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Arizona Alliance for Retired Americans

13 *Admitted Pro Hac Vice
14 ** Pro Hac Vice Application Forthcoming

15 **ARIZONA SUPERIOR COURT**
16 **YAVAPAI COUNTY**

17 ARIZONA FREE ENTERPRISE CLUB, an) No. S1300CV202300202
18 Arizona nonprofit corporation; et al.,)
19 Plaintiffs,) **ANSWER TO FIRST AMENDED**
20 v.) **VERIFIED SPECIAL ACTION**
21 ADRIAN FONTES, in his official capacity as) **COMPLAINT**
22 the Secretary of State of Arizona,) (Assigned to the Hon. John D. Napper)
23 Defendant.)
24 ARIZONA ALLIANCE OF RETIRED)
25 AMERICANS; and MI FAMILIA VOTA,)
26 Intervenor-Defendants.)

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

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

9 2. Denied.

10 3. Paragraph 3 of the Verified Complaint states a legal conclusion to which no
11 response is required. To the extent a response is required, the allegations are denied.

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 allegations are denied.

14 5. Paragraph 5 of the Verified Complaint states a legal conclusion to which no
15 response is required. To the extent a response is required, the allegations are denied.

16 **JURISDICTION**

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

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

22 **PARTIES**

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

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

3 9. The Alliance admits that Plaintiff Restoring Integrity and Trust in Elections is a
4 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 admits that the Republican Party of Arizona, LLC is a statewide
9 political party committee, an affiliate of the Republican National Committee, and the
10 organizing body of Arizona electors who are registered members of the Republican Party. The
11 Alliance is otherwise without sufficient information to form a belief as to the truth or falsity of
12 the allegations in Paragraph 10 of the Verified Complaint and therefore denies them.

13 11. The Alliance is without sufficient information to form a belief as to the truth or
14 falsity of the allegations in Paragraph 11 of the Verified Complaint and therefore denies them.

15 12. Admitted.

16 **GENERAL ALLEGATIONS**

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

21 14. The Alliance admits that most early ballots in Arizona elections are cast by mail
22 and a completed early ballot must be submitted in a sealed envelope. The Alliance also admits
23 that the exterior of the envelope contains a pre-drafted affidavit form that declares that the
24 individual casting the early ballot has registered to vote in the relevant county, has not voted
25 and will not vote in any other jurisdiction, understands that multiple voting is a felony offense,
26 and that the individual attests to the truth of those statements under penalty of perjury. The

1 Alliance denies that the pre-drafted affidavit form necessarily declares that the individual has
2 personally voted the enclosed ballot and signed the affidavit. Instead, pursuant to A.R.S. § 16-
3 547(A), the voter declaration states “I voted the enclosed ballot and signed this affidavit
4 personally unless noted below,” and includes a space for someone other than the voter to sign
5 if they assisted the voter in completing the ballot because the voter was physically unable to do
6 so.

7 15. Paragraph 15 of the Verified Complaint states a legal conclusion to which no
8 response is required. To the extent a response is required, the allegations are denied.

9 16. Admitted.

10 **Definition of a “Registration Record”**

11 17. Paragraph 17 of the Verified Complaint states a legal conclusion to which no
12 response is required. To the extent a response is required, the allegations are denied.

13 18. Admitted.

14 19. Admitted.

15 20. Admitted.

16 21. Admitted.

17 22. Paragraph 22 of the Verified Complaint states a legal conclusion to which no
18 response is required. To the extent a response is required, the Alliance admits the allegations in
19 Paragraph 22 of the Verified Complaint.

20 23. The Alliance admits that an executed and submitted registration form
21 “constitute[s] an official public record of the registration of the elector.” To the extent
22 Paragraph 23 alleges that A.R.S. § 16-161(A) purports to define the term “registration record”
23 as used in A.R.S. § 16-550(A), it is denied.

24 24. The Alliance denies that “record of the registration of the elector,” as used in
25 A.R.S. § 16-161(A), defines the term “registration record” as used in A.R.S. § 16-550(A). The
26

1 Alliance further denies that a “registration record,” as used in A.R.S. § 16-550(A), is limited to
2 the items listed in Paragraph 24.

3 **EPM Provisions Governing Signature Verification**

4 25. Admitted.

5 26. Paragraph 26 of the Verified Complaint states a legal conclusion to which no
6 response is required. To the extent a response is required, the Alliance admits that the quoted
7 language appears in the cited case.

8 27. Admitted.

9 28. Admitted that the quoted language appears without the alterations in the 2019
10 EPM as cited. The Alliance is without sufficient information to form a belief as to the truth or
11 falsity of the remaining allegations in Paragraph 28 of the Verified Complaint, and therefore
12 denies them.

13 29. Denied.

14 30. Denied.

15 31. Denied.

16 32. Denied.

17 33. The allegations in Paragraph 33 of the Verified Complaint describe a
18 hypothetical factual scenario to which no response is required. To the extent a response is
19 required, the Alliance is without sufficient information to form a belief as to the truth or falsity
20 of the allegations in Paragraph 33 of the Verified Complaint, and therefore denies them.

21 34. Denied.

22 **COUNT I**

23 35. The Alliance incorporates by reference each of their preceding admissions,
24 denials, and statements as if fully set forth in this paragraph.

25 36. Paragraph 36 of the Verified Complaint states a legal conclusion to which no
26 response is required. To the extent that a response is required, the Alliance admits that the

1 statutory provision cited states that the county recorder “shall compare the signatures thereon
2 with the signature of the elector on the elector’s registration record.”

3 37. Paragraph 37 of the Verified Complaint states a legal conclusion to which no
4 response is required. To the extent a response is required, the allegations are denied.

5 38. Paragraph 38 of the Verified Complaint states a legal conclusion to which no
6 response is required. To the extent a response is required, the allegations are denied.

7 39. Paragraph 39 of the Verified Complaint states a legal conclusion to which no
8 response is required.

9 40. Paragraph 40 of the Verified Complaint states a legal conclusion to which no
10 response is required. To the extent a response is required, the allegations are denied.

11 41. Paragraph 41 of the Verified Complaint states a legal conclusion to which no
12 response is required. To the extent a response is required, the allegations are denied.

13 42. Paragraph 42 of the Verified Complaint states a legal conclusion to which no
14 response is required. To the extent a response is required, the Alliance is without sufficient
15 information to form a belief as to the truth or falsity of the allegations in Paragraph 42 of the
16 Verified Complaint, and therefore denies them.

17 43. Denied.

18 44. Denied.

19 **COUNT II**

20 45. The Alliance incorporates by reference each of its preceding admissions, denials,
21 and statements as if fully set forth in this paragraph.

22 46. Paragraph 46 of the Verified Complaint states a legal conclusion to which no
23 response is required. To the extent that a response is required, the Alliance admits that the
24 statutory provision cited states that the county recorder “shall compare the signatures thereon
25 with the signature of the elector on the elector’s registration record.”

26 47. Paragraph 47 of the Verified Complaint states a legal conclusion to which no

1 response is required. To the extent Paragraph 47 implies that the term “registration record” is
2 limited to the definition provided therein, it is denied.

3 48. Paragraph 48 of the Verified Complaint states a legal conclusion to which no
4 response is required. To the extent a response is required, the allegations are denied.

5 49. Paragraph 49 of the Verified Complaint states a legal conclusion to which no
6 response is required.

7 50. Paragraph 50 of the Verified Complaint states a legal conclusion to which no
8 response is required. To the extent a response is required, the allegations are denied.

9 51. Paragraph 51 of the Verified Complaint states a legal conclusion to which no
10 response is required. To the extent a response is required, the allegations are admitted.

11 **DEMAND FOR RELIEF**

12 52. The Alliance denies that Plaintiffs are entitled to any relief.

13 **GENERAL DENIAL**

14 53. The Alliance denies every allegation in the Verified Complaint that is not
15 expressly admitted herein.

16 **AFFIRMATIVE DEFENSES**

17 54. Plaintiffs’ claims are barred in whole or in part for failure to state a claim upon
18 which relief can be granted.

19 55. Plaintiffs’ claims are barred because Plaintiffs lack standing.

20 56. Plaintiffs’ claims are barred by laches.

21 57. The Alliance reserves the right to assert additional affirmative defenses,
22 including, but not limited to, those set forth in Rule 8(d) of the Arizona Rules of Civil
23 Procedure, as additional facts are discovered.

24 WHEREFORE, having fully answered Plaintiffs’ First Amended Verified Special Action
25 Complaint, the Alliance prays for judgment as follows:

26

- 1 A. That judgment be entered in favor of the Alliance and against Plaintiffs on
2 Plaintiffs' Verified Complaint and that Plaintiffs take nothing thereby;
3 B. That the Alliance be awarded its reasonable attorneys' fees and costs; and
4 C. For such other and further relief as the Court, in its inherent discretion, deems
5 appropriate.

6 RESPECTFULLY SUBMITTED this 18th day of September, 2023.

7 **COPPERSMITH BROCKELMAN PLC**

8 By: /s/ D. Andrew Gaona _____

9 D. Andrew Gaona

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19 ORIGINAL e-filed and served via electronic
20 means this 18th day of September, 2023, upon:

21 Honorable John D. Napper
22 Yavapai County Superior Court
23 c/o Felicia L. Slaton
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