

UNITED STATES DISTRICT COURT

for the
District of Arizona

Mi Familia Vota, et al.,

Plaintiff

v.

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

Defendant

Civil Action No. 22-cv-00509-SRB (consolidated)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Arizona Free Enterprise Club - Scot Mussi
1835 E Elliot Road, Suite 102, Tempe, AZ 85284

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following
documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the
material:

SEE ATTACHED EXHIBIT A.

Table with 2 columns: Place (Spencer Fane LLP, 2415 E. Camelback Road, Suite 600, Phoenix, AZ 85016) and Date and Time (06/14/2023 5:00 pm)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or
other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party
may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance;
Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to
respond to this subpoena and the potential consequences of not doing so.

Date: 05/31/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Andrew Federhar

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Arizona Asian
American Native Hawaiian and Pacific Islander for Equity Coalition, who issues or requests this subpoena, are:
Andrew Federhar; 2415 E. Camelback Rd., Ste. 600, Phoenix, AZ 85016; afederhar@spencerfane.com; (602)-333-5427

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the
inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before
it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 22-cv-00509-SRB (consolidated)

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

### (c) Place of Compliance.

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

### (d) Protecting a Person Subject to a Subpoena; Enforcement.

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

### (e) Duties in Responding to a Subpoena.

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Mi Familia Vota, et al.,

Plaintiffs,

v.

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

Defendants.

AND CONSOLIDATED CASES.

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

**EXHIBIT A**

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

1 Plaintiff Arizona Asian American Native Hawaiian and Pacific Islander for Equity  
2 Coalition hereby serves this Subpoena to Produce Documents/Information under Rule 45  
3 of the Federal Rules of Civil Procedure upon Arizona Free Enterprise Club (“AZFEC”).  
4

5 **DEFINITIONS**

6 The following definitions (applicable whether the terms in question are capitalized  
7 or not) apply to this document as a whole and as to each of the following requests for  
8 production and shall be deemed incorporated therein:

9 1. “Any” or “all” means “any and all.”

10 2. “Arizona Legislature” means the members and staff of the Arizona Senate  
11 and Arizona House of Representatives.

12 3. “Attorney General” refers to Defendant Kris Mayes, in her official capacity  
13 as Arizona Attorney General, and includes any predecessors and successors to the Office  
14 of the Arizona Attorney General, including but not limited to former Arizona Attorney  
15 General Mark Brnovich; as well as any past and present employees, agents, assigns, or  
16 representatives of the Office of the Arizona Attorney General; and any other persons or  
17 entities that, at any time, acted on behalf or for the benefit of the Office of the Arizona  
18 Attorney General.

19 4. “Campaign/PAC Contributions or Expenditures” refers to money, advances,  
20 proceeds, cryptocurrency, loans, in-kind donations, including but not limited to the  
21 payment of goods or services, advertisements and coordinated communications, or any  
22 other thing of value that is made for the purpose of influencing an election. The term  
23 includes but is not limited to independent expenditures and contributions to an official  
24 campaign, political action committee, or tax-exempt organization, including but not limited  
25 to entities organized under Section 527 of the U.S. Internal Revenue Code or Section  
26 501(c) of the U.S. Internal Revenue Code.

27 5. “Communication” means any transfer of information of any type, whether  
28 written, oral, electronic, or otherwise, and includes transfers of information via email,

1 report, letter, text message, voicemail message, written memorandum, note, summary,  
2 Twitter, and other means. It includes communications entirely internal to the Arizona  
3 Legislature, as well as communications that include or are with entities and individuals  
4 outside of the Arizona Legislature.

5         6.         “Constituent Groups” refers to organizations formal and informal, including  
6 but not limited to, advocacy groups, lobbyists, volunteer or membership organizations, and  
7 other groups who advocate on behalf of specific constituencies in legislative matters that  
8 affect their constituencies’ interests, including but not limited to their staff, employees,  
9 agents, assigns, or representatives. For purposes of these requests, “Constituent Groups”  
10 includes, but is not limited to, the Arizona Free Enterprise Club and its employee Greg  
11 Blackie, and the Arizona Association of Counties and its executive director Jennifer  
12 Marson.

13         7.         “County Recorders” refers to the County Recorders of Arizona’s fifteen  
14 counties and their predecessors and successors, as well as the current and former  
15 employees, officers, attorneys, agents, trustees, investigators, representatives, contractors,  
16 and consultants of the County Recorders.

17         8.         “Document” is synonymous in meaning and scope to the term “document”  
18 as used under Federal Rule of Civil Procedure 34 and “writings” and “recordings” as  
19 defined in Federal Rules of Evidence 1001, and it includes, but is not limited to, records,  
20 reports, lists, data, statistics, summaries, analyses, communications (as defined above), any  
21 computer discs, tapes, printouts, emails, databases, and any handwritten, typewritten,  
22 printed, electronically recorded, taped, graphic, machine-readable, or other material, of  
23 whatever nature and in whatever form, including all non-identical copies and drafts thereof,  
24 and all copies bearing any notation or mark not found on the original.

25         9.         “DPOC” refers to documentary proof of citizenship, defined by A.R.S. § 16-  
26 166 as “satisfactory evidence of citizenship.”  
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1           10. “Governor” refers to Katie Hobbs, in her official capacity as Arizona  
2 Governor, and includes any predecessors and successors to the Office of the Arizona  
3 Governor including but not limited to former Arizona Governor Doug Ducey; as well as  
4 any past and present employees, agents, assigns, or representatives of the Office of the  
5 Arizona Governor; and any other persons or entities that, at any time, acted on behalf or  
6 for the benefit of the Office of the Arizona Governor.

7           11. “H.B. 2617” means House Bill 2617 introduced into the Arizona House of  
8 Representatives on January 31, 2022 from Fifty-fifth Legislature Second Regular Session  
9 2022.

10           12. “H.B. 2492” refers to the Arizona House Bill 2492 signed into law by the  
11 Governor on March 30, 2022, Chapter 99 to Session Laws from the Fifty-fifth Legislature  
12 Second Regular Session 2022.

13           13. “H.B. 2243” refers to the Arizona House Bill 2243 signed into law by the  
14 Governor on July 6, 2022, Chapter 370 to Session Laws from the Fifty-fifth Legislature  
15 Second Regular Session 2022.

16           14. “Legislative Strategies” refers to methods and/or plans for advancing or  
17 frustrating potential and/or actual bills, policies, regulations or other official actions taken  
18 by public agencies and/or public officials and includes, for example, drafting of bills.

19           15. “Lobbying Efforts” refers to attempts to influence Constituent Groups, State  
20 Legislators, the Governor, Secretary of State, Attorney General or other public officials,  
21 directly or indirectly, in the drafting, passage, and/or implementation of potential and actual  
22 bills, policies, regulations or other official actions.

23           16. “Person” includes both natural persons and entities, without limitation,  
24 including but not limited to all predecessors in interest, groups, associations, partnerships,  
25 corporations, agencies, or any other legal, business, or governmental entity. The acts “of”  
26 a Person are defined to include the acts of directors, officers, members, employees, agents,  
27 or attorneys acting on the Person’s behalf.  
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1           17. “Relating to,” “regarding,” or “concurring” and their cognates are to be  
2 understood in their broadest sense and shall be construed to include pertaining to,  
3 commenting on, memorializing, reflecting, recording, setting forth, describing, evidencing,  
4 or constituting.

5           18. “Secretary of State” refers to Defendant Adrian Fontes, in his official  
6 capacity as Arizona Secretary of State, and includes any predecessors and successors to the  
7 Office of the Arizona Secretary of State, including but not limited to former Arizona  
8 Secretary of State Katie Hobbs; as well as any past and present employees, agents, assigns,  
9 or representatives of the Office of the Arizona Secretary of State; and any other persons or  
10 entities that, at any time, acted on behalf or for the benefit of the Office of the Arizona  
11 Secretary of State.

12           19. “State Legislators” refers to the Arizona state Senators and Representatives,  
13 including but not limited to all elected members of the Arizona Legislature, their past or  
14 present staff, state legislative committees and committee staff, employees, agents, assigns,  
15 or representatives, who together comprise the members of the Arizona Legislature for the  
16 55th session.

17           20. “Thing” has the meaning prescribed in the Federal Rules of Civil Procedure,  
18 including but not limited to Rules 26 and 34. The term “Thing” specifically includes, by  
19 way of example but not limitation, any disc, tape, or other electronic media storage device.

20           21. “You,” “Your” and “AZFEC” refers to the Arizona Free Enterprise Club,  
21 and includes any past and/or present members, directors, employees, agents, assigns, or  
22 representatives, including but not limited to lobbyists, interns, and contractors; and any  
23 past and present benefactors, donors, and board members.

24           22. To “Identify” or provide the “Identity” or “Identification” of a Person who is  
25 a natural Person means to state for that Person: the Person’s full name, present or last  
26 known address(es), present or last known telephone number(s), present or last known  
27 employer and that employer’s address, present or last known job title, and whether the  
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1 Person is represented by counsel in connection with this litigation. To “Identify” or provide  
2 the “Identify” or “Identification” of a Person that is an entity means to state for that entity:  
3 the entity’s full name, present or last known address for its principal place of business,  
4 present or last known telephone number, type (e.g., corporation, partnership, trust), date  
5 and place of formation, registered agent, all known names under which the entity has  
6 operated in the past, and all known addresses at which the entity has conducted business in  
7 the past.

8 23. To “Identify” any Document or Thing or to provide the “Identity” or  
9 “Identification” of any Document or Thing means:

- 10 a. To provide a brief description of such Document or Thing sufficient to  
11 support a request for production;
- 12 b. To state its type (e.g., e-mail, letter, memorandum, computer system,  
13 software);
- 14 c. To state its date;
- 15 d. To state the purchase date of the Thing;
- 16 e. To identify each author and recipient (including actual and designated  
17 recipients of copies);
- 18 f. To identify who made the Thing, if applicable;
- 19 g. To specify the place where the Document or Thing may be inspected and  
20 its custodian; and
- 21 h. If a copy of the Document or Thing has been previously supplied, to so  
22 state and specifically identify the previously supplied copy by reference  
23 to Bates number(s) or other identifying information such as litigation  
24 control number.

25 24. To “Identify” an event or Communication means to state:

- 26 a. Its type (e.g., oral communication, telephone call, meeting or  
27 conference, teletype communication, purchase, sale);

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- b. Its date, time and place;
  - c. The identity of all Persons participating, attending and observing, as well as Persons most knowledgeable about the event or Communication;
  - d. A detailed description of the event or Communication and what transpired; and
  - e. The identify of any Documents referenced, referred to, relied upon, or created in connection with the event, including any record made of the event.

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**DOCUMENTS TO BE PRODUCED**

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1. All Documents and Communications Regarding discussion, analysis, and/or evidence of non-citizens voting in Arizona elections prior to the passage/attempted passage of H.B. 2492, H.B. 2243, and/or H.B. 2617, including but not limited to Documents and Communications Regarding Your article published on February 8, 2022, titled “How More Illegals Started Voting in AZ Elections and How House Bill 2492 Is Going to Fix It.”

2. All Documents and Communications Regarding any Campaign/PAC Contributions or Expenditures made by You from January 1, 2017 to July 1, 2022.

3. All Documents and Communications related to Your Legislative Strategies, Lobbying Efforts, and/or Campaign/PAC Contributions or Expenditures Regarding the drafting, introduction and passage/attempted passage of laws related to voting, including but not limited to all Documents and Communications Regarding the outlining, research for drafting, drafting, introduction and passage/attempted passage of H.B. 2492, H.B. 2243, and/or H.B. 2617 (including but not limited to Documents and Communications with any State Legislators, any Constituent Groups, the Governor, the Attorney General, any County Recorders, VoterVoice, or any other Persons Regarding those bills and/or drafts of those bills).

1           4.       All Documents and Communications Regarding interpretation of H.B. 2492,  
2 H.B. 2243, and/or H.B. 2617.

3           5.       All Documents and Communications Regarding the potential impact,  
4 legality and/or constitutionality of H.B. 2492, H.B. 2243, and/or H.B. 2617 (including but  
5 not limited to all draft or final opinions in Your possession, custody, or control Regarding  
6 how H.B. 2492, H.B. 2243, and/or H.B. 2617 do or do not comply with the U.S.  
7 Constitution, the Civil Rights Act of 1964, the National Voter Registration Act of 1993,  
8 and/or any other federal or state statutes).

9           6.       All Documents and Communications Regarding how the actual or potential  
10 implementation of H.B. 2492, H.B. 2243, and/or H.B. 2617 would impact Arizonans who  
11 are eligible to vote or particular demographics of Arizonans who are eligible to vote,  
12 including but not limited to how the passage/attempted passage of H.B. 2492, H.B. 2243,  
13 and/or H.B. 2617 may affect future electoral outcomes in Arizona or may affect which  
14 Arizonans successfully register and vote in future elections.

15           7.       All Documents and Communications Regarding how County Recorders  
16 “confirm[ing]” a registered voter is not a citizen and/or lacks DPOC, pursuant to A.R.S. §  
17 16-165, as amended by H.B. 2243, and/or “match[ing] the applicant with information that  
18 verifies the applicant is a United States citizen,” pursuant to A.R.S. § 16-121.01, as  
19 amended by H.B. 2492, would impact Arizonans who are eligible to vote or particular  
20 demographics of Arizonans who are eligible to vote.

21           8.       All Documents and Communications Regarding any database referenced by  
22 H.B. 2243 and H.B. 2492 (including but not limited to those enumerated in A.R.S. § 16-  
23 165, as amended by H.B. 2243, and A.R.S. § 16-121.01, as amended by H.B. 2492), for  
24 the purpose of verifying a registered voter’s citizenship status).

1 Dated: May 31, 2023

Respectfully submitted,

2  
3 By /s/ Andrew Federhar

LATHAM & WATKINS LLP  
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*Attorneys for Plaintiff*

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