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18 *Pro Hac Vice Application Forthcoming

19 **ARIZONA SUPERIOR COURT**

20 **YAVAPAI COUNTY**

21 ARIZONA FREE ENTERPRISE CLUB, an) No. S1300CV202300872
22 Arizona nonprofit corporation, and MARY)
23 KAY RUWETTE, individually,) **ANSWER IN INTERVENTION**
24) **TO VERIFIED SPECIAL ACTION**
25) **COMPLAINT**
26) (Assigned to the Hon. John Napper)
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1 ARIZONA ALLIANCE OF RETIRED)
2 AMERICANS; and MI FAMILIA VOTA,)
3 Intervenor-Defendants.)

4 Intervenor-Defendants the Arizona Alliance for Retired Americans and Voto Latino
5 (collectively, “Intervenors”) answer Plaintiffs’ Verified Special Action Complaint
6 (“Verified Complaint”) as follows:

7 1. Paragraph 1 contains a legal contention to which no response is required. To
8 the extent a response is required, the allegations are denied.

9 2. Paragraph 2 contains a legal contention to which no response is required. To
10 the extent a response is required, Intervenors admit that Arizona requires early voting
11 options in every election and that election officials must mail a ballot to every voter on an
12 active early voting list, but otherwise deny the allegations in Paragraph 2 of the Verified
13 Complaint.

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

18 5. Paragraph 5 of the Verified Complaint states a legal conclusion to which no
19 response is required. To the extent a response is required, Intervenors admit that the cited
20 statutory provision states that completed early ballots shall be “delivered or mailed to the
21 county recorder or other officer in charge of elections of the political subdivision in which
22 the elector is registered or deposited by the voter or the voter’s agent at any polling place in
23 the county.” Intervenors also admit that printed instructions to early voters are to include
24 the following statement: “In order to be valid and counted, the ballot and affidavit must be
25 delivered to the office of the county recorder or other officer in charge of elections or may
26 be deposited at any polling place in the county no later than 7:00 p.m. on election day.”
27 Intervenors deny that Arizona law allows for drop boxes only at polling places.
28

1 16. Intervenors lack sufficient knowledge or information to form a belief as to the
2 truth or falsity of the allegations in Paragraph 16 of the Verified Complaint and therefore
3 deny them.

4 17. Admitted.

5 **GENERAL ALLEGATIONS**

6 18. Intervenors admit that the majority of qualified electors who participate in
7 Arizona elections vote via the State’s early voting system. The remainder of Paragraph 13
8 of the Verified Complaint states a legal conclusion to which no response is required. To the
9 extent a response is required, Intervenors admit that the quoted language appears in the cited
10 case but otherwise deny the allegations.

11 19. Paragraph 19 contains a legal conclusion to which no response is required. To
12 the extent a response is required, Intervenors admit that the quoted language appears in the
13 cited case but otherwise deny the allegations.

14 20. Paragraph 20 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 admitted.

16 21. Paragraph 21 of the Verified Complaint states a legal conclusion to which no
17 response is required. To the extent a response is required, the allegations are denied.

18 22. Paragraph 22 of the Verified Complaint states a legal conclusion to which no
19 response is required. To the extent a response is required, the allegations are denied.

20 23. Intervenors lack sufficient knowledge or information to form a belief as to the
21 truth or falsity of the allegations in Paragraph 23 of the Verified Complaint and therefore
22 deny them.

23 24. Intervenors admit that the Commission on Federal Election Reform, led by
24 President Jimmy Carter and former Secretary of State James Baker, was formed in 2004
25 and issued a report in 2005 titled “Building Confidence in U.S. Elections.” Intervenors
26 otherwise lack sufficient knowledge or information to form a belief as to the truth or falsity
27 of the allegations in Paragraph 24 of the Verified Complaint and therefore deny them.
28

1 25. Intervenors lack sufficient knowledge or information to form a belief as to the
2 truth or falsity of the allegations in Paragraph 25 of the Verified Complaint and therefore
3 deny them.

4 26. Intervenors admit that A.R.S. § 16-548(A) authorizes “the voter or the voter’s
5 agent” to deposit a ballot at a polling place. Paragraph 26 of the Verified Complaint
6 otherwise states a legal conclusion to which no response is required. To the extent a
7 response is required, the allegations are denied.

8 27. Paragraph 27 of the Verified Complaint states a legal conclusion to which no
9 response is required. To the extent a response is required, the allegations are denied.

10 28. Intervenors lack sufficient knowledge or information to form a belief about
11 the Legislature’s reasons for enacting A.R.S. § 16-547(A). Paragraph 28 of the Verified
12 Complaint otherwise states a legal conclusion to which no response is required. To the
13 extent a response is required, the allegations are denied.

14 29. Paragraph 29 of the Verified Complaint states a legal conclusion to which no
15 response is required. Intervenors admit that the quoted language appears without emphasis
16 in the cited statutes but otherwise deny the allegations..

17 30. Intervenors admit that the Secretary has issued rules for drop boxes through
18 the EPM, and that the EPM instructs County Recorders or other elections officers to
19 “develop and implement secure ballot retrieval and chain of custody procedures.”
20 Intervenors deny the remaining allegations.

21 31. Paragraph 31 of the Verified Complaint states a legal conclusion to which no
22 response is required. To the extent a response is required, Intervenors admit that the EPM
23 has the force of law and is punishable as a class two misdemeanor but deny the remaining
24 allegations.

25 32. Paragraph 32 of the Verified Complaint states a legal conclusion to which no
26 response is required. To the extent a response is required, Intervenors admit that the quoted
27 language appears in the cited cases.

28

1 33. Intervenors admit that the most recent EPM approved by the Secretary of
2 State, the Governor, and the Attorney General was published in December 2019 and
3 remains in effect, that the 2021 EPM did not take effect, and that the Governor and Attorney
4 General have not yet approved the 2023 EPM. Intervenors further admit that the 2023 and
5 2019 EPMs contain substantially similar drop box provisions but deny the characterization
6 that changes to the 2019 EPM’s provisions are “few,” “minor,” or “largely cosmetic.”
7 Paragraph 33 of the Verified Complaint otherwise states a legal conclusion to which no
8 response is required. To the extent a response is required, the allegation is denied.

9 34. Denied

10 35. Denied.

11 36. Intervenors admit that the EPM regulates unstaffed drop boxes and allows
12 them to be placed outdoors. Intervenors deny the remaining allegations in Paragraph 36.

13 37. Intervenors lack sufficient knowledge or information to form a belief as to the
14 truth or falsity of the allegations in Paragraph 37 of the Verified Complaint and therefore
15 deny them.

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

18 39. Paragraph 39 of the Verified Complaint states a legal conclusion to which no
19 response is required. To the extent a response is required, the allegations are denied.

20 40. Intervenors lack sufficient knowledge or information to form a belief as to the
21 truth or falsity of the allegation in Paragraph 40 of the Verified Complaint about USPS mail
22 collection boxes and therefore deny it. Intervenors admit that the EPM requires all drop
23 boxes to be “secured by a lock and/or sealable with a tamper-evident seal.”

24 41. Intervenors lack sufficient knowledge or information to form a belief as to the
25 truth or falsity of the allegations in Paragraph 41 of the Verified Complaint and therefore
26 deny them.

27 42. Paragraph 42 of the Verified Complaint states a legal conclusion to which no
28 response is required. To the extent a response is required, the allegations are denied.

1 43. Intervenors lack sufficient knowledge or information to form a belief as to the
2 truth or falsity of the allegations in Paragraph 43 of the Verified Complaint and therefore
3 deny them.

4 44. Intervenors lack sufficient knowledge or information to form a belief as to the
5 truth or falsity of the allegations in Paragraph 44 of the Verified Complaint and therefore
6 deny them.

7 45. Intervenors admit that during the 2022 election, an Arizona court entered a
8 restraining order against armed observers who intimidated Arizonans seeking to vote via
9 drop box. Intervenors deny the remaining allegations in Paragraph 45.

10 46. Intervenors lack sufficient knowledge or information to form a belief as to the
11 truth or falsity of the allegations in Paragraph 46 of the Verified Complaint and therefore
12 deny them.

13 47. Intervenors lack sufficient knowledge or information to form a belief as to the
14 truth or falsity of the allegations in Paragraph 47 of the Verified Complaint and therefore
15 deny them.

16 48. Intervenors lack sufficient knowledge or information to form a belief as to the
17 truth or falsity of the allegations in Paragraph 48 of the Verified Complaint and therefore
18 deny them.

19 49. Intervenors deny that the EPM suggests that election officials install drop
20 boxes in the vicinity of a government building. Rather, the EPM requires that drop boxes
21 are “located in a secure location, such as inside or in front of a federal, state, local, or tribal
22 government building.” Intervenors otherwise lack sufficient knowledge or information to
23 form a belief as to the truth or falsity of the allegations in Paragraph 49 of the Verified
24 Complaint and therefore deny them.

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

27 51. Intervenors admit that the EPM does not dictate the numbers or geographic
28 distribution of unstaffed drop-boxes that a county may or must provide, and that counties

1 and municipalities may decide how many drop boxes to establish, if any. To the extent
2 Paragraph 51 alleges that the EPM lacks the authority to regulate drop boxes, that allegation
3 is denied. Intervenors otherwise lack sufficient knowledge or information to form a belief
4 as to the truth or falsity of the allegations in Paragraph 51 of the Verified Complaint and
5 therefore deny them.

6 52. Intervenors admit that the EPM does not regulate the apportionment of drop
7 boxes based on county population or geography. Intervenors otherwise lack sufficient
8 knowledge or information to form a belief as to the truth or falsity of the allegations in
9 Paragraph 51 of the Verified Complaint and therefore deny them.

10 53. Denied.

11 54. Denied.

12 55. Admitted.

13 56. Denied.

14 57. Denied.

15 58. Intervenors lack sufficient knowledge or information to form a belief as to the
16 truth or falsity of the allegations in Paragraph 58 of the Verified Complaint and therefore
17 deny them.

18 59. Intervenors deny that Arizona's unstaffed drop boxes lack a statutory basis.
19 Intervenors otherwise lack sufficient knowledge or information to form a belief as to the
20 truth or falsity of the allegations in Paragraph 59 of the Verified Complaint and therefore
21 deny them.

22 60. Paragraph 60 of the Verified Complaint states a legal conclusion to which no
23 response is required. To the extent a response is required, Intervenors admit that the
24 Wisconsin Supreme Court held that Wisconsin drop boxes were illegal under Wisconsin
25 state law.

26 61. Paragraph 61 of the Verified Complaint states a legal conclusion to which no
27 response is required. To the extent a response is required, Intervenors admit that the quoted
28 language appears in the cited case but deny that the cited statute remains law in Wisconsin,

1 as a Wisconsin court has held that the statutory provision quoted in Paragraph 61 of the
2 Verified Complaint is preempted by the Voting Rights Act. *Carey v. Wisconsin Elections*
3 *Comm'n*, 624 F. Supp. 3d 1020, 1032 (W.D. Wis. 2022).

4 62. Paragraph 62 of the Verified Complaint states a legal conclusion to which no
5 response is required. To the extent a response is required, the allegations are denied.

6 63. Paragraph 63 of the Verified Complaint states a legal conclusion to which no
7 response is required. To the extent a response is required, Intervenors admit that the quoted
8 language appears in the cited case, though with different punctuation and capitalization.

9 64. Paragraph 64 of the Verified Complaint states a legal conclusion to which no
10 response is required. To the extent a response is required, Intervenors admit that the quoted
11 language appears in the cited case, but at ¶ 61 of the opinion. To the extent Paragraph 64
12 alleges that the cited statute remains law in Wisconsin, that allegation is denied.

13 65. Paragraph 65 of the Verified Complaint states a legal conclusion to which no
14 response is required. To the extent a response is required, Intervenors admit that the quoted
15 language appears in the cited case but deny that details of Arizona's drop box scheme are
16 in memos prepared by WEC [Wisconsin Elections Commission] staff, or that Arizona's use
17 of drop boxes lack statutory support.

18 66. Paragraph 66 of the Verified Complaint states a legal conclusion to which no
19 response is required. To the extent a response is required, Intervenors admit that the quoted
20 language appears in the cited case.

21 67. Denied.

22 **COUNT I**

23 68. Intervenors incorporate by reference each of their preceding admissions,
24 denials, and statements as if fully set forth in this paragraph.

25 69. Paragraph 69 of the Verified Complaint states a legal conclusion to which no
26 response is required. To the extent that a response is required, Intervenors admit that the
27 quoted language appears in the cited statute.

28

1 **GENERAL DENIAL**

2 85. Intervenors deny every allegation in the Verified Complaint that is not
3 expressly admitted herein.

4 **AFFIRMATIVE DEFENSES**

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

7 87. Plaintiffs' claims are barred because Plaintiffs lack standing.

8 88. Plaintiffs' claims are barred by laches.

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

12
13 WHEREFORE, having fully answered Plaintiffs' Verified Complaint, Intervenors
14 pray for judgment as follows:

15 A. That the Court dismiss Plaintiffs' Verified Complaint;

16 B. That judgment be entered in favor of Intervenors and against Plaintiffs on
17 Plaintiffs' Verified Complaint and that Plaintiffs take nothing thereby;

18 C. That Intervenors be awarded reasonable attorneys' fees and costs; and

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

21 RESPECTFULLY SUBMITTED this 17th day of November, 2023.

22 **COPPERSMITH BROCKELMAN PLC**

23 By: /s/ D. Andrew Gaona

24 D. Andrew Gaona

Austin C. Yost

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* Application Pro Hac Vice Forthcoming

ORIGINAL e-filed and served via electronic
means this 17th day of November, 2023, upon:

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Yavapai County Superior Court
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