denies the remaining allegations in paragraph 16.

17. The allegations in paragraph 17 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations in paragraph 17.

18. The allegations in paragraph 18 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations in paragraph 18.

19. The allegations in paragraph 19 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits that the NVRA, among other things, requires the Federal Form to “include a statement that--(A) specifies each eligibility requirement (including citizenship); (B) contains an attestation that the applicant meets each such requirement; and (C) requires the signature of the applicant, under penalty of perjury.” Intervenor denies the remaining allegations in paragraph 19, and states that the Federal Form requires additional information beyond the three items alleged in paragraph 19, and such information is sufficient to assess the eligibility of the applicant.

20. The allegations in paragraph 20 of the complaint purport to cite a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

21. The allegations in paragraph 21 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits that the NVRA requires the States to accept and use the Federal Form for the registration of voters for elections for Federal office, and denies the remaining allegations in paragraph 21, and specifically denies that there is an “ongoing responsibility” to develop the Federal Form, and notes that the Federal Form must be developed in accordance with federal law, 42 U.S.C. § 1973gg-7(b).

22. The allegations in paragraph 22 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 22, and specifically denies that the “EAC is under a nondiscretionary duty, at the request of the States, to modify the State-specific instructions of the Federal Form to reflect the respective voter qualification and registration laws of the States, and to include State-specific instructions that enable the States to obtain information the States deem necessary to assess the eligibility of voter registration applicants and to enforce the States’ voter qualifications.”

23. The allegations in paragraph 23 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations in paragraph 23.

24. The allegations in paragraph 24 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations in paragraph 24.

25. The allegations in paragraph 25 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor

lacks sufficient information to either admit or deny the allegations in paragraph 25, and therefore denies the same.

26. The allegations in paragraph 26 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor lacks sufficient information to either admit or deny the allegations in paragraph 26, and therefore denies the same.

27. The allegations in paragraph 27 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor lacks sufficient information to either admit or deny the allegations in paragraph 27, and therefore denies the same.

28. The allegations in paragraph 28 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor lacks sufficient information to either admit or deny the allegations in paragraph 28, and therefore denies the same.

29. The allegations in paragraph 29 of the complaint purport to paraphrase language in a document; Intervenor refers to the document for full and complete context and denies anything inconsistent therewith.

30. The allegations in paragraph 30 of the complaint purport to paraphrase and quote language in a document; Intervenor refers to the document for full and complete context and denies anything inconsistent therewith.

31. Intervenor lacks sufficient information to either admit or deny the allegations in paragraph 31, and therefore denies the same. Intervenor specifically denies that any approved requests are “similar to those made by Plaintiffs.” To the extent any substantive changes to the

Federal Form were made by the EAC on the basis of the Wilkey Memorandum, Intervenor denies that the EAC has the authority to make substantive changes to the Federal Form in the absence of a quorum.

32. Intervenor lacks sufficient information to either admit or deny the allegations in paragraph 32, and therefore denies the same.

33. The allegations in paragraph 33 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits that Kansas' current constitution states that "Every citizen of the United States who has attained the age of eighteen years and who resides in the voting area in which he or she seeks to vote shall be deemed a qualified elector." Intervenor denies the remaining allegations of paragraph 33 and notes that Kansas' original constitution approved in 1861 allowed the right of suffrage to white, male residents aged 21 and older who were either U.S. citizens or "Persons of foreign birth who shall have declared their intention to become citizens, conformably to the laws of the United States on the subject of naturalization."

34. The allegations in paragraph 34 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits that Kansas' original constitution provided that "The Legislature shall pass such laws as may be necessary for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established." Intervenor further admits that Kansas' current constitution provides, "The legislature shall provide by law for proper proofs of the right of suffrage." Intervenor denies the remaining allegations of paragraph 34.

35. The allegations in paragraph 35 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor

states that Kansas has been required to allow individuals to register to vote using the Federal Form since the effective date of the NVRA. Intervenor lacks sufficient information to either admit or deny the remaining allegations in paragraph 35, and therefore denies those allegations.

36. Intervenor lacks sufficient information to admit or deny the allegations in paragraph 36, and therefore denies the same and denies that Plaintiffs are entitled to any relief.

37. The allegations in paragraph 37 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations in paragraph 37.

38. The allegations in paragraph 38 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits that K.S.A. 25-2309(l) states, “The county election officer or secretary of state’s office shall accept any completed application for registration, but an applicant shall not be registered until the applicant has provided satisfactory evidence of United States citizenship.” Intervenor denies the remaining allegations in paragraph 38, and specifically denies that the “13 different documents . . . constitute satisfactory evidence of citizenship.”

39. The allegations in paragraph 39 of the complaint purport to summarize the contents of K.S.A. 25-2309(m). To the extent a response is deemed required, Intervenor refers to the statute for its full and complete contents, and denies anything inconsistent therewith.

40. The allegations in paragraph 40 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 40, and specifically denies the “proof of citizenship provisions” are necessary “to assess the eligibility of voter registration applicants.”

41. The allegations in paragraph 41 of the complaint are statements of law or conclusions

of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations in paragraph 41.

42. The allegations in paragraph 42 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations in paragraph 42.

43. The allegations in paragraph 43 of the complaint purport to paraphrase the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

44. The allegations in paragraph 44 of the complaint purport to paraphrase the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

45. The allegations in paragraph 45 of the complaint purport to paraphrase and quote the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

46. The allegations in paragraph 46 of the complaint purport to paraphrase and quote the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

47. The allegations in paragraph 47 of the complaint purport to paraphrase and quote the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

48. The allegations in paragraph 48 of the complaint purport to paraphrase and quote the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

49. The allegations in paragraph 49 of the complaint purport to paraphrase the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

50. The allegations in paragraph 50 of the complaint purport to paraphrase and quote the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

51. The allegations in paragraph 51 of the complaint purport to paraphrase and quote the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

52. The allegations in paragraph 52 of the complaint purport to paraphrase the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

53. The allegations in paragraph 53 of the complaint purport to paraphrase the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

54. The allegations in paragraph 54 of the complaint purport to paraphrase and quote the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

55. The allegations in paragraph 55 of the complaint purport to paraphrase and quote the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

56. The allegations in paragraph 56 of the complaint purport to paraphrase and quote the contents of a document; Intervenor refers to that document for full and complete context and

denies anything inconsistent therewith.

57. The allegations in paragraph 57 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 57.

58. The allegations in paragraph 58 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits that Arizona Const. art. VII § 2 requires persons to be U.S. citizens to vote in Arizona. Intervenor lacks sufficient information to either admit or deny the remaining allegations in paragraph 58, and therefore denies the same.

59. The allegations in paragraph 59 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations in paragraph 59.

60. Intervenor lacks sufficient information to admit or deny the allegations in paragraph 60, and therefore denies the same.

61. The allegations in paragraph 61 of the complaint purport to quote or summarize Proposition 200; Intervenor refers to Proposition 200 for its full and complete contents and denies anything inconsistent therewith. The allegations in the second sentence of paragraph 61 further purport to quote or summarize a judicial opinion; Intervenor refers to that opinion, as well as the subsequent appellate and trial court decisions, for its full and complete contents and denies anything inconsistent therewith.

62. The allegations in paragraph 62 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits that A.R.S. § 16-166 states, “The county recorder shall reject any application for

registration that is not accompanied by satisfactory evidence of United States citizenship.” Intervenor denies the remaining allegations in paragraph 62, and specifically denies that the “evidence” Proposition 200 requires is necessary to assess the eligibility of the applicant.

63. The allegations in paragraph 63 of the complaint purport to summarize the contents of Proposition 200. To the extent a response is deemed required, Intervenor refers to the statute for its full and complete contents, and denies anything inconsistent therewith, and specifically denies that the “documents and identification numbers” are necessary to assess the eligibility of the applicant.

64. Intervenor denies the allegations in paragraph 64, and specifically denies that the “proof-of-citizenship” provisions are necessary to “assess the eligibility” of applicants.

65. Intervenor admits the allegations in first sentence of paragraph 65 of the complaint. The allegations in the second sentence of paragraph 65 of the complaint purport to quote a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

66. Intervenor admits that on January 24, 2005, the Department of Justice indicated it would not interpose any objection under Section 5 to the changes specified in Arizona’s preclearance submission of Proposition 200. Intervenor denies any remaining allegations of paragraph 66 of the complaint.

67. The allegations in paragraph 67 of the complaint purport to paraphrase the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

68. The allegations in paragraph 68 of the complaint purport to paraphrase the contents of a document; Intervenor refers to that document for full and complete context and denies

anything inconsistent therewith.

69. The allegations in paragraph 69 of the complaint purport to paraphrase the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

70. Intervenor denies the allegations in paragraph 70 of the complaint.

71. The allegations in paragraph 71 of the complaint purport to quote the contents of a judicial decision at an early phase of the case reaching a conclusion that was subsequently reviewed and revised, where the prior result was “clearly erroneous and its enforcement would work a manifest injustice,” *Gonzalez v. Arizona*, 624 F.3d 1162, 1186-87 (9th Cir. 2010); Intervenor refers to that document, as well as the subsequent appellate and trial court decisions, for full and complete context and denies anything inconsistent therewith.

72. The allegations in paragraph 72 of the complaint purport to paraphrase the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

73. The allegations in paragraph 73 of the complaint purport to paraphrase the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

74. The allegations in paragraph 74 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 74 and refers to the Supreme Court decision for its full and complete contents and denies anything inconsistent therewith.

75. The allegations in paragraph 75 of the complaint purport to paraphrase the contents

of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

76. The allegations in paragraph 76 of the complaint purport to paraphrase the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

77. The allegations in paragraph 77 of the complaint purport to paraphrase the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

78. The allegations in paragraph 78 of the complaint purport to paraphrase and quote the contents of a document; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith.

79. The allegations in paragraph 79 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 79.

80. The allegations in paragraph 80 of the complaint do not require a response.

81. The allegations in paragraph 81 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 81.

82. The allegations in the first two sentences of paragraph 82 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in the first two sentences of paragraph 82. The allegations in the last sentence of paragraph 82 purport to quote the contents of an oral argument transcript; Intervenor refers to that document for full and complete context

and denies anything inconsistent therewith, and further denies that questions asked at oral argument are of any legal effect.

83. The allegations in paragraph 83 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 83.

84. The allegations in paragraph 84 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 84.

85. The allegations in paragraph 85 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the APA contains the phrase alleged in paragraph 85, refers to the statute for its full and complete contents, and denies anything inconsistent therewith.

86. The allegations in paragraph 86 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the APA contains the phrase alleged in paragraph 86, refers to the statute for its full and complete contents, and denies anything inconsistent therewith.

87. The allegations in paragraph 87 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the APA contains the phrase alleged in paragraph 87, refers to the statute for its full and complete contents, and denies anything inconsistent therewith.

88. The allegations in paragraph 88 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 88.

89. The allegations in paragraph 89 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 89.

90. The allegations in paragraph 90 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 90.

91. The allegations in paragraph 91 of the complaint do not require a response.

92. The allegations in paragraph 92 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the APA contains the phrase alleged in paragraph 92, refers to the statute for its full and complete contents, and denies anything inconsistent therewith.

93. The allegations in paragraph 93 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the APA contains the phrase alleged in paragraph 93, refers to the statute for its full and complete contents, and denies anything inconsistent therewith.

94. The allegations in paragraph 94 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 94.

95. The allegations in paragraph 95 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the allegations in paragraph 95, except that Intervenor denies the Plaintiffs have the right to establish voter registration requirements contrary to federal law.

96. The allegations in paragraph 96 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 96.

97. The allegations in the first sentence of paragraph 97 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in the first sentence of paragraph 97. The allegations in last sentence of paragraph 97 purport to quote the contents of an oral argument transcript; Intervenor refers to that document for full and complete context and denies anything inconsistent therewith, and further denies that questions asked at oral argument are of any legal effect.

98. The allegations in paragraph 98 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 98.

99. The allegations in paragraph 99 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 99.

100. The allegations in paragraph 100 of the complaint do not require a response.

101. The allegations in paragraph 101 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the APA contains the phrase alleged in paragraph 101, refers to the statute for its full and complete contents, and denies anything inconsistent therewith.

102. The allegations in paragraph 102 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed

required, Intervenor admits the APA contains the phrase alleged in paragraph 93, refers to the statute for its full and complete contents, and denies anything inconsistent therewith.

103. The allegations in paragraph 103 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 103.

104. The allegations in paragraph 104 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 104.

105. The allegations in paragraph 105 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 105.

106. The allegations in paragraph 106 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 106.

107. Intervenor denies the allegations in the first sentence of paragraph 107 of the complaint. The allegations in the second sentence of paragraph 107 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor states that the complaint purports to interpret a portion a Supreme Court decision, *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S.Ct. 2247 (2013), refers to that decision for its full and complete contents, and denies anything inconsistent therewith.

108. The allegations in paragraph 108 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 108.

109. The allegations in paragraph 109 of the complaint do not require a response.

110. The allegations in paragraph 110 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor admits the APA contains the phrase alleged in paragraph 110, refers to the statute for its full and complete contents, and denies anything inconsistent therewith.

111. The allegations in paragraph 111 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 111.

112. The allegations in paragraph 112 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 112.

113. The allegations in paragraph 113 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 113.

114. The allegations in paragraph 114 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 114.

115. The allegations in paragraph 115 of the complaint do not require a response.

116. The allegations in paragraph 116 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed

required, Intervenor states that the complaint purports to interpret the Constitution, refers to the Constitution for its full and complete contents, and denies anything inconsistent therewith.

117. The allegations in paragraph 117 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor states that the complaint purports to interpret a portion of the Constitution, refers to the Constitution for its full and complete contents, and denies anything inconsistent therewith.

118. The allegations in paragraph 118 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor states that the complaint purports to interpret the Constitution, refers to the Constitution for its full and complete contents, and denies anything inconsistent therewith.

119. The allegations in paragraph 119 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor states that the complaint purports to interpret the Constitution, refers to the Constitution for its full and complete contents, and denies anything inconsistent therewith.

120. The allegations in paragraph 120 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor states that the complaint purports to interpret a portion of the Constitution and a Supreme Court decision, refers to the Constitution and that decision for its full and complete contents, and denies anything inconsistent therewith.

121. The allegations in paragraph 121 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed

required, Intervenor states that the complaint purports to interpret the Constitution, refers to the Constitution for its full and complete contents, and denies anything inconsistent therewith.

122. The allegations in paragraph 122 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor states that the complaint purports to interpret the Constitution, refers to the Constitution for its full and complete contents, and denies anything inconsistent therewith.

123. The allegations in paragraph 123 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 123.

124. The allegations in paragraph 124 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 124.

125. The allegations in paragraph 125 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 125..

126. The allegations in paragraph 126 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 126.

127. The allegations in paragraph 127 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 127.

128. The allegations in paragraph 128 of the complaint are statements of law or conclusions of law to which no response is required. To the extent a response is deemed required, Intervenor denies the allegations in paragraph 128.

AFFIRMATIVE DEFENSES

1. Plaintiffs' claims fail to state a claim upon which relief can be granted.
2. Plaintiffs' claims are barred under the principle and doctrine of failure to exhaust administrative remedies.
3. Plaintiffs' claims are barred, in whole or in part, by the Supremacy Clause of the United States Constitution, article VI, § 2, and/or the Elections Clause of the United States Constitution, article I, § 4, because those claims are preempted and/or precluded by federal law, including, but not limited to, the National Voter Registration Act of 1993, 42 U.S.C. 1973gg, *et seq.*, the Help America Vote Act of 2002, 42 U.S.C. 15301, *et seq.*, and the Election Assistance Commission's policies and regulations.
4. Plaintiffs' claims are barred, in whole or in part, because they violate the First Amendment to the United States Constitution, which protect the rights to freedom of speech, to petition the government, and to freedom of association.
5. Plaintiffs' claims are barred by the Equal Protection Clause and Due Process Clause of the Fourteenth Amendment to the United States Constitution because those claims impermissibly burden the fundamental right to vote.
6. Plaintiffs lack either standing or capacity, or both, to bring some or all of the claims alleged in the complaint.

7. Intervenor hereby gives notice that it intends to rely upon any other defense that may become available or appear during the discovery proceedings in this case and hereby reserves its right to amend its Answer to assert any such defenses.

WHEREFORE, Defendant-Intervenor prays:

- A. That the Complaint be dismissed in its entirety;
- B. That the relief sought in the Complaint be denied;
- C. That judgment be awarded in favor of Intervenor-Defendant and Defendants and against Plaintiffs on each and every claim set forth in the Complaint;
- D. That Intervenor-Defendant be awarded its reasonable attorneys' fees and costs in connection with its defense of this action; and
- E. For such other relief as the Court may deem just and proper.

Dated: November 13, 2013

Respectfully submitted,

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**Pro Hac Vice Motion Pending*

DEFENDANT-INTERVENOR'S REQUEST FOR PLACE OF TRIAL

Pursuant to D. Kan. Rule 40.2(d)(1), Defendant-Intervenor requests that the trial in this case be held at the Wichita U.S. Courthouse, 401 N. Market, Wichita, Kansas 67202.

s/ Erin Thompson
Erin Thompson