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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Living United for Change in Arizona, et al.,

Plaintiffs,

v.

Katie Hobbs,

Defendant,

State of Arizona and Mark Brnovich, Arizona Attorney General,

Intervenor-Defendants,

Republican National Committee; National Republican Senatorial Committee; Republican Party of Arizona; Gila County Republican Committee; and Mohave County Republican Central Committee,

Proposed Intervenor-Defendants.

Case No: 2:22-cv-00519-SRB

MOTION TO INTERVENE WITH MEMORANDUM OF POINTS AND AUTHORITIES OF REPUBLICAN NATIONAL COMMITTEE, NATIONAL REPUBLICAN SENATORIAL COMMITTEE, REPUBLICAN PARTY OF ARIZONA, GILA COUNTY REPUBLICAN COMMITTEE, AND MOHAVE COUNTY REPUBLICAN CENTRAL COMMITTEE

Movants—the Republican National Committee (RNC), National Republican Senatorial Committee (NRSC), Republican Party of Arizona (RPAZ), Gila County Republican Committee, and Mohave County Republican Central Committee respectfully move to intervene as defendants in this case under Rules 24(a)(2) and (b).

MEMORANDUM OF POINTS AND AUTHORITIES

This Court should allow Movants to intervene as defendants. As the Democratic Party has explained, "'political parties usually have good cause to intervene in disputes over election rules.'" *Issa v. Newsom*, Doc. 23 at 2, No. 2:20-cv-1044 (E.D. Cal. June 8, 2020). That is why this Court, in recent litigation challenging a variety of Arizona election laws, has almost always granted the Republican Party intervention. *E.g.*, *Mi Familia Vota v. Hobbs*, 2021 WL 5217875 (D. Ariz. Oct. 4, 2021) (Lanza, J.) (granting intervention to RNC, NRSC, DSCC, and DCCC); *Mi Familia Vota v. Hobbs*, Doc. 25, No. 2:20-cv-1903-SPL (D. Ariz. Oct. 5, 2020); *Ariz. Democratic Party v. Hobbs*, Doc. 60, No. 2:20-cv-1143-DLR (D. Ariz. June 26, 2020); *Feldman v. Ariz. Secretary of State's Office*, Doc. 44, No. 2:16-cv-01065-DLR (D. Ariz. May 10, 2016). Federal courts across the country have done the same.[1] This Court should too for two independent reasons.

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[1] *E.g.*, *Harriet Tubman Freedom Fighters Corp. v. Lee*, Doc. 34, No. 4:21-cv-242 (N.D. Fla. July 6, 2021); *Florida Rising Together v. Lee*, Doc. 52, No. 4:21-cv-201 (N.D. Fla. July 6, 2021); *Fla. State Conference of Branches & Youth Units of NAACP v. Lee*, Doc. 43, No. 4:21-cv-187 (N.D. Fla. June 8, 2021); *League of Women Voters of Fla. v. Lee*, Doc. 72, No. 4:21-cv-186 (N.D. Fla. June 4, 2021); *Sixth District of the African Methodist Episcopal Church v. Kemp*, Minute Order, No. 1:21-cv-1284 (N.D. Ga. June 4, 2021); *Concerned Black Clergy of Metropolitan Atlanta v. Raffensperger*, Minute Order, No. 1:21-cv-1728 (N.D. Ga. June 21, 2021); *Coalition for Good Governance v. Raffensperger*, Minute Order, No. 1:21-cv-2070 (N.D. Ga. June 21, 2021); *Ga. State Conference of NAACP v. Raffensperger*, Doc. 40, No. 1:21-cv-1259 (N.D. Ga. June 4, 2021); *United States v. Georgia*, Minute Order, No. 1:21-cv-2572 (N.D. Ga. July 12, 2021); *Vote America v. Raffensperger*, Doc. 50, No. 1:21-cv-1390 (N.D. Ga. June 4, 2021); *New Ga. Project*

First, Movants satisfy the criteria for intervention as of right under Rule 24(a)(2). This motion is timely: Defendants have yet to file an answer, this litigation is still in its infancy, and no party will possibly be prejudiced. Movants also have a clear interest in protecting their members, candidates, voters, and resources from Plaintiffs' attempt to upend Arizona's duly enacted rules. Finally, no other party adequately represents Movants' interests. Adequacy is not a demanding standard, and Defendants do not share Movants' distinct interests in protecting their resources or helping Republican candidates and voters.

Second, and alternatively, the Court should grant Movants permissive intervention under Rule 24(b). Again, this motion is timely, and intervention will result in no delay or prejudice. Movants' defenses also share common questions with the existing parties' claims and defenses. This Court's resolution of the important questions here will have significant implications for Movants—plus their members, candidates, voters, and resources—as Movants work to ensure that Republican candidates and voters can participate in fair and orderly elections.

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v. Raffensperger, Doc. 39, No. 1:21-cv-1333 (N.D. Ga. June 4, 2021); *Black Voters Matter Fund v. Raffensperger*, Doc. 42, No. 1:20-cv-4869 (N.D. Ga. Dec. 9, 2020); *All. for Retired Am.'s v. Dunlap*, No. CV-20-95 (Me. Super. Ct. Aug. 21, 2020); *Swenson v. Bostelmann*, Doc. 38, No. 20-cv-459 (W.D. Wis. June 23, 2020); *Edwards v. Vos*, Doc. 27, No. 20-cv-340 (W.D. Wis. June 23, 2020); *League of Women Voters of Minn. Ed. Fund v. Simon*, Doc. 52, No. 20-cv-1205 (D. Minn. June 23, 2020); *Priorities USA v. Nessel*, 2020 WL 2615504, at *5 (E.D. Mich. May 22, 2020); *Thomas v. Andino*, 2020 WL 2306615, at *4 (D.S.C. May 8, 2020); *League of Women Voters of Va. v. Va. State Bd. of Elections*, Doc. 57, No. 6:20-cv-24 (W.D. Va. Apr. 29, 2020); *Democratic Nat'l Comm. v. Bostelmann*, 2020 WL 1505640, at *5 (W.D. Wis. Mar. 28, 2020); *Gear v. Knudson*, Doc. 58, No. 3:20-cv-278 (W.D. Wis. Mar. 31, 2020); *Lewis v. Knudson*, Doc. 63, No. 3:20-cv-284 (W.D. Wis. Mar. 31, 2020); *Nielsen v. DeSantis*, No. 4:20-cv-236-RH-MJF, 2020 WL 6589656 (N.D. Fla. May 28, 2020).

Whether under Rule 24(a)(2) or (b), Movants should be allowed to intervene as defendants. The Attorney General consents to intervention. Plaintiffs oppose. The Secretary did not respond to Movants' request for her position.

INTERESTS OF PROPOSED INTERVENORS

Movants are political committees who support Republicans in Arizona. The RNC is a national committee, as defined by 52 U.S.C. § 30101, that manages the party's business at the national level, supports Republican candidates for public office at all levels, coordinates fundraising and election strategy, and develops and promotes the national Republican platform. The NRSC is a national political committee that works to elect Republicans to the U.S. Senate. The NRSC conducts fundraising and assists candidates with communication, strategy, and planning. The Republican Party of Arizona is a state political committee that works to promote Republican principles and assist Republican candidates for federal, state, and local office. The RPAZ conducts fundraising and assists candidates with communication, strategy, and planning. The Gila County Republican Committee and Mohave County Republican Central Committee are county-level political committees which likewise promote Republican principles and assist Republican candidates for office. Movants have interests—their own and those of their members, candidates, and voters—in the rules and procedures governing Arizona's elections for offices at all levels of state and federal government.

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ARGUMENT

I. Movants are entitled to intervene as of right.

"Rule 24(a) traditionally receives a liberal construction in favor of applicants seeking intervention." *City of Emeryville v. Robinson*, 621 F.3d 1251, 1258 (9th Cir. 2010).

Under Rule 24(a)(2), this Court must grant intervention as of right if four things are true: the motion is timely; movants have a legally protected interest in this action; this action may impair or impede that interest; and no existing party adequately represents Movants' interests. *Wilderness Soc. v. U.S. Forest Serv.*, 630 F.3d 1173, 1177 (9th Cir. 2011) (en banc). All four are true here.

A. The motion is timely.

This Court determines timeliness by considering four factors: any delay in filing after the movant discovered its interest in the case, any prejudice to the existing parties from that delay, prejudice to the movant from denying intervention, and any unusual circumstances. *Id.* All four factors favor Movants.

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Movants filed this motion quickly—about two months after Plaintiffs sued, and before anything of substance happened in the case. Defendants still haven't answered the complaint. *See, e.g.*, *Ariz. Democratic Party*, 2020 WL 6559160 (motion filed before answer); *Sierra Club v. EPA*, 995 F.2d 1478, 1481 (9th Cir. 1993) (holding intervention was clearly timely where it was filed "before the EPA had even filed its answer"); *Uesugi Farms, Inc. v. Michael J. Navilio & Son, Inc.*, 2015 WL 3962007, at *2 (N.D. Ill. June 25, 2015) (motions are timely when filed 4-6 weeks after complaint). Much later motions have been declared timely. *See, e.g.*, *North Dakota v. Heydinger*, 288 F.R.D. 423, 429 (D. Minn. 2012) (motion filed one year after answer); *Idaho Farm Bureau Fed'n v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995) (motion filed four months after complaint); *Laroe Ests., Inc. v. Town of Chester*, 828 F.3d 60, 67 (2d Cir. 2016) (vacating denial of intervention several years into litigation, because "the parties have not even begun discovery" and would not be prejudiced by delay), *vacated and remanded on other grounds*, 137 S. Ct. 1645 (2017).

Nor will Movants' intervention prejudice the existing parties. This litigation has only just begun. No parties have filed responsive pleadings, and this Court has not decided any dispositive motions. Although intervention would mean that Plaintiffs may face some additional arguments against their requested relief, "these arguments do not pertain to prejudice arising from the timeliness of this motion." *Am. Small Bus. League v. U.S. Dept. of Defense*, 2019 WL 2579200, at *3 (N.D. Cal. June 24, 2019). Issues "concerning the nature and duration of the case"—as opposed to the effect of an untimely intervention—"do not constitute prejudice." *Defenders of Wildlife v. Johanns*, 2005 WL 3260986, at *4 (N.D. Cal. 2005). But if Movants are not allowed to intervene, their interests would be irreparably harmed by an order overriding Arizona election rules and undermining the integrity of Arizona elections. There are no unusual circumstances at play. This motion is timely.

B. Movants have protected interests in this action.

As Republican Party organizations who represent members, candidates, and voters in every county in Arizona, Movants "have a significant protectable interest in the action." *Citizens for Balanced Use v. Montana Wilderness Ass'n*, 647 F.3d 893, 897 (9th Cir. 2011). As the Fifth Circuit recently explained in a decision reversing the denial of the Republican Party's motion to intervene, "an interest is sufficient if it is of the type that the law deems worthy of protection, even if the intervenor does not have an enforceable legal entitlement or would not have standing to pursue her own claim." *La Union del Pueblo Entero v. Abbott*, 29 F.4th 299, 305 (5th Cir. 2022). Laws like the one challenged here are designed to serve "the integrity of [the] election process." *Eu v. San Fran. Cty. Democratic Cent. Comm.*, 489 U.S. 214, 231 (1989). Movants have direct and significant interests in ensuring that the State maintains fair and reliable elections, which naturally affects

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Movants' "ability to participate in and maintain the integrity of the election process." *La Union*, 29 F.4th at 306.

Indeed, federal courts "routinely" find that political parties have interests supporting intervention in litigation regarding election rules. *Issa*, 2020 WL 3074351, at *3; *see, e.g.*, *Siegel v. LePore*, 234 F.3d 1163, 1169 n.1 (11th Cir. 2001); *supra* n.1. Every election cycle, party organizations like Movants "expend significant resources" on the election process—"conduct" that laws like those at issue here "unquestionably regulat[e]." *La Union*, 29 F.4th at 306. And courts recognize that preventing diversions of resources away from an organization's activities is a legitimate "interest" under Rule 24(a)(2). *E.g.*, *Issa*, 2020 WL 3074351, at *3; *Bldg. & Realty Inst. of Westchester & Putnam Ctys., Inc. v. New York*, 2020 WL 5658703, at *11 (S.D.N.Y. 2020). Given their inherent and intense interest in elections, usually "[n]o one disputes" that political parties "meet the impaired interest requirement for intervention as of right." *Citizens United v. Gessler*, 2014 WL 4549001, *2 (D. Col. Sept. 15, 2014). That is certainly true where, as here, "changes in voting procedures could affect candidates running as Republicans and voters who [are] members of the . . . Republican Party." *Ohio Democratic Party v. Blackwell*, 2005 WL 8162665, *2 (S.D. Ohio Aug. 26, 2005); *see id.* (under such circumstances, "there [was] no dispute that the Ohio Republican Party had an interest in the subject matter of this case"). Indeed, the Democratic Party has successfully made this same argument in other recent election cases. *See, e.g.*, *Mi Familia Vota*, 2021 WL 5217875 (Lanza, J.); *Wood v. Raffensperger*, Doc. 12 at 8-9, No. 1:20-cv-5018-ELR (N.D. Ga. Dec. 11, 2020); *Ga. Republican Party, Inc. v. Raffensperger*, Doc. 8 at 17-19, No. 1:20-cv-4651-SDG (N.D. Ga. Nov. 18, 2020).

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Nor are Movants' interests "generalized" or shared by all Arizonans. As the Democratic Party has explained, Movants "have specific interests and concerns—from their overall electoral prospects to the most efficient use of their limited resources—that neither Defendants nor any other party in this lawsuit share." *Wood v. Raffensperger*, Doc. 13 at 16, No. 1:20-cv-5155-TCB (N.D. Ga. Dec. 21, 2020). Nor does Rule 24(a)(2) require a movant's interest to be "unique." *Citizens United*, 2014 WL 4549001, at *2 n.1. It requires "an interest that is *independent of* an existing party's, not *different from* an existing party's." *Planned Parenthood of Wis., Inc. v. Kaul*, 942 F.3d 793, 806 (7th Cir. 2019) (Sykes, J., concurring); *accord id.* at 798 (majority op.). If voter participation and resource diversion are not too generalized to give Plaintiffs standing, *see* Doc. 1 ¶¶9-20, then they are not too generalized to justify Movants' intervention, *see Meek v. Metro. Dade Cty., Fla.*, 985 F.2d 1471, 1480 (11th Cir. 1993) (rejecting the argument "that the intervenors had only nonjusticiable generalized grievances simply because they asserted interests widely shared by others," and noting that, "[i]f we accepted such an argument, we would be forced to conclude that most of the plaintiffs also lack standing").

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Simply put, "'in cases challenging . . . statutory schemes as unconstitutional or as improperly interpreted and applied, . . . the interests of those who are governed by those schemes are sufficient to support intervention.'" *Chiles v. Thornburgh*, 865 F.2d 1197, 1214 (11th Cir. 1989). Because Movants' candidates will "actively seek [election or] reelection in contests governed by the challenged rules," and Movants' voters will vote in them, Movants have an interest in "demand[ing] adherence" to Arizona's rules. *Shays v. FEC*, 414 F.3d 76, 88 (D.C. Cir. 2005).

C. This action threatens to impair Movants' interests.

Movants are "so situated that disposing of [this] action *may* as a practical matter impair or impede [their] ability to protect [their] interest." Fed. R. Civ. P. 24(a)(2) (emphasis added). "The burden of showing inadequacy of representation is 'minimal' and satisfied if the applicant can demonstrate that representation of its interests 'may be' inadequate." *Citizens for Balanced Use*, 647 F.3d at 898; *see also Brumfield v. Dodd*, 749 F.3d 339, 344 (5th Cir. 2014) (Movants "do not need to establish that their interests *will* be impaired."). This language of Rule 24 is "obviously designed to liberalize the right to intervene in federal actions." *Nuesse v. Camp*, 385 F.2d 694, 701 (D.C. Cir. 1967).

Here, Movants' interests will plainly "suffer if the Government were to lose this case, or to settle it against [Movants'] interests." *Mausolf v. Babbitt*, 85 F.3d 1295, 1302-03 (8th Cir. 1996). Laws like the one challenged here are designed to serve "the integrity of [the] election process." *Eu v. San Fran. Cty. Democratic Cent. Comm.*, 489 U.S. 214, 231 (1989). An adverse decision thus would not only undercut democratically enacted laws that protect voters and candidates (including Movants' members), but it would also "change the entire election landscape for those participating as the Committees' members and volunteers" and "change what the [Movants] must do to prepare for upcoming elections." *La Union*, 29 F.4th at 307. That alone is enough to satisfy the impairment requirement. *Id.*; *see also Shays*, 414 F.3d at 85-86. Plaintiffs' changes could confuse voters and undermine confidence in the electoral process, *see Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006), making it less likely that Movants' voters will vote, *Crawford*, 553 U.S. at 197. And those changes would require Movants to spend substantial resources fighting

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confusion and galvanizing participation. *Crawford*, 553 U.S. at 197; *Pavek v. Simon*, 2020 WL 3183249, at *10 (D. Minn. June 15, 2020).

At this stage, this Court cannot credit Plaintiffs' assertions that HB 2492 is discriminatory, will confuse voters, or is otherwise unlawful. When resolving a motion to intervene, courts cannot "assume . . . that Plaintiffs will ultimately prevail on the merits" or prejudge "the ultimate merits of the [defenses] which the intervenor wishes to assert." *Pavek*, 2020 WL 3960252, at *3; *In re N.Y.C. Policing*, 27 F.4th 792, 800-01 (2d Cir. 2022) (reversing district court which "improperly assumed that any decision on the merits of the litigation would be limited to prohibiting unlawful conduct and therefore [Movant] could not show an interest that would be impaired by such a decision"); *SEC v. Price*, 2014 WL 11858151, at *2 (N.D. Ga. 2014). Thus, the question for this Court is not whether Movants have an interest in maintaining an "unconstitutional" law. The question is whether Movants have an interest in preventing a federal court from enjoining a *valid* law that *increases* voter confidence and *promotes* election integrity. *Clark v. Putnam Cty.*, 168 F.3d 458, 462 (11th Cir. 1999). They do.

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The "very purpose of intervention is to allow interested parties to air their views so that a court may consider them before making potentially adverse decisions." *Brumfield*, 749 F.3d at 345. So the "best" course—and the one that Rule 24 "implements"—is to give "all parties with a real stake in a controversy . . . an opportunity to be heard" in this suit, *Hodgson v. United Mine Workers of Am.*, 473 F.2d 118, 130 (D.C. Cir. 1972). That includes Movants.

D. The existing parties do not adequately represent Movants' interests.

Finally, Movants are not adequately represented by Defendants. This requirement is satisfied if "the existing parties *may* not adequately represent [Movant]'s interest." *Citizens for Balanced Use*, 647 F.3d at 898 (emphasis added). "The burden of showing inadequacy of representation is 'minimal' and satisfied if the applicant can demonstrate that representation of its interests 'may be' inadequate." *Id.* While that burden increases "when the government is acting on behalf of a constituency that it represents," Movants can meet the burden by "mak[ing] a 'compelling showing' of inadequacy of representation." *Id.*

Courts "often conclude[] that governmental entities do not adequately represent the interests of aspiring intervenors." *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003) (Garland, J.). "[T]he government's representation of the public interest generally cannot be assumed to be identical to the individual parochial interest of a [private movant] merely because both entities occupy the same posture in the litigation." *Utah Ass'n of Counties v. Clinton*, 255 F.3d 1246, 1255-56 (10th Cir. 2001). Here, too, Defendants necessarily represent "the public interest," rather than Movants' "particular interest[s]" in protecting their resources and the rights of their candidates and voters. *Coal. of Ariz./N.M. Counties for Stable Economic Growth v. DOI*, 100 F.3d 837, 845 (10th Cir. 1996).

This tension is stark in the context of elections. Defendants have no interest in the election of particular candidates or the mobilization of particular voters, or the costs associated with either. Instead, state officials, acting on behalf of all Arizona citizens and the State itself, must consider "a range of interests likely to diverge from those of the intervenors." *Meek*, 985 F.2d at 1478. Those interests include:

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- "the expense of defending the current [laws] out of [state] coffers," *Clark*, 168 F.3d at 461;
- "the social and political divisiveness of the election issue," *Meek*, 985 F.2d at 1478;
- officials' "own desires to remain politically popular and effective leaders," *id.*;
- and even the interests of Plaintiffs, *In re Sierra Club*, 945 F.2d 776, 779-80 (4th Cir. 1991).

All these interests make Defendants less likely to make the same arguments, less likely to exhaust all appellate options, and more likely to settle. *Clark*, 168 F.3d at 461-62. The State "may have an interest in defending its . . . practices" under its currently operative statutes, but it may also "have an equally strong or stronger interest in bringing such litigation to an end by settlement." *Brennan*, 260 F.3d at 133. Or it may "prefer to not resolve this case on the merits at all," such as by moving for dismissal "on sovereign-immunity and standing grounds." *La Union*, 29 F.4th at 308. Any of these eventualities would prevent Defendants from adequately representing Movants' interests. *Id.*

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To quote the Democratic Party again, inadequacy is a "'light'" burden here because Defendants' "'views are necessarily colored by [their] view of the public welfare rather than the more parochial views of a proposed intervenor whose interest is personal to it.'" *Ga. Republican Party*, *supra* at 9-10 (quoting *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 972 (3d Cir. 1998)). Even if the existing Defendants and Movants "both believe [Plaintiffs' relief] should be denied," that "does not mean that [they] have identical positions or interests." *Georgia v. U.S. Army Corps of Eng'rs*, 302 F.3d 1242, 1259 (11th Cir. 2002). On the contrary, Defendants are concerned with "properly administer[ing Arizona's] election laws," while Movants "are concerned with ensuring their party members and the voters

they represent have the opportunity to vote," "advancing their overall electoral prospects," and "allocating their limited resources to inform voters about the election procedures." *Issa*, 2020 WL 3074351, at *3. This "difference in interests" between Movants and Defendants is "sufficient to overcome the weak presumption of adequate representation." *Stone*, 371 F.3d at 1312.

II. Alternatively, Movants should be granted permissive intervention.

Even if Movants were not entitled to intervene as of right under Rule 24(a), this Court should grant them permissive intervention under Rule 24(b). Courts can grant permissive intervention broadly to "anyone who 'has a claim or defense that shares with the main action a common question of law or fact.'" *Ariz. Democratic Party*, 2020 WL 6559160, at *1. Courts also consider "whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3). The rule "is to be liberally construed." *Olin Corp. v. Lamorak Ins. Co.*, 325 F.R.D. 85, 87 (S.D.N.Y. 2018). "Unlike Rule 24(a), subsection (b) 'does not require a showing of inadequacy of representation.'" *Ariz. Democratic Party*, 2020 WL 6559160, at *1. If a court has doubts, "the most prudent and efficient course" is to allow permissive intervention. *Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wis. v. United States*, 2002 WL 32350046, *3 (W.D. Wis. Nov. 20, 2002).

A movant's arguments easily "satisf[y] the literal requirements of Rule 24(b)" when they are "directly responsive to the claims for injunction asserted by plaintiffs." *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1110 (9th Cir. 2002). Indeed, district courts have found this element met merely when "the intervenors' represent that their defenses are based on the same legal arguments that the state has raised, such that there are questions

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of law and fact in common between their defense and the main action." *Becerra*, 420 F. Supp. 3d at 1021.

The requirements of Rule 24(b) are met here. Movants have filed a timely motion that will neither delay the case nor prejudice the parties. And Movants will raise defenses that share many common questions with the parties' claims and defenses. Plaintiffs allege that the challenged law is unconstitutional and must be enjoined. Movants will argue that the law is valid, that an injunction is unwarranted, and that Plaintiffs' desired relief would undermine Movants' interests. This obvious clash is why courts allow political parties to intervene in defense of state election laws. *See, e.g.*, *Swenson*, *supra* ("[T]he [RNC and Republican Party of Wisconsin] have a defense that shares common questions of law and fact with the main action; namely, they seek to defend the challenged election laws to protect their and their members' stated interests—among other things, interest in the integrity of Wisconsin's elections."); *Priorities USA*, 2020 WL 2615504, at *5 (granting permissive intervention where the RNC "demonstrate[d] that they seek to defend the constitutionality of Michigan's [election] laws, the same laws which the plaintiffs allege are unconstitutional"). Indeed, this Court recently granted permissive intervention to Republican Party entities in similar cases. *See, e.g.*, *Ariz. Democratic Party*, 2020 WL 6559160, at *2 ("[G]iven the importance of the issues Plaintiffs raise, the Court will benefit from hearing all perspectives. The Court is reluctant, at this early stage, to conclude that Movants will have nothing relevant to contribute to the merits and prefers to err on the side of more information, not less."); *Mi Familia Vota*, 2021 WL 521787, at *2 (similar).

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Movants' intervention will not delay this litigation or prejudice anyone. Movants swiftly moved to intervene at this case's earliest stage, and their participation will add no

delay beyond the norm for multiparty litigation. Plaintiffs put the legality of Arizona's law at issue, after all, and they "can hardly be said to be prejudiced by having to prove a lawsuit [they] chose to initiate." *Security Ins. Co. of Hartford v. Schipporeit, Inc.*, 69 F.3d 1377, 1381 (7th Cir. 1995). Movants also commit to complying with all deadlines that govern the parties, working to prevent duplicative briefing, and coordinating with the parties on discovery, "which is a promise" that undermines claims of undue delay, *Emerson Hall Assocs., LP v. Travelers Casualty Ins. Co. of Am.*, 2016 WL 223794, *2 (W.D. Wis. Jan. 19, 2016); *see Nielsen*, 2020 WL 6589656, at *1. Of course, "any introduction of an intervener in a case will necessitate its being permitted to actively participate, which will inevitably cause some 'delay,'" but that kind of prejudice or delay is irrelevant. *Appleton v. Comm'r*, 430 F. App'x 135, 138 (3d Cir. 2011). Rule 24(b) is concerned with "*undu[e]* delay or prejudice," and "'[u]ndue' means not normal or appropriate." *Id.*

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Allowing Movants to intervene will promote consistency and fairness in the law, as well as efficiency in this case. *See Venegas v. Skaggs*, 867 F.2d 527, 531 (9th Cir. 1989). It will allow "the Court … to profit from a diversity of viewpoints as [Movants] illuminate the ultimate questions posed by the parties." *Franconia Minerals (US) LLC v. United States*, 319 F.R.D. 261, 268 (D. Minn. 2017). Any prejudice from granting intervention, moreover, would be no greater than the prejudice from denying intervention. *See League of Women Voters of Fla.*, *supra* ("'[D]enying [the Republican Party's] motion [will] open[] the door to delaying the adjudication of this case's merits for months,' while Proposed Intervenors appeal this Court's decision" (quoting *Jacobson*, 2018 WL 10509488, at *1)).

Notably, this Court can grant permissive intervention even if it concludes that Defendants adequately represent Movants' interests. *Ariz. Democratic Party*, 2020 WL

6559160, at *1. Permissive intervention does not require the intervenor to have an "interest" at all, let alone an interest that the parties inadequately represent. *Solid Waste Agency of N. Cook Cty. v. U.S. Army Corps of Eng'rs*, 101 F.3d 503, 509 (7th Cir. 1996); *Planned Parenthood of Wis.*, 942 F.3d at 801 n.4. Courts thus grant permissive intervention even when the movant is "completely and adequately represented," will merely "enhance[]" the government's defense, or will provide a "secondary voice in the action." *Ohio Democratic Party*, 2005 WL 8162665, at *2; *see also Jacobson*, 2018 WL 10509488, at *1 (permissive intervention is warranted because "reasonable minds may differ over whether Florida's Secretary of State represents Proposed Intervenors' interests adequately"); *accord 100Reporters LLC v. DOJ*, 307 F.R.D. 269, 286 (D.D.C. 2014); *Ala. v. U.S. Dep't of Commerce*, 2018 WL 6570879, at *3 (N.D. Ala. 2018).

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This Court should not consider whether to change Arizona's election rules without giving one of the two major political parties a seat at the table. Republican Party organizations "are not marginally affected individuals; they are substantial organizations with experienced attorneys who might well bring perspective that others miss or choose not to provide." *Nielsen*, 2020 WL 6589656, at *1. Movants respectfully submit that they have at least as much at stake in Arizona's elections and at least as much expertise on the relevant issues as Plaintiffs and Defendants. Allowing Movants to intervene here would similarly serve "'the interest of a full exposition of the issues.'" *South Carolina v. North Carolina*, 558 U.S. 256, 272 (2010); *accord Meek*, 985 F.2d at 1479 ("The substantial public interest at stake in the case militat[es] in favor of intervention.").

Plaintiffs may raise a lone outlier case, *Yazzie v. Hobbs*, but it is both unpersuasive and distinguishable. In that case, the Court denied the Republican Party's motion to

intervene because the Secretary of State had already filed a motion to dismiss, demonstrating her commitment to defending the challenged law, and because intervention would delay the proceeding. *See* 2020 WL 8181703, at *3-4 (D. Ariz. Sept. 16, 2020) (Snow, J.). Movants respectfully disagree with that decision, but it's also unpersuasive here. As discussed, Movants timely sought intervention, before the filing of any responsive pleading, and intervention will not delay these proceedings. This case is more like *Arizona Democratic Party*, where this Court allowed the Republican Party to intervene to defend Arizona's unsigned ballot cure deadline because it would "benefit from hearing all perspectives." 2020 WL 6559160, at *2.[2]

In sum, Movants have cited over twenty courts from the last few years who granted the Republican Party intervention in virtually identical circumstances, *see supra* at 1 & n.1. Those twenty courts did not all abuse their discretion. Movants should be allowed to intervene here too.

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[2] Also distinguishable are cases involving motions to intervene filed by individuals and officials—as opposed to party organizations. *Cf. Ansley v. Warren*, 2016 WL 3647979, at *3 (W.D.N.C. 2016) (citing the difficulties of "additional government actors" purporting to speak for the state); *see also Arizonans for Fair Elections v. Hobbs*, 335 F.R.D. 269, 276 (D. Ariz. 2020); *Am. Ass'n of People with Disabilities v. Herrera*, 257 F.R.D. 236, 259 (D.N.M. 2008). Political parties efficiently represent many individuals and candidates at once, and they bring substantial experience and expertise that differs from the State's and that should aide this Court. *E.g.*, *Ariz. Democratic Party*, 2020 WL 6559160, at *2 (granting Republican Party intervention in an *Anderson-Burdick* challenge); *Feldman*, *supra* (granting Republican Party intervention in a VRA Section 2 challenge).

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