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7 **IN THE UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF ARIZONA**

9 Kathleen Hoffard,  
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11 Plaintiff,

12 vs.

13 Cochise County, Arizona; Lisa Marra,  
14 in her official capacity as Director of  
15 Cochise County Elections  
16 Department,

17 Defendants.

Case Number: 4:20-cv-00243-SHR

***[PROPOSED] ORDER GRANTING  
MOTION FOR PRELIMINARY  
INJUNCTION***

*(Assigned to the Hon. Scott H. Rash)*

18 Before the Court is Plaintiff Kathleen Hoffard's ("Hoffard") Motion for  
19 Preliminary Injunction against Defendants Cochise County (Arizona) and Lisa Marra, in  
20 her official capacity as Director of Cochise County Elections Department (collectively,  
21 "Cochise County"). For the following reasons, Hoffard's motion is granted.

22 **I. Findings of Fact**

23 Plaintiff has spinal stenosis (lumbar and cervical spondylosis), rheumatoid  
24 arthritis, osteoarthritis, spondylolisthesis of the lumbar region, and degenerative disc  
25 disease. As a result of these conditions, Hoffard is substantially limited in the major life  
26 activities of standing, walking, and musculoskeletal function. She also takes medication  
27 for treatment of the arthritis that suppresses her immune system. She is a registered voter  
28 in Cochise County who desires to cast a vote in-person using curbside voting or a

1 substantially equivalent reasonable modification, on Election Day at one of Defendants'  
2 Vote Centers in the November 2020 General Election.

3 Plaintiff is likely to succeed on the merits of her claims under the Americans with  
4 Disabilities Act (“ADA”), Section 504 of the Rehabilitation Act (“Section 504”), and the  
5 voting provisions of the Arizona Civil Rights Act (“ACRA”), because Defendants  
6 discriminate against her and other voters based on disability by not providing a reasonable  
7 modification of curbside voting, or a substantially equivalent reasonable modification, for  
8 qualified individuals with disabilities who wish to participate in in-person voting on  
9 Election Day.

10 Absent a preliminary injunction, Plaintiff and other voters with disabilities will  
11 suffer irreparable harm in the General Election in November 2020. Specifically, Plaintiff  
12 will be forced to navigate the parking lot and Vote Center despite significant pain in  
13 walking and standing and, unlike in prior years, the absence of a preliminary injunction  
14 forces Plaintiff to risk exposure to COVID-19 at a County Vote Center to exercise the  
15 right to cast a ballot by in-person voting.

16 The balance of equities supporting the grant of preliminary injunctive relief tips in  
17 favor of Plaintiff. In the absence of a preliminary injunction, Plaintiff and other voters  
18 whose disabilities place them at greater risk of serious health complications or death from  
19 COVID-19 will suffer injury to their right to equal access to voting on election day when  
20 there are rapidly deployable, free or limited cost ways to provide curbside voting as a  
21 reasonable modification for qualified individuals with disabilities.

22 The public interest is in upholding the right of Plaintiff and other voters with  
23 disabilities to have equal access to the in-person voting program, especially considering  
24 the ongoing COVID-19 pandemic.

## 25 **II. Conclusion**

26 For the foregoing reasons, Hoffard is entitled to the preliminary injunction order  
27 sbe seeks. The Court will not require Hoffard to post bond.

1           **IT IS ORDERED** that Kathleen Hoffard’s Motion for Preliminary Injunction  
2 (Doc. \_\_) is **GRANTED** as follows:

3           1.       Cochise County is enjoined from continuing its blanket ban on curbside  
4 voting;

5           2.       Cochise County is ordered to provide the reasonable modification of  
6 curbside voting, or a substantially equivalent modification to voters with disabilities who  
7 intend to vote in person on November 3, 2020, pursuant to Title II of the Americans with  
8 Disabilities Act, Section 504 of the Rehabilitation Act and A.R.S. § 41-1421(B);

9           3.       On or before Tuesday, October 27, 2020, Cochise County shall implement  
10 an effective remedial plan to provide notice to qualified electors that the unlawful blanket  
11 ban of curbside voting has been lifted and that curbside voting or a substantially  
12 equivalent modification is available as a reasonable modification for an individual with a  
13 disability under the Americans with Disabilities Act, Section 504, and A.R.S. § 41-  
14 1421(B), including, but not limited to, providing necessary instructions and equipment to  
15 its poll workers for providing curbside voting, and revising its public documents, *Cochise*  
16 *County’s Poll worker’s Training Handbook* and *Cochise County AZ: Elections FAQ*.

17                   Dated this \_\_\_\_ day of October, 2020.