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13 **Pro hac application to be filed*
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14 *Attorneys for Proposed-Intervenor Defendant*

15
16 **UNITED STATES DISTRICT COURT**
DISTRICT OF ARIZONA

17 Tyler Bowyer, Michael John Burke, Nancy
18 Cottle, Jake Hoffman, Anthony Kern,
Christopher M. King, James R. Lamon, Sam
19 Moorhead, Robert Montgomery, Loraine
Pellegrino, Greg Safsten, Salvatore Luke
20 Scarmardo, Kelli Ward, and Michael Ward,

21 Plaintiffs,

22 v.

23 Doug Ducey, in his official capacity as Governor
24 of the State of Arizona, Katie Hobbs, in her
official capacity as the Arizona Secretary of
25 State,

26 Defendant.

No. 2:20-cv-02321-DJH

**REPLY TO PLAINTIFFS’
OPPOSITION TO THE ARIZONA
DEMOCRATIC PARTY’S
MOTION TO INTERVENE**

Expedited Election Matter

Hon. Diane J. Humetewa

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1 Plaintiffs’ Opposition to the Arizona Democratic Party’s (“ADP”) Motion to
2 Intervene is short on substance and entirely wrong on the law. As a matter of intervention
3 as of right, Plaintiffs do not dispute that ADP meets three out of the four requirements.
4 Plaintiffs’ only argument is that ADP’s interests are “adequately represented” by the named
5 defendants because some of their lawyers either ran for office as a Democratic candidate a
6 few years ago or have represented Democratic politicians in the past. Of course, each of the
7 lawyers are presently representing elected officials of Arizona in their official capacity.
8 There is no authority that would countenance Plaintiffs’ extraordinary position, which
9 presumes that counsel will effectively “represent” the interests of a political party in a
10 lawsuit where they are not in fact serving as that party’s counsel, simply because they have
11 some affiliation with that party as a professional or individual (or, as Plaintiffs bizarrely
12 urge, because they have previously tweeted about Democratic politics). The only thing that
13 Plaintiffs get right is that “[c]ourts have often concluded that governmental entities do not
14 adequately represent the interests of aspiring intervenors.” Pls.’ Opp. to Mot. to Intervene
15 at 4 (Dkt. 29). For the reasons discussed in the Motion to Intervene at 6–7, that
16 requirement—like each of the others—is satisfied here.

17 Plaintiffs’ argument as to why the Court should deny permissive intervention is
18 equally meritless. Again, Plaintiffs ignore what the rule and case law actually establish,
19 including the criteria that courts apply in deciding such a motion, in favor of counting the
20 heads of the lawyers who have appeared in the case for the Defendants and whose names
21 appear on the papers of the Intervenors. This is a strange exercise, and not surprisingly
22 Plaintiffs fail to identify any authority that would justify denying intervention on this basis.
23 Plaintiffs have brought this case at the thirteenth hour and seek extraordinary relief that
24 would disenfranchise millions of Arizona voters and turn the democratic process in this
25 state on its head. Intervenors have a clear right to protect their interests. They do not intend
26 for each of their lawyers to file their separate briefs, or for each to seek to have an
27 opportunity to address this Court. The appearance of more than one lawyer on their papers
28 helps ensure that this matter is adjudicated more *quickly*, because it ensures that someone

1 can be available on the Intervenor’s behalf whenever proceedings are scheduled in this
2 matter and that the individual circumstances of counsel will not threaten to conflict with
3 “the short timelines that all parties agree we are dealing with in this matter.” Pls.’ Opp. to
4 Mot. to Intervene at 5.

5 For each of these reasons, as well as those set forth in its Motion to Intervene, ADP
6 respectfully requests that the Court order that it be permitted to intervene as a Defendant in
7 this matter as of right or, in the alternative, grant permissive intervention.

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1 Dated: December 4, 2020

/s/ Alexis E. Danneman

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** Seeking Pro Hac Vice Admission*

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CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2020, I electronically transmitted the attached document to the Clerk’s Office using the ECF System for filing and transmittal of a Notice of Electronic Filing to the ECF registrants.

/s Indy Fitzgerald

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