

3. Paragraph 3 does not contain any factual allegations such that Defendant is required to either admit or deny Paragraph 3. To the extent Paragraph 3 does contain such allegations, Defendant denies those allegations.

4. Paragraph 4 does not contain any factual allegations such that Defendant is required to either admit or deny Paragraph 4. To the extent Paragraph 4 does contain such allegations, Defendant denies those allegations.

5. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 5.

6. Defendant denies the allegations in Paragraph 6.

7. Paragraph 7 does not contain any factual allegations such that Defendant is required to either admit or deny Paragraph 7. To the extent Paragraph 7 does contain such allegations, Defendant denies those allegations.

8. Paragraph 8 does not contain any factual allegations such that Defendant is required to either admit or deny Paragraph 8. To the extent Paragraph 8 does contain such allegations, Defendant denies those allegations.

II. JURISDICTION AND VENUE

9. Defendant admits the allegations in Paragraph 1.

10. Defendant admits the allegations in Paragraph 2.

III. PARTIES

11. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 11.

12. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 12.

13. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 13.

14. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 14.

15. Defendant admits the allegations in Paragraph 15.

IV. FACTS

16. Defendant admits the allegations in Paragraph 16.

17. Defendant admits the allegations in Paragraph 17.

18. Paragraph 18 does not contain any factual allegations such that Defendant is required to either admit or deny Paragraph 18. To the extent Paragraph 18 does contain such allegations, Defendant denies those allegations.

19. Defendant admits the allegations in Paragraph 19.

20. Defendant admits the allegations in Paragraph 20.

21. Defendant admits that NMSA 1978, § 1-4-49(b) requires third party voter registration agents to either turn in or mail completed voter registration forms to the appropriate election official within 48 hours of the form's completion. Defendant denies the remaining allegations in Paragraph 21.

22. Defendant admits that NMSA 1978, § 1-4-49(d) makes it a petty misdemeanor to intentionally violate the terms of the third party voter registration law. Defendant further admits that NMSA 1978, § 31-19-1 makes a petty misdemeanor punishable by a fine up to \$500.00 and imprisonment up to six months. Defendant denies the remaining allegations in Paragraph 22.

23. Defendant admits the allegations in Paragraph 23.

24. Defendant denies the allegations in Paragraph 24.

25. Defendant denies the allegations in Paragraph 25.

26. Paragraph 26 does not contain any factual allegations such that Defendant is required to either admit or deny Paragraph 26. To the extent Paragraph 26 does contain such allegations, Defendant denies those allegations.

27. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 27.

28. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 28.

29. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 29.

30. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 30.

31. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 31.

32. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 32.

33. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 33.

34. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 34.

35. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 35.

36. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 36.

37. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 37.

38. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 38.

39. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 39.

40. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 40.

41. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 41.

42. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 42.

43. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 43.

44. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 44.

45. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 45.

46. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 46.

47. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 47.

48. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 48.

49. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 49.

50. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 50.

51. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 51.

52. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 52.

53. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 53.

54. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 54.

55. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 55.

56. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 56.

57. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 57.

58. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 58.

59. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 59.

60. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 60.

61. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 61.

62. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 62.

63. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 63.

64. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 64.

65. Defendant denies the allegations in Paragraph 65.

66. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 66.

67. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 67.

68. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 68.

69. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 69.

70. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 70.

71. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 71.

72. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 72.

73. Defendant denies the allegations in Paragraph 73.

74. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 74.

75. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 75.

76. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 76.

77. Defendant admits that the Secretary of State and the County Clerks are willing to provide training sessions to potential third party registration agents under a variety of circumstances taking into account the challenges those potential agents may face in participating in such training. Defendant denies the remaining allegations in Paragraph 77.

78. Defendant denies the allegations in Paragraph 78.

79. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 79.

80. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 80.

81. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 81.

82. Defendant denies the allegations in Paragraph 82.

83. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 83.

84. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 84.

85. Defendant denies the allegations in Paragraph 85.

86. Defendant denies the allegations in Paragraph 86.

87. Defendant denies the allegations in Paragraph 87.

88. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 88.

89. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 89.

90. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 90.

91. Defendant denies the allegations in Paragraph 91.

92. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 92.

93. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 93.

94. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 94.

95. Defendant does not have sufficient information to either admit or deny the allegations in Paragraph 95.

96. Paragraph 96 does not contain any factual allegations such that Defendant is required to either admit or deny Paragraph 96. To the extent Paragraph 96 does contain such allegations, Defendant denies those allegations.

97. Defendant denies the allegations in Paragraph 97.

98. Defendant denies the allegations in Paragraph 98.

V. CAUSES OF ACTION

Count I: Violation of the First and Fourteenth Amendments to the United States Constitution

99. Paragraph 99 does not contain any factual allegations such that Defendant is required to either admit or deny Paragraph 99. To the extent Paragraph 99 does contain such allegations, Defendant denies those allegations.

100. Paragraph 100 does not contain any factual allegations such that Defendant is required to either admit or deny Paragraph 100. To the extent Paragraph 100 does contain such allegations, Defendant denies those allegations.

101. Paragraph 101 does not contain any factual allegations such that Defendant is required to either admit or deny Paragraph 101. To the extent Paragraph 101 does contain such allegations, Defendant denies those allegations.

102. Defendant denies the allegations in Paragraph 102.

103. Paragraph 103 does not contain any factual allegations such that Defendant is required to either admit or deny Paragraph 103. To the extent Paragraph 103 does contain such allegations, Defendant denies those allegations.

104. Defendant admits that voter registration activities are often intertwined with political speech. Defendant further admits that Plaintiffs' views are not universally shared. Defendant denies the remaining allegations in Paragraph 104.

105. Paragraph 105 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 105. To the extent Paragraph 105 does contain such allegations, Defendant denies those allegations.

106. Paragraph 106 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 106. To the extent Paragraph 106 does contain such allegations, Defendant denies those allegations.

107. Defendant denies the allegations in Paragraph 107.

108. Paragraph 108 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 108. To the extent Paragraph 108 does contain such allegations, Defendant denies those allegations.

109. Defendant denies the allegations in Paragraph 109.

110. Defendant denies that voters registering through a third party voter registration agent have chosen to "associate themselves" with that agent. Defendant admits the remaining allegations in Paragraph 110.

111. Defendant denies the allegations in Paragraph 111.

112. Defendant denies the allegations in Paragraph 112.

113. Defendant denies the allegations in Paragraph 113.

114. The first sentence of Paragraph 114 does not contain factual allegations such that Defendant is required to either admit or deny it. To the extent that sentence does contain such

allegations, Defendant denies them. Defendant denies the remaining allegations in Paragraph 114.

115. Defendant admits that the State maintains a statewide voter registration database that allows County Clerks and the Secretary of State to examine, in the ways Plaintiffs allege, completed voter registration forms. Defendant denies the remaining allegations in Paragraph 115.

116. Defendant denies the allegations in Paragraph 116.

117. Defendant denies the allegations in Paragraph 117.

118. Defendant denies the allegations in Paragraph 118.

119. Defendant denies the allegations in Paragraph 119.

120. Defendant denies the allegations in Paragraph 120.

121. Paragraph 121 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 121. To the extent Paragraph 121 does contain such allegations, Defendant denies those allegations.

122. Defendant denies the allegations in Paragraph 122.

123. Paragraph 123 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 123. To the extent Paragraph 123 does contain such allegations, Defendant denies those allegations.

Count II: Violation of the First and Fourteenth Amendments to the United States Constitution – Void for Vagueness

124. Paragraph 124 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 124. To the extent Paragraph 124 does contain such allegations, Defendant denies those allegations.

125. Paragraph 125 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 125. To the extent Paragraph 125 does contain such allegations, Defendant denies those allegations.

126. Defendant denies the allegations in Paragraph 126.

127. Defendant denies the allegations in Paragraph 127.

128. Defendant denies the allegations in Paragraph 128.

129. Defendant denies the allegations in Paragraph 129.

Count III: Violation of the National Voter Registration Act of 1993

130. Paragraph 130 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 130. To the extent Paragraph 130 does contain such allegations, Defendant denies those allegations.

131. Paragraph 131 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 131. To the extent Paragraph 131 does contain such allegations, Defendant denies those allegations.

132. Paragraph 132 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 132. To the extent Paragraph 132 does contain such allegations, Defendant denies those allegations.

133. Paragraph 133 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 133. To the extent Paragraph 133 does contain such allegations, Defendant denies those allegations.

134. Paragraph 134 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 134. To the extent Paragraph 134 does contain such allegations, Defendant denies those allegations.

135. Paragraph 135 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 135. To the extent Paragraph 135 does contain such allegations, Defendant denies those allegations.

136. Paragraph 136 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 136. To the extent Paragraph 136 does contain such allegations, Defendant denies those allegations.

137. Paragraph 137 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 137. To the extent Paragraph 137 does contain such allegations, Defendant denies those allegations.

138. Paragraph 138 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 138. To the extent Paragraph 138 does contain such allegations, Defendant denies those allegations.

139. Paragraph 139 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 139. To the extent Paragraph 139 does contain such allegations, Defendant denies those allegations.

140. Paragraph 140 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 140. To the extent Paragraph 140 does contain such allegations, Defendant denies those allegations.

141. Defendant denies the allegations in Paragraph 141.

142. Defendant denies the allegations in Paragraph 142.

143. Defendant denies the allegations in Paragraph 143.

144. Defendant denies the allegations in Paragraph 144.

145. Defendant denies the allegations in Paragraph 145.

146. Defendant denies the allegations in Paragraph 146.

Count IV: Violation of Article II, § 8 of the New Mexico State Constitution

147. Paragraph 147 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 147. To the extent Paragraph 147 does contain such allegations, Defendant denies those allegations.

148. Paragraph 148 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 148. To the extent Paragraph 148 does contain such allegations, Defendant denies those allegations.

149. Defendant denies the allegations in Paragraph 149.

150. Defendant denies the allegations in Paragraph 150.

Count V: Violation of Article II, § 17 of the New Mexico State Constitution

151. Paragraph 151 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 151. To the extent Paragraph 151 does contain such allegations, Defendant denies those allegations.

152. Defendant admits the allegations in Paragraph 152.

153. Defendant denies the allegations in Paragraph 153.

154. Defendant denies the allegations in Paragraph 154.

155. Defendant denies the allegations in Paragraph 155.

156. Defendant denies the allegations in Paragraph 156.

157. Defendant denies the allegations in Paragraph 157.

Count VI: Violation of the New Mexico Constitutional Principle of Non-Delegation

158. Paragraph 158 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 158. To the extent Paragraph 158 does contain such allegations, Defendant denies those allegations.

159. Paragraph 159 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 159. To the extent Paragraph 159 does contain such allegations, Defendant denies those allegations.

160. Defendant denies the allegations in Paragraph 160.

161. Defendant denies the allegations in Paragraph 161.

162. Defendant denies the allegations in Paragraph 162.

163. Defendant denies the allegations in Paragraph 163.

Count VII: Violation of Procedural Due Process under the Fourteenth Amendment to the United States Constitution

164. Paragraph 164 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 164. To the extent Paragraph 164 does contain such allegations, Defendant denies those allegations.

165. Paragraph 165 does not contain factual allegations such that Defendant is required to either admit or deny Paragraph 165. To the extent Paragraph 165 does contain such allegations, Defendant denies those allegations.

166. Defendant denies the allegations in Paragraph 166.

VI. PRAYER FOR RELIEF

167. The sub-numbered paragraphs under this heading in the Amended Complaint do not contain factual allegations such that Defendant is required to either admit or deny them. To the extent these paragraphs do contain such allegations, Defendant denies them.

DATED: March 1, 2010.

Respectfully submitted,

GARY K. KING
NEW MEXICO ATTORNEY GENERAL

/s/ Scott Fuqua
Scott Fuqua
Assistant Attorney General
New Mexico Attorney General's Office
408 Galisteo Street
Santa Fe, NM 87501
(505)827-6000 – Telephone
(505)827-6036 – Facsimile

Attorney for Defendant Mary Herrera

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing motion on Plaintiffs' counsel of record via electronic filing with the CM/ECF filing system on March 1, 2010.

/s/ Scott Fuqua
Scott Fuqua