

1 Daniel J. Adelman (011368)
2 Arizona Center for Law
3 In the Public Interest
4 352 E. Camelback Rd., #200
5 Phoenix, AZ 85012
6 (602) 258-8850
7 danny@aclpi.org

Jon Sherman (DC Bar No. 998271)
Michelle Kanter Cohen (DC Bar No. 989164)
Cecilia Aguilera (DC Bar No. 1617884)
Fair Elections Center
1825 K St. NW, Ste. 450
Washington, D.C. 20006
(202) 331-0114
jsherman@fairelectionscenter.org
mkantercohen@fairelectionscenter.org
caguilera@fairelectionscenter.org

7 John A. Freedman
8 Jeremy Karpatkin
9 Erica McCabe
10 Arnold & Porter Kaye Scholer LLP
11 601 Massachusetts Ave., N.W.
12 Washington, D.C. 20001
13 (202) 942-5000
14 John.Freedman@arnoldporter.com
15 Jeremy.Karpatkin@arnoldporter.com
16 Erica.McCabe@arnoldporter.com

Steven L. Mayer
Arnold & Porter Kaye Scholer LLP
Three Embarcadero Center, 10th Floor
San Francisco, CA 94111
(415) 471-3100
Steve.Mayer@arnoldporter.com

Leah R. Novak
Arnold & Porter Kay Scholer LLP
250 W. 55th Street
New York, NY 10019
(212) 836-8000
Leah.Novak@arnoldporter.com

*Counsel for Poder Latinx, Chicanos
Por La Causa, Inc., Chicanos Por La
Causa Action Fund*

18 **UNITED STATES DISTRICT COURT**
19 **DISTRICT OF ARIZONA**

20
21
22
23
24
25
26
27
28

1 Mi Familia Vota, et al.,
2 Plaintiffs,
3 v.
4 Katie Hobbs, et al.,
5 Defendants.

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

Case No. 2:22-cv-01003-MTL
(Consolidated)

**OPPOSITION TO IMMIGRATION
REFORM LAW INSTITUTE’S AND
ADVOCATES FOR VICTIMS OF
ILLEGAL ALIEN CRIME’S
MOTIONS FOR LEAVE TO FILE
BRIEFS OF AMICUS CURIAE IN
SUPPORT OF DEFENDANTS’
CONSOLIDATED MOTION TO
DISMISS**

(Honorable Susan R. Bolton)

11 Living United for Change in Arizona, et al.,
12 Plaintiffs,
13 v.
14 Katie Hobbs,
15 Defendant,
16 and
17 State of Arizona, et al.,
18 Intervenor-Defendants.

19 Poder Latinx, Chicanos Por La Causa, and
20 Chicanos Por La Causa Action Fund,
21 Plaintiff,
22 v.
23 Katie Hobbs, in her official capacity as
24 Secretary of State of Arizona, Mark
25 Brnovich, in his official capacity as Attorney
26 General of Arizona, Stephen Richer, in his
27 official capacity as Maricopa County
28 Recorder, Gabriella Cazares-Kelly, in her
official capacity as Pima County Recorder,
and Richard Colwell, in his official capacity
as Yuma County Recorder,

Defendants.
<hr/> United States of America, Plaintiff, v. State of Arizona, et al., Defendants.
<hr/> Democratic National Committee, et al., Plaintiffs, v. State of Arizona, et al., Defendants, and Republican National Committee, Intervenor-Defendant.

The Immigration Reform Law Institute (“IRLI”) and Advocates for Victims of Illegal Alien Crime (“AVIAC”) have filed motions for leave to file amicus briefs in support of the pending motion to dismiss the consolidated Plaintiffs’ cases. ECF Nos. 131 & 132. This transparent end run around the Court’s page limits for briefing on the motion to dismiss should be denied.

An amicus brief serves three roles: “(1) to aid in a matter of general public interest; (2) to supplement efforts of counsel; and (3) to highlight relevant law that has escaped consideration.” *Miracle v. Hobbs*, 333 F.R.D. 151, 156 (D. Ariz. 2019) (citing *Miller-Wohl Co. v. Comm’r of Labor & Indus., State of Montana*, 694 F.2d 203, 204 (9th Cir. 1982)).

1 IRLI and AVIAC’s proposed amicus briefs fail to fulfill the third role of an amicus brief, as
2 both briefs offer largely redundant legal argument and provide no new law to the Court.

3 Specifically, much of what IRLI and AVIAC’s proposed amici briefs contain is
4 duplicative of the arguments in the pending motion to dismiss. The vast majority of AVIAC’s
5 proposed amicus brief is devoted to additional legal argument concerning the NVRA, with
6 the rest reiterating the state’s compelling interest in voter integrity. *See* ECF No. 132-1 at 3-
7 11. IRLI splits its proposed amicus brief equally between even more briefing concerning the
8 NVRA and its argument for why Plaintiffs cannot state a claim under the *Anderson-Burdick*
9 test. *See* ECF No. 131-1 at 4-16. All of these issues are briefed in the consolidated Motion
10 to Dismiss, so in essence, IRLI and AVIAC merely wish to elaborate on the arguments the
11 State of Arizona and Attorney General Binovich have already made as to consolidated
12 Plaintiffs’ claims—to add their voice to the chorus. Additional pages for the parties to brief
13 the numerous alleged legal violations in these five cases would benefit the Court and
14 facilitate an efficient resolution of these disputed federal constitutional and statutory
15 questions. However, the Court has already set strict page limits for the parties who have a
16 far greater stake in the outcome of this case than IRLI and AVIAC. IRLI and AVIAC’s
17 briefs are merely an end run around those page limits.

18 Amicus briefs such as these—which merely expand on arguments already presented
19 to the Court by the parties—are disfavored and accordingly have been repeatedly rejected,
20 including in this district. *See, e.g., JZ v. Catalina Foothills Sch. Dist.*, No. CV-20-00490-
21 TUC-RCC, 2021 WL 5396089, at *1 (D. Ariz. Nov. 18, 2021) (rejecting motion for leave
22 to file amicus brief that “serve[d] mainly to duplicate Plaintiffs’ assertions and [did] not raise
23
24
25
26
27
28

1 legal arguments of which the Court [was] not already aware based on the parties' briefs and
2 applicable law"); *Long v. Coast Resorts, Inc.*, 49 F. Supp. 2d 1177, 1178 (D. Nev. 1999)
3 ("The vast majority of amicus curiae briefs are filed by allies of litigants and duplicate the
4 arguments made in the litigants' briefs, in effect merely extending the length of the litigant's
5 brief. Such amicus briefs should not be allowed." (quoting *Ryan v. Commodity Futures*
6 *Trading Comm'n*, 125 F.3d 1062, 1063 (7th Cir. 1997))).

8 Further, these proposed amici briefs would add significantly to the pages afforded to
9 Defendants' position and permitting them would invite more briefing from amici supportive
10 of Plaintiffs. IRLI's proposed amicus brief is 17 pages long, and AVIAC's proposed amicus
11 brief is 11 pages long. That is a combined additional 28 pages in support of the motion to
12 dismiss for a total of 58 pages in combination with the State of Arizona and Attorney
13 General's brief of 30 pages. And this total of course does not include the reply brief. The
14 Poder Latinx Plaintiffs respectfully submit that proposed amici should not be granted more
15 pages than Plaintiffs are afforded in opposing the motion to dismiss, if writing separately.
16 In addition, as this litigation has gained considerable attention among national and Arizona
17 organizations and coalitions dedicated to voting rights and civic engagement, if the Court
18 grants IRLI's and AVIAC's motions and considers their amicus briefs, it will of course be
19 inviting amicus curiae briefs in support of consolidated Plaintiffs' opposition(s) to the
20 pending motion to dismiss. No amicus briefs should be allowed in these district court
21 proceedings; but if any are allowed, then all amici should be.

22 In sum, Defendants should not be afforded additional pages for their motion to
23 dismiss through an amicus curiae loophole, but if they are, amici on all sides should be
24

1 permitted to enter and Plaintiffs should be granted the opportunity to respond to these amicus
2 briefs. Rather than invite further briefing from all sides, this Court should deny IRLI and
3 AVIAC's motions.

4 Dated: September 26, 2022

Respectfully submitted,

/s/ Jon Sherman

Jon Sherman*

D.C. Bar No. 998271

Michelle Kanter Cohen*

D.C. Bar No. 989164

Cecilia Aguilera*

D.C. Bar No. 1617884

Fair Elections Center

1825 K St. NW, Ste. 450

Washington, D.C. 20006

jsherman@fairelectionscenter.org

mkantercohen@fairelectionscenter.org

caguilera@fairelectionscenter.org

(202) 331-0114

John A. Freedman*

Jeremy Karpatkin*

Erica McCabe*

Arnold & Porter Kaye Scholer LLP

601 Massachusetts Ave., N.W.

Washington, D.C. 20001

John.Freedman@arnoldporter.com

Jeremy.Karpatkin@arnoldporter.com

Erica.McCabe@arnoldporter.com

(202) 942-5000

Steven L. Mayer*

Arnold & Porter Kaye Scholer LLP

Three Embarcadero Center, 10th Floor

San Francisco, CA 94111

Steve.Mayer@arnoldporter.com

(415) 471-3100

Leah R. Novak*

Arnold & Porter Kaye Scholer LLP

250 West 55th Street

New York, NY 10019

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Leah.Novak@arnoldporter.com
(212) 836-8000

Daniel J. Adelman
Samuel Schnarch
Arizona Center for Law in the Public
Interest
352 E. Camelback Rd., Suite 200
Phoenix, AZ 85012
danny@aclpi.org
SSchnarch@aclpi.org
(602) 258-8850

Counsel for Plaintiffs

**Admitted Pro Hac Vice*

RETRIEVED FROM DEMOCRACYDOCKET.COM