

1 D. Andrew Gaona (028414)  
2 Austin C. Yost (034602)  
3 **COPPERSMITH BROCKELMAN PLC**  
4 2800 North Central Avenue, Suite 1900  
5 Phoenix, Arizona 85004  
6 T: (602) 381-5486  
7 agaona@cblawyers.com  
8 ayost@cblawyers.com

6 Aria C. Branch\*  
7 John Geise\*  
8 Lali Madduri\*  
9 Dan Cohen\*  
10 Ian Baize\*

9 **ELIAS LAW GROUP LLP**  
10 250 Massachusetts Ave NW, Suite 400  
11 Washington, D.C. 20001  
12 T: (202) 968-4330  
13 abranch@elias.law  
14 jgeise@elias.law  
15 lmadduri@elias.law  
16 dcohen@elias.law  
17 ibaize@elias.law

14 *Attorneys for Proposed Intervenor-*  
15 *Defendant Arizona Alliance for Retired*  
16 *Americans*

16 *\*Pro Hac Vice Application Forthcoming*

18 IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA  
19 IN AND FOR THE COUNTY OF YAVAPAI

21 ARIZONA FREE ENTERPRISE CLUB, an  
22 Arizona nonprofit corporation; RESTORING  
23 INTEGRITY AND TRUST IN ELECTIONS,  
24 a Virginia nonprofit corporation; and  
25 DWIGHT KADAR, an individual,

24 Plaintiffs,

25 v.

26 ADRIAN FONTES, in his official capacity as  
27 the Secretary of State of Arizona,

28 Defendant.

No. S-1300-CV-202300202

**MOTION TO INTERVENE**

(Assigned to the Hon. John D.  
Napper)

1 **INTRODUCTION**

2 Early voters in Arizona—which included 89% of the state’s voters in the 2020  
3 general election—must execute an affidavit on the return envelope for their early ballot,  
4 and county recorders must verify that the signature on that return envelope matches another  
5 signature in the voter’s “registration record.” A.R.S. § 16-550(A). Signature matching is  
6 notoriously difficult to do accurately, and election officials are *far* more likely to mistakenly  
7 reject a lawful voter’s ballot based on a perceived signature mismatch, than to identify a  
8 ballot that was actually cast by someone other than the voter based on signature matching.  
9 Indeed, study after study has shown that voter fraud is exceedingly rare, and signature  
10 matching—particularly under the conditions that election officials must conduct it, e.g.,  
11 under time pressure, without years of training in the subtleties of signature differences, and  
12 without scores of exemplars to compare the signature to—is far more likely to  
13 disenfranchise voters than to safeguard the election system. Yet, in this lawsuit, Arizona  
14 Free Enterprise Club, Restoring Integrity and Trust in Elections, and Dwight Kadar  
15 (collectively, “Plaintiffs”) seek to make the process even more unreliable, by asking this  
16 Court to issue an order that would prohibit county recorders from comparing a voter’s  
17 signature on their early ballot envelope to the signature on any other form in their  
18 “registration record”—except for their voter registration form and any updates to that form.  
19 Plaintiffs’ request is based on a constricted definition of “registration record” that they  
20 admit is nowhere to be found in Arizona law, and which ignores clear law regarding  
21 Defendant Secretary of State Adrian Fontes’s authority in the realm of elections. *See, e.g.,*  
22 *id.* § 16-452(A) (“[T]he secretary of state shall prescribe rules to achieve and maintain the  
23 maximum degree of correctness, impartiality, uniformity and efficiency on the procedures  
24 for early voting and voting, and of producing, distributing, collecting, counting, tabulating  
25 and storing ballots.”).

26 Not only is Plaintiffs’ interpretation of “registration record” unmoored from the text  
27 of Arizona law, the potential consequences of adopting it would be grave for Arizona voters,  
28 particularly for the Alliance’s members. Decreasing the number of signatures that a county

1 recorder can compare to the signature on a voter's early ballot will significantly increase  
2 the likelihood that the county recorder will determine that there is a signature mismatch  
3 when in fact there is not. The risk of disenfranchisement as a result of an erroneous signature  
4 mismatch determination is disproportionately higher for elderly voters like those who make  
5 up the Alliance's membership. Such voters are more likely to have registered many years  
6 ago, and their signatures are more likely to have changed as a result of illness, disability,  
7 and advanced age. If Plaintiffs are granted the relief they seek, the Alliance's members will  
8 be at a higher risk of disenfranchisement, and the Alliance will have to divert resources  
9 from its other work to mitigate the harm to its members.

10 For these reasons, and as discussed in more detail below, the Alliance should be  
11 granted intervention as of right, or in the alternative, permissive intervention.

## 12 **BACKGROUND**

### 13 **A. Arizona law requires that the signature on a voter's early ballot be matched** 14 **with signatures in the voter's "registration record."**

15 A.R.S. § 16-547 states that an early ballot in Arizona must include an envelope with  
16 an affidavit that the voter is required to sign. Upon receipt of that envelope, a county  
17 recorder is required to compare the voter's signature on the early ballot envelope with other  
18 signatures from the voter in the voter's "registration record" prior to counting the ballot.  
19 A.R.S. § 16-550(A). If the county recorder determines that the signatures match, the ballot  
20 may be counted. *Id.* If the county recorder determines that the signatures do not match, they  
21 must make reasonable efforts to contact the voter, advise the voter of the inconsistent  
22 signature, and allow the voter to correct or the county to confirm the inconsistent signature.  
23 *Id.* A county recorder cannot count a ballot from a voter who cannot be contacted or who is  
24 otherwise unable to correct their purportedly erroneous signature.

25 As Plaintiffs have admitted, Arizona law does not define what constitutes a voter's  
26 "registration record." The Secretary has accordingly (and reasonably) instructed county  
27 recorders that they should consult both the voter's signature on their voter registration form  
28 as well as "additional known signatures from other official election documents in the voter's

1 registration record, such as signature rosters or early ballot/PEVL request forms, in  
2 determining whether the signature on the early ballot affidavit was made by the same person  
3 who is registered to vote.” See Ariz. Sec’y of State, ELECTIONS PROCEDURES MANUAL at  
4 68 (rev. Dec. 2019), available at  
5 [https://azsos.gov/sites/default/files/2019\\_ELECTIONS\\_PROCEDURES\\_MANUAL\\_APP](https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf)  
6 [ROVED.pdf](https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf).

7 **B. Plaintiffs’ requested relief would increase the number of ballots that are**  
8 **incorrectly rejected due to signature mismatch.**

9 Plaintiffs apparently contend that signatures on any document other than the voter’s  
10 registration form and any updates to that form do not constitute the voter’s “registration  
11 record,” and thus should not be used as the basis for signature matching. Further, according  
12 to Plaintiffs’ incorrect legal theory, the Secretary’s instructions in the EPM, which permit  
13 the voter’s signature to be compared to other documents in the voter’s registration record,  
14 violate Arizona law. If Plaintiffs are granted the relief they seek, there would be an increase  
15 in the number of early ballots that are incorrectly rejected because of signature mismatch.

16 Early voting is extraordinarily popular among Arizonans. In the 2020 general  
17 election, an estimated 89% of voters voted by early ballot.<sup>1</sup> Yavapai County is no  
18 exception: it has over 130,000 people on the Active Early Voting List.<sup>2</sup> Plaintiffs’ request  
19 would drastically increase the chances of these voters’ ballots being incorrectly rejected due  
20 to a signature mismatch. For forensic document examiners, whose careers and training  
21 involving the scientific analysis and comparison of signatures, “a minimum of *ten* signature  
22 samples are recommended for an accurate signature determination to account for an  
23 individual’s signature variability.” *Frederick v. Lawson*, 481 F. Supp. 3d 774, 786 (S.D.  
24 Ind. 2020) (emphasis added); see also *id.* at 795–96 (crediting expert’s testimony). The  
25 Secretary’s instruction that county recorders use signatures in the voter’s registration record

26 <sup>1</sup> *Ariz. Citizens Clean Elections Comm’n*, VOTE BY MAIL,  
27 <https://www.azcleelections.gov/how-to-vote/early-voting/vote-by-mail> (last visited Mar.  
10, 2023).

28 <sup>2</sup> See Yavapai Cnty., YAVAPAI CNTY. ELECTIONS & VOTER REGISTRATION,  
<https://www.yavapaivotes.gov/Home> (last visited Mar. 9, 2023).

1 when making signature comparisons is thus consistent both with state law and with the  
2 scientific consensus that more signatures for comparison help avoid erroneously concluding  
3 that two signatures do not match. The inverse is also true: decreasing the number of  
4 available signature comparators will increase the likelihood of false rejections due to  
5 erroneous signature mismatch determinations.

6 **C. The Alliance’s members are particularly vulnerable to having their ballots**  
7 **rejected due to incorrect signature mismatch determinations.**

8 Proposed Intervenor-Defendant the Alliance is a nonprofit corporation whose  
9 membership includes approximately 50,000 retirees from public and private sector unions,  
10 community organizations, and individual activists in every county in Arizona, including  
11 2,964 members in Yavapai County. The Alliance’s mission is to ensure social and economic  
12 justice and to protect the civil rights of retirees after a lifetime of work. The Alliance  
13 accomplishes this mission by ensuring that its members have access to the franchise and  
14 can meaningfully participate in Arizona’s elections, including by encouraging its members  
15 to vote early, which the vast majority of its members do.

16 Members of the Alliance are uniquely susceptible to having their early ballots  
17 incorrectly rejected due to an erroneous signature mismatch determination. The Alliance’s  
18 members are between 55 and 90 years of age, and many have disabilities, illness, and/or are  
19 non-native English speakers. Each of these populations have higher variability in their  
20 signatures, meaning that their signatures may change with some frequency, especially over  
21 time. *See, e.g., Frederick*, 481 F. Supp. 3d at 786, 795–96 (crediting expert testimony that  
22 signature variability is particularly pronounced in populations “such as elderly, disabled,  
23 ill, and non-native English signatories”); *Saucedo v. Gardner*, 335 F. Supp. 3d 202, 205–  
24 06 (D.N.H. 2018) (noting that signature “[v]ariations are more prevalent in people who are  
25 elderly, disabled, or who speak English as a second language.”). By drastically reducing the  
26 number of comparator signatures county recorders can utilize, Plaintiffs’ requested relief  
27 would increase the likelihood that early ballots cast by members of the Alliance may be  
28 rejected due to signature mismatch. In addition to potentially disenfranchising its members,

1 this would force the Alliance to divert resources to educating its members on the greater  
2 possibility of signature mismatch under the new rules imposed by court order, and helping  
3 its members cure resulting erroneous signature mismatch determinations to ensure that their  
4 ballots are counted.

### 5 ARGUMENT

6 Under Arizona Rule of Civil Procedure 24 and Arizona Rule of Procedure for Special  
7 Actions 2(b), a party is entitled to intervene where, on timely motion, the party “claims an  
8 interest relating to the subject of the action, and . . . disposing of the action in the person’s  
9 absence may as a practical matter impair or impede the person’s ability to protect that  
10 interest, unless existing parties adequately represent that interest.” Ariz. R. Civ. P. 24(a)(2).  
11 Alternatively, intervention may be permitted where the motion is timely and a party “has a  
12 claim or defense that shares with the main action a common question of law or fact.” Ariz.  
13 R. Civ. P. 24(b)(1)(B). Rule 24 is a remedial rule that “should be construed liberally in order  
14 to assist parties seeking to obtain justice in protecting their rights.” *Dowling v. Stapley*, 221  
15 Ariz. 251, 270, ¶ 58 (App. 2009). It is “substantively indistinguishable” from Federal Rule  
16 of Civil Procedure 24 such that a court “may look for guidance to federal courts’  
17 interpretations of their rule.” *Heritage Vill. II Homeowners Ass’n v. Norman*, 246 Ariz. 567,  
18 572, ¶ 19 (App. 2019).

19 The Alliance satisfies both Rule 24 standards and its motion to intervene should be  
20 granted. Consistent with Rule 24, the Alliance has attached a proposed answer as its  
21 “pleading in intervention.” Ariz. R. Civ. P. 24(c).<sup>3</sup>

#### 22 **I. The Alliance is entitled to intervene as of right.**

23 The Alliance is entitled to intervene as of right under Rule 24(a). The Court must  
24 allow intervention where a proposed intervenor satisfies four elements: “(1) the motion  
25 must be timely; (2) the applicant must assert an interest relating to the property or  
26

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

1 transaction which is the subject of the action; (3) the applicant must show that disposition  
2 of the action may impair or impede its ability to protect its interest; and (4) the applicant  
3 must show that the other parties would not adequately represent its interests.” *Woodbridge*  
4 *Structured Funding, LLC v. Ariz. Lottery*, 235 Ariz. 25, 28, ¶ 13 (App. 2014). The Alliance  
5 meets each of these requirements.

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

7 The Alliance timely filed this motion to intervene. Plaintiffs filed this suit on  
8 Tuesday, March 7, 2023.<sup>4</sup> The Alliance files this motion to intervene along with its  
9 proposed Answer on Monday, March 13, 2023—less than a week later, and before *any*  
10 responsive pleadings have been filed.

11 Timeliness under Rule 24 is “flexible,” and the most important consideration “is  
12 whether the delay in moving for intervention will prejudice the existing parties to the case.”  
13 *Weaver v. Synthes, Ltd. (U.S.A.)*, 162 Ariz. 442, 446 (App. 1989) (quotation omitted). Here,  
14 granting the motion would not require altering any existing deadlines. Because the  
15 Alliance’s intervention would prejudice no party, the motion is timely.

16 **B. The disposition of this case will impair the Alliance’s ability to protect**  
17 **its interests and those of its members.**

18 The Alliance satisfies the intertwined second and third prongs of the standard for  
19 intervention as of right: (1) it has an interest in the subject of this action, and (2) disposition  
20 of this action may impair or impede its ability to protect its interest. “[A] prospective  
21 intervenor ‘has a sufficient interest for intervention purposes if it will suffer a practical  
22 impairment of its interests as a result of the pending litigation.’” *Wilderness Soc’y v. U.S.*  
23 *Forest Servs.*, 630 F.3d 1173, 1179 (2011) (quoting *California ex rel. Lockyer v. United*  
24 *States*, 450 F.3d 436, 441 (9th Cir. 2006)). “It is generally enough that the interest is  
25 protectable under some law, and that there is a relationship between the legally protected  
26 interest and the claims at issue.” *Wilderness Soc’y*, 630 F.3d at 1179 (quoting *Sierra Club*

27 <sup>4</sup> The Complaint appears to be dated March 6, but the filing date listed on the Arizona  
28 court’s website is March 7. See ARIZ. JUD. BRANCH, *Public Access to Court Information*,  
<https://apps.supremecourt.az.gov/publicaccess/caselookup.aspx>, Case No. S-1300-CV-  
202300202 (last visited Mar. 13, 2023).

1 v. *EPA*, 995 F.2d 1478, 1484 (9th Cir. 1993)). In Arizona, “a would-be intervenor must  
2 show only that impairment of its substantial legal interest *is possible* if intervention is  
3 denied”—a burden courts consider “minimal.” *Heritage Vill. II*, 246 Ariz. at 572, ¶ 21  
4 (quoting *Utah Ass’n of Cnty. v. Clinton*, 255 F.3d 1246, 1253 (10th Cir. 2001)). The  
5 Alliance easily clears this hurdle, because the relief Plaintiffs seek will negatively impact  
6 members of the Alliance and the Alliance itself.

7 *First*, if Plaintiffs’ lawsuit is successful, it will significantly increase the likelihood  
8 that the Alliance’s members will have their ballots wrongfully rejected for signature  
9 mismatch. Plaintiffs seek to severely limit the number of comparator signatures elections  
10 officials can lawfully use, thereby increasing the number of ballots that will be mistakenly  
11 rejected based on signature mismatch. While this will increase the risk that all voters will  
12 be disenfranchised without a valid basis, the Alliance’s members are disproportionately  
13 likely to have their ballots rejected as a result of such a rule. *Supra* at 3. The Alliance, which  
14 has a mission of protecting the civil rights of retirees, undoubtedly has an interest in  
15 preventing its members from being disenfranchised. *See, e.g., Sandusky Cnty. Democratic*  
16 *Party v. Blackwell*, 387 F.3d 565, 573–74 (6th Cir. 2004) (holding that the risk that some  
17 voters will be disenfranchised confers standing upon labor organizations); *see also Bechtel*  
18 *v. Rose*, 150 Ariz. 68, 72 (1986) (explaining that the interest necessary for standing is a  
19 higher bar than intervention because an intervenor under Arizona Rule 24 “does not even  
20 have to be a person who would have been a proper party at the beginning of the suit”  
21 (quotation omitted)).

22 *Second*, if the signature matching rules are changed, the Alliance will be forced to  
23 divert resources from its mission-critical work to ensure that its members are not  
24 disenfranchised as a result. The Alliance will need to spend time and money to educate its  
25 members on the new signature matching rules and any ways they can decrease the  
26 likelihood that their ballots will be rejected due to signature mismatch. For those members  
27 whose ballots are rejected despite the Alliance’s best efforts, the Alliance will need to spend  
28 time and resources to help them cure their ballots. This will require significant resources

1 because many of the Alliance’s members are unable to travel, do not have access to printers  
2 or the Internet, do not know how to scan documents, and/or require assistance with  
3 processing documents. Resources spent by the Alliance to mitigate the negative effects of  
4 a change in the signature matching rules on the Alliance’s members would otherwise be  
5 expended on other mission-critical efforts like phone banking drives to get out the vote  
6 among the Alliance’s members. The resulting diversion of the Alliance’s scarce resources  
7 is a sufficient harm to give the Alliance an interest sufficient for intervention here. *See, e.g.,*  
8 *E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 663 (9th Cir. 2021) (“[A]n organization  
9 has direct standing to sue where it establishes that the defendant’s behavior has frustrated  
10 its mission and caused it to divert resources in response to that frustration of purpose.”);  
11 Feb. 16, 2023 Order at 15–17, *Mi Familia Vota v. Fontes*, No. 2:22-cv-00509, (D. Ariz.  
12 Feb. 16, 2023), ECF No. 304 (finding organizational plaintiffs had standing when voting  
13 laws would require them to divert resources from other activities to assist their supporters  
14 who could be disproportionately disenfranchised or discouraged from voting); *Crawford v.*  
15 *Marion Cnty. Election Bd.*, 472 F.3d 949, 951 (7th Cir. 2007), *aff’d* 551 U.S. 181 (2008)  
16 (finding that political party entity suffered injury in fact because challenged law  
17 “compell[ed] the party to devote resources” in response).

18 **C. The Alliance is not adequately represented in this case.**

19 The Alliance’s interests are not adequately represented by the parties participating  
20 in this case. Plainly, the Plaintiffs do not represent the Alliance’s interests, as they propose  
21 an interpretation of Arizona law that is antithetical to the Alliance’s interests and which the  
22 Alliance strongly disputes is valid. And the Alliance’s particular interests in this case—  
23 preventing the disenfranchisement of its members and avoiding the diversion of mission-  
24 critical resources—are also not shared by the Defendant Secretary of State. The Secretary  
25 has a general obligation to serve as the chief election officer for Arizona’s more than seven  
26 million inhabitants, not a specific organizational interest in mobilizing retired voters or  
27 advocating on their behalf. Where a Defendant “must represent the interests of all people in  
28 [his jurisdiction],” he cannot give the Alliance or its members’ interests “the kind of

1 primacy” that the Alliance itself will. *Planned Parenthood Ariz., Inc. v. Am. Ass’n of Pro-*  
2 *Life Obstetricians & Gynecologists*, 227 Ariz. 262, 279, ¶ 58 (App. 2011) (permitting  
3 adversely affected groups to intervene in defense of a challenged statute).

4 Consistent with these principles, courts allow various types of organizations to  
5 intervene on the same side as government officials in cases where the organization and its  
6 members have interests that are distinct from the public at large. *See, e.g., Saunders v.*  
7 *Super. Ct. In & For Maricopa Cnty.*, 109 Ariz. 424, 426 (1973) (holding that associations  
8 of policemen and firefighters were not adequately represented by the Attorney General in  
9 challenge to state pension system because “[t]he interest of petitioners is not common to  
10 other citizens in the state”); *Citizens for Balanced Use v. Mont. Wilderness Ass’n*, 647 F.3d  
11 893, 899 (9th Cir. 2011) (allowing environmental group to intervene where it had different  
12 objectives than the U.S. Forest Service); *Utah Ass’n of Cntys.*, 255 F.3d at 1255–56 (“[T]he  
13 government’s representation of the public interest generally cannot be assumed to be  
14 identical to the individual parochial interest of a particular member of the public merely  
15 because both entities occupy the same posture in the litigation.”); *see also Trbovich v.*  
16 *United Mine Workers of Am.*, 404 U.S. 528, 538 (1972) (finding that union was not  
17 adequately represented by Secretary of Labor where its interests in the litigation were  
18 “related, but not identical.”). The same is appropriate here: the Court should grant the  
19 Alliance intervention because no party, including the Secretary, adequately represents the  
20 Alliance’s interests.

21 **II. In the alternative, the Alliance should be granted permissive intervention.**

22 In the alternative, the Court should grant the Alliance permissive intervention  
23 because it has “a claim or defense that shares with the main action a common question of  
24 law or fact.” Ariz. R. Civ. P. 24(b)(1). In particular, the Alliance’s defenses depend on the  
25 same questions of law and fact surrounding the proper interpretation of Arizona election  
26 law as the Secretary’s defenses will surely involve.

27 When this required common question of law or fact is present, Arizona courts may  
28 consider other factors to decide whether to grant permissive intervention, including: (1) “the

1 nature and extent of the intervenors' interest," (2) "their standing to raise relevant legal  
2 issues," (3) "the legal position they seek to advance, and its probable relation to the merits  
3 of the case," (4) "whether the intervenors' interests are adequately represented by other  
4 parties," (5) "whether intervention will prolong or unduly delay the litigation," and (6)  
5 "whether parties seeking intervention will significantly contribute to full development of  
6 the underlying factual issues in the suit and to the just and equitable adjudication of the  
7 legal questions presented." *Bechtel*, 150 Ariz. at 72 (1986) (quoting *Spangler v. Pasadena*  
8 *City Bd. of Educ.*, 552 F.2d 1326, 1329 (9th Cir. 1977)). Like Rule 24(a), Rule 24(b) should  
9 be liberally construed. *Id.* Here, each factor weighs in favor of granting the Alliance  
10 permissive intervention.

11 *First*, the Alliance has distinct interests in ensuring that county recorders can  
12 compare signatures to multiple signature samples. That is because many of its members  
13 registered to vote *decades* ago, while others suffer from disabilities that have altered their  
14 signatures over time. The Alliance has an interest in ensuring that its members have their  
15 ballots counted without having to expend resources to help them "cure" their ballots due to  
16 an erroneous finding of signature mismatch.

17 *Second*, the Alliance may be directly harmed by the relief Plaintiffs seek in this case.  
18 Plaintiffs' requested relief is likely to make it harder for the Alliance's members to have  
19 their ballots counted. It is also likely to require that the Alliance divert resources to  
20 educating its members about this change in the law and the higher risk that their ballots will  
21 be flagged for a signature mismatch, and to helping its members cure ballots that are  
22 wrongfully rejected for signature mismatch as a result of the change.

23 *Third*, the Alliance's interests are distinct from those of other parties in this case.  
24 The Alliance represents both its own organizational interests as well as the interests of its  
25 individual members who will need to overcome the hurdles Plaintiffs' requested relief will  
26 inevitably impose on Arizona voters.

27 *Fourth*, the Alliance seeks intervention promptly, and its intervention will not delay  
28 the proceedings.



1 *Attorneys for the Plaintiffs*

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3 */s/ Diana J. Hanson*

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1 D. Andrew Gaona (028414)  
2 Austin C. Yost (034602)  
3 **COPPERSMITH BROCKELMAN PLC**  
4 2800 North Central Avenue, Suite 1900  
5 Phoenix, Arizona 85004  
6 T: (602) 381-5486  
7 agaona@cblawyers.com  
8 ayost@cblawyers.com

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14 **ELIAS LAW GROUP LLP**  
15 250 Massachusetts Ave NW, Suite 400  
16 Washington, D.C. 20001  
17 T: (202) 968-4330  
18 abranch@elias.law  
19 jgeise@elias.law  
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Defendant.

No. S-1300-CV-202300202

**[PROPOSED] ANSWER TO  
VERIFIED SPECIAL ACTION  
COMPLAINT**

(Assigned to the Hon. John D.  
Napper)

1 Intervenor-Defendant the Arizona Alliance for Retired Americans (the “Alliance”)  
2 answers Plaintiffs’ Verified Complaint as follows:

3 1. Paragraph 1 of the Verified Complaint states a legal conclusion to which no  
4 response is required. To the extent that a response is required, the Alliance admits that the  
5 quoted language appears without emphasis in the statutory provision cited and that voters  
6 casting early ballots in an Arizona election must execute an affidavit on the ballot return  
7 envelope.

8 2. Denied.

9 3. Paragraph 3 of the Verified Complaint states a legal conclusion to which no  
10 response is required. To the extent a response is required, the Alliance denies the allegations  
11 in Paragraph 3 of the Verified Complaint.

12 4. Paragraph 4 of the Verified Complaint states a legal conclusion to which no  
13 response is required. To the extent a response is required, the Alliance denies the allegations  
14 in Paragraph 4 of the Verified Complaint.

15 5. Paragraph 5 of the Verified Complaint states a legal conclusion to which no  
16 response is required. To the extent a response is required, the Alliance denies the allegations  
17 in Paragraph 5 of the Verified Complaint.

### 18 **JURISDICTION**

19 6. The Alliance admits that the Court has jurisdiction under Article 6, § 14 of the  
20 Arizona Constitution, but denies that jurisdiction is conferred by A.R.S. § 12-1831 or -2021,  
21 or Rule 4 of the Arizona Rules of Procedure for Special Actions.

22 7. The Alliance is without sufficient information to form a belief as to the truth  
23 or falsity of the allegations in Paragraph 7 of the Verified Complaint, and therefore denies  
24 them.

### 25 **PARTIES**

26 8. The Alliance admits that Plaintiff Arizona Free Enterprise Club is an Arizona  
27 nonprofit social welfare corporation organized and operated pursuant to section 501(c)(4)  
28 of the Internal Revenue Code. The Alliance is otherwise without sufficient information to

1 form a belief as to the truth or falsity of the allegations in Paragraph 8 of the Verified  
2 Complaint and therefore denies them.

3 9. The Alliance admits that Plaintiff Restoring Integrity and Trust in Elections is  
4 a Virginia nonprofit social welfare corporation organized and operated pursuant to section  
5 501(c)(4) of the Internal Revenue Code. The Alliance is otherwise without sufficient  
6 information to form a belief as to the truth or falsity of the allegations in Paragraph 9 of the  
7 Verified Complaint and therefore denies them.

8 10. The Alliance is without sufficient information to form a belief as to the truth  
9 or falsity of the allegations in Paragraph 10 of the Verified Complaint and therefore denies  
10 them.

11 11. Admitted.

### 12 **GENERAL ALLEGATIONS**

13 12. The Alliance admits that the overwhelming majority of qualified electors who  
14 participate in Arizona elections utilize the State's early voting system. The remainder of  
15 Paragraph 12 of the Verified Complaint states a legal conclusion to which no response is  
16 required; to the extent a response is required, the allegation is denied.

17 13. Admitted.

18 14. Paragraph 14 of the Verified Complaint states a legal conclusion to which no  
19 response is required. To the extent a response is required, the Alliance is without sufficient  
20 information to form a belief as to the truth or falsity of the allegations in Paragraph 14 of  
21 the Verified Complaint, and therefore denies them.

22 15. Admitted.

### 23 **Definition of a "Registration Record"**

24 16. Paragraph 16 of the Verified Complaint states a legal conclusion to which no  
25 response is required. To the extent a response is required, the Alliance denies the allegations  
26 in Paragraph 16 of the Verified Complaint.

27  
28



1 or falsity of the remaining allegations in Paragraph 27 of the Verified Complaint, and  
2 therefore denies them.

3 28. Denied.

4 29. Denied.

5 30. Denied.

6 31. Denied.

7 32. The allegations in Paragraph 32 of the Verified Complaint describe a  
8 hypothetical factual scenario to which no response is required. To the extent a response is  
9 required, the Alliance is without sufficient information to form a belief as to the truth or  
10 falsity of the allegations in Paragraph 32 of the Verified Complaint, and therefore denies  
11 them.

12 33. Denied.

### 13 **COUNT I**

#### 14 **Invalidation of the EPM's Unlawful Definition of "Registration Record"** 15 **(Ariz. R. Special Action P. 3; A.R.S. §§ 12-2021, 16-452, 16-550; Ariz. R. Civ. P. 65)**

16 34. The Alliance incorporates by reference each of their preceding admissions,  
17 denials, and statements as if fully set forth in this paragraph.

18 35. Paragraph 35 of the Verified Complaint states a legal conclusion to which no  
19 response is required. To the extent that a response is required, the Alliance admits that the  
20 statutory provision cited states that the county recorder "shall compare the signatures  
21 thereon with the signature of the elector on the elector's registration record."

22 36. Paragraph 36 of the Verified Complaint states a legal conclusion to which no  
23 response is required. To the extent a response is required, the Alliance denies the allegations  
24 in Paragraph 36 of the Verified Complaint.

25 37. Paragraph 37 of the Verified Complaint states a legal conclusion to which no  
26 response is required. To the extent a response is required, the Alliance denies the allegations  
27 in Paragraph 37 of the Verified Complaint.

28





1 D. For such other and further relief as the Court, in its inherent discretion, deems  
2 appropriate.

3 RESPECTFULLY SUBMITTED this 13th13th day of March, 2023.

4 **COPPERSMITH BROCKELMAN PLC**

5 By: /s/ D. Andrew Gaona

6 D. Andrew Gaona

7 Austin C. Yost

8 **ELIAS LAW GROUP, LLP**

9 Aria C. Branch\*

10 John Geise\*

11 Lali Madduri\*

12 Dan Cohen\*

13 Ian Baize\*

14 *Attorneys for Proposed Intervenor-Defendant  
15 Arizona Alliance for Retired Americans*

16 *\*Pro Hac Vice Application Forthcoming*

17 ORIGINAL e-filed and served via electronic  
18 means this 13th13th day of March, 2023, upon:

19 Honorable John D. Napper  
20 Yavapai County Superior Court  
21 c/o Felicia L. Slaton ([Div2@courts.az.gov](mailto:Div2@courts.az.gov))

22 Kory Langhofer  
23 [kory@statecraftlaw.com](mailto:kory@statecraftlaw.com)  
24 Thomas Basile  
25 [tom@statecraftlaw.com](mailto:tom@statecraftlaw.com)  
26 Statecraft PLLC  
27 649 North Fourth Avenue, First Floor  
28 Phoenix, Arizona 85003  
*Attorneys for the Plaintiffs*

/s/ Diana J. Hanson