

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

KRIS W. KOBACH, Kansas Secretary of  
State;

KEN BENNETT, Arizona Secretary of State;

THE STATE OF KANSAS;

THE STATE OF ARIZONA;

Plaintiffs,

v.

THE UNITED STATES ELECTION  
ASSISTANCE COMMISSION;

ALICE MILLER, in her capacity as the  
Acting Executive Director & Chief Operating  
Officer of The United States Election  
Assistance Commission

Defendants,

and

LEAGUE OF WOMEN VOTERS OF THE  
UNITED STATES, LEAGUE OF WOMEN  
VOTERS OF ARIZONA, and LEAGUE OF  
WOMEN VOTERS OF KANSAS

Defendant-Intervenors.

Case No. 13-cv-4095-EFM-DJW

**ANSWER BY DEFENDANT-INTERVENORS LEAGUE OF WOMEN VOTERS OF  
THE UNITED STATES, LEAGUE OF WOMEN VOTERS OF ARIZONA, and LEAGUE  
OF WOMEN VOTERS OF KANSAS**

League of Women Voters of the United States, League of Women Voters of Arizona, and League of Women Voters of Kansas (collectively, the “League” or “Intervenors”) by and through their undersigned counsel, hereby answer the Complaint in the above-styled Action as follows:

**INTRODUCTION**

1. Deny the allegations contained in paragraph 1 of the Complaint, except admit that the first sentence of paragraph 1 sets forth the nature of this proceeding; admit that the Federal Form requires applicants to state under oath that they are United States citizens and that Kansas and Arizona require certain applicants to submit documentary proof of citizenship; and respectfully refer the Court to the Federal Form; Kansas HB 2067, the “Secure and Fair Elections Act;” Arizona Proposition 200; and A.R.S. § 16-166 for their complete contents. Deny Plaintiffs are entitled to the relief requested.

2. Aver that the first two sentences of paragraph 2 purport to state legal conclusions as to which no response is required. To the extent a response to the first two sentences of paragraph 2 is required, Intervenors deny the allegations contained therein, except respectfully refer the Court to the relevant correspondence between the EAC and Plaintiffs for their complete contents. Admit that the last sentence of paragraph 2 describes the relief Plaintiffs seek in this Action and deny that Plaintiffs are entitled to any such relief.

3. Aver that paragraph 3 of the Complaint purports to state legal conclusions as to which no response is required, except admit that the first sentence of paragraph 3 describes the relief Plaintiffs seek in this action but deny Plaintiffs are entitled to any such relief.

4. Aver that paragraph 4 of the Complaint purports to state legal conclusions as to which no response is required. To the extent a response is required, Intervenor deny the allegations contained in paragraph 4.

5. Aver that paragraph 5 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the Supreme Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S.Ct. 2247 (2013), for its complete contents.

### **PARTIES**

6. Admit the allegations contained in paragraph 6 of the Complaint.

7. Admit the allegations contained in paragraph 7 of the Complaint.

8. Admit the allegations contained in paragraph 8 of the Complaint.

9. Admit the allegations contained in paragraph 8 of the Complaint.

10. Aver that paragraph 10 of the Complaint purports to state legal conclusions as to which no response is required. To the extent a response is required, Intervenor admit that the United States Election Assistance Commission ("EAC") is the administrative agency to which the U.S. Congress has delegated the responsibility for establishing rules and regulations regarding the Federal Form consistent with federal law, admit that the Federal Form must be developed in accordance with federal law, 42 U.S.C. § 1973gg-7, and specifically deny that the EAC has an "ongoing responsibility to develop" the Federal Form.

11. Admit the allegations contained in paragraph 11 of the Complaint.

**JURISDICTION AND VENUE**

12. Aver that the allegations contained in paragraph 12 of the Complaint purport to state legal conclusions as to which no response is required, except admit that paragraph 12 sets forth the nature of this proceeding and deny that Plaintiffs are entitled to any relief in this Action.

13. Aver that the allegations contained in paragraph 13 of the Complaint purport to state legal conclusions as to which no response is required, except deny that Plaintiffs are entitled to any relief in this Action.

14. Aver that the allegations contained in paragraph 14 of the Complaint purport to state legal conclusions as to which no response is required, except admit that Defendant Alice Miller is an officer or employee of the United States acting in her official capacity, that Defendant EAC is an agency of the United States, that Plaintiff Secretary Kobach and the State of Kansas are located in this judicial district, and that no real property is involved in this action.

**FACTUAL BACKGROUND**

15. Admit that in 1993, the NVRA was passed by Congress and signed into law by the President as alleged in paragraph 15 of the Complaint, and further admit that some provisions of the NVRA were once administered by the Federal Election Commission, and respectfully refer the Court to the text of the NVRA for its complete contents.

16. Admit the allegations contained in paragraph 16 of the Complaint, and respectfully refer the Court to the text of the NVRA and HAVA for their complete contents.

17. Aver that the allegations contained in paragraph 17 of the Complaint purport to state legal conclusions as to which no response is required, and respectfully refer the Court to the text of the HAVA for its complete contents.

18. Aver that the allegations contained in paragraph 18 of the Complaint purport to state legal conclusions as to which no response is required, and respectfully refer the Court to the text of the NVRA for its complete contents.

19. Aver that the allegations contained in paragraph 19 of the Complaint purport to state legal conclusions as to which no response is required, and respectfully refer the Court to the text of the NVRA for its complete contents.

20. Admit the allegations contained in paragraph 20 of the Complaint, except deny knowledge or information sufficient to form a belief as to when Plaintiffs accessed that document.

21. Aver that the allegations contained in paragraph 21 of the Complaint purport to state legal conclusions as to which no response is required, and respectfully refer the Court to the text of the NVRA for its complete contents.

22. Aver that the allegations contained in paragraph 22 of the Complaint purport to state legal conclusions as to which no response is required, and respectfully refer the Court to the text of the NVRA and the Supreme Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S.Ct. 2247 (2013), for their complete contents.

23. Aver that the allegations contained in paragraph 23 of the Complaint purport to state legal conclusions as to which no response is required, and respectfully refer the Court to the referenced statutory provisions for their complete contents.

24. Aver that the allegations contained in paragraph 24 of the Complaint purport to state legal conclusions as to which no response is required. To the extent a response to paragraph 15 is required, Intervenor admits the EAC from time to time has maintained the positions of Executive Director and General Counsel, each of which has been appointed by the Commission, and respectfully refer the Court to the referenced statutory provisions for their complete contents.

25. Admit that the EAC from time to time has maintained the position of Chief Operating Officer as alleged in paragraph 25 of the Complaint, but deny knowledge or information sufficient to form a belief as to whom the Chief Operating Officer reported during such times.

26. Admit that the EAC from time to time has maintained a Division of Research, Programs and Policy (the "RPP") as alleged in paragraph 26 of the Complaint, but deny knowledge or information sufficient to form a belief as to whom the RPP reported during such times.

27. Aver that the allegations contained in paragraph 27 of the Complaint purport to state legal conclusions as to which no response is required. To the extent a response is required, Intervenor admits that the EAC has lacked a quorum of commissioners since December 2010, and deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 27.

28. Admit the allegations of paragraph 28 and further aver that, in 2011, the President nominated three individuals to serve on the EAC. The three nominees appeared before the U.S. Senate Committee on Rules & Administration on June 29, 2011, at which point Senator Lamar Alexander, the Ranking Member of the Committee, announced his intention to place a hold on the nominees due to his opposition to the existence of the EAC, thus preventing consideration of the nominees. *See Hearing on Nomination of Gineen Bresso, Thomas Hicks, and Myrna Perez to be Members of the Election Assistance Commission: Hearing Before the U.S. Senate Comm. on Rules and Administration, 112th Cong. 3 (2011) (statement of Lamar Alexander, Ranking Member, Comm. On Rules & Administration).*

29. Aver that the allegations contained in paragraph 29 of the Complaint purport to state legal conclusions as to which no response is required. To the extent a response is required, Intervenor admits that the EAC has lacked a quorum of commissioners since December 2010, deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 29, and respectfully refer the Court to the Wilkey Memorandum for its complete contents.

30. Aver that the allegations contained in paragraph 30 of the Complaint purport to state legal conclusions as to which no response is required. To the extent a response is required, Intervenor admits that the EAC has lacked a quorum of commissioners since December 2010, deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 30, and respectfully refer the Court to the Wilkey Memorandum for its complete contents.

31. Aver that the allegations contained in paragraph 31 of the Complaint purport to state legal conclusions as to which no response is required. To the extent a response is required, Intervenor's admit that the EAC has lacked a quorum of commissioners since December 2010, deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 31, except deny, based on information and belief, that the EAC or the RPP have approved any requests similar to those made by Plaintiffs, and respectfully refer the Court to the Wilkey Memorandum and the terms of any such approved requests for their complete contents.

32. Aver that the allegations contained in paragraph 32 of the Complaint purport to state legal conclusions as to which no response is required. To the extent a response is required, Intervenor's deny the allegations contained in paragraph 32, except admit that the EAC has lacked a quorum of commissioners since December 2010, and that EAC Commissioners and staff have conducted certain business and duties of the EAC since that time.

### KANSAS

33. Aver that paragraph 33 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to Kans. Const. art. V, § 1, for its complete contents.

34. Aver that paragraph 34 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to Kans. Const. art. V, § 4, for its complete contents.

35. Aver that paragraph 35 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the text of Section 7(a) of 1996 Kan. Sess. Laws Ch. 187, codified as K.S.A. 1996 Supp. 25-2309(a), for its complete contents.

36. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of the Complaint.

37. Aver that paragraph 37 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the text of HB 2067 for its complete contents.

38. Aver that paragraph 38 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the text of HB 2067 for its complete contents.

39. Aver that paragraph 39 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the text of HB 2067 for its complete contents.

40. Aver that paragraph 40 of the Complaint purports to state legal conclusions as to which no response is required, respectfully refer the Court to the text of HB 2067 for its complete contents, and deny that the documentary proof of citizenship provision of HB 2067 is necessary to enable State election official to assess the eligibility of voter registration applicants.

41. Aver that paragraph 41 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the text of HB 2067 for its complete contents.

42. Aver that paragraph 42 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the text of HB 2067 for its complete contents.

43. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 43 of the Complaint, and respectfully refer the Court to the August 9, 2012 letter for its complete contents.

44. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of the Complaint, and respectfully refer the Court to the August 9, 2012 letter for its complete contents.

45. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the Complaint, and respectfully refer the Court to the August 9, 2012 letter for its complete contents.

46. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the Complaint, and respectfully refer the Court to the August 9, 2012 letter for its complete contents.

47. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of the Complaint, and respectfully refer the Court to the October 11, 2012 letter for its complete contents.

48. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 of the Complaint, and respectfully refer the Court to the October 11, 2012 letter for its complete contents.

49. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of the Complaint, and respectfully refer the Court to the June 18, 2013 letter for its complete contents.

50. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50, and respectfully refer the Court to the July 31, 2013 letter for its complete contents.

51. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51, and respectfully refer the Court to the July 31, 2013 letter for its complete contents.

52. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of the Complaint, and respectfully refer the Court to the July 31, 2013 letter for its complete contents.

53. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 53 of the Complaint, and respectfully refer the Court to the August 2, 2013 letter for its complete contents.

54. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54 of the Complaint, and respectfully refer the Court to the August 2, 2013 letter for its complete contents.

55. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of the Complaint, and respectfully refer the Court to the August 6, 2013 letter for its complete contents.

56. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of the Complaint, and respectfully refer the Court to the August 6, 2013 letter for its complete contents.

57. Aver that paragraph 57 of the Complaint purports to state legal conclusions as to which no response is required.

**ARIZONA**

58. Aver that paragraph 58 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to Ariz. Const. art. VII, § 2 and A.R.S. § 16-101(A)(1) for their complete contents.

59. Aver that paragraph 59 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to Ariz. Const. art. VII, § 12 for its complete contents.

60. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60 of the Complaint.

61. Aver that paragraph 61 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to Proposition 200 and *Purcell v. Gonzalez*, 549 U.S. 1, 127 S. Ct. 5 (2006), for their complete contents.

62. Aver that paragraph 62 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to Proposition 200 and A.R.S. § 16-166 for their complete contents.

63. Aver that paragraph 63 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to Proposition 200 and A.R.S. § 16-166(F) for their complete contents.

64. Aver that paragraph 64 of the Complaint purports to state legal conclusions as to which no response is required, respectfully refer the Court to Proposition 200 for its complete contents, and deny that the documentary proof of citizenship provision of Proposition 200 is necessary to enable State election official to assess the eligibility of voter registration applicants.

65. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 65 of the Complaint.

66. Deny the allegations contained in paragraph 66 of the Complaint, except admit that on January 25, 2005, the Department of Justice indicated that it would not object, under Section 5 of the Voting Rights Act, § 1973c, to the proof of citizenship provision of Proposition 200.

67. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67 of the Complaint, and respectfully refer the Court to the December 12, 2005 correspondence for its complete contents.

68. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first, second and fourth sentences of paragraph 68 of the Complaint, deny the allegations contained in the third sentence of paragraph 68, and respectfully refer the Court to the March 6, 2006 letter for its complete contents.

69. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 of the Complaint, and respectfully refer the Court to the March 13, 2006 letter for its complete contents.

70. Aver that paragraph 70 purports to describe the procedural history of publicly-filed proceedings as to which no response is required. To the extent a response is required, Intervenor deny the allegations contained in paragraph 70 of the Complaint, except admit that two lawsuits were filed in the United States District Court for the District of Arizona in May 2006 seeking to enjoin the two provisions of Proposition 200 relating to voting, and respectfully refer the Court to the docket in *Gonzalez/ITCA* for the complete procedural history.

71. Aver that the allegations of paragraph 71 of the Complaint purport to quote an excerpt from a judicial decision at an early phase of a lawsuit as to which no response is required, and respectfully refer the Court to the District Court's June 19, 2006 Opinion and Order in *Gonzalez/ITCA* for its complete contents and the subsequent procedural and appellate history of that case, *see Gonzalez v. Arizona*, 624 F.3d 1162, 1186-87 (9th Cir. 2010).

72. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 72 of the Complaint, and respectfully refer the Court to the June 20, 2006 letter for its complete contents.

73. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 73 of the Complaint, and respectfully refer the Court to the Tally Vote and the referenced position statements for their complete contents.

74. Aver that the allegations contained in paragraph 74 of the Complaint purport to describe legal proceedings as to which no response is required, and respectfully refer the Court to the Supreme Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013), for its complete contents.

75. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 75 of the Complaint, and respectfully refer the Court to the June 19, 2013 letter for its complete contents.

76. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 76 of the Complaint, and respectfully refer the Court to the July 22, 2013 letter for its complete contents.

77. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 of the Complaint, and respectfully refer the Court to the July 26, 2013 letter for its complete contents.

78. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 78 of the Complaint, and respectfully refer the Court to the August 13, 2013 letter for its complete contents.

79. Aver that paragraph 79 of the Complaint purports to state legal conclusions as to which no response is required.

*Causes of Action*

**Cause I**

80. Repeat and incorporate herein their responses to paragraphs 1-79 of the Complaint as set forth above as if repeated here in their entireties.

81. Aver that paragraph 81 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to U.S. Const., art. I, § 2, cl. 1; U.S. Const. amend. X and XVII; the Supreme Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013); and the NVRA for their complete contents.

82. Deny the allegations contained in paragraph 82 of the Complaint, and, with respect to the allegations regarding statements allegedly made by Justice Scalia, respectfully refer the Court to the transcript of the oral argument *Inter Tribal Council* for its complete contents.

83. Aver that paragraph 83 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the NVRA and the Supreme Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013), for their complete contents.

84. Aver that paragraph 84 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the NVRA and the Supreme Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013), for their complete contents.

85. Aver that paragraph 85 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the APA for its complete contents.

86. Aver that paragraph 86 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the APA for its complete contents.

87. Aver that paragraph 87 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the APA for its complete contents.

88. Aver that paragraph 88 of the Complaint purports to state legal conclusions as to which no response is required.

89. Aver that paragraph 89 of the Complaint purports to state legal conclusions as to which no response is required.

90. Aver that paragraph 90 of the Complaint purports to state legal conclusions as to which no response is required.

## **Cause II**

91. Repeat and incorporate herein their responses to paragraphs 1-90 of the Complaint as set forth above as if repeated here in their entireties.

92. Aver that paragraph 92 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the APA for its complete contents.

93. Aver that paragraph 93 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the APA for its complete contents.

94. Aver that paragraph 94 of the Complaint purports to state legal conclusions as to which no response is required.

95. Aver that paragraph 95 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to U.S. Const. art. I, § 2, cl. 1 and U.S. Const. amend. X and XVII for their complete contents.

96. Aver that paragraph 96 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to U.S. Const. art. I, § 2, cl. 1; U.S. Const. amend. X and XVII; and the Supreme Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013), for their complete contents.

97. Aver that paragraph 97 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the transcript of the oral argument *Inter Tribal Council* for its complete contents.

98. Aver that paragraph 98 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the NVRA and the Supreme

Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013), for their complete contents.

99. Aver that paragraph 99 of the Complaint purports to state legal conclusions as to which no response is required.

### **Cause III**

100. Repeat and incorporate herein their responses to paragraphs 1-99 of the Complaint as set forth above as if repeated here in their entirety.

101. Aver that paragraph 101 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the APA for its complete contents.

102. Aver that paragraph 102 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the APA for its complete contents.

103. Aver that paragraph 103 of the Complaint purports to state legal conclusions as to which no response is required.

104. Aver that paragraph 104 of the Complaint purports to state legal conclusions as to which no response is required.

105. Aver that paragraph 105 of the Complaint purports to state legal conclusions as to which no response is required.

106. Aver that paragraph 106 of the Complaint purports to state legal conclusions as to which no response is required.

107. Aver that paragraph 107 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the Supreme Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013), for its complete contents.

108. Aver that paragraph 108 of the Complaint purports to state legal conclusions as to which no response is required.

#### **Cause IV**

109. Repeat and incorporate herein their responses to paragraphs 1-108 of the Complaint as set forth above as if repeated here in their entirety.

110. Aver that paragraph 110 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the APA for its complete contents.

111. Aver that paragraph 111 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the NVRA and the Supreme Court's opinion in *Arizona v. Inter Tribal Council Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013), for their complete contents.

112. Aver that paragraph 112 of the Complaint purports to state legal conclusions as to which no response is required.

113. Aver that paragraph 113 of the Complaint purports to state legal conclusions as to which no response is required.

114. Aver that paragraph 114 of the Complaint purports to state legal conclusions as to which no response is required.

**Cause V**

115. Repeat and incorporate herein their responses to paragraphs 1-114 of the Complaint as set forth above as if repeated here in their entireties.

116. Aver that paragraph 116 of the Complaint purports to state legal conclusions as to which no response is required.

117. Aver that paragraph 117 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to U.S. Const. amend. X for its complete contents.

118. Aver that paragraph 118 of the Complaint purports to state legal conclusions as to which no response is required.

119. Aver that paragraph 119 of the Complaint purports to state legal conclusions as to which no response is required.

120. Aver that paragraph 120 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to U.S. Const. art. I, § 2, cl. 1; U.S. Const. amend X and XVII; the Supreme Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013); and the NVRA for their complete contents.

121. Aver that paragraph 121 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the Supreme Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013) and the U.S. Constitution, for their complete contents.

122. Aver that paragraph 122 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the Supreme Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013), for its complete contents.

123. Aver that paragraph 123 of the Complaint purports to state legal conclusions as to which no response is required, and respectfully refer the Court to the NVRA and the Supreme Court's opinion in *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013), for their complete contents.

124. Aver that paragraph 124 of the Complaint purports to state legal conclusions as to which no response is required.

125. Aver that paragraph 125 of the Complaint purports to state legal conclusions as to which no response is required.

126. Aver that paragraph 126 of the Complaint purports to state legal conclusions as to which no response is required.

127. Aver that paragraph 127 of the Complaint purports to state legal conclusions as to which no response is required.

128. Aver that paragraph 128 of the Complaint purports to state legal conclusions as to which no response is required.

129. Any allegation not specifically admitted herein is denied.

**AFFIRMATIVE DEFENSES**

1. The Complaint fails to state a claim upon which relief may be granted.
2. Plaintiffs' claims are barred because Arizona and Kansas waived their right to oppose the Federal Form after a notice and comment rulemaking.
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 the National Voter Registration Act of 1993, 42 U.S.C. 1973gg, *et seq.*
4. 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 Election Assistance Commission's duly adopted regulations and policies and the Help America Vote Act of 2002, 42 U.S.C. § 15301, *et seq.*
5. 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.
6. Plaintiffs' claims are barred by the Equal Protection Clause and Due Process Clause of the Fourteenth Amendment to the United States Constitution because their claims impermissibly burden the fundamental right to vote.

7. Intervenor hereby give notice that they may rely upon any other defense that may become available, including any affirmative defenses asserted or to be asserted by other Defendants or intervenors in this action, and hereby reserve their right to amend their Answer to assert any such defense.

WHEREFORE, Intervenor pray:

- 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 and Defendants and against Plaintiffs on each and every cause and claim set forth in the Complaint;
- D. That Intervenor be awarded their reasonable attorneys' fees and costs in connection with their defense of this action; and
- E. For such other relief as the Court may deem just and proper.

Respectfully Submitted,

/s/David G. Seely

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*Attorneys for Defendant-Intervenors  
League of Women Voters of the United States,  
League of Women Voters of Arizona, and League of  
Women Voters of Kansas*

### **CERTIFICATE OF SERVICE**

I certify that on December 16, 2013, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system which will send a notice of electronic filing to counsel of record.

**/s/ David G. Seely**  
David G. Seely