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16 UNITED STATES DISTRICT COURT  
17 DISTRICT OF ARIZONA

18  
19 Arizona Alliance for Retired Americans,  
et al.,

20 Plaintiffs,

21 v.

22  
23 Katie Hobbs, in her official capacity as  
Secretary of State for the State of Arizona,  
24 et al.,

25 Defendants.

No. CV-22-1374-PHX-GMS

**PLAINTIFFS' OPPOSITION TO  
MOTION TO INTERVENE**

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**Cases**

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**Other Authorities**

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1 **INTRODUCTION**

2 Plaintiffs Arizona Alliance for Retired Americans (“Arizona Alliance”), Voto  
3 Latino, and Priorities USA (“Priorities”) oppose the Yuma County Republican  
4 Committee’s (“YCRC”) Motion to Intervene (ECF No. 49, the “Motion”). For the reasons  
5 set forth below, Plaintiffs respectfully request that the Court deny the Motion.

6 **BACKGROUND**

7 YCRC falls far short of meeting its burden to demonstrate that intervention as of  
8 right is justified in this case. First and foremost, YCRC fails to demonstrate that it has a  
9 significantly protectable interest warranting intervention, much less any purported interest  
10 that could be impaired by the disposition of this action. YCRC relies instead on  
11 undifferentiated interests regarding election integrity, the orderly administration of  
12 elections, and the need to ensure only “qualified” voters vote in local Yuma County  
13 elections. But generalized interests such as these fail to satisfy the intervention  
14 requirements of Rule 24(a)(2). Second, YCRC fails to establish that the Attorney General  
15 does not adequately represent its interests.<sup>1</sup> In cases where a potential intervenor seeks to  
16 enter on the side of government officials, there is a strong presumption that the party’s  
17 interests are represented absent a “very compelling showing” to the contrary. Here, YCRC  
18 and the Attorney General seek the same “ultimate objective”—upholding SB 1260—and  
19 nothing in YCRC’s motion suggests that the Attorney General is incapable of, or unwilling  
20 to, defend this litigation.

21 The Court should also deny YCRC’s request for permissive intervention. YCRC  
22 fails to show any interest demonstrating independent grounds for jurisdiction—a threshold  
23 requirement for permissive intervention. And, as noted above, YCRC also fails to  
24 overcome the strong presumption that the Attorney General can adequately represent its  
25 purported interests, which vitiates its case for intervention. Permissive intervention will

26 \_\_\_\_\_  
27 <sup>1</sup> On September 14, 2022, all of the County Recorder Defendants stipulated to nominal  
28 party status, and during a status conference on September 14, 2022, the Secretary of State  
similarly asserted nominal party status in this case.

1 also inevitably delay these time-sensitive proceedings and increase litigation costs, with  
2 little countervailing benefits. And granting political actors such as YCRC intervention in a  
3 case such as this will inevitably introduce “unnecessary partisan politics into an otherwise  
4 nonpartisan legal dispute.” *Miracle v. Hobbs*, 333 F.R.D. 151, 156 (D. Ariz. 2019)  
5 (quotation omitted). This consideration, taken along with all the other reasons already  
6 discussed, strongly counsels against granting intervention here.

### 7 LEGAL STANDARD

8 To intervene as of right pursuant to Rule 24(a)(2), YCRC must file a timely motion  
9 and demonstrate that: (1) it has a “significantly protectable” interest in this action; (2)  
10 disposition of the action may impair or impede its ability to protect that interest; and (3) its  
11 purported interest must be inadequately represented by the parties to the action. *Sw. Ctr.*  
12 *for Biological Diversity v. Berg*, 268 F.3d 810, 817 (9th Cir. 2001). As the party seeking  
13 to intervene, YCRC “bears the burden of showing that *all* the requirements for intervention  
14 have been met.” *United States v. Alisal Water Corp.*, 370 F.3d 915, 919 (9th Cir. 2004).  
15 “Failure to satisfy any one of the requirements is fatal to the application.” *Perry v.*  
16 *Proposition 8 Off. Proponents*, 587 F.3d 947, 950 (9th Cir. 2009).

17 To seek permissive intervention pursuant to Rule 24(b), YCRC must file a timely  
18 motion and demonstrate: (1) independent grounds for jurisdiction and (2) that its claims  
19 share a question of law or fact with the main action. *See S. Cal. Edison Co. v. Lynch*, 307  
20 F.3d 794, 803 (9th Cir. 2002). But “[e]ven if an applicant satisfies those threshold  
21 requirements, the district court has discretion to deny permissive intervention.” *Donnelly*  
22 *v. Glickman*, 159 F.3d 405, 412 (9th Cir. 1998). “In exercising its discretion, the court must  
23 [also] consider whether the intervention will unduly delay or prejudice the adjudication of  
24 the original parties’ rights.” Fed. R. Civ. P. 24(b)(3).

### 25 ARGUMENT

#### 26 I. YCRC is not entitled to intervene as of right.

27 YCRC fails to meet its burden in showing that it has met all the requirements for  
28

1 intervention as of right. YCRC has no significantly protectable interest in this action; the  
2 disposition of Plaintiffs' claims would not impede or impair YCRC's ability to protect the  
3 interests it alleges; and YCRC's interests are adequately represented by the parties to this  
4 litigation. For all these reasons, the Court should deny YCRC's request to intervene as of  
5 right pursuant to Rule 24(a)(2).

6 **A. YCRC fails to show that it has a significantly protectable interest that**  
7 **warrants intervention.**

8 YCRC's generalized interest in "[e]nsuring that Yuma County elections are limited  
9 to voters qualified to vote in Yuma County," Mot. at 4 (capitalizations removed), is  
10 insufficient for intervention as of right. Intervention as of right is reserved for parties that  
11 demonstrate a direct and significant interest in an action. *Cal. ex rel. Lockyer v. United*  
12 *States*, 450 F.3d 436, 441 (9th Cir. 2006). That interest must be particular to the movant  
13 and cannot be "generalized" or "undifferentiated." *Id.*; see also *Miracle*, 333 F.R.D. at 155  
14 ("The Court is similarly unmoved by the highly generalized argument that Proposed  
15 Intervenors have an interest in upholding the constitutionality of the" challenged law);  
16 *United States v. Arizona*, No. CV 10-1413-PHX-SRB, 2010 WL 11470582, at \*3 (D. Ariz.  
17 Oct. 28, 2010) (finding that movant did not have direct and specific interest in the litigation  
18 in part because his "expressed interest [was] general" and "shared by many other citizens  
19 of the state of Arizona").

20 But YCRC's asserted interests are precisely that: generalized and undifferentiated.  
21 An "interest in fair election laws," Mot. at 5, is not unique to YCRC. Nor is ensuring that  
22 only qualified voters vote in Yuma County—an interest undoubtedly "shared by many  
23 other citizens of [Yuma County]." *Arizona*, 2010 WL 11470582, at \*3. YCRC's status as  
24 a political party organization, moreover, does not transform its generic interests into direct,  
25 significant, or substantial ones. Courts across the country have rejected the assertion that  
26 mere status as a political party entitles a movant to intervene in litigation challenging  
27  
28

1 election laws.<sup>2</sup> Instead, a political party, like any other litigant seeking intervention, must  
2 show that it meets the standard for intervention as of right under Rule 24(a)(2), and the  
3 cases cited by YCRC only support that principle. For example, in *La Union del Pueblo*  
4 *Entero v. Abbott* (“LUPE”), the court granted intervention after it found that the interest  
5 requirement was satisfied because the putative-intervenor expended “significant resources”  
6 to recruit and train volunteers, and the law at issue regulated the conduct of those  
7 volunteers. 29 F.4th 299, 306 (5th Cir. 2022). Similarly, in *Thomas v. Andino*, the court  
8 found a direct interest where the putative-intervenor was tasked with “handling protest  
9 hearings stemming from election contests and deciding these cases,” and the laws at issue  
10 would significantly affect those hearings. 335 F.R.D. 364, 370 (D.S.C. 2020). And in *Issa*  
11 *v. Newsom*, the court granted intervention because success on plaintiffs’ claims would  
12 require the intervening political party to “devote their limited resources to educating their  
13 members on California’s current voting-by-mail system and assisting those members with  
14 the preparation of applications to vote by mail.” No. 220CV01044MCECKD, 2020 WL  
15 3074351, at \*3 (E.D. Cal. June 10 2020). .

16 YCRC, by contrast, makes no attempt to explain how enjoining SB 1260—and thus  
17 preserving the status quo in Arizona—will require it to expend resources, overhaul its  
18 activities, or otherwise affect it in any “direct,” “significant,” or “substantial” way. *Cal. ex*

19 \_\_\_\_\_  
20 <sup>2</sup> See, e.g., *Feehan v. Wis. Elections Comm’n*, No. 20-CV-1771-PP, 2020 WL 7182950, at  
21 \*2 (E.D. Wis. Dec. 6, 2020) (denying Democratic National Committee’s motion to  
22 intervene); *Yazzie v. Hobbs*, No. CV-20-08222-PCT-GMS, 2020 WL 8181703, at \*3, \*4  
23 (D. Ariz. Sept. 16, 2020) (denying Republican Party’s motion to intervene in voting rights  
24 case); *Common Cause R.I. v. Gorbea*, No. 1:20-cv-00318-MSM-L7DA, 2020 WL  
25 4365608, at \*3 n.5 (D.R.I. July 30, 2020) (explaining a previous denial of a motion to  
26 intervene by the Republican National Committee and Rhode Island Republican Party);  
27 *Democracy N.C. v. N.C. State Bd. of Elections*, No. 1:20CV457, 2020 WL 6591397, at \*1  
28 (M.D.N.C. June 24, 2020) (denying Republican National Committee and North Carolina  
Republican Party’s motion to intervene in voting rights case); *One Wis. Inst., Inc. v. Nichol*,  
310 F.R.D. 394, 399 (W.D. Wis. 2015) (denying intervention to Republican officials and  
voters); *Am. Ass’n of People with Disabilities v. Herrera*, 257 F.R.D. 236, 259 (D.N.M.  
2008) (denying intervention motions by Republican entities seeking to defend restrictive  
election law).

1 *rel. Lockyer*, 450 F.3d at 441 (quotations omitted). YCRC’s broad asserted interest in the  
2 state’s election laws and election integrity is insufficient to satisfy requirements under Rule  
3 24(a)(2), notwithstanding its status as a political party organization.

4 Relatedly, YCRC is not entitled to intervention just because YCRC supports  
5 candidates running for office in Yuma County. *See* Mot. at 5. If that were true, then political  
6 parties would always be granted intervention. YCRC merely contends that, with respect to  
7 its candidates, it has an “interest in ensuring that Yuma County elections are not affected  
8 by votes cast by individuals who are not currently residing in the county.” *Id.* But this is  
9 just another generalized interest shared by all third parties. *Id.* at 7. It is “not the  
10 particularized interest that can form the basis of intervention.” *Am. Ass’n of People With*  
11 *Disabilities v. Herrera*, 257 F.R.D. 236, 257–58 (D.N.M. 2008).

12 Additionally, YCRC’s reliance on *American Association of People with Disabilities*  
13 *v. Herrera* is misplaced. First of all, while it is true that the court found that the Republican  
14 Party of New Mexico had a protectable interest related to the subject matter of that case,  
15 the party was ultimately denied intervention because the existing defendant adequately  
16 represented its interests. In addition, the party’s legally protectable interest was very  
17 specific: the political party had a “concrete interest” in the challenged law’s effect on its  
18 “efforts for its candidates”; by contrast, the party’s “generalized interest in fair election[s]”  
19 was not protectable. *Id.* at 257–58. Here, YCRC makes the cursory assertion that “[i]t  
20 registers voters and assists candidates in their campaign communication, strategy, and  
21 planning efforts.” Mot. at 3. But it nowhere explains how SB 1260 impacts those activities  
22 in any direct, significant, or substantial way. YCRC does not indicate whether it is currently  
23 running any candidates in Yuma County and makes no attempt to explain how SB 1260 is  
24 connected in any way to its specific activities related to its candidates. Rather, it claims a  
25 general interest in maintaining election integrity, phrased in different ways throughout its  
26 brief as “[e]nsuring that Yuma County elections are limited to voters qualified to vote in  
27 Yuma County,” Mot. at 4 (capitalizations removed), having “fair election laws,” *id.* at 5,  
28 “ensuring that Yuma County elections are not affected by votes cast by individuals who

1 are not currently residing in the county,” *id.*, “ensuring that only qualified voters vote in  
2 Yuma County,” *id.* at 6, and “ensuring that only voters qualified to vote in Yuma County  
3 are registered and mobilized by the Plaintiff groups,” *id.* None of those purported interests  
4 are sufficient to support intervention.

5 YCRC contends that it is entitled to intervention to protect against Plaintiffs  
6 engaging in “mass voter registration and mobilization efforts, particularly for voters that  
7 are more likely to *not* reside in Arizona.” *Id.* at 6. But its entire premise is incorrect.  
8 Plaintiffs’ activities are focused on individuals who reside in Arizona and are eligible to  
9 vote there. The Arizona Alliance is an Arizona-based organization and naturally supports  
10 voter registration activities of “members that have moved *from* other states or counties” to  
11 Arizona. Am. Compl. ¶¶ 21, 24 (emphasis added). Similarly, Voto Latino has asserted that  
12 it “frequently engages with college students and new residents *of Arizona* during its voter  
13 education and mobilization efforts.” *Id.* ¶ 25 (emphasis added). And Priorities, too, has  
14 focused on mobilizing citizens “in Arizona” for “upcoming Arizona state and federal  
15 elections,” including targeting “young voters and voters who have recently moved” to the  
16 state of Arizona. *Id.* ¶ 27. It is nonsensical to suggest that the millions of dollars Priorities  
17 has spent on advocacy in Arizona is intended to target individuals *not residing* there. To  
18 the contrary, Plaintiffs have alleged that SB 1260 “directly harms Priorities by frustrating  
19 its mission and its efforts to educate, register, and turn out *Arizona voters*.” *Id.* ¶ 28  
20 (emphasis added).

21 Even so, the only logical means by which YCRC’s interests could be undermined  
22 by this litigation and Plaintiffs’ voter registration efforts is if YCRC has concluded that SB  
23 1260 is *more likely* to disenfranchise Democratic voters, and any damage caused to  
24 Republican voters and candidates is outweighed by the likelihood that Democrats will be  
25 disenfranchised. YCRC alludes to this when it asserts an interest in preventing Plaintiffs  
26 from registering voters who “will vote against YCRC candidates.” Mot. at 6. But an interest  
27 in *preventing* eligible Arizona voters from voting is not legally protectable. *See, e.g., Wise*  
28 *v. Circosta*, 978 F.3d 93, 100 (4th Cir. 2020). Accordingly, it cannot support YCRC’s

1 intervention.

2 In sum, none of YCRC's asserted interests support intervention as of right.

3 **B. YCRC fails to establish that its purported interests would be impaired**  
4 **by the Court's disposition of this action.**

5 As discussed above, YCRC fails to demonstrate a direct and significant interest in  
6 this action. Thus, "there can be no impairment of [its] ability to protect" its non-existent  
7 interests. *Herrera*, 257 F.R.D. at 252; *see also Arizona*, 2010 WL 11470582, at \*3 (holding  
8 that because a potential intervenor failed to establish a protectible interest, the impairment  
9 requirement for intervention was not met). But even if YCRC could demonstrate a  
10 significantly protectable interest, it still fails to establish that a "resolution of the  
11 plaintiff[s'] claims *actually will affect* the applicant." *S. Cal. Edison Co.*, 307 F.3d at 803  
12 (emphasis added).

13 YCRC asserts that invalidating SB 1260 would impair YCRC's interests in  
14 "preventing fraud," including ensuring that only qualified voters vote in Yuma County  
15 elections. Mot. at 7. But the only basis for YCRC's assertion about voter fraud is a single  
16 press release discussing investigations into *potential* cases of voting irregularity, which  
17 does not in any way demonstrate definitive findings of fraud in Yuma County. Mot. Ex. B  
18 at 1–3, ECF No. 49-2.<sup>3</sup> And of the examples provided in the Arizona Attorney General's  
19 list of prosecutions related to voting or elections submitted by YCRC, there are only two  
20 examples from Yuma County—and neither relates to issues involving voter registration,  
21 the subject of SB 1260. *Id.* at 7–11 ¶¶ 23, 29 (both instances involving "ballot harvesting").  
22 This lack of evidence is not surprising; study after study has demonstrated that voter fraud  
23

24 <sup>3</sup> YCRC submits what appear to be three separate documents in Exhibit B in support of its  
25 motion to intervene. Though "[c]ourts may take judicial notice of publications introduced  
26 to indicate what was in the public realm at the time," they may not take judicial notice of  
27 "whether the contents of those articles were in fact true." *Von Saher v. Norton Simon*  
28 *Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010) (citation omitted). Thus,  
the article reflected on pages 4–6 of Exhibit B cannot be used to demonstrate the existence  
of any voter registration issues or related investigations in Yuma County.

1 is vanishingly rare. *Cf. Buckley v. Am. Const. L. Found. Inc.*, 525 U.S. 182, 203–04 (1999)  
2 (concluding “absent evidence to the contrary,” it would be improper to assume that there  
3 is fraud in the ballot initiative circulation process) (citing *Meyer v. Grant*, 486 U.S. 414,  
4 426 (1988)). And more importantly, YCRC fails to explain how an injunction of SB 1260  
5 will have *any* tangible impact on YCRC’s ability to investigate what it believes to be issues  
6 with voter registration and duplicate voting. Whether this Court enjoins SB 1260 or not,  
7 YCRC will be free to engage in whatever investigations it so chooses.

8 YCRC also portends that invalidating SB 1260 will impact “voters’ perception  
9 about election integrity” and “chill qualified voters . . . from voting,” and YCRC’s voter  
10 registration efforts “will be impacted by the law.” Mot. at 7. But these are conclusory  
11 statements lacking any substantive support. YCRC does not explain how, if the Court were  
12 to decide the merits of this case in Plaintiffs’ favor, such resolution would lead to any of  
13 these ominous outcomes.<sup>4</sup> *See Sw. Ctr. for Biological Diversity*, 268 F.3d at 820 (courts  
14 may take allegations of a proposed intervenor’s interests as true, but the allegations must  
15 be “well-pleaded, nonconclusory allegations”); *Miracle*, 333 F.R.D. at 156 (finding  
16 proposed intervenors must do more than just “superficially” “allege” evidence in support  
17 of request to intervene). Because YCRC fails to make the necessary showing that its  
18 interests will be impaired by a judgment in Plaintiffs’ favor, YCRC’s motion for  
19 intervention as of right should be denied.

20 **C. YCRC fails to make the “compelling showing” required to rebut the**  
21 **presumption that the Government’s representation is adequate.**

22 YCRC cannot rebut the strong presumption that its interests are adequately  
23 represented by the existing Defendants, namely the Attorney General, in this case. In fact,

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24  
25 <sup>4</sup> To the extent YCRC implores the Court to consider its “local political perspective in  
26 making a decision that will have a significant impact on its local elections,” Mot. at 7, that  
27 perspective can be adequately provided in *amicus* briefing. Moreover, the relevant question  
28 for intervention is not whether YCRC has something to say about the eventual impact of  
this litigation writ large, but whether the resolution of this case concretely and substantially  
impacts YCRC.

1 YCRC fails to address the presumption at all. Citing out-of-circuit cases, YCRC contends  
2 that governmental entities cannot be assumed or found to adequately represent intervenors'  
3 interests. *See* Mot. at 7–8. But the opposite is true in the Ninth Circuit: “Where the party  
4 and the proposed intervenor share the same ‘ultimate objective,’ a presumption of adequacy  
5 of representation applies, and the intervenor can rebut that presumption *only* with a  
6 ‘compelling showing’ to the contrary.” *Perry*, 587 F.3d at 951 (quoting *Arakaki v.*  
7 *Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003)) (emphasis added). Courts consider three  
8 factors in assessing the moving party’s showing: (1) whether the interest of a present party  
9 is such that it will undoubtedly make all of a proposed intervenor’s arguments; (2) whether  
10 the present party is capable and willing to make such arguments; and (3) whether a  
11 proposed intervenor would offer any necessary elements to the proceeding that other  
12 parties would neglect. *Id.* at 952. A separate presumption of adequacy also applies when  
13 the government acts on behalf of its constituency. *Arakaki*, 324 F.3d at 1086; *United States*  
14 *v. City of L.A.*, 288 F.3d 391, 401 (9th Cir. 2002); *PEST Comm. v. Miller*, 648 F. Supp. 2d  
15 1202, 1212–14 (D. Nev. 2009). Absent a “*very* compelling showing to the contrary,” courts  
16 presume that a state adequately represents its citizens where the movant shares the same  
17 interest. *Arakaki*, 324 F.3d at 1086 (emphasis added) (citation omitted).

18 Here, YCRC’s ultimate objective, like the Attorney General’s, is to sustain SB 1260  
19 against Plaintiffs’ challenges. YCRC argues that Defendants, who are charged with  
20 administering the State’s election laws, do not have interests that match YCRC’s local  
21 political and party interests. Mot. at 8. But the ultimate-objective inquiry does not ask  
22 whether the parties’ motivations and interests are *identical* to the movant’s, only whether  
23 the party and movant *seek the same ultimate relief*. *See Freedom from Religion Found.,*  
24 *Inc. v. Geithner*, 644 F.3d 836, 841 (9th Cir. 2011) (finding same ultimate objective where  
25 defendants and proposed intervenor each sought to uphold constitutionality of challenged  
26 statutes). Without a doubt, both YCRC and the Attorney General share the same ultimate  
27 objective: for this Court to uphold SB 1260. Therefore, a presumption of adequacy exists.

28 YCRC also speculates that the Attorney General will not give YCRC’s interests the

1 “kind of primacy” as would YCRC, creating “a risk” that the Attorney General will not  
2 make the same arguments as YCRC, pursue appeals in the same manner, or seek to settle  
3 the case in a way that matches YCRC’s interests. Mot. at 9. YCRC fails, however, to  
4 articulate a single argument it intends to make if intervention is granted that it believes the  
5 Attorney General is unwilling or incapable of making itself. Mere potential disagreements  
6 over “the best way to approach litigation” are not enough to entitle a movant to intervene  
7 as of right. *Arizonans for Fair Elections v. Hobbs*, 335 F.R.D. 269, 275 (D. Ariz. 2020)  
8 (citation omitted); *see also id.* (rejecting speculation that existing defendant’s “substantive  
9 positions may be different,” where movants “fail[ed] to provide any examples of such  
10 differences”); *Miracle*, 333 F.R.D at 155–56 (citing *Arakaki*, 324 F.3d at 1086). Rather  
11 than articulate specific arguments, YCRC nebulously asserts that it “will . . . lean on” its  
12 own organizational experiences to provide its perspective. Mot. at 9. But it does not explain  
13 how its experiences will “offer any necessary elements” missing from these proceedings  
14 that the parties will neglect. *Miracle*, 333 F.R.D at 156 (citing *Arakaki*, 324 F.3d at 1086).  
15 Such superficial allegations fail to rebut the presumption of adequate representation. *See*  
16 *id.*

17 Because YCRC fails to make the necessary showing that its interests are not  
18 adequately protected by Defendants, YCRC’s motion for intervention as of right should be  
19 denied.

## 20 **II. The Court should deny YCRC’s motion for permissive intervention.**

21 The Court should also deny permissive intervention under Rule 24(b) because  
22 YCRC cannot show independent grounds for intervention. To demonstrate an entitlement  
23 to permissive intervention, YCRC must file a timely motion and demonstrate: (1)  
24 independent grounds for jurisdiction, and (2) that its claims share a question of law or fact  
25 with the main action. *Miracle*, 333 F.R.D. at 156. YCRC cannot demonstrate independent  
26 grounds for jurisdiction here because it fails to articulate how enjoining SB 1260 would  
27 cause it harm. As noted above, generalized interests are insufficient for intervention; a  
28

1 specific interest in preventing others from voting is not legally protectable; and YCRC has  
2 not asserted any other way in which an injunction here would significantly and directly  
3 injure it. *See supra* Sec. I.A–B. Absent some independent injury to non-generalized  
4 interests, YCRC is not entitled to permissive intervention in this case.

5       Regardless, *even if* the threshold requirements for permissive intervention are met,  
6 intervention should still be denied if the movant fails to overcome the strong presumption  
7 of adequate representation. In such circumstances, “the case for permissive intervention  
8 disappears.” *One Wis. Inst., Inc. v. Nichol*, 310 F.R.D. 394, 399 (W.D. Wis. 2015); *see also*  
9 *Perry*, 587 F.3d at 955 (holding district court properly denied permissive intervention  
10 where movants were adequately represented by existing parties). Because YCRC has failed  
11 to rebut the strong presumption that Defendants adequately represent its interests here, *see*  
12 *supra* Sec. I.C., the Court should deny YCRC permissive intervention.

13       Finally, equitable factors also counsel against intervention in this case. First, where  
14 “Defendant[s] seek[] the exact same objective as the . . . Movants,” intervention would  
15 merely serve to delay time-sensitive proceedings unnecessarily. *Yazzie v. Hobbs*, No. CV-  
16 20-08222-PCT-GMS, 2020 WL 8181703, at \*4 (D. Ariz. Sept. 16, 2020); *see also PEST*  
17 *Comm.*, 648 F. Supp. 2d at 1214 (declining to allow permissive intervention despite  
18 movants meeting the threshold factors because their interests were already met by existing  
19 parties and “adding [movants] as parties would unnecessarily encumber the litigation”).  
20 Such is the case here: the Attorney General and YCRC each seek to sustain SB 1260 from  
21 challenge, and Plaintiffs have sought preliminary injunctive relief given the time-sensitive  
22 nature of this litigation—SB 1260 is set to go into effect in just eight days. Second, as in  
23 *Yazzie*, it is well within the Attorney General’s function as a public official “to resolve this  
24 dispute on [its] own.” *Yazzie*, 2020 WL 8181703, at \*4. The Court need not credit YCRC’s  
25 baseless speculation that Defendants will not defend SB 1260. *See* Mot. at 11. And third,  
26 allowing YCRC to intervene “will introduce unnecessary partisan politics into an otherwise  
27 nonpartisan legal dispute.” *Miracle*, 333 F.R.D. at 156 (internal quotations omitted). Even  
28 if YCRC could “satisf[y] the criteria for permissive intervention,” it is well within the

1 Court's discretion to deny YCRC's motion to prevent it from muddying this case with  
2 needless partisanship. *Id.* For these reasons, too, the Court should deny YCRC's request  
3 for permissive intervention.

4 In sum, YCRC's intervention is not necessary to the development of the case, and  
5 its interest are already represented by existing parties. Permitting YCRC to participate as  
6 *amicus* would allow it to bring their "perspective," Mot. at 7, while facilitating the speedy  
7 and efficient resolution of this matter without the needless injection of partisan politics.<sup>5</sup>

### 8 CONCLUSION

9 For these reasons, the Court should deny YCRC's motion to intervene pursuant to  
10 Rule 24(a) and Rule 24(b).

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<sup>5</sup> If the Court is inclined to grant intervention, Plaintiffs respectfully request that, at a minimum, the Court impose strict limits to prevent unnecessary delay, duplication, and prejudice to existing parties and to judicial economy. For example—similar to the approach Judge Rayes took in *Arizona Democratic Party*—Plaintiffs respectfully request that the Court designate existing Plaintiffs and Defendants as “the representatives responsible for coordinating” the legal strategy and scheduling in the matter, and order that (1) Movants “cannot file a response without leave of Court;” (2) “any proposed response must not repeat any argument already raised,” and (3) “any motion seeking leave to file a response will need to explain how the briefing submitted by [existing parties] does not adequately address the issue or issues affecting Movants.” *Ariz. Democratic Party v. Hobbs*, No. CV-20-01143-PHX-DLR, 2020 WL 6559160, at \*1 (D. Ariz. 2020). Plaintiffs note that YCRC asserts its participation in this case “will not cause delay or any prejudice to the existing parties,” Mot. at 11, and ask that if YCRC is admitted as a party, the Court will hold it to this assertion.

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Dated: September 16, 2022

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 16, 2022, I electronically transmitted the attached document to the Clerk’s Office using the ECF System for filing and transmittal of a Notice of Electronic Filing to the ECF registrants.

/s/ Daniel A. Arellano

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