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IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MOHAVE

ARIZONA REPUBLICAN PARTY, et al.,  
  
Plaintiffs,  
  
v.  
  
KATIE HOBBS, et al.,  
  
Defendants.

No. S-8015-CV-202200594

**MOTION TO INTERVENE**

(Assigned to the Honorable Lee F.  
Jantzen)

## INTRODUCTION

Plaintiffs' tortured reading of the Arizona Constitution has no merit and the relief sought would be disastrous for Arizona voters and the administration of Arizona elections. Plaintiffs claim that the Arizona Constitution contains an unspoken requirement that *all* votes must be cast in person, on the day of an election. Based on their ill-founded theory, Plaintiffs ask this Court to issue an extraordinary and entirely unprecedented order striking down, in its entirety, Arizona's decades-old system of early voting—whether voters cast their ballots in person or by mail. Compl. at ¶ 22. What's more, Plaintiffs seek preliminary injunctive relief to force this drastic change—which Arizona's present election system is not remotely equipped to manage—nearly six months into a major election year. *See* Mot. for Preliminary Injunction. There is no basis that would justify issuing any of the relief that Plaintiffs seek. In reality, what Plaintiffs are asking this Court to do is substitute Plaintiffs' policy judgment for that of the Legislature, in the process upending a critical mechanism for democratic participation that was duly established by the elected branches. But as Plaintiffs themselves acknowledge, policy concerns are better addressed “in the context of a public debate over a constitutional amendment.” Compl. at. ¶ 193.

Over 30 years ago, Arizona allowed all its voters to choose to exercise their voting rights using early voting, creating the modern early vote system. Since then, millions of Arizonans—including Plaintiff Kelli Ward—have participated in elections using some form of early ballot.<sup>1</sup> And, over time, it has become, by far, the most popular way to vote in Arizona. In the 2020 general election, nearly 90% of ballots cast were early votes. Compl. at ¶ 167. We are currently less than six months away from the next general election and about two months away from the August primary election. Approximately 75% of the state's active registered voters are on the “Active Early Voting List” (“AEVL”), which means they are expecting to be automatically sent a ballot-by-mail in advance of the election. For registered voters who have not signed up for the AEVL, the Secretary of State

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<sup>1</sup> *See* Secretary's Response to Petition for Special Action at 12, *Arizona Republican Party v. Hobbs*, No. CV-22-0048-SA (Ariz. Mar. 11, 2022).

1 began accepting one-time ballot-by-mail requests on May 1, 2022.<sup>2</sup> Those voters, too, will  
2 be relying on Arizona's long standing early voting system to participate in the election.

3 As Arizona's voters have become increasingly (and overwhelmingly) reliant upon  
4 early voting to exercise their right to vote, the state's election infrastructure has—not  
5 surprisingly—changed dramatically in kind, such that it now relies heavily upon millions  
6 of the State's voters using early and mail voting for the election system to function. And,  
7 during the same period, the number of voters in Arizona has dramatically increased: the  
8 state is now home to over four million registered voters. Arizona's election infrastructure  
9 is simply not capable of serving all the state's voters for in-person voting on a single day.  
10 Granting the relief that Plaintiffs request would be nothing short of catastrophic.

11 Among those severely and irreparably harmed would be hundreds of thousands of  
12 members and constituents of Proposed Intervenor-Defendants the Arizona Democratic  
13 Party ("ADP"), the DSCC and DCCC—which are the national Democratic Party  
14 committees dedicated to electing Democrats to the United States House and Senate—and  
15 the Democratic National Committee ("DNC") (together "Proposed Intervenors"), as well  
16 as Proposed Intervenors themselves. Proposed Intervenors meet the requirements for both  
17 intervention as of right and permissive intervention under Rule 24 of the Arizona Rules of  
18 Civil Procedure. There can be little doubt that they have a substantial and legally protectable  
19 interest in this matter. Proposed Intervenors seek intervention to protect the rights of their  
20 voters and constituents, as well as to protect the rights of their candidates and their own  
21 rights as political committees. Should any of the relief that Plaintiffs request be granted, it  
22 would mandate a sea change in how elections function in Arizona, requiring Proposed  
23 Intervenors to divert enormous resources to educating voters and assisting them in  
24 overcoming substantial burdens to successful participation in the franchise.

25 In this way, Proposed Intervenors' perspective differs markedly from that of the  
26 existing parties, such that the existing parties do not and cannot adequately represent  
27

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28 <sup>2</sup> See Voter Registration Statistics – Jan. 2020, Ariz. Sec. of State, available at:  
<https://azsos.gov/elections/voter-registration-historical-election-data>.

1 Proposed Intervenors in this litigation. The Plaintiffs, of course, are Proposed Intervenors’  
2 political counterpart, the Arizona Republican Party, and its Chairwoman. And, if Plaintiffs  
3 are successful, voters who tend to associate more strongly with Proposed Intervenors,  
4 including Black, Hispanic, Native American, and young voters, are among those  
5 constituencies who are far more likely to have their voting rights severely impeded, and in  
6 some cases, effectively denied. This is particularly true of Native American voters living  
7 on reservations whose circumstances often require access to early and mail voting to  
8 participate in Arizona’s elections. Young voters who are away from home attending school,  
9 or truly any voter temporarily absent from their home on election day, would be left with  
10 no accessible means of voting, should Plaintiffs be successful in their challenge.

11 The Court should not permit Plaintiffs to attempt through this litigation to broadly  
12 restrict voting rights, threatening grave injury to Proposed Intervenors and their voters and  
13 constituents, without allowing Proposed Intervenors to defend those rights. The State and  
14 County Defendants presumably share the Proposed Intervenors’ goal of defending  
15 Arizona’s current system of election administration. But, as many courts have recognized,  
16 government officials represent their jurisdiction as a whole and have different interests than  
17 political parties. Among other things, the State and County Defendants do not involve  
18 themselves in substantial get-out-the-vote efforts; they do not support individual candidates  
19 or constituencies; and they do not have a stake in the ultimate outcomes of the elections that  
20 will be conducted under Plaintiffs’ proposed new rules.

21 For each of these reasons, discussed further below, Proposed Intervenors should be  
22 granted intervention as of right, or, in the alternative, permissive intervention.

### 23 **ARGUMENT**

24 Under Rule 24, a party is entitled to intervene when, on timely motion, a party  
25 “claims an interest relating to the subject of the action, and ... disposing of the action in the  
26 person’s absence may as a practical matter impair or impede the person’s ability to protect  
27 that interest, unless existing parties adequately represent that interest.” Ariz. R. Civ. P.  
28 24(a). Alternatively, intervention may be permitted where the motion is timely and a party

1 “has a claim or defense that shares with the main action a common question of law or fact.”  
2 Ariz. R. Civ. P. 24(b)(1). Rule 24 is a remedial rule that “should be construed liberally in  
3 order to assist parties seeking to obtain justice in protecting their rights.” *Dowling v. Stapley*,  
4 221 Ariz. 251, 270 ¶ 58 (App. 2009). Proposed Intervenor’s satisfy both standards and their  
5 motion to intervene should be granted. Consistent with Rule 24, Proposed Intervenor’s have  
6 attached a proposed answer as their “pleading in intervention.”<sup>3</sup> Ariz. R. Civ. P. 24(c).

7 **I. Proposed Intervenor’s are entitled to intervene as of right.**

8 Proposed Intervenor’s are entitled to intervene as of right under Rule 24(a). The Court  
9 must allow intervention where four elements are satisfied: “(1) the motion must be timely;  
10 (2) the applicant must assert an interest relating to the property or transaction which is the  
11 subject of the action; (3) the applicant must show that disposition of the action may impair  
12 or impede its ability to protect its interest; and (4) the applicant must show that the other  
13 parties would not adequately represent its interests.” *Woodbridge Structured Funding, LLC*  
14 *v. Ariz. Lottery*, 235 Ariz. 25, 28 ¶ 13 (App. 2014). Proposed Intervenor’s meet each of these  
15 requirements.

16 **A. The motion to intervene is timely.**

17 Proposed Intervenor’s timely filed this motion to intervene. Plaintiff’s filed this suit  
18 on Tuesday, May 17, 2022. Proposed Intervenor’s file this motion to intervene along with  
19 their proposed Answer on May 26, 2022—only nine days later. This motion comes a full  
20 week before the Court’s scheduled hearing on June 3, 2022; indeed, it comes before *any*  
21 responsive pleadings have been filed.

22 Timeliness under Rule 24 is “flexible” and the most important consideration “is  
23 whether the delay in moving for intervention will prejudice the existing parties to the case.”  
24 *Weaver v. Synthes, Ltd. (U.S.A.)*, 162 Ariz. 442, 446 (App. 1989). Here, granting the motion  
25 would not require altering any existing deadlines. Consistent with the deadline under the  
26

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27 <sup>3</sup> While Rule 24 requires a “pleading,” Rule 12 requires that certain defenses be  
28 asserted by motion prior to a responsive pleading. Ariz. R. Civ. P. 12(b). Accordingly, if  
granted intervention, Proposed Intervenor’s intend to file a motion to dismiss prior to filing  
their proposed Answer.



1 Arizona Rules, Proposed Intervenor intend to file a response in opposition to the Plaintiff's  
2 Motion for Preliminary Injunction on June 1, 2022—well in advance of the June 6 deadline.  
3 Under these circumstances, Proposed Intervenor's motion is unquestionably timely.

4 **B. The disposition of this case will impair Proposed Intervenor's and their**  
5 **members' and constituents' abilities to protect their interests.**

6 Proposed Intervenor, their members, and their voters have important interests in  
7 preserving a predictable, fair, and equitable electoral environment. Plaintiff's claims  
8 concern how ballots will be cast and counted in all future elections in Arizona, threatening  
9 the fundamental right to vote for Proposed Intervenor's members and constituents. *See State*  
10 *v. Key*, 128 Ariz. 419, 421 (App. 1981). Further, the disposition of this matter will impact  
11 Proposed Intervenor's efforts to facilitate voting, engage Arizona voters, and support their  
12 candidates as they run for office to represent the people of Arizona. In short, this case  
13 threatens the predictability, equity, and ease of access to the ballot for Proposed Intervenor's  
14 members and constituents, as well as the electoral prospects of their candidates, and their  
15 core First Amendment voter engagement and associational efforts in Arizona. Further, if  
16 Plaintiff's requested relief were granted, Proposed Intervenor would be forced to expend  
17 substantial additional resources to ensure that their affiliated voters are able to cast their  
18 ballots through the limited avenues that would remain available to them. Those resources  
19 would accordingly no longer be available to Proposed Intervenor to further their mission  
20 in other critical ways, including through voter persuasion efforts. These interests are readily  
21 sufficient to merit intervention. *See, e.g., Maricopa Cty. Republican Party v. Reagan*, No.  
22 CV2018-013963 (Maricopa Cty. Super. Ct. Nov. 9, 2018) (granting intervention to political  
23 parties and other interested political actors in election dispute); *Mi Familia Vota v. Hobbs*,  
24 No. 20-cv-01903, ECF No. 5 (D. Ariz. Oct. 5, 2020) (granting intervention to political party  
25 in election dispute); *Issa v. Newsom*, No. 2:20-cv-01044-MCE-CKD, 2020 WL 3074351,  
26 at \*4 (E.D. Cal. June 10, 2020) (holding a political party has a "significant protectable  
27 interest" in intervening to defend its voters' interests in vote-by-mail and its own resources  
28 spent in support of vote-by-mail).

1 Fundamentally, Plaintiffs ask this Court to suddenly and severely restrict access to  
2 voting in Arizona, insisting that “Arizona’s post-1991 system of no-excuse mail-in voting  
3 is unconstitutional. It must be struck down.” Pet. at 9. In other words, the relief requested  
4 by Plaintiffs threatens to eliminate the most popular voting procedures available to Arizona  
5 electors, early voting and no-excuse mail-in voting. The impact of this cannot be overstated.  
6 Proposed Intervenorors have a direct and substantial interest in preserving Arizona’s existing  
7 election laws against this attack.

8 *First*, eliminating these procedures would severely burden voters in countless  
9 significant and, in many cases, insurmountable ways. Voters who relied on early voting to  
10 cast their ballots will no longer be able to do so; indeed, all of Arizona’s millions of voters  
11 would have to cast their ballots in person on election day. This would be impossible for  
12 many of Arizona’s voters—especially for those who lack access to reliable transportation,  
13 or those with inflexible schedules due to work or care obligations, not to mention any voter  
14 who is unavoidably out of town on election day. For those voters who are able to travel to  
15 the polls and vote in person on election day, they will encounter an election system that has  
16 been built on the presumption that the vast majority of the state’s voters will *not* appear to  
17 vote at the polls on election day. As a result, polling locations are not nearly as numerous  
18 as they would be in a system that was built for the dramatically different election system  
19 that Plaintiffs envision, and election administrators will be ill-equipped to manage the  
20 millions of voters who descend upon them to attempt to vote. The result will be punishingly  
21 long lines and other fundamental administration failures that will severely burden and  
22 disenfranchise countless more lawful voters, including many among Proposed Intervenorors’  
23 members and constituents. In Florida, a far more modest cutback on early voting than  
24 Plaintiffs seek here proved catastrophic for voters, resulting in devastating long lines at the  
25 polls.<sup>4</sup> In the general election conducted the following year, Florida had the nation’s longest  
26 wait times on Election Day, with some voters waiting four hours or more to cast a ballot.

27  
28 <sup>4</sup> See Michael C. Herron & Daniel A. Smith, *Souls to the Polls: Early Voting in Florida in the Shadow of House Bill 1355*, 11 Election L.J. 331, 332 (2012).

1 Experts concluded that many voters were unable to sustain such long wait times and were  
2 disenfranchised as a result.<sup>5</sup>

3 In Arizona, where the vast majority of the electorate relies on some form of early  
4 voting, the complete and sudden elimination of those procedures would be even worse.  
5 Given Arizona's unique topography and population distribution, some voters would be  
6 entirely unable to access the ballot. Others would be forced to travel hours only to stand in  
7 line for many more hours to attempt to vote. And because Plaintiffs' logic would require  
8 the elimination of early voting entirely, voters who are unable to physically appear at the  
9 polls for any reason would be entirely disenfranchised. Federal courts have repeatedly held  
10 that, where an action carries with it the prospect of disenfranchising a political party's  
11 members, the party has a cognizable interest at stake and may intervene to protect that  
12 interest. *See, e.g., Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 189 n.7 (2008);  
13 *Sandusky County Democratic Party v. Blackwell*, 387 F.3d 565, 573-74 (6th Cir. 2004)  
14 (holding the risk that some voters will be disenfranchised confers standing upon political  
15 parties and labor organizations). Proposed Intervenor more than clear that bar.

16 *Second*, as political party committees, Proposed Intervenor have a direct interest in  
17 their candidates' electoral prospects in Arizona. Because the elimination of early vote  
18 procedures would make it harder for Proposed Intervenor's members and constituents to  
19 successfully vote in Arizona's elections, the disposition of this matter threatens their  
20 electoral prospects, which provides an independent basis for intervention. In the related  
21 context of standing, federal courts have long held that political parties have standing to  
22 challenge changes to election laws "to prevent their opponent[s] from gaining an unfair  
23 advantage in the election process." *Owen v. Mulligan*, 640 F.2d 1130, 1133 (9th Cir. 1981);  
24 *see also Townley v. Miller*, 722 F.3d 1128, 1135-36 (9th Cir. 2013); *Drake v. Obama*, 664  
25 F.3d 774, 783 (9th Cir. 2011); *Pavek v. Donald J. Trump for President, Inc.*, 967 F.3d 905,  
26 97 (8th Cir. 2020); *Democratic Party v. Benkiser*, 459 F.3d 582, 586-87 (5th Cir. 2006).

27 <sup>5</sup> See U.S. Gov't Accountability Office, *Observations on Wait Times for Voters on*  
28 *Election Day 2012* (Sept. 2014) at 24, available at <https://www.gao.gov/assets/gao-14-850.pdf>.



1 The Ninth Circuit recently re-affirmed this principle, finding that, “being forced to compete  
2 under the weight of a state-imposed disadvantage” is sufficient to confer standing on  
3 political party entities. *Mecinas v. Hobbs*, 30 F.4th 890, 899 (9th Cir. 2022) (holding it was  
4 “error” for the district court to “decline[] to find competitive standing”).

5 *Finally*, eliminating early vote procedures would force Proposed Intervenor to  
6 expend substantial additional resources educating and mobilizing their voters, diverting  
7 those resources away from other mission-critical efforts. With the 2022 elections fast  
8 approaching, Proposed Intervenor would be forced to shift resources to voter outreach and  
9 education efforts aimed at ensuring their voters and members are aware of the dramatic  
10 departure from decades of prior practice and are prepared to endure long wait times on  
11 election day. And Proposed Intervenor’s voter mobilization efforts—typically conducted  
12 throughout the early vote period—would be compressed within the critical few days leading  
13 up to in-person voting on election day. This would require exponentially more volunteers  
14 and substantial and costly changes to the ways in which those programs are currently run,  
15 to ensure that as many as possible of Arizona’s millions of voters are able to access the polls  
16 in this extremely condensed timeframe. Those resources would no longer be available to  
17 the myriad other activities that Proposed Intervenor would ordinarily engage in during an  
18 election cycle, and in an election cycle, resources are truly finite, and the injury to Proposed  
19 Intervenor and their mission irreparable.

20 **C. Proposed Intervenor are not adequately represented in this case.**

21 The interests of Proposed Intervenor are not adequately represented by the parties  
22 participating in this case. Proposed Intervenor’s particular interests in this case—fielding  
23 successful candidates in the 2022 Election, efficiently using limited resources in  
24 competitive elections, and ensuring that as many of their voters can vote as possible—is  
25 also not shared by the Secretary, the State of Arizona, or any of the county officials named  
26 as Defendants. Because the State Defendants “must represent the interests of all people in  
27 Arizona,” they cannot give Proposed Intervenor or their members’ interests “the kind of  
28 primacy” that Proposed Intervenor will. *Planned Parenthood Arizona, Inc. v. Am. Ass’n of*

1 *Pro-Life Obstetricians & Gynecologists*, 227 Ariz. 262, 279, 257 P.3d 181, 198 (App. 2011)  
2 (permitting adversely affected groups to intervene in defense of a challenged statute).  
3 County defendants are similarly entrusted with a general obligation to their respective  
4 residents—not a particular competitive interest in fielding candidates or mobilizing voters.

5 Recognizing this, courts have consistently permitted political parties to intervene in  
6 cases involving election administration even where government officials are named as  
7 defendants—including in Arizona. *See, e.g., Maricopa Cnty. Republican Party*, No.  
8 CV2018-013963 (Maricopa Cnty. Super. Ct. Nov. 9, 2018); *Mi Familia Vota*, No. 20-cv-  
9 01903, ECF No. 5 (D. Ariz. Oct. 5, 2020); *see also Issa v. Newsom*, No. 2:20-cv-01044-  
10 MCE-CKD, 2020 WL 3074351, at \*4 (E.D. Cal. June 10, 2020) (“While [government]  
11 Defendants’ arguments turn on their inherent authority as state executives and their  
12 responsibility to properly administer election laws, Proposed [political party] Intervenor  
13 are concerned with ensuring their party members and the voters they represent have the  
14 opportunity to vote in the upcoming federal election, advancing their overall electoral  
15 prospects, and allocating their limited resources to inform voters about the election  
16 procedures.”).

17 **II. In the alternative, Proposed Intervenor should be granted permissive**  
18 **intervention.**

19 Even if the Court were to find that Proposed Intervenor are not entitled to  
20 intervention as of right, they should be granted permissive intervention because they have  
21 “a claim or defense that shares with the main action a common question of law and fact.”  
22 Ariz. R. Civ. P. 24(b)(1). When this standard is met, Arizona courts may consider other  
23 factors to decide whether to grant permissive intervention, including: (1) “the nature and  
24 extent of the intervenors’ interest,” (2) “their standing to raise relevant legal issues,” (3)  
25 “the legal position they seek to advance, and its probable relation to the merits of the case,”  
26 (4) “whether the intervenors’ interests are adequately represented by other parties,” (5)  
27 “whether intervention will prolong or unduly delay the litigation,” and (6) “whether parties  
28 seeking intervention will significantly contribute to full development of the underlying

1 factual issues in the suit and to the just and equitable adjudication of the legal questions  
2 presented.” *Bechtel v. Rose*, 150 Ariz. 68, 72 (1986). Like Rule 24(a), Rule 24(b) should  
3 be liberally construed. *Id.* Here, each factor weighs in favor of permitting Proposed  
4 Intervenor’s permissive intervention. *Cf. Ariz. Democratic Party v. Hobbs*, No. 2:20-cv-  
5 01143-DLR, ECF No. 60 (D. Ariz. June 26, 2020) (granting permissive intervention to  
6 political party entities).

7 *First*, Proposed Intervenor’s have a distinct interest in enabling their members and  
8 constituents to continue utilizing the voting procedures to which they are accustomed, and  
9 in avoiding the diversion of resources to last-minute efforts to help voters cast their ballots  
10 through severely restricted means. As noted above, the changes would be so drastic—and  
11 fall so hard on particular Arizona communities within Proposed Intervenor’s  
12 constituency—that they would effectively nullify the rights of some voters entirely. *Second*,  
13 Proposed Intervenor’s oppose the issue at the very heart of this case: contrary to Plaintiffs’  
14 claims, the voting procedures upon which Arizona voters have come to rely are entirely  
15 permissible under the Arizona Constitution and Arizona law. *Third*, Proposed  
16 Intervenor’s interests are distinct from those of other parties, as they represent both their  
17 organizational interests and the interests of individual voters who rely on early voting and  
18 have interests distinct from those of the state. *Fourth*, Proposed Intervenor’s seek  
19 intervention promptly, along with their concurrently filed proposed Answer, and thus their  
20 intervention will not delay the proceedings. *Lastly*, Proposed Intervenor’s will contribute to  
21 the full factual development of this case because they can present evidence regarding the  
22 impact on voters, candidates, and organizational efforts to encourage Arizonans to vote.

23 Because Rule 24 is liberally construed to protect the rights of all interested parties,  
24 the Court should permit intervention in this case.

### 25 CONCLUSION

26 For these reasons, the Arizona Democratic Party, DSCC, DCCC, and DNC request  
27 that the Court grant their Motion to Intervene and participate in these proceedings as  
28 Defendants.

1 Dated: May 26, 2022

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 26th day of May, 2022, I electronically transmitted a PDF version of this document to the Office of the Clerk of the Superior Court, Mohave County, for filing using the AZTurboCourt System. I further certify that a copy of the foregoing was sent via email this same date to:

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Defendants ADP, DCCC, and DSCC*

*\*Pro hac vice application to be filed*

IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MOHAVE

ARIZONA REPUBLICAN PARTY, et al.,  
  
Plaintiffs,  
  
v.  
  
KATIE HOBBS, et al.,  
  
Defendants.

No. S-8015-CV-202200594

**ANSWER IN INTERVENTION**  
  
(Assigned to the Honorable Lee F.  
Jantzen)

1 Intervenor-Defendants Arizona Democratic Party (“ADP”), DSCC, DCCC, and  
2 Democratic National Committee (“DNC”) (together, “Intervenor-Defendants”), answer  
3 Plaintiffs’ Verified Complaint as follows:

4 1. Intervenor-Defendants are without sufficient information to form a belief as to  
5 the truth or falsity of the allegations in Paragraph 1 of the Verified Complaint, and therefore  
6 deny same.

7 2. Intervenor-Defendants are without sufficient information to form a belief as to  
8 the truth or falsity of the allegations in Paragraph 2 of the Verified Complaint, and therefore  
9 deny same.

10 3. Intervenor-Defendants deny the allegations in Paragraph 3 of the Verified  
11 Complaint.

12 4. Intervenor-Defendants deny the allegations in Paragraph 4 of the Verified  
13 Complaint.

14 5. Intervenor-Defendants admit that initiatives and referenda are decided at  
15 general elections and admit that the quoted language appears in Ariz. Const. art. 4, pt.1, §  
16 1, cl.10. Intervenor-Defendants otherwise deny the allegations in Paragraph 5 of the  
17 Verified Complaint.

18 6. Intervenor-Defendants deny the allegations in Paragraph 6 of the Verified  
19 Complaint.

20 7. Intervenor-Defendants deny the allegations in Paragraph 7 of the Verified  
21 Complaint.

22 8. Intervenor-Defendants admit that the Arizona Constitution provides that the  
23 Legislature may authorize other methods of voting besides ballots. Intervenor-Defendants  
24 otherwise deny the allegations in Paragraph 8 of the Verified Complaint.

25 9. Intervenor-Defendants admit that Art. 7, § 1 of the Arizona Constitution  
26 contains the phrase, “Provided, that secrecy in voting shall be preserved.” Intervenor-  
27 Defendants are otherwise without sufficient information to form a belief as to the truth or  
28 falsity of the remaining allegations in Paragraph 9 of the Verified Complaint.

1           10. Intervenor-Defendants admit that Art. 7, § 1 of the Arizona Constitution  
2 contains the phrase, “Provided, that secrecy in voting shall be preserved.” Intervenor-  
3 Defendants otherwise deny the allegations in Paragraph 10 of the Verified Complaint.

4           11. Intervenor-Defendants deny the allegations in Paragraph 11 of the Verified  
5 Complaint.

6           12. Intervenor-Defendants deny that the Arizona Constitution requires in-person  
7 voting and the allegations in Paragraph 12 of the Verified Complaint as to the reason for  
8 the language in Art. 7, § 5 quoted in Paragraph 12. Intervenor-Defendants otherwise admit  
9 the allegations in Paragraph 12 of the Verified Complaint.

10          13. Intervenor-Defendants admit that the Arizona Legislature passed the statute  
11 found at 1918 Ariz. Sess. Laws ch. 11 (1st Spec. Sess.) in 1918, and otherwise deny the  
12 allegations in Paragraph 13 of the Verified Complaint.

13          14. Intervenor-Defendants deny the allegations in Paragraph 14 of the Verified  
14 Complaint.

15          15. Intervenor-Defendants deny that the Arizona Legislature tried to preserve the  
16 essential elements of the Australian Ballot System for voters entitled to vote absentee and  
17 deny that absentee ballots were to be supplied to the voter in person under pre-1991 election  
18 laws. Intervenor-Defendants otherwise admit the allegations in Paragraph 15 of the Verified  
19 Complaint.

20          16. Intervenor-Defendants deny the allegations in Paragraph 16 of the Verified  
21 Complaint.

22          17. Intervenor-Defendants admit that, under Arizona election law, “[a]ny qualified  
23 elector may vote by early ballot.” A.R.S. § 16-541. Intervenor-Defendants otherwise deny  
24 the allegations in Paragraph 17 of the Verified Complaint.

25          18. Intervenor-Defendants are without sufficient information to form a belief as to  
26 the truth or falsity of the allegations in Paragraph 18 of the Verified Complaint, and  
27 therefore deny same.  
28

19. Intervenor-Defendants deny the allegations in Paragraph 19 of the Verified Complaint.

20. Intervenor-Defendants deny the allegations in Paragraph 20 of the Verified Complaint.

21. Intervenor-Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 21 of the Verified Complaint, and therefore deny same.

22. Intervenor-Defendants deny the allegations in Paragraph 22 of the Verified Complaint.

## PROCEDURAL HISTORY

23. Intervenor-Defendants incorporate by reference each of their preceding admissions, denials, and statements as if fully set forth in this paragraph.

24. Intervenor-Defendants admit that Plaintiff AZGOP petitioned the Arizona Supreme Court earlier this year purporting to raise the claims described in Paragraph 24 of the Verified Complaint.

25. Intervenor-Defendants admit that the Arizona Attorney General filed a response to Plaintiff's petition in the Arizona Supreme Court.

26. Intervenor-Defendants admit that the Arizona Supreme Court issued an order declining jurisdiction over Plaintiff AZGOP's petition on April 5, 2022. Intervenor-Defendants otherwise deny the allegations in Paragraph 26 of the Verified Complaint.

27. Intervenor-Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 27 of the Verified Complaint, and therefore deny same.

## PARTIES, JURISDICTION, VENUE, AND STANDING

28. Intervenor-Defendants incorporate by reference each of their preceding admissions, denials, and statements as if fully set forth in this paragraph.

29. Intervenor-Defendants admit the allegations in Paragraph 29 of the Verified Complaint.



1           30. Intervenor-Defendants admit that Kelli Ward is the Chairwoman of the  
2 Arizona Republican Party, but are without sufficient information to form a belief as to the  
3 truth or falsity of the remaining allegations in Paragraph 30 of the Verified Complaint and  
4 therefore deny same.

5           31. Intervenor-Defendants admit that Katie Hobbs is the Secretary of State of  
6 Arizona. Intervenor-Defendants deny the remaining allegations in Paragraph 31 of the  
7 Verified Complaint.

8           32. Intervenor-Defendants admit that this suit purports to challenge the  
9 constitutionality of certain Arizona statutes.

10          33. Intervenor-Defendants are without sufficient information to form a belief as to  
11 the truth or falsity of the allegations in Paragraph 33 of the Verified Complaint and therefore  
12 deny same.

13          34. Paragraph 34 of the Verified Complaint is a statement of Plaintiffs' subjective  
14 intent to which no response is required. To the extent a response is called for, Intervenor-  
15 Defendants are without sufficient information to form a belief as to the truth or falsity of  
16 the allegations in Paragraph 34 of the Verified Complaint and therefore deny same.

17          35. Intervenor-Defendants deny that this Court has jurisdiction over this action.

18          36. Intervenor-Defendants deny that venue is proper in this Court.

19          37. Intervenor-Defendants are without sufficient information to form a belief as to  
20 the truth or falsity of the allegations in Paragraph 37 of the Verified Complaint and therefore  
21 deny same.

22          38. Intervenor-Defendants deny that Plaintiff Ward has standing to pursue this  
23 action. Intervenor-Defendants are otherwise without sufficient information to form a belief  
24 as to the truth or falsity of the remaining allegations in Paragraph 38 of the Verified  
25 Complaint and therefore deny same.

26          39. Intervenor-Defendants deny the allegations in Paragraph 39 of the Verified  
27 Complaint.

1           40. Intervenor-Defendants deny that Arizona's early voting system is  
2 unconstitutional. Intervenor-Defendants otherwise admit the allegations in Paragraph 40 of  
3 the Verified Complaint.

4           41. Intervenor-Defendants deny that Plaintiff AZGOP or its members have  
5 standing to pursue this suit.

6           42. Paragraph 42 of the Verified Complaint states a legal conclusion to which no  
7 response is required.

8           43. Intervenor-Defendants deny the allegations in Paragraph 44 of the Verified  
9 Complaint.

10          44. Intervenor-Defendants deny the allegations in Paragraph 44 of the Verified  
11 Complaint.

12          45. Intervenor-Defendants deny the allegations in Paragraph 45 of the Verified  
13 Complaint.

#### 14                   **THE ORIGINS OF THE "AUSTRALIAN BALLOT"**

15          46. Intervenor-Defendants incorporate by reference each of their preceding  
16 admissions, denials, and statements as if fully set forth in this paragraph.

17          47. Intervenor-Defendants are without sufficient information to form a belief as to  
18 the truth or falsity of the allegations in Paragraph 47 of the Verified Complaint, and  
19 therefore deny same.

20          48. Intervenor-Defendants are without sufficient information to form a belief as to  
21 the truth or falsity of the allegations in Paragraph 48 of the Verified Complaint, and  
22 therefore deny same.

23          49. Intervenor-Defendants are without sufficient information to form a belief as to  
24 the truth or falsity of the allegations in Paragraph 49 of the Verified Complaint, and  
25 therefore deny same.

26          50. Intervenor-Defendants are without sufficient information to form a belief as to  
27 the truth or falsity of the allegations in Paragraph 50 of the Verified Complaint, and  
28 therefore deny same.

1           51. Intervenor-Defendants are without sufficient information to form a belief as to  
2 the truth or falsity of the allegations in Paragraph 51 of the Verified Complaint, and  
3 therefore deny same.

4           52. Intervenor-Defendants are without sufficient information to form a belief as to  
5 the truth or falsity of the allegations in Paragraph 52 of the Verified Complaint, and  
6 therefore deny same.

7           53. Intervenor-Defendants are without sufficient information to form a belief as to  
8 the truth or falsity of the allegations in Paragraph 53 of the Verified Complaint, and  
9 therefore deny same.

10          54. Intervenor-Defendants are without sufficient information to form a belief as to  
11 the truth or falsity of the allegations in Paragraph 54 of the Verified Complaint, and  
12 therefore deny same.

13          55. Intervenor-Defendants admit that the quoted passage appears in the United  
14 States Supreme Court's decision in *Burson v. Freeman*, 504 U.S. 191, 206 (1992).  
15 Intervenor-Defendants otherwise deny the allegations in Paragraph 55 of the Verified  
16 Complaint.

17          56. Intervenor-Defendants are without sufficient information to form a belief as to  
18 the truth or falsity of the allegations in Paragraph 56 of the Verified Complaint, and  
19 therefore deny same.

20          57. Intervenor-Defendants are without sufficient information to form a belief as to  
21 the truth or falsity of the allegations in Paragraph 57 of the Verified Complaint, and  
22 therefore deny same.

23          58. Intervenor-Defendants are without sufficient information to form a belief as to  
24 the truth or falsity of the allegations in Paragraph 58 of the Verified Complaint, and  
25 therefore deny same.

26          59. Intervenor-Defendants are without sufficient information to form a belief as to  
27 the truth or falsity of the allegations in Paragraph 59 of the Verified Complaint, and  
28 therefore deny same.

1           60. Intervenor-Defendants are without sufficient information to form a belief as to  
2 the truth or falsity of the allegations in Paragraph 60 of the Verified Complaint, and  
3 therefore deny same.

4           61. Intervenor-Defendants are without sufficient information to form a belief as to  
5 the truth or falsity of the allegations in Paragraph 61 of the Verified Complaint, and  
6 therefore deny same.

7           62. Intervenor-Defendants are without sufficient information to form a belief as to  
8 the truth or falsity of the allegations in Paragraph 62 of the Verified Complaint, and  
9 therefore deny same.

10          63. Intervenor-Defendants are without sufficient information to form a belief as to  
11 the truth or falsity of the allegations in Paragraph 63 of the Verified Complaint, and  
12 therefore deny same.

13          64. Intervenor-Defendants are without sufficient information to form a belief as to  
14 the truth or falsity of the allegations in Paragraph 64 of the Verified Complaint, and  
15 therefore deny same.

16          65. Intervenor-Defendants are without sufficient information to form a belief as to  
17 the truth or falsity of the allegations in Paragraph 65 of the Verified Complaint, and  
18 therefore deny same.

19           **THE FRAMERS OF THE ARIZONA CONSTITUTION, DISTRUSTFUL OF**  
20           **CORPORATE POWER AND POLITICAL MACHINES, CONSTITUTIONALLY**  
21           **MANDATE VOTING BY AUSTRALIAN BALLOT**

22          66. Intervenor-Defendants incorporate by reference each of their preceding  
23 admissions, denials, and statements as if fully set forth in this paragraph.

24          67. Intervenor-Defendants are without sufficient information to form a belief as to  
25 the truth or falsity of the allegations in Paragraph 67 of the Verified Complaint, and  
26 therefore deny same.

1           68. Intervenor-Defendants are without sufficient information to form a belief as to  
2 the truth or falsity of the allegations in Paragraph 68 of the Verified Complaint, and  
3 therefore deny same.

4           69. Intervenor-Defendants are without sufficient information to form a belief as to  
5 the truth or falsity of the allegations in Paragraph 69 of the Verified Complaint, and  
6 therefore deny same.

7           70. Intervenor-Defendants are without sufficient information to form a belief as to  
8 the truth or falsity of the allegations in Paragraph 70 of the Verified Complaint, and  
9 therefore deny same.

10          71. Intervenor-Defendants are without sufficient information to form a belief as to  
11 the truth or falsity of the allegations in Paragraph 71 of the Verified Complaint, and  
12 therefore deny same.

13          72. Intervenor-Defendants are without sufficient information to form a belief as to  
14 the truth or falsity of the allegations in Paragraph 72 of the Verified Complaint, and  
15 therefore deny same.

16          73. Intervenor-Defendants are without sufficient information to form a belief as to  
17 the truth or falsity of the allegations in Paragraph 73 of the Verified Complaint, and  
18 therefore deny same.

19          74. Intervenor-Defendants admit the allegations in Paragraph 74 of the Verified  
20 Complaint.

21          75. Intervenor-Defendants are without sufficient information to form a belief as to  
22 the truth or falsity of the allegations in Paragraph 75 of the Verified Complaint, and  
23 therefore deny same.

24          76. Intervenor-Defendants are without sufficient information to form a belief as to  
25 the truth or falsity of the allegations in Paragraph 76 of the Verified Complaint, and  
26 therefore deny same.



1           77. Intervenor-Defendants are without sufficient information to form a belief as to  
2 the truth or falsity of the allegations in Paragraph 77 of the Verified Complaint, and  
3 therefore deny same.

4           78. Intervenor-Defendants are without sufficient information to form a belief as to  
5 the truth or falsity of the allegations in Paragraph 78 of the Verified Complaint, and  
6 therefore deny same.

7           79. Intervenor-Defendants are without sufficient information to form a belief as to  
8 the truth or falsity of the allegations in Paragraph 79 of the Verified Complaint, and  
9 therefore deny same.

10          80. Intervenor-Defendants are without sufficient information to form a belief as to  
11 the truth or falsity of the allegations in Paragraph 80 of the Verified Complaint, and  
12 therefore deny same.

13          81. Intervenor-Defendants are without sufficient information to form a belief as to  
14 the truth or falsity of the allegations in Paragraph 81 of the Verified Complaint, and  
15 therefore deny same.

16          82. Intervenor-Defendants are without sufficient information to form a belief as to  
17 the truth or falsity of the allegations in Paragraph 82 of the Verified Complaint, and  
18 therefore deny same.

19          83. Intervenor-Defendants are without sufficient information to form a belief as to  
20 the truth or falsity of the allegations in Paragraph 83 of the Verified Complaint, and  
21 therefore deny same.

22          84. Intervenor-Defendants admit the allegations in Paragraph 84 of the Verified  
23 Complaint.

24          85. Intervenor-Defendants admit the allegations in Paragraph 85 of the Verified  
25 Complaint, except that they deny that the quoted language from the 1912 constitution is a  
26 “key qualifier.”

27          86. Intervenor-Defendants deny the allegations in Paragraph 86 of the Verified  
28 Complaint.

1           87. Intervenor-Defendants are without sufficient information to form a belief as to  
2 the truth or falsity of the allegations in Paragraph 87 of the Verified Complaint, and  
3 therefore deny same.

4           88. Intervenor-Defendants deny the allegations in Paragraph 88 of the Verified  
5 Complaint.

6           89. Intervenor-Defendants admit that Article 4, Section 1 of the Arizona  
7 Constitution contains the language quoted in Paragraph 89 of the Verified Complaint,  
8 without added emphasis. Intervenor-Defendants otherwise deny the allegations in  
9 Paragraph 89 of the Verified Complaint.

10          90. Intervenor-Defendants admit that the phrase “at the polls” appears in  
11 subsections (1), (3), and (15) of Article 4, Section 1 of the Arizona Constitution. Intervenor-  
12 Defendants otherwise deny the allegations in Paragraph 90 of the Verified Complaint.

13          91. Intervenor-Defendants deny the allegations in Paragraph 91 of the Verified  
14 Complaint.

15          92. Intervenor-Defendants admit that the language quoted in Paragraph 92 appears  
16 in the Arizona Supreme Court’s decision in *Allen v. State*, 14 Ariz. 458 (1913). Intervenor-  
17 Defendants otherwise deny the allegations in Paragraph 154 of the Verified Complaint.

18          93. Intervenor-Defendants deny the allegations in Paragraph 93 of the Verified  
19 Complaint.

20          94. Paragraph 94 of the Verified Complaint states a conclusion of law to which no  
21 response is required. To the extent that a response to is called for, Intervenor-Defendants  
22 deny the allegations in Paragraph 94 of the Verified Complaint.

23          95. Intervenor-Defendants deny the allegations in Paragraph 95 of the Verified  
24 Complaint.

25          96. Intervenor-Defendants are without sufficient information to form a belief as to  
26 the truth or falsity of the allegations in Paragraph 96 of the Verified Complaint, and  
27 therefore deny same.

1           97. Intervenor-Defendants are without sufficient information to form a belief as to  
2 the truth or falsity of the allegations in Paragraph 97 of the Verified Complaint, and  
3 therefore deny same.

4           98. Intervenor-Defendants deny the allegations in Paragraph 98 of the Verified  
5 Complaint.

6                   **ARIZONA’S SYSTEM OF NO-EXCUSE MAIL-IN VOTING IS**  
7                   **UNCONSTITUTIONAL ON ITS FACE. ARIZONA CONSTITUTIONAL**  
8                   **PROVISIONS—BY THEIR PLAIN MEANING, HISTORY, AND INITIAL**  
9                   **PRINCIPLES—REQUIRE IN-PERSON VOTING AT THE POLLS ON A**  
                    **SPECIFIC DAY.**

10           99. Intervenor-Defendants incorporate by reference each of their preceding  
11 admissions, denials, and statements as if fully set forth in this paragraph.

12           100. Intervenor-Defendants are without sufficient information to form a belief as to  
13 the truth or falsity of the allegations in Paragraph 100 of the Verified Complaint, and  
14 therefore deny same.

15           101. Intervenor-Defendants are without sufficient information to form a belief as to  
16 the truth or falsity of the allegations in Paragraph 101 of the Verified Complaint, and  
17 therefore deny same.

18           102. Intervenor-Defendants deny the allegations in Paragraph 102 of the Verified  
19 Complaint.

20           103. Intervenor-Defendants deny the allegations in Paragraph 103 of the Verified  
21 Complaint.

22                   **ARIZ. CONST. ART. 4, § 1**

23           104. Intervenor-Defendants incorporate by reference each of their preceding  
24 admissions, denials, and statements as if fully set forth in this paragraph.

25           105. Paragraph 105 of the Verified Complaint states a legal conclusion to which no  
26 response is required. To the extent a response is called for, Intervenor-Defendants deny the  
27 allegations in Paragraph 105 of the Verified Complaint.

1           106. Intervenor-Defendants admit that the phrase “at the polls” appears in  
2 subsections (1), (3), and (15) of Article 4, Section 1 of the Arizona Constitution. Intervenor-  
3 Defendants otherwise deny the allegations in Paragraph 106 of the Verified Complaint.

4           107. Paragraph 107 of the Verified Complaint states a legal conclusion to which no  
5 response is required. To the extent a response is called for, Intervenor-Defendants deny the  
6 allegations in Paragraph 107 of the Verified Complaint.

7           108. Intervenor-Defendants deny the allegations in Paragraph 108 of the Verified  
8 Complaint.

9           109. Intervenor-Defendants deny the allegations in Paragraph 109 of the Verified  
10 Complaint.

11           110. Intervenor-Defendants admit that the quoted language appears in Article 20,  
12 § 9 and Article 5, § 1 of the Arizona Constitution. Intervenor-Defendants otherwise deny  
13 the allegations in Paragraph 110 of the Verified Complaint.

14           111. Intervenor-Defendants admit that the quoted language appears in Article 6, §§  
15 23 and 37 of the Arizona Constitution. Intervenor-Defendants otherwise deny the  
16 allegations in Paragraph 111 of the Verified Complaint.

17           112. Intervenor-Defendants are without sufficient information to form a belief as to  
18 the truth or falsity of the allegations in Paragraph 112 of the Verified Complaint, and  
19 therefore deny same.

20           113. Paragraph 113 of the Verified Complaint states a legal conclusion to which no  
21 response is required. To the extent a response is called for, Intervenor-Defendants deny the  
22 allegations in Paragraph 113 of the Verified Complaint.

23           114. Intervenor-Defendants deny the allegations in Paragraph 114 of the Verified  
24 Complaint.

25           115. Paragraph 115 of the Verified Complaint states a legal conclusion to which no  
26 response is required. To the extent a response is called for, Intervenor-Defendants deny the  
27 allegations in Paragraph 115 of the Verified Complaint.

1           116. Paragraph 116 of the Verified Complaint states a legal conclusion to which no  
2 response is required.

3           117. Paragraph 117 of the Verified Complaint states a legal conclusion to which no  
4 response is required.

5           118. Paragraph 118 of the Verified Complaint states a legal conclusion to which no  
6 response is required.

7           119. Paragraph 119 of the Verified Complaint states a legal conclusion to which no  
8 response is required.

9           120. Intervenor-Defendants deny the allegations in Paragraph 120 of the Verified  
10 Complaint.

11           121. Paragraph 121 of the Verified Complaint states a legal conclusion to which no  
12 response is required. To the extent a response is called for, Intervenor-Defendants deny the  
13 allegations in Paragraph 121 of the Verified Complaint.

14           122. Intervenor-Defendants admit that the constitutional provisions referenced in  
15 Paragraph 122 of the Verified Complaint were adopted contemporaneously. Otherwise,  
16 Paragraph 122 of the Verified Complaint states a legal conclusion to which no response is  
17 required. To the extent a response is called for, Intervenor-Defendants deny the remaining  
18 allegations in Paragraph 122 of the Verified Complaint.

19           123. Intervenor-Defendants admit that the phrase “at the polls” appears in multiple  
20 places in the Arizona Constitution. Intervenor-Defendants otherwise deny the allegations in  
21 Paragraph 123 of the Verified Complaint.

22           124. Intervenor-Defendants admit that the quoted language appears in Article 7,  
23 § 14 of the Arizona Constitution. Intervenor-Defendants otherwise deny the allegations in  
24 Paragraph 124 of the Verified Complaint.

25           125. Paragraph 125 of the Verified Complaint states a legal conclusion to which no  
26 response is required. To the extent a response is called for, Intervenor-Defendants deny the  
27 allegations in Paragraph 125 of the Verified Complaint.

126. Paragraph 126 of the Verified Complaint states a legal conclusion to which no response is required. To the extent a response is called for, Intervenor-Defendants deny the allegations in Paragraph 126 of the Verified Complaint.

127. Paragraph 127 of the Verified Complaint states a legal conclusion to which no response is required. To the extent a response is called for, Intervenor-Defendants deny the allegations in Paragraph 127 of the Verified Complaint.

128. Intervenor-Defendants admit that Article 2, § 21 of the Arizona Constitution is not found in Article 7 of the Arizona Constitution. Intervenor-Defendants otherwise deny the allegations in Paragraph 128 of the Verified Complaint.

**ARIZ. CONST. ART. 7, § 1**

129. Intervenor-Defendants incorporate by reference each of their preceding admissions, denials, and statements as if fully set forth in this paragraph.

130. Paragraph 130 of the Verified Complaint states a legal conclusion to which no response is required. To the extent a response is called for, Intervenor Defendants admit that the quoted language appears in Article 7, § 1 of the Arizona Constitution, and otherwise deny the allegations in Paragraph 130 of the Verified Complaint.

131. Intervenor Defendants admit that Article 7, §1 of the Arizona Constitutions includes the quoted language without emphasis. Intervenor-Defendants otherwise deny the allegations in Paragraph 131 of the Verified Complaint.

132. Intervenor-Defendants deny the allegations in Paragraph 132 of the Verified Complaint.

133. Intervenor-Defendants deny the allegations in Paragraph 133 of the Verified Complaint.

134. Intervenor-Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 134 of the Verified Complaint, and therefore deny the same.

135. Intervenor-Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 135 of the Verified Complaint, and therefore deny the same.

136. Paragraph 136 of the Verified Complaint states a legal conclusion to which no response is required. To the extent a response is called for, Intervenor-Defendants deny the allegations in Paragraph 136 of the Verified Complaint.

137. Intervenor-Defendants admit that Arizona’s Federal Write-in Absentee Ballot Transmission Cover Sheet for emailed, faxed, or uploaded ballots includes a “secrecy waiver.” Intervenor-Defendants otherwise deny the allegations in Paragraph 137 of the Verified Complaint.

138. Intervenor-Defendants deny the allegations in Paragraph 138 of the Verified Complaint.

ARIZ. CONST. ART. 7, § 2

139. Intervenor-Defendants incorporate by reference each of their preceding admissions, denials, and statements as if fully set forth in this paragraph.

140. Intervenor-Defendants admit that the text quoted in Paragraph 140 of the Verified Complaint appears in Article 7, § 2 of the Arizona Constitution.

141. Paragraph 141 of the Verified Complaint states a legal conclusion to which no response is required. To the extent a response is called for, Intervenor-Defendants deny the allegations in Paragraph 141 of the Verified Complaint.

142. Paragraph 142 of the Verified Complaint states a legal conclusion to which no response is required. To the extent a response is called for, Intervenor-Defendants deny the allegations in Paragraph 142 of the Verified Complaint.

ARIZ. CONST. ART. 7, § 4

143. Intervenor-Defendants incorporate by reference each of their preceding admissions, denials, and statements as if fully set forth in this paragraph.

144. Intervenor-Defendants admit that the text quoted in Paragraph 144 of the Verified Complaint appears in Article 7, § 4 of the Arizona Constitution.

145. Paragraph 145 of the Verified Complaint states a legal conclusion to which no response is required. To the extent a response is called for, Intervenor-Defendants deny the allegations in Paragraph 145 of the Verified Complaint.

146. Paragraph 146 of the Verified Complaint states a legal conclusion to which no response is required. To the extent a response is called for, Intervenor-Defendants deny the allegations in Paragraph 146 of the Verified Complaint.

147. Intervenor-Defendants deny the allegations in Paragraph 147 of the Verified Complaint.

ARIZ. CONST. ART. 7, § 5

148. Intervenor-Defendants incorporate by reference each of their preceding admissions, denials, and statements as if fully set forth in this paragraph.

149. Intervenor-Defendants admit that the text quoted in Paragraph 149 of the Verified Complaint appears in Article 7, § 5 of the Arizona Constitution. Intervenor-Defendants otherwise deny the allegations in Paragraph 149 of the Verified Complaint.

150. Paragraph 150 of the Verified Complaint states a legal conclusion to which no response is required. To the extent a response is called for, Intervenor-Defendants deny the allegations in Paragraph 150 of the Verified Complaint.

151. Paragraph 151 of the Verified Complaint is a statement of Plaintiffs' subjective intent to which no response is required. Intervenor-Defendants otherwise deny the allegations in Paragraph 151 of the Verified Complaint.

**ARIZ. CONST. ART. 7, § 11**

152. Intervenor-Defendants incorporate by reference each of their preceding admissions, denials, and statements as if fully set forth in this paragraph.

153. Intervenor-Defendants admit that the text quoted in Paragraph 153 of the Verified Complaint appears in Article 7, § 11 of the Arizona Constitution. Intervenor-



1 Defendants deny that this provision is self-explanatory and that it mandates that the general  
2 election must take place on a specific day.

3 154. Paragraph 154 of the Verified Complaint states a legal conclusion to which no  
4 response is required. To the extent a response is called for, Intervenor-Defendants admit  
5 that the language quoted in Paragraph 154 appears in the Arizona Supreme Court's decision  
6 in *Sherman v. City of Tempe*, 202 Ariz. 339 (2002). Intervenor-Defendants otherwise deny  
7 the allegations in Paragraph 154 of the Verified Complaint.

8 155. Intervenor-Defendants admit that Arizona law allows electors to cast early  
9 ballots up to twenty-seven days before election day. Intervenor-Defendants otherwise deny  
10 the allegations in Paragraph 155 of the Verified Complaint.

11 **THE ABOVE CONSTITUTIONAL PROVISIONS SHOULD BE READ**  
12 **TOGETHER**

13 156. Intervenor-Defendants incorporate by reference each of their preceding  
14 admissions, denials, and statements as if fully set forth in this paragraph.

15 157. Paragraph 157 of the Verified Complaint states a legal conclusion to which no  
16 response is required. To the extent a response is called for, Intervenor-Defendants deny the  
17 allegations in Paragraph 157 of the Verified Complaint.

18 158. Paragraph 158 of the Verified Complaint states a legal conclusion to which no  
19 response is required. To the extent a response is called for, Intervenor-Defendants deny the  
20 allegations in Paragraph 158 of the Verified Complaint.

21 **THE FRAMERS' CONCERNS ARE RELEVANT IN THE MODERN ERA**

22 159. Intervenor-Defendants incorporate by reference each of their preceding  
23 admissions, denials, and statements as if fully set forth in this paragraph.

24 160. Paragraph 160 of the Verified Complaint states a legal conclusion to which no  
25 response is required. To the extent a response is called for, Intervenor-Defendants deny the  
26 allegations in Paragraph 160 of the Verified Complaint.

27 161. Intervenor-Defendants deny the allegations in Paragraph 161 of the Verified  
28 Complaint.

1           162. Intervenor-Defendants admit that the quoted text appears in the Report of the  
2 Commission on Federal Election Reform. Intervenor-Defendants otherwise deny the  
3 allegations in Paragraph 162 of the Verified Complaint.

4           163. Intervenor-Defendants deny the allegations in Paragraph 163 of the Verified  
5 Complaint.

6           164. Intervenor-Defendants deny the allegations in Paragraph 164 of the Verified  
7 Complaint.

8           165. Intervenor-Defendants deny the allegations in Paragraph 165 of the Verified  
9 Complaint.

10          166. Intervenor-Defendants deny the allegations in Paragraph 166 of the Verified  
11 Complaint.

12          167. Intervenor-Defendants admit that mail-in and early voting are the most popular  
13 and commonly used methods of voting in Arizona, and that the overwhelming majority of  
14 Arizonans vote early. Intervenor-Defendants are otherwise without sufficient information  
15 to form a belief as to the truth or falsity of the allegations in Paragraph 167 of the Verified  
16 Complaint and therefore deny same.

17          168. Intervenor-Defendants deny the allegations in Paragraph 68 of the Verified  
18 Complaint.

19          169. Intervenor-Defendants are without sufficient information to form a belief as to  
20 the truth or falsity of the allegations in Paragraph 169 of the Verified Complaint, and  
21 therefore deny same.

22          170. Paragraph 170 states Plaintiffs' subjective characterization of unspecified  
23 studies and no response is required. To the extent a response is called for, Intervenor-  
24 Defendants deny the allegations in Paragraph 170 of the Verified Complaint.

25          171. Intervenor-Defendants are without sufficient information to form a belief as to  
26 the truth or falsity of the allegations in Paragraph 171 of the Verified Complaint and  
27 therefore deny same.

1 172. Intervenor-Defendants are without sufficient information to form a belief as to  
2 the truth or falsity of the allegations in Paragraph 172 of the Verified Complaint and  
3 therefore deny same.

4 173. Intervenor-Defendants are without sufficient information to form a belief as to  
5 the truth or falsity of the allegations in Paragraph 173 of the Verified Complaint and  
6 therefore deny same.

7 174. Intervenor-Defendants are without sufficient information to form a belief as to  
8 the truth or falsity of the allegations in Paragraph 174 of the Verified Complaint and  
9 therefore deny same.

10 175. Intervenor-Defendants admit that the language quoted in Paragraph 175 of the  
11 Verified Complaint appears in the text of the U.S. Supreme Court's decision in *Brnovich v.*  
12 *Democratic National Committee*, 141 S. Ct. 2321 (2021). Intervenor-Defendants otherwise  
13 deny the allegations in Paragraph 175 of the Verified Complaint.

14 176. Intervenor-Defendants admit that the language quoted in Paragraph 176 of the  
15 Verified Complaint appears in the text of the Arizona Supreme Court's decision in *Miller*  
16 *v. Picacho Elementary School District No. 33*, 179 Ariz. 178, 180 (1994). Intervenor-  
17 Defendants otherwise deny the allegations in Paragraph 176 of the Verified Complaint.

18 177. Intervenor-Defendants admit that in November 2020, Maricopa County  
19 Recorder Adrian Fontes was enjoined from including a new overvote instruction with mail-  
20 in ballots. *See Ariz. Public Integrity All. v. Fontes*, 250 Ariz. 58 (2020). Intervenor-  
21 Defendants otherwise deny the allegations in Paragraph 177 of the Verified Complaint.

22 178. Intervenor-Defendants admit that, in 2020, a temporary restraining order was  
23 entered against Maricopa County Adrian Fontes preventing him from sending mail ballots  
24 to voters who had not requested them. Intervenor-Defendants otherwise deny the allegations  
25 in Paragraph 178 of the Verified Complaint.

26 179. Intervenor-Defendants are without sufficient information to form a belief as to  
27 the truth or falsity of the allegations in Paragraph 179 of the Verified Complaint and  
28 therefore deny same.

1           180. Intervenor-Defendants admit the allegations in Paragraph 180 of the Verified  
2 Complaint.

3           181. Intervenor-Defendants are without sufficient information to form a belief as to  
4 the truth or falsity of the allegations in Paragraph 181 of the Verified Complaint and  
5 therefore deny the same.

6           182. Intervenor-Defendants are without sufficient information to form a belief as to  
7 the truth or falsity of the allegations in Paragraph 182 of the Verified Complaint and  
8 therefore deny the same.

9           183. Intervenor-Defendants deny the allegations in Paragraph 183 of the Verified  
10 Complaint.

11           184. Intervenor-Defendants admit that certain requestors may request data on  
12 returned early ballots from the Maricopa County Recorder by submitting the appropriate  
13 form referenced in Paragraph 184 of the Verified Complaint. Intervenor-Defendants  
14 otherwise deny the allegations in Paragraph 184 of the Verified Complaint.

15           185. Intervenor-Defendants deny the allegations in Paragraph 185 of the Verified  
16 Complaint.

17           186. Intervenor-Defendants deny the allegations in Paragraph 186 of the Verified  
18 Complaint.

19           187. Intervenor-Defendants deny the allegations in Paragraph 187 of the Verified  
20 Complaint.

21           188. Intervenor-Defendants are without sufficient information to form a belief as to  
22 the truth or falsity of the allegations in Paragraph 188 of the Verified Complaint and  
23 therefore deny the same.

24           189. Intervenor-Defendants are without sufficient information to form a belief as to  
25 the truth or falsity of the allegations in Paragraph 189 of the Verified Complaint and  
26 therefore deny the same.

190. Intervenor-Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations in Paragraph 190 of the Verified Complaint and therefore deny the same.

## CONCLUSION

191. Intervenor-Defendants incorporate by reference each of their preceding admissions, denials, and statements as if fully set forth in this paragraph.

192. Intervenor-Defendants admit that the Arizona Constitution may be amended. Intervenor-Defendants otherwise deny the allegations in Paragraph 192 of the Verified Complaint.

193. Intervenor-Defendants deny the allegations in Paragraph 193 of the Verified Complaint insofar as Plaintiffs' understanding of the Arizona Constitution is incorrect as a matter of law.

194. Intervenor-Defendants deny the allegations in Paragraph 194 of the Amended Complaint insofar as Plaintiffs' understanding of the Arizona Constitution is incorrect as a matter of law.

195. Intervenor-Defendants deny the allegations in Paragraph 195 of the Verified Complaint.

196. Intervenor-Defendants deny the allegations in Paragraph 196 of the Verified Complaint.

197. Intervenor-Defendants deny the allegations in Paragraph 197 of the Verified Complaint insofar as Plaintiffs' understanding of the Arizona Constitution is incorrect as a matter of law.

## GENERAL DENIAL

198. Intervenor-Defendants deny each and every allegation expressly or impliedly contained in the Verified Complaint that is not otherwise expressly admitted herein.

## AFFIRMATIVE DEFENSES

199. Plaintiffs' claims are barred in whole or in part for failure to state a claim upon which relief can be granted.

1           200. Plaintiffs' claims are barred because the Court lacks subject matter  
2 jurisdiction.

3           201. Plaintiffs' claims are barred because Plaintiffs lack standing.

4           202. Plaintiffs' claims are barred because of improper venue.

5           203. Plaintiffs' claims are barred by the doctrine of laches.

6           204. Plaintiffs' claims are barred by the doctrine of unclean hands, estoppel, and  
7 waiver.

8           205. Intervenor-Defendants reserve the right to assert additional affirmative  
9 defenses, including, but not limited to, those set forth in Rule 8(d) of the Arizona Rules of  
10 Civil Procedure, as additional facts are discovered.

11  
12           WHEREFORE, having fully answered Plaintiff's Verified Complaint, Intervenor-  
13 Defendants pray for judgment as follows:

14           A. That judgment be entered in favor of Intervenor-Defendants and against  
15 Plaintiffs on Plaintiffs' Verified Complaint and that Plaintiffs take nothing thereby;

16           B. That Intervenor-Defendants be awarded their reasonable attorneys' fees and  
17 costs; and

18           C. For such other and further relief as the Court, in its inherent discretion, deems  
19 appropriate.

1 Dated: May 26, 2022

/s/ Daniel A. Arellano

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IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MOHAVE

ARIZONA REPUBLICAN PARTY, et al.,  
  
Plaintiffs,  
  
v.  
  
KATIE HOBBS, et al.,  
  
Defendants.

No. S-8015-CV-202200594

**MOTION TO INTERVENE**

(Assigned to the Honorable Lee F.  
Jantzen)

## INTRODUCTION

Plaintiffs' tortured reading of the Arizona Constitution has no merit and the relief sought would be disastrous for Arizona voters and the administration of Arizona elections. Plaintiffs claim that the Arizona Constitution contains an unspoken requirement that *all* votes must be cast in person, on the day of an election. Based on their ill-founded theory, Plaintiffs ask this Court to issue an extraordinary and entirely unprecedented order striking down, in its entirety, Arizona's decades-old system of early voting—whether voters cast their ballots in person or by mail. Compl. at ¶ 22. What's more, Plaintiffs seek preliminary injunctive relief to force this drastic change—which Arizona's present election system is not remotely equipped to manage—nearly six months into a major election year. *See* Mot. for Preliminary Injunction. There is no basis that would justify issuing any of the relief that Plaintiffs seek. In reality, what Plaintiffs are asking this Court to do is substitute Plaintiffs' policy judgment for that of the Legislature, in the process upending a critical mechanism for democratic participation that was duly established by the elected branches. But as Plaintiffs themselves acknowledge, policy concerns are better addressed “in the context of a public debate over a constitutional amendment.” Compl. at. ¶ 193.

Over 30 years ago, Arizona allowed all its voters to choose to exercise their voting rights using early voting, creating the modern early vote system. Since then, millions of Arizonans—including Plaintiff Kelli Ward—have participated in elections using some form of early ballot.<sup>1</sup> And, over time, it has become, by far, the most popular way to vote in Arizona. In the 2020 general election, nearly 90% of ballots cast were early votes. Compl. at ¶ 167. We are currently less than six months away from the next general election and about two months away from the August primary election. Approximately 75% of the state's active registered voters are on the “Active Early Voting List” (“AEVL”), which means they are expecting to be automatically sent a ballot-by-mail in advance of the election. For registered voters who have not signed up for the AEVL, the Secretary of State

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<sup>1</sup> *See* Secretary's Response to Petition for Special Action at 12, *Arizona Republican Party v. Hobbs*, No. CV-22-0048-SA (Ariz. Mar. 11, 2022).

1 began accepting one-time ballot-by-mail requests on May 1, 2022.<sup>2</sup> Those voters, too, will  
2 be relying on Arizona's long standing early voting system to participate in the election.

3 As Arizona's voters have become increasingly (and overwhelmingly) reliant upon  
4 early voting to exercise their right to vote, the state's election infrastructure has—not  
5 surprisingly—changed dramatically in kind, such that it now relies heavily upon millions  
6 of the State's voters using early and mail voting for the election system to function. And,  
7 during the same period, the number of voters in Arizona has dramatically increased: the  
8 state is now home to over four million registered voters. Arizona's election infrastructure  
9 is simply not capable of serving all the state's voters for in-person voting on a single day.  
10 Granting the relief that Plaintiffs request would be nothing short of catastrophic.

11 Among those severely and irreparably harmed would be hundreds of thousands of  
12 members and constituents of Proposed Intervenor-Defendants the Arizona Democratic  
13 Party ("ADP"), the DSCC and DCCC—which are the national Democratic Party  
14 committees dedicated to electing Democrats to the United States House and Senate—and  
15 the Democratic National Committee ("DNC") (together "Proposed Intervenors"), as well  
16 as Proposed Intervenors themselves. Proposed Intervenors meet the requirements for both  
17 intervention as of right and permissive intervention under Rule 24 of the Arizona Rules of  
18 Civil Procedure. There can be little doubt that they have a substantial and legally protectable  
19 interest in this matter. Proposed Intervenors seek intervention to protect the rights of their  
20 voters and constituents, as well as to protect the rights of their candidates and their own  
21 rights as political committees. Should any of the relief that Plaintiffs request be granted, it  
22 would mandate a sea change in how elections function in Arizona, requiring Proposed  
23 Intervenors to divert enormous resources to educating voters and assisting them in  
24 overcoming substantial burdens to successful participation in the franchise.

25 In this way, Proposed Intervenors' perspective differs markedly from that of the  
26 existing parties, such that the existing parties do not and cannot adequately represent  
27

---

28 <sup>2</sup> See Voter Registration Statistics – Jan. 2020, Ariz. Sec. of State, available at:  
<https://azsos.gov/elections/voter-registration-historical-election-data>.

1 Proposed Intervenors in this litigation. The Plaintiffs, of course, are Proposed Intervenors’  
2 political counterpart, the Arizona Republican Party, and its Chairwoman. And, if Plaintiffs  
3 are successful, voters who tend to associate more strongly with Proposed Intervenors,  
4 including Black, Hispanic, Native American, and young voters, are among those  
5 constituencies who are far more likely to have their voting rights severely impeded, and in  
6 some cases, effectively denied. This is particularly true of Native American voters living  
7 on reservations whose circumstances often require access to early and mail voting to  
8 participate in Arizona’s elections. Young voters who are away from home attending school,  
9 or truly any voter temporarily absent from their home on election day, would be left with  
10 no accessible means of voting, should Plaintiffs be successful in their challenge.

11 The Court should not permit Plaintiffs to attempt through this litigation to broadly  
12 restrict voting rights, threatening grave injury to Proposed Intervenors and their voters and  
13 constituents, without allowing Proposed Intervenors to defend those rights. The State and  
14 County Defendants presumably share the Proposed Intervenors’ goal of defending  
15 Arizona’s current system of election administration. But, as many courts have recognized,  
16 government officials represent their jurisdiction as a whole and have different interests than  
17 political parties. Among other things, the State and County Defendants do not involve  
18 themselves in substantial get-out-the-vote efforts; they do not support individual candidates  
19 or constituencies; and they do not have a stake in the ultimate outcomes of the elections that  
20 will be conducted under Plaintiffs’ proposed new rules.

21 For each of these reasons, discussed further below, Proposed Intervenors should be  
22 granted intervention as of right, or, in the alternative, permissive intervention.

### 23 **ARGUMENT**

24 Under Rule 24, a party is entitled to intervene when, on timely motion, a party  
25 “claims an interest relating to the subject of the action, and ... disposing of the action in the  
26 person’s absence may as a practical matter impair or impede the person’s ability to protect  
27 that interest, unless existing parties adequately represent that interest.” Ariz. R. Civ. P.  
28 24(a). Alternatively, intervention may be permitted where the motion is timely and a party



1 “has a claim or defense that shares with the main action a common question of law or fact.”  
2 Ariz. R. Civ. P. 24(b)(1). Rule 24 is a remedial rule that “should be construed liberally in  
3 order to assist parties seeking to obtain justice in protecting their rights.” *Dowling v. Stapley*,  
4 221 Ariz. 251, 270 ¶ 58 (App. 2009). Proposed Intervenor’s satisfy both standards and their  
5 motion to intervene should be granted. Consistent with Rule 24, Proposed Intervenor’s have  
6 attached a proposed answer as their “pleading in intervention.”<sup>3</sup> Ariz. R. Civ. P. 24(c).

7 **I. Proposed Intervenor’s are entitled to intervene as of right.**

8 Proposed Intervenor’s are entitled to intervene as of right under Rule 24(a). The Court  
9 must allow intervention where four elements are satisfied: “(1) the motion must be timely;  
10 (2) the applicant must assert an interest relating to the property or transaction which is the  
11 subject of the action; (3) the applicant must show that disposition of the action may impair  
12 or impede its ability to protect its interest; and (4) the applicant must show that the other  
13 parties would not adequately represent its interests.” *Woodbridge Structured Funding, LLC*  
14 *v. Ariz. Lottery*, 235 Ariz. 25, 28 ¶ 13 (App. 2014). Proposed Intervenor’s meet each of these  
15 requirements.

16 **A. The motion to intervene is timely.**

17 Proposed Intervenor’s timely filed this motion to intervene. Plaintiff’s filed this suit  
18 on Tuesday, May 17, 2022. Proposed Intervenor’s file this motion to intervene along with  
19 their proposed Answer on May 26, 2022—only nine days later. This motion comes a full  
20 week before the Court’s scheduled hearing on June 3, 2022; indeed, it comes before *any*  
21 responsive pleadings have been filed.

22 Timeliness under Rule 24 is “flexible” and the most important consideration “is  
23 whether the delay in moving for intervention will prejudice the existing parties to the case.”  
24 *Weaver v. Synthes, Ltd. (U.S.A.)*, 162 Ariz. 442, 446 (App. 1989). Here, granting the motion  
25 would not require altering any existing deadlines. Consistent with the deadline under the

26  
27 <sup>3</sup> While Rule 24 requires a “pleading,” Rule 12 requires that certain defenses be  
28 asserted by motion prior to a responsive pleading. Ariz. R. Civ. P. 12(b). Accordingly, if  
granted intervention, Proposed Intervenor’s intend to file a motion to dismiss prior to filing  
their proposed Answer.



1 Arizona Rules, Proposed Intervenor intend to file a response in opposition to the Plaintiff's  
2 Motion for Preliminary Injunction on June 1, 2022—well in advance of the June 6 deadline.  
3 Under these circumstances, Proposed Intervenor's motion is unquestionably timely.

4 **B. The disposition of this case will impair Proposed Intervenor's and their**  
5 **members' and constituents' abilities to protect their interests.**

6 Proposed Intervenor, their members, and their voters have important interests in  
7 preserving a predictable, fair, and equitable electoral environment. Plaintiff's claims  
8 concern how ballots will be cast and counted in all future elections in Arizona, threatening  
9 the fundamental right to vote for Proposed Intervenor's members and constituents. *See State*  
10 *v. Key*, 128 Ariz. 419, 421 (App. 1981). Further, the disposition of this matter will impact  
11 Proposed Intervenor's efforts to facilitate voting, engage Arizona voters, and support their  
12 candidates as they run for office to represent the people of Arizona. In short, this case  
13 threatens the predictability, equity, and ease of access to the ballot for Proposed Intervenor's  
14 members and constituents, as well as the electoral prospects of their candidates, and their  
15 core First Amendment voter engagement and associational efforts in Arizona. Further, if  
16 Plaintiff's requested relief were granted, Proposed Intervenor would be forced to expend  
17 substantial additional resources to ensure that their affiliated voters are able to cast their  
18 ballots through the limited avenues that would remain available to them. Those resources  
19 would accordingly no longer be available to Proposed Intervenor to further their mission  
20 in other critical ways, including through voter persuasion efforts. These interests are readily  
21 sufficient to merit intervention. *See, e.g., Maricopa Cty. Republican Party v. Reagan*, No.  
22 CV2018-013963 (Maricopa Cty. Super. Ct. Nov. 9, 2018) (granting intervention to political  
23 parties and other interested political actors in election dispute); *Mi Familia Vota v. Hobbs*,  
24 No. 20-cv-01903, ECF No. 5 (D. Ariz. Oct. 5, 2020) (granting intervention to political party  
25 in election dispute); *Issa v. Newsom*, No. 2:20-cv-01044-MCE-CKD, 2020 WL 3074351,  
26 at \*4 (E.D. Cal. June 10, 2020) (holding a political party has a "significant protectable  
27 interest" in intervening to defend its voters' interests in vote-by-mail and its own resources  
28 spent in support of vote-by-mail).

1 Fundamentally, Plaintiffs ask this Court to suddenly and severely restrict access to  
2 voting in Arizona, insisting that “Arizona’s post-1991 system of no-excuse mail-in voting  
3 is unconstitutional. It must be struck down.” Pet. at 9. In other words, the relief requested  
4 by Plaintiffs threatens to eliminate the most popular voting procedures available to Arizona  
5 electors, early voting and no-excuse mail-in voting. The impact of this cannot be overstated.  
6 Proposed Intervenorors have a direct and substantial interest in preserving Arizona’s existing  
7 election laws against this attack.

8 *First*, eliminating these procedures would severely burden voters in countless  
9 significant and, in many cases, insurmountable ways. Voters who relied on early voting to  
10 cast their ballots will no longer be able to do so; indeed, all of Arizona’s millions of voters  
11 would have to cast their ballots in person on election day. This would be impossible for  
12 many of Arizona’s voters—especially for those who lack access to reliable transportation,  
13 or those with inflexible schedules due to work or care obligations, not to mention any voter  
14 who is unavoidably out of town on election day. For those voters who are able to travel to  
15 the polls and vote in person on election day, they will encounter an election system that has  
16 been built on the presumption that the vast majority of the state’s voters will *not* appear to  
17 vote at the polls on election day. As a result, polling locations are not nearly as numerous  
18 as they would be in a system that was built for the dramatically different election system  
19 that Plaintiffs envision, and election administrators will be ill-equipped to manage the  
20 millions of voters who descend upon them to attempt to vote. The result will be punishingly  
21 long lines and other fundamental administration failures that will severely burden and  
22 disenfranchise countless more lawful voters, including many among Proposed Intervenorors’  
23 members and constituents. In Florida, a far more modest cutback on early voting than  
24 Plaintiffs seek here proved catastrophic for voters, resulting in devastating long lines at the  
25 polls.<sup>4</sup> In the general election conducted the following year, Florida had the nation’s longest  
26 wait times on Election Day, with some voters waiting four hours or more to cast a ballot.

27  
28 <sup>4</sup> See Michael C. Herron & Daniel A. Smith, *Souls to the Polls: Early Voting in Florida in the Shadow of House Bill 1355*, 11 Election L.J. 331, 332 (2012).

1 Experts concluded that many voters were unable to sustain such long wait times and were  
2 disenfranchised as a result.<sup>5</sup>

3 In Arizona, where the vast majority of the electorate relies on some form of early  
4 voting, the complete and sudden elimination of those procedures would be even worse.  
5 Given Arizona's unique topography and population distribution, some voters would be  
6 entirely unable to access the ballot. Others would be forced to travel hours only to stand in  
7 line for many more hours to attempt to vote. And because Plaintiffs' logic would require  
8 the elimination of early voting entirely, voters who are unable to physically appear at the  
9 polls for any reason would be entirely disenfranchised. Federal courts have repeatedly held  
10 that, where an action carries with it the prospect of disenfranchising a political party's  
11 members, the party has a cognizable interest at stake and may intervene to protect that  
12 interest. *See, e.g., Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 189 n.7 (2008);  
13 *Sandusky County Democratic Party v. Blackwell*, 387 F.3d 565, 573-74 (6th Cir. 2004)  
14 (holding the risk that some voters will be disenfranchised confers standing upon political  
15 parties and labor organizations). Proposed Intervenor more than clear that bar.

16 *Second*, as political party committees, Proposed Intervenor have a direct interest in  
17 their candidates' electoral prospects in Arizona. Because the elimination of early vote  
18 procedures would make it harder for Proposed Intervenor's members and constituents to  
19 successfully vote in Arizona's elections, the disposition of this matter threatens their  
20 electoral prospects, which provides an independent basis for intervention. In the related  
21 context of standing, federal courts have long held that political parties have standing to  
22 challenge changes to election laws "to prevent their opponent[s] from gaining an unfair  
23 advantage in the election process." *Owen v. Mulligan*, 640 F.2d 1130, 1133 (9th Cir. 1981);  
24 *see also Townley v. Miller*, 722 F.3d 1128, 1135-36 (9th Cir. 2013); *Drake v. Obama*, 664  
25 F.3d 774, 783 (9th Cir. 2011); *Pavek v. Donald J. Trump for President, Inc.*, 967 F.3d 905,  
26 97 (8th Cir. 2020); *Democratic Party v. Benkiser*, 459 F.3d 582, 586-87 (5th Cir. 2006).

27 <sup>5</sup> See U.S. Gov't Accountability Office, *Observations on Wait Times for Voters on*  
28 *Election Day 2012* (Sept. 2014) at 24, available at <https://www.gao.gov/assets/gao-14-850.pdf>.

1 The Ninth Circuit recently re-affirmed this principle, finding that, “being forced to compete  
2 under the weight of a state-imposed disadvantage” is sufficient to confer standing on  
3 political party entities. *Mecinas v. Hobbs*, 30 F.4th 890, 899 (9th Cir. 2022) (holding it was  
4 “error” for the district court to “decline[] to find competitive standing”).

5 *Finally*, eliminating early vote procedures would force Proposed Intervenor to  
6 expend substantial additional resources educating and mobilizing their voters, diverting  
7 those resources away from other mission-critical efforts. With the 2022 elections fast  
8 approaching, Proposed Intervenor would be forced to shift resources to voter outreach and  
9 education efforts aimed at ensuring their voters and members are aware of the dramatic  
10 departure from decades of prior practice and are prepared to endure long wait times on  
11 election day. And Proposed Intervenor’s voter mobilization efforts—typically conducted  
12 throughout the early vote period—would be compressed within the critical few days leading  
13 up to in-person voting on election day. This would require exponentially more volunteers  
14 and substantial and costly changes to the ways in which those programs are currently run,  
15 to ensure that as many as possible of Arizona’s millions of voters are able to access the polls  
16 in this extremely condensed timeframe. Those resources would no longer be available to  
17 the myriad other activities that Proposed Intervenor would ordinarily engage in during an  
18 election cycle, and in an election cycle, resources are truly finite, and the injury to Proposed  
19 Intervenor and their mission irreparable.

20 **C. Proposed Intervenor are not adequately represented in this case.**

21 The interests of Proposed Intervenor are not adequately represented by the parties  
22 participating in this case. Proposed Intervenor’s particular interests in this case—fielding  
23 successful candidates in the 2022 Election, efficiently using limited resources in  
24 competitive elections, and ensuring that as many of their voters can vote as possible—is  
25 also not shared by the Secretary, the State of Arizona, or any of the county officials named  
26 as Defendants. Because the State Defendants “must represent the interests of all people in  
27 Arizona,” they cannot give Proposed Intervenor or their members’ interests “the kind of  
28 primacy” that Proposed Intervenor will. *Planned Parenthood Arizona, Inc. v. Am. Ass’n of*

1 *Pro-Life Obstetricians & Gynecologists*, 227 Ariz. 262, 279, 257 P.3d 181, 198 (App. 2011)  
2 (permitting adversely affected groups to intervene in defense of a challenged statute).  
3 County defendants are similarly entrusted with a general obligation to their respective  
4 residents—not a particular competitive interest in fielding candidates or mobilizing voters.

5 Recognizing this, courts have consistently permitted political parties to intervene in  
6 cases involving election administration even where government officials are named as  
7 defendants—including in Arizona. *See, e.g., Maricopa Cnty. Republican Party*, No.  
8 CV2018-013963 (Maricopa Cnty. Super. Ct. Nov. 9, 2018); *Mi Familia Vota*, No. 20-cv-  
9 01903, ECF No. 5 (D. Ariz. Oct. 5, 2020); *see also Issa v. Newsom*, No. 2:20-cv-01044-  
10 MCE-CKD, 2020 WL 3074351, at \*4 (E.D. Cal. June 10, 2020) (“While [government]  
11 Defendants’ arguments turn on their inherent authority as state executives and their  
12 responsibility to properly administer election laws, Proposed [political party] Intervenors  
13 are concerned with ensuring their party members and the voters they represent have the  
14 opportunity to vote in the upcoming federal election, advancing their overall electoral  
15 prospects, and allocating their limited resources to inform voters about the election  
16 procedures.”).

17 **II. In the alternative, Proposed Intervenors should be granted permissive**  
18 **intervention.**

19 Even if the Court were to find that Proposed Intervenors are not entitled to  
20 intervention as of right, they should be granted permissive intervention because they have  
21 “a claim or defense that shares with the main action a common question of law and fact.”  
22 Ariz. R. Civ. P. 24(b)(1). When this standard is met, Arizona courts may consider other  
23 factors to decide whether to grant permissive intervention, including: (1) “the nature and  
24 extent of the intervenors’ interest,” (2) “their standing to raise relevant legal issues,” (3)  
25 “the legal position they seek to advance, and its probable relation to the merits of the case,”  
26 (4) “whether the intervenors’ interests are adequately represented by other parties,” (5)  
27 “whether intervention will prolong or unduly delay the litigation,” and (6) “whether parties  
28 seeking intervention will significantly contribute to full development of the underlying



1 factual issues in the suit and to the just and equitable adjudication of the legal questions  
2 presented.” *Bechtel v. Rose*, 150 Ariz. 68, 72 (1986). Like Rule 24(a), Rule 24(b) should  
3 be liberally construed. *Id.* Here, each factor weighs in favor of permitting Proposed  
4 Intervenor’s permissive intervention. *Cf. Ariz. Democratic Party v. Hobbs*, No. 2:20-cv-  
5 01143-DLR, ECF No. 60 (D. Ariz. June 26, 2020) (granting permissive intervention to  
6 political party entities).

7 *First*, Proposed Intervenor’s have a distinct interest in enabling their members and  
8 constituents to continue utilizing the voting procedures to which they are accustomed, and  
9 in avoiding the diversion of resources to last-minute efforts to help voters cast their ballots  
10 through severely restricted means. As noted above, the changes would be so drastic—and  
11 fall so hard on particular Arizona communities within Proposed Intervenor’s  
12 constituency—that they would effectively nullify the rights of some voters entirely. *Second*,  
13 Proposed Intervenor’s oppose the issue at the very heart of this case: contrary to Plaintiffs’  
14 claims, the voting procedures upon which Arizona voters have come to rely are entirely  
15 permissible under the Arizona Constitution and Arizona law. *Third*, Proposed  
16 Intervenor’s interests are distinct from those of other parties, as they represent both their  
17 organizational interests and the interests of individual voters who rely on early voting and  
18 have interests distinct from those of the state. *Fourth*, Proposed Intervenor’s seek  
19 intervention promptly, along with their concurrently filed proposed Answer, and thus their  
20 intervention will not delay the proceedings. *Lastly*, Proposed Intervenor’s will contribute to  
21 the full factual development of this case because they can present evidence regarding the  
22 impact on voters, candidates, and organizational efforts to encourage Arizonans to vote.

23 Because Rule 24 is liberally construed to protect the rights of all interested parties,  
24 the Court should permit intervention in this case.

### 25 CONCLUSION

26 For these reasons, the Arizona Democratic Party, DSCC, DCCC, and DNC request  
27 that the Court grant their Motion to Intervene and participate in these proceedings as  
28 Defendants.

1 Dated: May 26, 2022

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 26th day of May, 2022, I electronically transmitted a PDF version of this document to the Office of the Clerk of the Superior Court, Mohave County, for filing using the AZTurboCourt System. I further certify that a copy of the foregoing was sent via email this same date to:

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