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2 **ATTORNEY GENERAL**
(Firm State Bar No. 14000)

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12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF ARIZONA**

14
15 Arizona Broadcasters Association, et al.,

16 Plaintiff,

17 v.

18 Kris Mayes, in her official capacity as
19 Attorney General for the State of
20 Arizona, et al.,

21 Defendants.
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Case No: CV-22-01431-PHX-JJT

**STIPULATION REGARDING ENTRY
OF PERMANENT INJUNCTION AND
DECLARATORY JUDGMENT**

(Assigned to the Hon. J. John Tuchi)

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25 Plaintiffs filed their Complaint against Defendants seeking a declaratory judgment
26 that A.R.S. § 13-3732 is unconstitutional under the First and Fourteenth Amendments of
27 the United States Constitution and permanently enjoining any enforcement of the statute.
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1 Some Defendants have defaulted; the remaining Defendant and Plaintiffs agree to this
2 Stipulation regarding entry of a Permanent Injunction and Declaratory Judgment to
3 resolve all non-attorney fees matters in dispute in this action.

4 Specifically, for the reasons set forth on the record at the hearing on Plaintiffs’
5 request for a Preliminary Injunction, which this Court will treat as a trial on the merits
6 under Rule 65(a)(2), and in Plaintiffs’ Complaint and Motion for Preliminary Injunction,
7 which Defendants did not challenge on the merits, Plaintiffs Arizona Broadcasters
8 Association; Arizona Newspapers Association; Fox Television Stations, LLC; Gray
9 Media Group, Inc. d/b/a KTVK-KPHO and d/b/a KOLD; KPNX-TV Channel 12, a
10 division of Multimedia Holdings Corp.; National Press Photographers Association;
11 Phoenix Newspapers, Inc.; Scripps Media, Inc. d/b/a KGUN-TV and d/b/a KNXV-TV;
12 States Newsroom/Arizona Mirror; Telemundo of Arizona LLC; and American Civil
13 Liberties Union of Arizona and Defendant Kris Mayes, in her capacity as the Attorney
14 General of Arizona, hereby stipulate as follows:
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18 1. A.R.S. § 13-3732 is unconstitutional as a violation of the First Amendment to the
19 United States Constitution, as applied to the states through the Fourteenth
20 Amendment, because:

- 21 a. there is a clearly established right to record law enforcement officers
22 engaged in the exercise of their official duties, *see, e.g., Askins v. Dep’t of*
23 *Homeland Sec.*, 899 F.3d 1035, 1044 (9th Cir. 2018);
24 b. the statute imposes a content-based restriction that is subject to strict
25 scrutiny as it “singles out specific subject matter”—recordings of law
26 enforcement activities—“for differential treatment,” *Reed v. Town of*
27 *Gilbert*, 576 U.S. 155, 169 (2015); and
28

1 c. the statute does not survive strict scrutiny because it is not narrowly tailored
2 or necessary to prevent interference with police officers given other Arizona
3 laws in effect.

4 2. A.R.S. § 13-3732 is unconstitutional as a violation of the First Amendment to the
5 United States Constitution, as applied to the states through the Fourteenth
6 Amendment, because:

7 a. the statute is not a reasonable “time place and manner” restriction, *see Hill*
8 *v. Colorado*, 530 U.S. 703, 713 (2000); and

9 b. the statute cannot withstand intermediate scrutiny because the law prohibits
10 or chills a substantial amount of First Amendment protected activity and is
11 unnecessary to prevent interference with police officers given other Arizona
12 laws in effect.

13 3. Defendants, and any others acting in concert or participation with them who receive
14 actual notice of this injunction, are permanently enjoined from enforcing A.R.S.
15 § 13-3732 against any person or entity, or using an alleged violation of A.R.S. § 13-
16 3732 as an excuse, justification, or reason to punish or otherwise take or fail to take
17 any action adverse to the interests of any person or entity.

18 A proposed form of Order accompanies this stipulation. The parties further stipulate and
19 agree that this Court should retain jurisdiction over this action for the purposes of
20 construction, modification, and enforcement of the proposed Order.

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22 RESPECTFULLY SUBMITTED this 12th day of July, 2023.

23 **KRIS MAYES**
24 **ATTORNEY GENERAL**

25 By: /s/ Hayleigh S. Crawford

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*Attorneys for Defendant
Arizona Attorney General Kris Mayes*

**AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF ARIZONA**

By: /s/ K.M. Bell (with permission)

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Association; Arizona Newspapers
Association; Fox Television Stations, LLC;
Gray Media Group, Inc. d/b/a KTVK-KPHO
and d/b/a KOLD; KPNX-TV Channel 12, a
division of Multimedia Holdings Corp.;
National Press Photographers Association;
Phoenix Newspapers, Inc.; Scripps Media,
Inc. d/b/a KGUN-TV and d/b/a KNXV-TV;
States Newsroom/Arizona Mirror; and
Telemundo of Arizona LLC*

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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Arizona Broadcasters Association, et al.,

Plaintiffs,

v.

Kris Mayes, in her official capacity as
Attorney General for the State of Arizona,
et al.,

Defendants.

No. CV-22-1431-PHX-JJT

**[PROPOSED] ORDER FOR
PERMANENT INJUNCTION
AND DECLARATORY
JUDGMENT**

Upon stipulation of the parties and good cause shown, and for the reasons set forth on the record at the hearing on Plaintiffs’ request for a Preliminary Injunction, which this Court will treat as a trial on the merits under Rule 65(a)(2), and in Plaintiffs’ Complaint and Motion for Preliminary Injunction, which Defendants did not challenge on the merits,

IT IS ORDERED as follows:

1. This Court has jurisdiction over this matter under Article III § 2 of the United States Constitution and 28 U.S.C. §§ 1331 and 1343.
2. A.R.S. § 13-3732 is declared unconstitutional as a violation of the First Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment, because:

- a. there is a clearly established right to record law enforcement officers engaged in the exercise of their official duties, *see e.g., Askins v. Dep't of Homeland Sec.*, 899 F.3d 1035, 1044 (9th Cir. 2018);
 - b. the statute imposes a content-based restriction that is subject to strict scrutiny as it “singles out specific subject matter”—recordings of law enforcement activities—“for differential treatment,” *Reed v. Town of Gilbert*, 576 U.S. 155, 169 (2015); and
 - c. the statute does not survive strict scrutiny because it is not narrowly tailored or necessary to prevent interference with police officers given other Arizona laws in effect.
3. A.R.S. § 13-3732 is declared unconstitutional as a violation of the First Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment, because:
 - a. the statute is not a reasonable “time place and manner” restriction, *see Hill v. Colorado*, 530 U.S. 703, 713 (2000); and
 - b. the statute cannot withstand intermediate scrutiny because the law prohibits or chills a substantial amount of First Amendment protected activity and is unnecessary to prevent interference with police officers given other Arizona laws in effect.
4. Defendants, and any others acting in concert or participation with them who receive actual notice of this injunction, are permanently enjoined from enforcing A.R.S. § 13-3732 against any person or entity, or using an alleged violation of A.R.S. § 13-3732 as an excuse, justification, or reason to punish or otherwise take or fail to take any action adverse to the interests of any person or entity.
5. This Court shall retain jurisdiction over this action for the purposes of construction, modification, and enforcement of this Order.

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IT IS SO ORDERED.

Dated this _____ day of _____ 2023.

Honorable John J. Tuchi
United States District Judge