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21 **IN THE UNITED STATES DISTRICT COURT**
 22 **FOR THE DISTRICT OF ARIZONA**

23 Mi Familia Vota, et al.,
24 Plaintiffs,
25 v.
26 Katie Hobbs, et al.,
27 Defendants.
28 Living United for Change in Arizona, et al.,
Plaintiffs,
v.
Katie Hobbs,
Defendant.

Case No: 2:22-cv-00509-SRB (Lead)
 Case No: 2:22-cv-00519-SRB (Consol.)

REPLY IN SUPPORT OF MOTIONS TO INTERVENE

1 Movants—the Republican National Committee (RNC), National Republican Sena-
2 torial Committee (NRSC), Republican Party of Arizona (RPAZ), Gila County Republican
3 Committee, and Mohave County Republican Central Committee—submit this Reply in
4 support of their Motions to Intervene. On May 12, 2022, Movants moved to intervene in
5 *Mi Familia Vota*, No. 2:22-cv-509-SRB (Doc. 24) (*MFV Mot.*), and in *LUCHA*, No. 2:22-
6 cv-519-SRB (Doc. 23) (*LUCHA Mot.*). Five days later, this Court consolidated the two
7 cases. Each plaintiff group filed a response to Movants’ Motions to Intervene. *See* No.
8 2:22-cv-509-SRB (Doc. 45) (*MFV Resp.*) & No. 2:22-cv-519-SRB (Doc. 26) (*LUCHA*
9 *Resp.*). Rather than submitting multiple reply briefs, Movants submit this consolidated
10 Reply addressing the arguments raised in both responses.
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13 In support of their motions, Movants cited nearly twenty cases—from just the last
14 two years—where courts allowed the Republican Party to intervene in defense of state
15 election laws. *See MFV Mot.* 1-2 n.1; *LUCHA Mot.* 1-2 n.1. Plaintiffs offer little against
16 this overwhelming weight of authority supporting Movants’ intervention. What was obvi-
17 ous to those courts—and remains obvious here—is that in cases challenging the rules that
18 govern our elections, major political parties deserve a seat at the table. Proving the point,
19 the Democratic Party has announced that it seeks to participate in this lawsuit, and Plain-
20 tiffs themselves have consented to a motion that would extend the litigation schedule fur-
21 ther out. *See Doc. 47*, at 1. All of this eliminates any good-faith argument against denying
22 Republican Movants’ intervention motion. The Court should allow Movants to intervene.
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ARGUMENT

I. Plaintiffs fail to rebut Movants' entitlement to intervention as of right.

Intervention as of right requires a timely request, an interest, impairment, and inadequate representation. Fed. R. Civ. P. 24(a)(2). Plaintiffs concede timeliness but dispute the other criteria. Their arguments are not persuasive.

A. Movants have significant protectable interests in this case. *See Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647 F.3d 893, 897 (9th Cir. 2011); *see also MFV Mot. 1-2 n.1; LUCHA Mot. 1-2 n.1*. This is a “practical” inquiry. *Citizens for Balanced Use*, 647 F.3d at 897. Here, Movants have direct and significant interests in ensuring their ability to “participate in and maintain the integrity of the election process,” because they are political party organizations that promote the success of Republican candidates and expend significant resources to do so, including by defending the integrity of the election laws. *MFV Mot. 6* (quoting *La Union del Pueblo Entero v. Abbott*, 29 F.4th 299, 306 (5th Cir. 2022)); *see also LUCHA Mot. 5-6*. Federal courts across the country have routinely accepted those interests as sufficient for intervention. *See, e.g., La Union*, 29 F.4th Cir. at 306; *Issa v. Newsom*, 2020 WL 3074351, at *3 (E.D. Cal. June 10, 2020); *Paher v. Cegavske*, 2020 WL 2042365, at *2 (D. Nev. Apr. 28, 2020); *see also MFV Mot. 1-2 n.1; LUCHA Mot. 1-2 n.1*.

Plaintiffs' contrary arguments mischaracterize Movants' interests. *First*, Plaintiffs incorrectly assert that Movants' interests are “generalized” and “undifferentiated” from other citizens' interests in ensuring a fair election. *LUCHA Resp. 4; see MFV Resp. 6-7*. Not so. Movants' interests are readily differentiated and distinguishable from the general public's interests. Not all Arizonans have an interest in electing *Republicans* or conserving

1 the resources of the *Republican Party*. Courts have recognized similar differentiation in
2 election law cases. *See, e.g., La Union*, 29 F.4th at 306; *Issa*, 2020 WL 3074351, at *3; *cf.*
3 *Am. Ass’n of People with Disabilities v. Herrera*, 257 F.R.D. 236, 258 (D.N.M. 2008)
4 (“What is unique about the [Republican Party of New Mexico] is that it is running candi-
5 dates in the upcoming election.”). And this interest is not generalized; it’s specific and
6 significant. Rule 24(a)(2) requires “an interest that is *independent of* an existing party’s,
7 not *different from* an existing party’s.” *Planned Parenthood of Wis., Inc. v. Kaul*, 942 F.3d
8 793, 806 (7th Cir. 2019) (Sykes, J., concurring); *accord id.* at 798 (majority op.). If en-
9 couraging voter participation and preventing resource diversion are sufficiently particular-
10 ized to give Plaintiffs standing, then they are also sufficiently to justify Movants’ inter-
11 vention. *See, e.g., Issa*, 2020 WL 3074351, at *3 (citing *Crawford v. Marion Cnty. Election*
12 *Bd.*, 472 F.3d 949, 951 (7th Cir. 2007)); *cf. MFV Am. Compl.* ¶¶4, 16-17, 19, 2:22-cv-509
13 (Doc. 38); *LUCHA Compl.* ¶120, 2:22-cv-519-SRB (Doc. 1).

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17 Plaintiffs also err by claiming that Movants should not be allowed to intervene be-
18 cause Movants somehow seek only to further a “raw partisan objective.” *LUCHA Resp.* 6
19 & n.2; *see MFV Resp.* 6-8. As a threshold matter, it shouldn’t be any surprise that partisan
20 organizations seek to further their organizational interests, their candidates’ interests, and
21 their voters’ interests. This is why both Republicans and Democrats have successfully in-
22 tervened in critical election law cases in recent years. *See, e.g., Issa*, 2020 WL 3074351,
23 at *3 (the Democratic Party intervened); *MFV Mot.* 1-2 n.1; *LUCHA Mot.* 1-2 n.1. In any
24 event, Rule 24(a) intervention analysis looks at whether the intervenor’s interest is legally
25 protectable—not at whether it benefits an organization that happens to be a political party.
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28 Movants’ interests in supporting Republican candidates and conserving the resources of

1 the Republican Party are clearly legally protected. And MFV Plaintiffs improperly ask this
2 Court to assume that they will win on the merits and discount any interest in “disenfran-
3 chis[ing] Democratic voters.” MFV Resp. 8. This allegation contradicts the “very purpose
4 of intervention”: “allow[ing] interested parties to air their views so that a court may con-
5 sider them before making potentially adverse decisions.” *Brumfield v. Dodd*, 749 F.3d 339,
6 345 (5th Cir. 2014).

7
8 **B.** Movants have shown that this litigation “may” impair their interests. This inquiry
9 looks to practical concerns and constitutes a low bar under Fed. R. Civ. P. 24(a)(2). *Citi-*
10 *zens for Balanced Use*, 647 F.3d at 898; *MFV* Mot. 8; *LUCHA* Mot. 8. Here, the challenged
11 law exists to maintain election integrity. If Plaintiffs convince this Court to strike it down,
12 then the legislature’s goals will be frustrated. The resulting loss of confidence may make
13 it less likely that Movants’ voters will vote and thus that Movants’ candidates will win.
14 *See Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 197 (2008) (opinion of Stevens,
15 J.).

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18 Plaintiffs’ contrary arguments are unpersuasive. To start, LUCHA Plaintiffs do not
19 seriously dispute impairment; they devote only two short, conclusory paragraphs to trying
20 to rebut this issue. *See LUCHA* Resp. 8. Nor do they try to rebut Movants’ arguments
21 showing how denying intervention will impair Movants’ interests. Next, MFV Plaintiffs
22 assume that they, not Movants, will win this case on the merits and ask this Court to do
23 the same by accepting the narrative that “the Challenged Law *uproots* the existing election
24 law land scape.” MFV Resp. 9. But when resolving a motion to intervene, courts cannot
25 “assume ... that Plaintiffs will ultimately prevail on the merits” or prejudge “the ultimate
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1 merits of the claims which the intervenor wishes to assert.” *Pavek v. Simon*, 2020 WL
2 3960252, at *3 (D. Minn. July 12, 2020); *see MFV* Mot. 8-9; *LUCHA* Mot. 8-9.

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4 C. Movants also clear the low bar of proving inadequate representation. Movants
5 need show only that representation of their interests “‘may be’ inadequate,” which is a
6 “minimal” burden. *Citizens for Balanced Use*, 647 F.3d at 898 (emphasis added). This
7 element is met unless existing parties’ interests are “so similar” to Movants’ own interests
8 “that ‘adequacy of representation’ is ‘assured.’” *Id.* at 804.

9
10 Adequacy is far from assured here for three main reasons. First, Defendants are
11 State officials tasked with defending state law, not with “defend[ing]” Movants’ “special
12 interests.” *Conservation Law Found. of N.E., Inc. v. Mosbacher*, 966 F.2d 39, 44 (1st Cir.
13 1992); *accord Utahns for Better Transp. v. DOT*, 295 F.3d 1111, 1117 (10th Cir. 2002)
14 (same). Because the State “nowhere argues . . . that it will adequately protect [Movants’]
15 interests,” Movants “have raised sufficient doubt concerning the adequacy of [its] repre-
16 sentation.” *U.S. House of Representatives v. Price*, 2017 WL 3271445, at *2 (D.C. Cir.
17 2017).

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20 Second, and related, Defendants’ interests as state actors inherently clash with Mo-
21 vants’. *See MFV* Mot. 10-11; *LUCHA* Mot. 10-11. That’s why the Democratic Party itself
22 has described inadequacy as a “‘light’” burden in this context: it recognizes that Defend-
23 ants’ “‘views are necessarily colored by [their] view of the public welfare rather than the
24 more parochial views of a proposed intervenor whose interest is personal to it.’” *Em. Mot.*
25 *to Intervene* 9-10, *Ga. Republican Party v. Raffensperger*, No. 2:20-cv-135 (S.D. Ga. Dec.
26 18, 2020) (Doc. 29) (quoting *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 972 (3d Cir.
27 1998)). In other words, Defendants necessarily “represent interests adverse to [Movants]”
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1 because they also represent “the plaintiff[f].” *Clark*, 168 F.3d at 461. Because Defendants
2 represent all Arizonans, and can be motivated by concerns about the public “coffers” and
3 their own reelection, Defendants could be less likely to make the same arguments as Mo-
4 vants, less likely to exhaust all appellate options, or more likely to settle. *Id.* at 461-62.
5 This “divergence of interest” is “sufficient” to “entitle [Movants] to intervene.” *Id.* at 461;
6 *see MFV* Mot. 10-11; *LUCHA* Mot. 10-11.
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8 Lastly, Movants and Defendants have a “difference in interests” in this case. *Stone*
9 *v. First Union Corp.*, 371 F.3d 1305, 1312 (11th Cir. 2004). Defendants are concerned
10 with “properly administer[ing Arizona’s] election laws,” while Movants “are concerned
11 with ensuring their party members and the voters they represent have the opportunity to
12 vote,” “advancing their overall electoral prospects,” and “allocating their limited resources
13 to inform voters about the election procedures.” *Issa*, 2020 WL 3074351, at *3. Contrary
14 to Plaintiffs’ arguments, *see MFV* Resp. 10-11, this divergence of interests is sufficient to
15 “rebut[] presumption of adequacy.” *Issa*, 2020 WL 3074351, at *3. Even if “similar,”
16 these interests are not “identical”—a deviation that might inspire different “approaches to
17 [this] litigation.” *Chiles v. Thornburgh*, 865 F.2d 1197, 1214 (11th Cir. 1989). “[T]his
18 possibility sufficiently demonstrates that [Movants’] interests are not adequately repre-
19 sented,” *id.* at 1215, and reflects the obvious truth that “private interests are different in
20 kind from the public interests of the State or its officials” and that “[n]either the State nor
21 its officials can vindicate [the Republican Party’s] interest while acting in good faith,” *La*
22 *Union*, 29 F.4th at 308.
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1 **II. At a minimum, Movants are entitled to permissive intervention.**

2 Permissive intervention is warranted when the motion is “timely,” the movant’s
3 defense shares “a common question of law or fact” with the main action, and intervention
4 will not “unduly delay or prejudice the adjudication of the original parties’ rights.” Fed. R.
5 Civ. P. 24(b). Plaintiffs do not contest the first two requirements. *See* MFV Resp. 13-14;
6 LUCHA Resp. 11-15.¹ Instead, they ask this Court to deny permissive intervention on two
7 other grounds: undue prejudice (a requirement that appears in Rule 24(b)) and adequate
8 representation (a requirement that does not). *See* MFV Resp. 13-14; LUCHA Resp. 11-15.
9 Neither argument is persuasive, as courts repeatedly have found in granting the Republican
10 Party intervention. *See* MFV Mot. 1-2 n.1; LUCHA Mot. 1-2 n. 2. And both arguments fail
11 to appreciate that Rule 24 in general, and Rule 24(b) in particular, are construed liberally.
12 *See, e.g., Wash. State Bldg. & Constr. Trades Council, AFL-CIO v. Spellman*, 684 F.2d
13 627, 630 (9th Cir. 1982); *Faher*, 2020 WL 2042365, at *3; *Latta v. Otter*, 2014 WL
14 12573549, at *2 (D. Idaho Jan. 21, 2014); *Olin Corp. v. Lamorak Ins. Co.*, 325 F.R.D. 85,
15 87 (S.D.N.Y. 2018).
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20 **A.** Plaintiffs articulate no specific reason why Movants’ intervention would cause
21 prejudice or delay. *See* MFV Resp. 13; LUCHA Resp. 13-14. Plaintiffs instead fret about
22 “complicat[ing]” this case by potentially extending the litigation and discovery. LUCHA
23 Resp. 13. But Rule 24(b)’s inquiry concerns “*undu[e]* delay or prejudice.” (Emphasis
24 added.) “‘Undue’ means not normal or appropriate.” *Appleton v. Comm’r*, 430 F. App’x
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27 ¹ MFV Plaintiffs also assert that permissive intervention is not warranted because Movants
28 cannot articulate how an injunction would injure them. MFV Resp. 12. They do not spend
much effort here, and Movants have already explained above how they would be injured
if they could not participate in the litigation and by an adverse ruling.

1 135, 138 (3d Cir. 2011). Though “any introduction of an intervenor in a case will necessi-
2 tate its being permitted to actively participate, which will inevitably cause some ‘delay,’”
3 Rule 24(b) is not concerned with that kind of prejudice or delay. *Id.* The entire point of
4 intervention, after all, is to add parties to a case.
5

6 Movants’ intervention will cause no delay or prejudice, undue or otherwise. Plain-
7 tiffs concede that Movants’ motion was timely. As the Democratic Party pointed out in its
8 recent motion to intervene, “[i]ntervention motions that take place before any substantive
9 rulings”—like this one—“generally do not prejudice the parties in the lawsuit.” DCCC
10 Ariz. Mot. to Intervene 15 (citing *Nw. Forest Res. Council v. Glickman*, 82 F.3d 825, 837
11 (9th Cir. 1996)). LUCHA Plaintiffs erroneously argue that permissive intervention would
12 cause delay because they speculate that they “could” move to strike Movants’ answer.
13 LUCHA Resp. 13. But this is speculative and premature. The Court’s intervention analysis
14 cannot hang on LUCHA Plaintiffs’ speculation about what they might do. Furthermore,
15 Defendants have not filed their answer yet—and in fact, just this week, they asked for an
16 extension of time to file an answer to which Plaintiffs consented. *See* Doc. 47. And Plain-
17 tiffs themselves plan to amend to add NVRA claims, and it is expected that the Democratic
18 Party will also participate in this action. *See id.* Given all those moving pieces, the notion
19 that delay attributable to Movants themselves will cause undue delay is not a serious one.
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23 And Plaintiffs’ fears of prejudice are unfounded because Movants will “comply
24 with the schedule that would be followed in their absence.” *Nielsen v. DeSantis*, 2020 WL
25 6589656, at *1 (N.D. Fla. 2020); *see MFV* Mot. 14; *LUCHA* Mot. 14. Movants also pledge
26 to avoid duplication in their briefs, oral arguments, and elsewhere. Nor could Movants’
27 arguments “materially increase[] either delay or prejudice” because, as Plaintiffs concede,
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1 Movants can still raise them as *amici*.² *Mich. State AFL-CIO v. Miller*, 103 F.3d 1240,
2 1248 (6th Cir. 1997); *see* MFV Resp. 13; LUCHA Resp. 14-15. Notably, Plaintiffs point
3 to no delay or prejudice in the many cases where the Republican Party has intervened over
4 the last few years, even when those cases were litigated on an expedited basis. Had any
5 such prejudice occurred, Plaintiffs should have been able to do so, since they or their at-
6 torneys were involved in most of those cases. By all accounts, the courts in those cases
7 found the Republican Party’s unique perspective and expertise useful in reaching the right
8 result. *E.g.*, *League of Women Voters of Minn. Educ. Fund v. Simon*, 2021 WL 1175234,
9 at *1 & n.1 (D. Minn. Mar. 29, 2021).

12 **B.** Plaintiffs’ argument that the Republican Party cannot permissively intervene be-
13 cause the State adequately defends its interests fails at the outset “because Rule 24(b) does
14 not have the same inadequate representation requirements that Rule 24(a)(2) does.” *Black*
15 *Voters Matter Fund v. Raffensperger*, Doc. 42 at 5, No. 1:20-cv-4869 (N.D. Ga. Dec. 9,
16 2020); *see also* *Ariz. Democratic Party v. Hobbs*, 2020 WL 6559160, at *1 (D. Ariz. June
17 26, 2020) (same). Rule 24(b) does not require the intervenor to have an “interest” at all,
18 let alone an interest that the parties inadequately represent. *Solid Waste Agency of N. Cook*
19 *Cty. v. U.S. Army Corps of Eng’rs*, 101 F.3d 503, 509 (7th Cir. 1996); *Planned*
20 *Parenthood*, 942 F.3d at 801 n.4. Instead, courts grant permissive intervention even when
21 the movant is “completely and adequately represented,” will merely “enhance[]” the gov-
22 ernment’s defense, or will provide a “secondary voice in the action.” *Ohio Democratic*
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27 ² Because Movants commit to avoid duplicating any arguments, it is unnecessary to adopt
28 the approach taken in *Arizona Democratic Party v Hobbs*, 2020 WL 6559160, at *1 (D.
Ariz. June 26, 2020), and require Movants to obtain the Court’s leave before filing any
submissions. *See* LUCHA Resp. 14 n.4; MFV Resp. 13 n.4.

1 *Party v. Blackwell*, 2005 WL 8162665, at *2 (S.D. Ohio Aug. 26, 2005); *100Reporters*
2 *LLC v. DOJ*, 307 F.R.D. 269, 286 (D.D.C. 2014); *Alabama v. U.S. Dep’t of Commerce*,
3 2018 WL 6570879, at *3 (N.D. Ala. Dec. 13, 2018). So denying permissive intervention
4 based on “adequate representation” would not comport with the Federal Rules.
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6 In any case, Movants have concrete interests at stake that Defendants do not ade-
7 quately represent. *See supra* §I; *MFV* Mot. 10-11; *LUCHA* Mot. 10-11. As one of the major
8 political parties whose resources and candidates will be directly affected by the outcome
9 of this litigation, Movants are “uniquely qualified”—and better positioned than Defend-
10 ants—to represent “‘mirror-image’ interests” in any dispute over election laws. *Demo-*
11 *cratic Nat’l Comm. v. Bostelmann*, 2020 WL 1505640, at *5 (W.D. Wis. Mar. 28, 2020).
12 At the very least, these close questions should not drive the Court’s analysis.
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14 What’s more, the “rationale for intervention” has “particular force” here because
15 “the subject matter of the lawsuit is of great public interest,” Movants have “a real stake
16 in the outcome,” and their “intervention may well assist the court in its decision.” *Daggett*
17 *v. Comm’n on Governmental Ethics & Election Pracs.*, 172 F.3d 104, 116 (1st Cir. 1999)
18 (Lynch, J., concurring); *accord Meek v. Metro. Dade Cty.*, 985 F.2d 1471, 1479 (11th Cir.
19 1993) (“The substantial public interest at stake in the case is an unusual circumstance mil-
20 itating in favor of intervention.”). It appears that the Democratic Party shares this view,
21 since it apparently will seek to participate in this litigation soon. The Republican Party
22 should be permitted to do the same.
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26 CONCLUSION

27 For the foregoing reasons, the Court should grant intervention.
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1 Respectfully submitted on June 2, 2022.

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