

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

5
6 Elisabeth C. Frost*
Daniel J. Cohen*
Marilyn Gabriela Robb*
7 **ELIAS LAW GROUP LLP**
250 Massachusetts Ave NW, Suite 400
8 Washington, D.C. 20001
T: (202) 968-4330
9 efrost@elias.law
10 dcohen@elias.law
mrobb@elias.law

11 Jonathan P. Hawley*
12 **ELIAS LAW GROUP LLP**
1700 Seventh Avenue, Suite 2100
13 Seattle, Washington 98101
T: (206) 656-0179
14 jhawley@elias.law

15 *Attorneys for Proposed Intervenor-Defendants*
16 *Arizona Alliance for Retired Americans and*
Voto Latino

17 **Pro Hac Vice Application Forthcoming*

18 **SUPERIOR COURT OF ARIZONA**
19 **COUNTY OF MARICOPA**

20 WARREN PETERSEN, in his official capacity)
as President of the Arizona Senate; BEN)
21 TOMA, in his official capacity as Speaker of the)
Arizona House of Representatives,)

22 Plaintiffs,)

23 v.)

24 ADRIAN FONTES, in his official capacity as)
25 the Secretary of State of Arizona,)

26 Defendant.)

No. CV2024-001942

**PROPOSED INTERVENOR-
DEFENDANTS ARIZONA
ALLIANCE FOR RETIRED
AMERICANS AND VOTO
LATINO'S MOTION TO
INTERVENE**

(Assigned to the Hon. Timothy Ryan)

1 **INTRODUCTION**

2 The Elections Procedures Manual (“EPM”) is the product of collaborative and
3 thoughtful work meant to “achieve and maintain the maximum degree of correctness,
4 impartiality, uniformity and efficiency on the procedures for early voting and voting,”
5 including counting ballots. A.R.S. § 16-452(A). As prescribed by the Legislature, the Secretary
6 of State (“Secretary”) consults with county boards of supervisors and elections officials to
7 inform the drafting of rules that will govern the administration of all Arizona elections. The
8 Secretary also may consider public comments, which, depending on the issue, may be minimal
9 or extensive, and consistent or conflicting. And as the state’s chief election official, the
10 Secretary has considerable discretion to ensure the consistency and predictability of election
11 administration across the state, and the enacted EPM has the force of law on the issues it can
12 address unless it directly contradicts express and mandatory statutory requirements. But the
13 EPM is not the Secretary’s fiat—not only is it informed by the time-intensive and careful
14 efforts described above, it is not effective until the Governor and Attorney General also
15 approve it.

16 Absent clear guidance in the EPM, county and municipal election officials can be left
17 to guess as to the most appropriate way to administer elections, and where ambiguity or gaps
18 have been left in prior EPMs (or where the EPM has not been timely updated), disparate and
19 arbitrary treatment of voters has resulted. The EPM thus plays a crucial role in ensuring that
20 Arizona’s elections are fair and its procedures predictable—no matter where a voter lives or
21 who is administering elections in their jurisdiction. By law, a new EPM must be approved by
22 the end of each odd-numbered calendar year, ensuring election officials have sufficient time to
23 understand and implement its procedures.

24 This litigation threatens to displace this thoughtful and crucial process, and burden the
25 voting rights of the members and constituents of Proposed Intervenor-Defendants Arizona
26 Alliance for Retired Americans (“Alliance”) and Voto Latino (together, “Proposed

1 Intervenor”). Filed by two Republican politicians—Arizona’s House Speaker and Senate
2 President (together, “Plaintiffs”)—this suit seeks to invalidate key provisions of the EPM and
3 enjoin the Secretary from implementing them. Granting Plaintiffs’ requests for relief would
4 invite chaos into the election process at nearly every stage, including by permitting third parties
5 to target voters for entirely bogus citizenship “verification” procedures, threatening them with
6 harassment and the potential cancellation of their voter registrations; improperly removing
7 voters from the highly popular and widely used active early voting list (“AEVL”), needlessly
8 burdening and even disenfranchising qualified Arizonans; and effectively prohibiting the
9 Secretary from enforcing any election procedure that is being challenged in other litigation,
10 even if it has not been ruled unlawful.

11 Each of these requests is, on its own, deeply troubling and would make Arizona’s
12 elections less free, fair, and reflective of the state’s electorate. But Plaintiffs also seek an
13 additional, extraordinary result: ***a judicial decree that county boards may shirk their***
14 ***nondiscretionary duty to canvass election returns, allowing officials to potentially change***
15 ***vote totals, reject election results, or even prevent statewide certification.*** The significance of
16 this direct and severe threat to democracy—which Arizona and the nation battled against in
17 various jurisdictions in both 2020 and 2022—cannot be overstated. If successful, it threatens
18 to paralyze the state’s election canvass, prevent the timely certification of results, and even
19 overrule the will of the people.

20 Among the voters most threatened by Plaintiffs’ suit are those in Arizona’s vulnerable
21 and marginalized populations, including the state’s underserved Latinx community and elderly
22 voters who are uniquely vulnerable to burdens on the right to vote. Proposed Intervenor seek
23 to represent the interests of these voters—which are unrepresented by the current parties to the
24 litigation—as well as their own substantial and legally protectable interests as organizations
25 dedicated to enfranchising and protecting the right to vote.

26

1 Proposed Intervenors readily meet the requirements for both intervention as of right and
2 permissive intervention under Arizona Rule of Civil Procedure 24. They have moved quickly
3 to intervene, and seek to defend against the potential disenfranchisement of their members and
4 constituents and the diversion of their limited resources. Though the Secretary shares the
5 objective of defending the 2023 EPM, he is not involved in targeted get-out-the-vote
6 (“GOTV”) programming or voter-advocacy efforts like Proposed Intervenors. Nor does he
7 share Proposed Intervenors’ particular organizational objectives—and ultimately does not have
8 a specific stake in the civic participation of their members and constituents. Furthermore, both
9 the Alliance and Voto Latino are parties to litigation that is directly targeted by Plaintiffs’
10 action, which alone gives them a unique interest that is threatened by this litigation and that
11 they should be permitted to defend. Finally, both organizations have regularly litigated—
12 including as intervenors—issues related to election administration and voting rights in
13 Arizona. This includes intervention as defendants in two attacks on different procedures in the
14 prior version of the EPM.

15 Having satisfied the applicable legal standards, and given the grave threat Plaintiffs’
16 claims pose to their missions, members, and constituents, Proposed Intervenors should be
17 granted intervention as of right or, in the alternative, permissive intervention.¹

18 Proposed Intervenors have conferred with counsel for Plaintiffs and Defendant for their
19 positions on this Motion. Defendant does not oppose this Motion, and Plaintiffs object.

20 **BACKGROUND**

21 The Alliance is a nonprofit corporation whose membership includes around 50,000
22 retirees from public and private sector unions, community organizations, and individual

23
24 ¹ Consistent with Arizona’s intervention rules, Proposed Intervenors have attached a proposed
25 answer as their “pleading in intervention.” Ariz. R. Civ. P. 24(c). While Rule 24 requires a
26 “pleading,” Rule 12 requires that certain defenses be asserted by motion prior to a responsive
pleading. *See* Ariz. R. Civ. P. 12(b). Accordingly, if granted intervention, Proposed Intervenors
intend to file a motion to dismiss prior to filing their proposed answer.

1 activists in every county in Arizona, including 24,717 members in Maricopa County alone.
2 The Alliance's mission is to ensure social and economic justice and to protect the civil rights
3 of retirees after a lifetime of work, including by ensuring that its members have access to the
4 franchise and can meaningfully participate in Arizona's elections. To protect the right to vote,
5 the Alliance has been involved in litigation implicating a range of voting-rights issues,
6 including the orderly administration of elections and canvassing; challenges to the validity of
7 EPM procedures regulating drop boxes, signature matching, and hand counts; and attempts to
8 remove voters from the AEVL. This includes litigation that the Alliance successfully brought
9 last election cycle to obtain a writ of mandamus to compel the Cochise County Board of
10 Supervisors to canvass their election results. *See Ariz. All. for Retired Ams. v. Crosby*, No.
11 S0200CV202200552 (Cochise Cnty. Super. Ct.). The Alliance has also recently moved to
12 intervene to defend against an action filed by a Mohave County supervisor seeking to similarly
13 delay and disrupt the canvass in Mohave County this cycle, *see Gould v. Mayes*, No. CV2024-
14 000815 (Maricopa Cnty. Super. Ct.), and is participating as a defendant intervenor in two other
15 ongoing challenges to prior versions of the EPM. *See Ariz. Free Enter. Club v. Fontes*, No.
16 S1300CV202300202 (Yavapai Cnty. Super. Ct.); *Ariz. Free Enter. Club v. Fontes*, No.
17 S1300CV202300872 (Yavapai Cnty. Super. Ct.)

18 Voto Latino is the largest Latinx advocacy organization in the nation. Its mission is to
19 grow political engagement in historically underrepresented communities, especially in its core
20 constituency of young Latinx voters. Since 2012, Voto Latino has registered over 60,000 voters
21 in Arizona. To further its mission, Voto Latino spends significant resources on voter-education
22 and -mobilization initiatives, such as voter-registration drives, email and social-media
23 campaigns, digital ads communicating directly with Latinx voters, mail, and text banking to
24 encourage voters to vote, remind them to update their voter registrations, and inform them
25 about available means of voting. Voto Latino also seeks to educate Latinx voters on issues that
26 impact that community and where candidates stand on those issues. Like the Alliance, Voto

1 Latino has repeatedly been involved in litigation in Arizona to protect the right of its
2 constituents to vote, including challenges to the validity of important EPM procedures and
3 attempts to remove voters from the AEVL. *See, e.g., Ariz. All. for Retired Ams. v. Hobbs*, 630
4 F. Supp. 3d 1180 (D. Ariz. 2022); *Ariz. Free Enter. Club v. Fontes*, No. S1300CV202300872
5 (Yavapai Cnty. Super. Ct.).

6 ARGUMENT

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

19 Here, Proposed Intervenors satisfy the standards for both intervention as of right and
20 permissive intervention.

21 I. Proposed Intervenors have a right to intervene.

22 Proposed Intervenors have a right to intervene under Rule 24(a). The Court must allow
23 intervention where a proposed intervenor satisfies four elements:

24 (1) the motion must be timely; (2) the applicant must assert an interest relating
25 to the property or transaction which is the subject of the action; (3) the applicant
26 must show that disposition of the action may impair or impede its ability to
protect its interest; and (4) the applicant must show that the other parties would
not adequately represent its interests.

1 *Woodbridge Structured Funding, LLC v. Ariz. Lottery*, 235 Ariz. 25, 28 ¶ 13 (App. 2014).
2 Proposed intervenors meet each of these requirements and are thus entitled to intervene as of
3 right under Rule 24(a).

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

5 Timeliness under Rule 24 is “flexible,” and the most important consideration “is
6 whether the delay in moving for intervention will prejudice the existing parties to the case.”
7 *Weaver v. Synthes, Ltd. (U.S.A.)*, 162 Ariz. 442, 446 (App. 1989) (cleaned up).

8 Here, Proposed intervenors timely filed this motion to intervene. Plaintiffs filed suit on
9 January 31, 2024, and this motion follows just *two days* later, before any responsive pleadings
10 have been filed or any significant events in the case have occurred. Allowing intervention
11 would not require altering any existing deadlines, and there is no risk of prejudice to any party
12 if Proposed intervenors are allowed to participate.

13 **B. The disposition of this case might impair Proposed intervenors’ ability to**
14 **protect their interests and those of their members and constituents.**

15 “[A] prospective intervenor ‘has a sufficient interest for intervention purposes if it will
16 suffer a practical impairment of its interests as a result of the pending litigation.’” *Wilderness*
17 *Soc’y v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (quoting *California ex rel.*
18 *Lockyer v. United States*, 450 F.3d 436, 441 (9th Cir. 2006)). “[I]t is generally enough that the
19 interest is protectable under some law, and that there is a relationship between the legally
20 protected interest and the claims at issue.” *Id.* (quoting *Sierra Club v. EPA*, 995 F.2d 1478,
21 1484 (9th Cir. 1993)). Under Arizona law, “a would-be intervenor must show only that
22 impairment of its substantial legal interest *is possible* if intervention is denied”—a “minimal”
23 burden. *Heritage Vill. II*, 246 Ariz. at 572 ¶ 21 (quoting *Utah Ass’n of Cnty. v. Clinton*, 255
24 F.3d 1246, 1253 (10th Cir. 2001)).

1 Here, Proposed Intervenors satisfy the intertwined second and third prongs of the
2 standard for intervention as of right: They have interests in the subject of this action, and its
3 disposition might impair or impede their ability to protect those interests.

4 *First*, Proposed Intervenors have an interest in ensuring that their members and
5 constituents can exercise the franchise free from unnecessary obstacles—and in preventing the
6 disenfranchisement of the voters they represent. *Cf., e.g., Sandusky Cnty. Democratic Party v.*
7 *Blackwell*, 387 F.3d 565, 573–74 (6th Cir. 2004) (risk that some voters will be disenfranchised
8 confers organizational standing); *Charles H. Wesley Educ. Found., Inc. v. Cox*, 408 F.3d 1349,
9 1352 (11th Cir. 2005) (“A plaintiff need not have the franchise wholly denied to suffer
10 injury.”); *see also Bechtel v. Rose*, 150 Ariz. 68, 72 (1986) (explaining that standing poses
11 higher bar than intervention because intervenor “does not even have to be a person who would
12 have been a proper party at the beginning of the suit” (cleaned up)). If Plaintiffs’ lawsuit is
13 successful, key provisions of the EPM will be invalidated, with the potential result of electoral
14 chaos and disenfranchisement—impairing Proposed Intervenors’ interest in safeguarding the
15 right to vote of their members and constituents.

16 For example, in Court II, Plaintiffs seek to invalidate EPM guidance stating that “third-
17 party allegations of non-citizenship are not enough” to initiate processes to investigate the
18 citizenship status of registered Arizona voters and potentially remove them from the voter rolls.
19 Verified Special Action Compl. for Declaratory & Injunctive Relief (“Compl.”) ¶ 62 (quoting
20 Compl. Ex. 1, at 42). If Plaintiffs prevail on this claim, then anyone could, *without evidence*,
21 simply give a county recorder a list of Arizonans who are purportedly non-citizens and trigger
22 a verification process leading to improperly cancelled voter registrations and potential
23 investigations and prosecutions of eligible Arizona voters. Along with injecting unfounded
24 confusion into the upcoming election cycle, invalidating this EPM guidance would also likely
25 result in the disproportionate targeting of nonwhite and minority Arizonans—including, in
26 particular, Proposed Intervenors’ members and constituents.

1 Count III seeks to permit the removal of voters from the AEVL two years earlier than
2 the EPM (and state law) provides, burdening the franchise of all Arizonans who rely on the
3 AEVL to exercise their right to vote. Many of the Alliance’s members are older and face greater
4 hurdles to voting in person, and therefore rely on the AEVL to timely receive and cast mail
5 ballots. These older voters would be disproportionately harmed by Plaintiffs’ requested relief.

6 Proposed Intervenors would also be harmed by Plaintiffs’ requested relief in Count V.
7 Plaintiffs claim that “[t]he Board’s statutory duty to canvass the vote does not necessarily
8 require the Board to accept the returns in the form provided by the election official or vote in
9 a certain way regarding accuracy of returns.” Compl. ¶ 50. But if county boards can change
10 vote totals, reject election results, or fail to transmit their canvass to the Secretary within the
11 20-day statutory deadline, *see* A.R.S. § 16-642(A)—because, for example, they credit
12 conspiracy theories about the accuracy of the count or insist on undertaking unlawful and
13 impracticable hand counts before certification—Proposed Intervenors’ members and
14 constituents’ votes may very well go uncounted.

15 This is no theoretical threat: It almost happened two years ago. In 2022, the Cochise
16 County Board of Supervisors refused to timely certify the County’s election results as
17 statutorily required. Crisis was barely averted when a court granted the Alliance and the
18 Secretary mandamus relief and ordered the intransigent board to canvass the election on
19 December 1—three days *after* the statutory deadline. *See* Order re: Special Action, *Ariz. All.*
20 *for Retired Ams.*, No. S0200CV202200552 (Cochise Cnty. Super. Ct. Dec. 1, 2022). Plaintiffs’
21 lawsuit seeks nothing less than judicial imprimatur for future electoral chaos and uncertainty,
22 which would have disastrous results on Arizona’s ability to timely certify its election results in
23 2024 and beyond.

24 Count VI directly threatens Proposed Intervenors’ protectable interests in pending cases
25 to which they themselves are parties. For example, the Alliance is a party in *Arizona Free*
26 *Enterprise Club v. Fontes*, No. S1300CV202300202 (Yavapai Cnty. Super. Ct.), and Plaintiffs

1 challenge how the 2023 EPM reflects the results of that case. *See* Compl. ¶¶ 30, 110 (claiming
2 that EPM did not “incorporat[e] substantive rulings” from that case). Just as the Yavapai
3 County Superior Court allowed the Alliance to intervene and defend its interests in *Arizona*
4 *Free Enterprise Club*, *see* Order re: Nature of Proceedings, *Arizona Free Enterprise Club*, No.
5 S1300CV202300202 (Yavapai Cnty. Super. Ct. Apr. 21, 2023), so too should the Court allow
6 the Alliance to intervene here.

7 *Second*, if key provisions of the EPM are declared unlawful and the Secretary is
8 enjoined from implementing them, Proposed Intervenors will be forced to divert resources
9 from their mission-critical work to ensure that their members and constituents are not
10 unreasonably burdened, prevented, or deterred from voting. This further constitutes a
11 protectable interest sufficient for intervention as of right. *See, e.g., E. Bay Sanctuary Covenant*
12 *v. Biden*, 993 F.3d 640, 663 (9th Cir. 2021) (“[A]n organization has direct standing to sue
13 where it establishes that the defendant’s behavior has frustrated its mission and caused it to
14 divert resources in response to that frustration of purpose.”); *Mi Familia Vota*, No. CV-22-
15 00509-PHX-SRB, 2023 WL 8183070, at *10 (D. Ariz. Feb. 16, 2023), ECF No. 304
16 (organizational plaintiffs had standing when voting laws would require them to divert resources
17 from other activities to assist their supporters who might be disproportionately disenfranchised
18 or discouraged from voting).

19 The Alliance would need to redirect time and resources to educate its members on the
20 new election procedures, including potential early removal from the AEVL and the possibility
21 that a county board might fail to complete a timely canvass and threaten the tabulation of lawful
22 votes. The Alliance would also have to divert resources to mitigate the chilling effects that
23 such radical new procedures could have on its members’ willingness to vote. Voto Latino
24 would have to change its GOTV efforts and divert resources towards educating its constituents
25 about the potential for targeted third-party citizenship investigations, as well as the other
26 potentially disenfranchising effects of Plaintiffs’ lawsuit. Such diversions of Proposed

1 Intervenor’s limited resources constitute impairments of cognizable interests, thus satisfying
2 the second and third prongs for intervention as of right.

3 **C. Proposed Intervenor’s interests are not adequately represented.**

4 Proposed Intervenor’s interests are not adequately represented by the parties.
5 Plaintiffs do not represent Proposed Intervenor’s interests, as Plaintiffs seek to invalidate
6 provisions of the EPM that safeguard the right to vote of Proposed Intervenor’s members and
7 constituents. Nor are Proposed Intervenor’s particular interests here—namely, preventing the
8 disenfranchisement of their members and constituents and avoiding the diversion of their
9 mission-critical resources—shared by the Secretary, who possesses only a general obligation
10 to serve as Arizona’s chief elections officer, not a specific interest in mobilizing and educating
11 retired or Latinx voters and advocating on their behalf.

12 Courts have recognized that government officials like the Secretary “must represent the
13 interests of all people in [his jurisdiction],” such that they cannot give groups like Proposed
14 Intervenor’s or their constituencies’ interests “the kind of primacy” that Proposed Intervenor
15 will themselves provide. *Planned Parenthood Ariz., Inc. v. Am. Ass’n of Pro-Life Obstetricians*
16 *& Gynecologists*, 227 Ariz. 262, 279 ¶ 58 (App. 2011) (permitting adversely affected groups
17 to intervene in defense of challenged statute). Indeed, where an original party to the suit is a
18 government entity whose position is “necessarily colored by its view of the public welfare
19 rather than the more parochial views of a proposed intervenor whose interest is personal to it,”
20 the burden of establishing inadequacy of representation by existing parties is “comparatively
21 light.” *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 972 (3d Cir. 1998).

22 Consistent with these principles, courts routinely allow organizations to intervene on
23 the same side as government officials when the organization and its members have interests
24 that are distinct from the public at large. *See, e.g., Saunders v. Superior Ct.*, 109 Ariz. 424, 426
25 (1973) (finding associations of police officers and firefighters were not adequately represented
26 by Attorney General in challenge to state pension system because “[t]he interest of petitioners

1 is not common to other citizens in the state”); *Citizens for Balanced Use v. Mont. Wilderness*
2 *Ass’n*, 647 F.3d 893, 899 (9th Cir. 2011) (allowing environmental group to intervene where it
3 had different objectives than U.S. Forest Service); *Utah Ass’n of Cnty.*, 255 F.3d at 1255–56
4 (“[T]he government’s representation of the public interest generally cannot be assumed to be
5 identical to the individual parochial interest of a particular member of the public merely
6 because both entities occupy the same posture in the litigation.”); *see also Trbovich v. United*
7 *Mine Workers of Am.*, 404 U.S. 528, 538 (1972) (union was not adequately represented by U.S.
8 Secretary of Labor where its interests in litigation were “related, but not identical”).

9 Consistent with this precedent, Arizona courts have recently allowed both the Alliance
10 and Voto Latino to intervene on the same side as the Secretary when the validity of various
11 EPM provisions was challenged. *See* Order re: Nature of Proceedings, *Ariz. Free Enter. Club*,
12 No. S1300CV202300202 (Yavapai Cnty. Super. Ct. Apr. 21, 2023) (granting intervention to
13 nonprofit organizations, including the Alliance, in case seeking to invalidate EPM provision
14 regarding signature-verification procedures); Order Re: Nature of Proceedings, *Ariz. Free*
15 *Enter. Club*, No. S1300CV202300872 (Yavapai Cnty. Super. Ct. Oct. 27, 2023) (granting
16 intervention to the Alliance and Voto Latino in case seeking to invalidate EPM provisions
17 authorizing use of ballot drop boxes). The same result is appropriate here: The Court should
18 grant intervention because no party, including the Secretary, adequately represents Proposed
19 Intervenors’ interests.

20 **II. In the alternative, Proposed Intervenors should be granted permissive**
21 **intervention.**

22 In the alternative, the Court should grant Proposed Intervenors permissive intervention
23 because they have “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)(B). Indeed, Proposed Intervenors’ defenses depend on
25 the same questions of law—the proper interpretation of Arizona’s election law—that form the
26 bases of Plaintiffs’ claims.

1 When such a requisite common question is present, Arizona courts consider other
2 factors to decide whether to grant permissive intervention, including:

3 the nature and extent of the intervenors' interest, their standing to raise relevant
4 legal issues, the legal position they seek to advance, and its probable relation to
5 the merits of the case. The court may also consider . . . whether the intervenors'
6 interests are adequately represented by other parties, whether intervention will
7 prolong or unduly delay the litigation, and whether parties seeking intervention
will significantly contribute to full development of the underlying factual issues
in the suit and to the just and equitable adjudication of the legal questions
presented.

8 *Bechtel*, 150 Ariz. at 72 (quoting *Spangler v. Pasadena City Bd. of Educ.*, 552 F.2d 1326, 1329
9 (9th Cir. 1977)). Here, these considerations favor permissive intervention.

10 *First*, Proposed Intervenors have distinct interests in ensuring their members and
11 constituents are not disenfranchised and in avoiding the diversion of their resources to last-
12 minute voter-education initiatives and other responsive efforts. In particular, as discussed
13 above, allowing third parties to initiate almost unlimited investigations of citizenship statuses
14 and prematurely removing voters from the AEVL would disproportionately impact Proposed
15 Intervenors and the communities they represent.

16 *Second*, as the only parties representing Arizona voters, Proposed Intervenors are
17 uniquely positioned to not only provide legal arguments relevant to Plaintiffs' claims—as
18 discussed above, they are now litigating some of these very issues in other pending cases—but
19 also demonstrate the injuries to voters and voter-advocacy groups that would follow from the
20 relief Plaintiffs seek and the repeated misrepresentations of Arizona law that Plaintiffs have
21 propounded in this lawsuit. Moreover, Proposed Intervenors and their counsel have significant
22 experience litigating election and voting-rights matters in this Court and, if granted
23 intervention, would substantially contribute to robust analysis of the relevant legal and factual
24 issues.

25 *Third*, as discussed above, Proposed Intervenors' interests are distinct from those of the
26 other parties in this case. The Alliance and Voto Latino represent their own organizational

1 interests and missions, as well as the interests and rights of their individual members and
2 constituents, many of whom are at particular risk of burden and disenfranchisement because
3 of this lawsuit.

4 *Finally*, Proposed Intervenors have promptly sought intervention, which will neither
5 delay the proceedings nor prejudice any party. To the contrary, Proposed Intervenors have a
6 particular interest in the expeditious resolution of this case to avoid uncertainty and attendant
7 harms to their organizational interests, members, and constituents.

8 Because Rule 24 is liberally construed to protect the rights of all interested parties, *see*
9 *Bechtel*, 150 Ariz. at 72, the Court should permit permissive intervention.

10 **CONCLUSION**

11 For these reasons, Proposed Intervenors respectfully request that the Court grant their
12 motion and allow them to intervene as defendants in these proceedings.²

13 RESPECTFULLY SUBMITTED this 2nd day of February, 2024.

14 **COPPERSMITH BROCKELMAN PLC**

15 By: /s/ D. Andrew Gaona

D. Andrew Gaona

Austin C. Yost

17 **ELIAS LAW GROUP LLP**

18 Elisabeth C. Frost*

Daniel J. Cohen*

19 Marilyn Gabriela Robb*

20 250 Massachusetts Ave NW, Suite 400

Washington, D.C. 20001

T: (202) 968-4330

21 efrost@elias.law

dcohen@elias.law

22 mrobb@elias.law

23
24
25 _____
26 ² Proposed Intervenors also respectfully request that the Court set a schedule regarding this Motion that allows for their participation in any briefing schedules and hearings that are held.

1 Jonathan P. Hawley*
2 1700 Seventh Avenue, Suite 2100
3 Seattle, Washington 98101
4 T: (206) 656-0179
5 jhawley@elias.law

6 *Attorneys for Proposed Intervenor-Defendants*
7 *Arizona Alliance for Retired Americans and Voto*
8 *Latino*

9 **Pro Hac Vice Application Forthcoming*

10 ORIGINAL e-filed and served via electronic
11 means this 2nd day of February, 2024, upon:

12 Honorable Timothy J. Ryan
13 Maricopa County Superior Court
14 Brittany.sarracino@jbazmc.maricopa.gov

15 Kory Langhofer
16 kory@statecraftlaw.com
17 Thomas Basile
18 tom@statecraftlaw.com
19 Statecraft PLLC
20 649 North Fourth Avenue, First Floor
21 Phoenix, Arizona 85003

22 Joseph Kanefield
23 Tracy A. Olson
24 Vanessa Pomeroy
25 SNELL & WILMER L.L.P.
26 One East Washington Street
Suite 2700
Phoenix, Arizona 85004
Telephone: 602.382.6000
jkanefield@swlaw.com
tolson@swlaw.com
vpomeroy@swlaw.com

Attorneys for the Plaintiffs

1 Kara Karlson
kara.karlson@azag.gov

2 Kyle Cummings
kyle.cummings@azag.gov

3 Karen Hartman-Tellez
karen.hartman@azag.gov

4 Assistant Attorneys General
2005 N. Central Avenue
5 Phoenix Arizona 85004-2926

6 *Attorneys for Secretary of State Adrian Fontes*

7
8 /s/ Verna Colwell

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

5
6 Elisabeth C. Frost*
Daniel J. Cohen*
Marilyn Gabriela Robb*
7 **ELIAS LAW GROUP LLP**
250 Massachusetts Ave NW, Suite 400
8 Washington, D.C. 20001
T: (202) 968-4330
9 efrost@elias.law
10 dcohen@elias.law
mrobb@elias.law

11 Jonathan P. Hawley*
12 **ELIAS LAW GROUP LLP**
1700 Seventh Avenue, Suite 2100
13 Seattle, Washington 98101
T: (206) 656-0179
14 jhawley@elias.law

15 *Attorneys for Proposed Intervenor-Defendants*
Arizona Alliance for Retired Americans and
16 *Voto Latino*

17 **Pro Hac Vice Application Forthcoming*

18 **SUPERIOR COURT OF ARIZONA**
19 **COUNTY OF MARICOPA**

20 WARREN PETERSEN, in his official capacity)
as President of the Arizona Senate; BEN)
21 TOMA, in his official capacity as Speaker of the)
Arizona House of Representatives,)

22 Plaintiffs,)

23 v.)

24 ADRIAN FONTES, in his official capacity as)
25 the Secretary of State of Arizona,)

26 Defendant.)

No. CV2024-001942

**[PROPOSED] ANSWER IN
INTERVENTION TO
PLAINTIFFS' VERIFIED
SPECIAL ACTION COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

(Assigned to the Hon. Timothy Ryan)

1 Proposed Intervenor-Defendants Arizona Alliance for Retired Americans and Voto
2 Latino (“Proposed Intervenor”) answer Plaintiffs’ Verified Special Action Complaint for
3 Declaratory and Injunctive Relief (“Verified Complaint”) as follows:

4 **SUMMARY OF THE CASE**

5 1. Paragraph 1 states a legal conclusion to which no response is required. To the
6 extent a response is required, Plaintiffs admit that, “[u]nder the separation of powers doctrine,”
7 the Legislature has the power to enact laws consistent with its “constitutional legislative
8 function,” but deny that the Legislature has the power to “declare[] the meaning of an existing
9 law,” as such efforts “usurp[] the functions of the court.” *Wilson v. Indus. Comm’n*, 147 Ariz.
10 261, 265 (App. 1985); *see also Chevron Chem. Co. v. Superior Ct.*, 131 Ariz. 431, 440 (1982)
11 (“[W]e have held that an attempt by the legislative branch to interpret existing law . . . was ‘. .
12 . clearly . . . unconstitutional.’” (third and fourth alterations in original) (quoting *Martin v.*
13 *Moore*, 61 Ariz. 92, 96 (1943))); A.R.S. § 16-452(A) (empowering Secretary of State to
14 “consult[] with each county board of supervisors or other officer in charge of elections” and
15 “prescribe rules to achieve and maintain the maximum degree of correctness, impartiality,
16 uniformity and efficiency on the procedures for early voting and voting, and of producing,
17 distributing, collecting, counting, tabulating and storing ballots”).

18 2. Paragraph 2 states a legal conclusion to which no response is required. To the
19 extent a response is required, Proposed Intervenor admits that the Legislature has exercised its
20 authority to construct statutes governing elections and specifically delegated authority to the
21 Secretary of State (the “Secretary”) to create an Elections Procedures Manual (“EPM”) after
22 consulting with county boards of supervisors and election officials, which becomes effective
23 upon being approved by the Attorney General and Governor. Proposed Intervenor denies that
24 the Legislature has exclusive authority to regulate elections.

25 3. Proposed Intervenor admits that sections of the EPM are authorized by statute.
26 Proposed Intervenor otherwise denies the allegations in Paragraph 3.

1 4. Deny.

2 **PARTIES**

3 5. Admit.

4 6. Admit.

5 7. Admit.

6 8. Paragraph 8 states a legal conclusion to which no response is required. To the
7 extent a response is required, Proposed Intervenors agree that the Legislature has a general
8 institutional interest in the implementation of its legislative enactments, but deny that either
9 the Legislature or its leaders have complete authority to take legal action in defense of those
10 interests in every instance.

11 9. Paragraph 9 states a legal conclusion to which no response is required. To the
12 extent a response is required, Proposed Intervenors deny the allegations.

13 10. Paragraph 10 states a legal conclusion to which no response is required. To the
14 extent a response is required, Proposed Intervenors deny that Arizona's legislative leaders have
15 complete authority to take legal action on behalf of the Legislature in every instance.

16 11. Paragraph 11 states a legal conclusion to which no response is required. To the
17 extent a response is required, Proposed Intervenors deny the allegations.

18 12. Paragraph 12 states a legal conclusion to which no response is required. To the
19 extent a response is required, Proposed Intervenors deny the allegations.

20 **JURISDICTION AND VENUE**

21 13. Paragraph 13 states a legal conclusion to which no response is required. To the
22 extent a response is required, Proposed Intervenors deny the allegations.

23 14. Proposed Intervenors admit that Defendant resides and holds office in Maricopa
24 County. Paragraph 14 otherwise states a legal conclusion to which no response is required. To
25 the extent a response is required, and the Court finds it has jurisdiction, Proposed Intervenors
26 admit that venue is proper in Maricopa County.

1 36. Paragraph 36 states a legal conclusion to which no response is required. To the
2 extent a response is required, Proposed Intervenor deny the allegations.

3 **Investigations of Citizenship Status Rule**

4 37. Admit.

5 38. Paragraph 38 states a legal conclusion to which no response is required. To the
6 extent a response is required, Proposed Intervenor admit that the cited statute contains the
7 quoted language, but deny the allegations to the extent they mischaracterize the statute.

8 39. Paragraph 39 states a legal conclusion to which no response is required. To the
9 extent a response is required, Proposed Intervenor deny the allegations.

10 40. Paragraph 40 states a legal conclusion to which no response is required. To the
11 extent a response is required, Proposed Intervenor deny the allegations.

12 **AEVL Effective Date Rule**

13 41. Admit.

14 42. Admit.

15 43. Paragraph 43 states a legal conclusion to which no response is required. To the
16 extent a response is required, Proposed Intervenor deny the allegations.

17 44. Paragraph 44 states a legal conclusion to which no response is required. To the
18 extent a response is required, Proposed Intervenor deny the allegations.

19 **Validity of Circulator Registrations Rule**

20 45. Proposed Intervenor deny that Chapter 6, Section 2 of the 2023 EPM is titled
21 “Circulator Registration Procedures.” Proposed Intervenor otherwise admit the allegations in
22 Paragraph 45.

23 46. Paragraph 46 states a legal conclusion to which no response is required. To the
24 extent a response is required, Proposed Intervenor admit that the cited statute contains the
25 quoted language, but deny the allegations to the extent they mischaracterize the statute.

26

1 89. Paragraph 89 states a legal conclusion to which no response is required. To the
2 extent a response is required, Proposed Intervenor s admit that the cited cases contain the quoted
3 language, but deny the allegations to the extent they mischaracterize the cases or rule.

4 90. Paragraph 90 states a request for relief to which no response is required. To the
5 extent a response is required, Proposed Intervenor s deny that Plaintiff is entitled to relief.

6 **COUNT V**

7 91. Proposed Intervenor s incorporate by reference each of their preceding
8 admissions, denials, and statements as if fully set forth herein.

9 92. Admit.

10 93. Admit.

11 94. Paragraph 94 states a legal conclusion to which no response is required. To the
12 extent a response is required, Proposed Intervenor s deny the allegations.

13 95. Paragraph 95 states a legal conclusion to which no response is required. To the
14 extent a response is required, Proposed Intervenor s admit that the cited case contains the quoted
15 language, but deny the allegations to the extent they mischaracterize the case.

16 96. Paragraph 96 states a legal conclusion to which no response is required. To the
17 extent a response is required, Proposed Intervenor s deny the allegations.

18 97. Paragraph 97 states a legal conclusion to which no response is required. To the
19 extent a response is required, Proposed Intervenor s deny the allegations.

20 98. Paragraph 98 states a legal conclusion to which no response is required. To the
21 extent a response is required, Proposed Intervenor s deny the allegations.

22 99. Paragraph 99 states a legal conclusion to which no response is required. To the
23 extent a response is required, Proposed Intervenor s admit the allegations.

24 100. Paragraph 100 states a legal conclusion to which no response is required. To the
25 extent a response is required, Proposed Intervenor s deny that the quoted statutory language
26 empowers county election officials to change vote totals, reject election results, delay

1 certification of election results without express statutory authority or court order, or otherwise
2 undermine the will of the electorate or disrupt the orderly and lawful administration of
3 elections.

4 101. Paragraph 101 states a legal conclusion to which no response is required. To the
5 extent a response is required, Proposed Intervenor deny the allegations.

6 102. Proposed Intervenor admit that county boards cannot reject valid and accurate
7 election results. Paragraph 102 otherwise states a legal conclusion to which no response is
8 required. To the extent a response is required, Proposed Intervenor deny the allegations.

9 103. Paragraph 103 states a legal conclusion to which no response is required. To the
10 extent a response is required, Proposed Intervenor deny the allegations.

11 104. Paragraph 104 states a legal conclusion to which no response is required. To the
12 extent a response is required, Proposed Intervenor admit that the cited statute contains the
13 quoted language, but deny the allegations to the extent they mischaracterize the statute.

14 105. Paragraph 105 states a legal conclusion to which no response is required. To the
15 extent a response is required, Proposed Intervenor deny the allegations.

16 106. Paragraph 106 states a legal conclusion to which no response is required. To the
17 extent a response is required, Proposed Intervenor admit that the cited cases contain the quoted
18 language, but deny the allegations to the extent they mischaracterize the cases or rule.

19 107. Paragraph 107 states a request for relief to which no response is required. To the
20 extent a response is required, Proposed Intervenor deny that Plaintiff is entitled to relief.

21 **COUNT VI**

22 108. Proposed Intervenor incorporate by reference each of their preceding
23 admissions, denials, and statements as if fully set forth herein.

24 109. Admit.

25 110. Deny.

26

1 111. Paragraph 111 states a legal conclusion to which no response is required. To the
2 extent a response is required, Proposed Intervenor deny the allegations.

3 112. Paragraph 112 states a legal conclusion to which no response is required. To the
4 extent a response is required, Proposed Intervenor admit that the cited case contains the quoted
5 language, but deny the allegations to the extent they mischaracterize the case.

6 113. Paragraph 113 states a legal conclusion to which no response is required. To the
7 extent a response is required, Proposed Intervenor deny the allegations.

8 114. Paragraph 114 states a legal conclusion to which no response is required. To the
9 extent a response is required, Proposed Intervenor admit that the EPM carries the force of law
10 so long as its provisions are within its statutorily defined scope and consistent with state and
11 federal law.

12 115. Paragraph 115 states a legal conclusion to which no response is required. To the
13 extent a response is required, Proposed Intervenor admit that it is appropriate for the EPM to
14 note the pendency of legal proceedings, but deny the allegations to the extent that they suggest
15 that the 2023 EPM either invalidates or amends statutory requirements or interferes with or
16 abrogates the appellate rights of litigants in ongoing legal proceedings.

17 116. Paragraph 116 states a request for relief to which no response is required. To the
18 extent a response is required, Proposed Intervenor deny that Plaintiff is entitled to relief.

19 **DEMAND FOR RELIEF**

20 Proposed Intervenor deny that Plaintiffs are entitled to any relief.

21 **GENERAL DENIAL**

22 Proposed Intervenor deny every allegation in the Verified Complaint that is not
23 expressly admitted herein.

24 **AFFIRMATIVE DEFENSES**

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

Jonathan P. Hawley*
1700 Seventh Avenue, Suite 2100
Seattle, Washington 98101
T: (206) 656-0179
jhawley@elias.law

*Attorneys for Proposed Intervenor-Defendants
Arizona Alliance for Retired Americans and Voto
Latino*

**Pro Hac Vice Application Forthcoming*

ORIGINAL e-filed and served via electronic
means this 2nd day of February, 2024, upon:

Honorable Timothy J. Ryan
Maricopa County Superior Court
Brittany.sarracino@jbazmc.maricopa.gov

Kory Langhofer
kory@statecraftlaw.com
Thomas Basile
tom@statecraftlaw.com
Statecraft PLLC
649 North Fourth Avenue, First Floor
Phoenix, Arizona 85003

Joseph Kanefield
Tracy A. Olson
Vanessa Pomeroy
SNELL & WILMER L.L.P.
One East Washington Street
Suite 2700
Phoenix, Arizona 85004
Telephone: 602.382.6000
jkanefield@swlaw.com
tolson@swlaw.com
vpomeroy@swlaw.com

Attorneys for the Plaintiffs

1 Kara Karlson
kara.karlson@azag.gov

2 Kyle Cummings
kyle.cummings@azag.gov

3 Karen Hartman-Tellez
karen.hartman@azag.gov

4 Assistant Attorneys General
2005 N. Central Avenue
5 Phoenix Arizona 85004-2926

6 *Attorneys for Secretary of State Adrian Fontes*

7
8 /s/ Verna Colwell

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