No. A24-1170

STATE OF MINNESOTA
IN COURT OF APPEALS

MINNESOTA ALLIANCE FOR RETIRED AMERICANS EDUCATIONAL FUND, TERESA MAPLES, and KHALID MOHAMED,

Respondents,

v.

STEVE SIMON, in his official capacity as Minnesota Secretary of State,

Respondent,

and

REPUBLICAN NATIONAL COMMITTEE AND REPUBLICAN PARTY OF MINNESOTA,

Appellants.

BRIEF OF RESPONDENTS MINNESOTA ALLIANCE FOR RETIRED AMERICANS EDUCATIONAL FUND, TERESA MAPLES, AND KHALID MOHAMED

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   The Republican Committees moved to intervene as of right under Minnesota Rule of Civil Procedure 24.01 on April 25, 2024. Doc. Index # 42. The district court denied the motion to intervene as of right because (a) the Republican Committees lack a legally protectible interest in this action, (b) they failed to show that any interest they do have will be impaired, and (c) their claimed interests are already adequately represented by the Secretary. RNC Add. 32–34. The Republican Committees timely appealed. Doc. Index # 92.

   Most apposite authorities:

   - *Schroeder v. Simon*, 950 N.W.2d 70 (Minn. App. 2020)
   - *Liebert v. Wis. Elections Comm'n*, 345 F.R.D. 169 (W.D. Wis. 2023)
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2. Did the district court abuse its discretion in denying the Republican Committees' motion for permissive intervention?

   The Republican Committees moved to intervene permissively under Minnesota Rule of Civil Procedure 24.02 on April 25, 2024. Doc. Index # 42. The district court denied the motion for permissive intervention because (1) the Republican Committees did not show that disposition of the action may impair their ability to protect their interest or that the Secretary is not adequately defending that interest; (2) they seek no relief that is different from what the Secretary seeks, (3) there was no concern that the Secretary was not "vigorously" defending the case, and (4) allowing their intervention would invite the Democratic Party to intervene and turn this case into a political dispute rather than a legal one. Add. 33–34. The Republican Committees timely appealed. Doc. Index # 92.

Most apposite authorities:

- *State v. Deal*, 740 N.W.2d 755, 760 (Minn. 2007)
- *Liebert v. Wis. Elections Comm'n*, 345 F.R.D. 169 (W.D. Wis. 2023).

STATEMENT OF THE CASE

In the 2022 general election, Minnesota's election officials disenfranchised more than 6,000 absentee voters solely because of an archaic rule that required them to include the signature of a witness, along with the witness's street address, on the ballot's outer envelope. RNC Add. 6 n.1. Because this arbitrary requirement threatens to disenfranchise thousands more in upcoming elections, respondents Minnesota Alliance for Retired Americans Educational Fund, Teresa, Maples, and Khalid Mohamed (collectively, "Plaintiffs")—two frequent absentee voters and an organization of retirees whose members rely heavily on absentee ballots—sued Steve Simon, the Minnesota Secretary of State ("the Secretary"), alleging that Minnesota's witness requirement violates the federal Voting Rights Act and Civil Rights Act. *See* Resp. Add. 1–15[1]; Minn. Stat. §§ 203B.07, 203B.121; Minn. R. 8210.0500; Minn. R. 8210.0600; Minn. R. 8210.2450 (together, "the witness requirement"). The Secretary is Minnesota's chief elections officer and, as such, is responsible for the administration and implementation of election laws in Minnesota. *See* Minn. Stat. § 204B.27. The Attorney General, who is charged by law to "act as the attorney for all state officers" is representing the Secretary in this case. *Id.* § 8.06; *see also id.* § 8.01.

[1] "Resp. Add." refers to the addendum of respondents Minnesota Alliance for Retired Americans Educational Fund, Teresa Maples, and Khalid Mohamed.

Appellants the Republican National Committee and Republican Party of Minnesota (collectively, the "Republican Committees") moved to intervene as defendants in the district court. Their motivations were transparently partisan: "[i]t is no secret that, in recent years, mail voting has favored Democrats over Republicans." RNC Br. 26. And, like the Secretary, they sought to enforce the witness requirement. Judge Edward Sheu of the Ramsey County District Court appropriately denied the Republican Committees' motion to intervene, concluding that the Republican Committees did not have a unique and cognizable interest in this action, that they did not "show how they will be harmed if intervention is denied," and that they were adequately represented by the Secretary, who "has adequately, and vigorously, defended against Plaintiffs' claims." RNC Add. at 31–34. The Republican Committees now appeal the district court's well-reasoned decision to deny them intervention. In the same order, the district court denied the Secretary's motion to dismiss Plaintiffs' complaint and concluded that Plaintiffs were likely to succeed on the merits of their claims that the witness requirement violates the Voting Rights Act and the materiality provision of the Civil Rights Act, but nonetheless denied Plaintiffs' motion for a temporary injunction due to a finding that it would be too difficult for the Secretary to implement Plaintiffs' requested relief so close to the election. The Secretary then petitioned this Court for discretionary review of the district court's decision to deny his motion to dismiss. That petition was granted. The Republican Committees were subsequently granted leave to file an amicus brief in the merits appeal.

For the reasons explained below, this Court should affirm the district court's ruling to deny the Republican Committees intervention.

STATEMENT OF FACTS

All eligible voters are entitled to vote by absentee ballot. Minn. Stat. § 203B.02, subdiv. 1. Indeed, for some Minnesota voters, that is the *only* way that they can vote, because they live in a rural area without an in-person voting location. *See generally id.* §§ 204B.45, 204B.46 (authorizing mail-only balloting for any precinct having fewer than 100 registered voters). But to vote absentee in Minnesota, a voter must procure a witness to sign a "certificate of eligibility," which is printed on the absentee ballot signature envelope, stating that "(1) the ballots were displayed to that individual unmarked; (2) the voter marked the ballots in that individual's presence without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them; and (3) if the voter was not previously registered, the voter has provided proof of residence as required by section 201.061, subdivision 3." *Id.* § 203B.07, subdiv. 3. The voter must also sign the "certificate of eligibility," affirming that the voter "meets all of the requirements established by law for voting by absentee ballot." *Id*. Once received by local officials, each absentee signature envelope is examined by members of the local ballot board, who must mark it "accepted" or "rejected." Minn. Stat. § 203B.121, subdiv. 2(a). A signature envelope may only be marked "accepted" if a majority of the members of the ballot board are satisfied that "the certificate has been completed as prescribed in the directions for casting an absentee ballot." *Id*. subdiv. 2(b)(5). If that requirement is not met, the signature envelope will be rejected. *Id*. subdiv. 2(c)(1).

Plaintiffs are two Minnesota voters who regularly vote absentee and plan to do so in future elections, and the Minnesota Alliance for Retired Americans—a nonpartisan

organization whose members include retirees from public and private sector unions, community organizations, and individual activists. Resp. Add. 3–5. They challenge the witness requirement under Section 201 of the Voting Rights Act, which protects voters against the use of voucher requirements, literacy tests, and other devices historically used to discriminate against racial minorities, Voting Rights Act of 1965 ("VRA"), Pub. L. No. 89-100, § 4(c), 79 Stat. 437, 438–39 (1965), and under the materiality provision of the Civil Rights Act, which prohibits denying the right to vote based on an error or omission on paperwork "relating to any . . . act requisite to voting, if such error or omission is not material in determining" the voter's qualifications. 52 U.S.C. § 10101(a)(2)(B). Plaintiffs seek declaratory and injunctive relief, asking that the court declare that the witness requirement violates both aforementioned federal laws and that it enjoin the Secretary from (1) enforcing the witness requirement; (2) preparing and distributing voting materials that include the witness requirement; (3) and instructing election officials to reject absentee ballots due to lack of compliance with the witness requirement. Resp. Add. 14–15.

SUMMARY OF ARGUMENT

The Republican Committees are not entitled to intervention as of right because, first and foremost, they have failed to establish that they have a direct, concrete, and legally protectable interest that would be impaired by this lawsuit as Rule 24.01 requires. *Miller v. Miller*, 953 N.W.2d 489, 494 (Minn. 2021) (quoting *Diamond v. Charles*, 476 U.S. 54, 75 (1986)). Their claimed interest in a "fair competitive environment" amounts to nothing more than a desire to have elections conducted in accordance with their view of the law. That is exactly the sort of generalized grievance to which courts refuse to grant "legal

protection," in both the standing and intervention contexts. The Republican Committees' claimed "competitive injury" also fails to articulate a legally-protected interest. They simply allege that counting absentee ballots—cast by qualified voters—would injure them because they believe those ballots are more likely to come from voters in parts of Minnesota that favor their political opponents. No court has ever recognized a legally protected interest in making it harder for one's political opponents to vote, and this Court should not be the first. And the Republican Committees' claimed interest in avoiding having to divert their resources to voter "education" is raised for the first time on appeal, and therefore waived. Even so, the Republican Committees cannot explain how the relief Plaintiffs seek—which would merely remove a requirement for absentee voting—would require additional voter education efforts. And because Plaintiffs no longer seek relief before the 2024 election, any resources the Republican Committees have already invested in educating voters in advance of that election are entirely beside the point.

The Republican Committees' desire to enforce Minnesota law also overlaps entirely with the "sovereign interest" that is already being advanced in this litigation by the Secretary; as a result, the Secretary is presumed to adequately represent that interest. The Republican Committees fail to even address this presumption, much less overcome it, arguing instead that their burden is minimal because the Secretary does not share their narrower partisan goals. But the Republican Committees' motivations for defending the witness requirement do not change the fact that they share the Secretary's ultimate goal of upholding the law. In any event, the Republican Committees fail to demonstrate that the Secretary's representation is inadequate under any standard because they do not identify

any actual or potential conflict between their position and that of the Secretary. Instead, they point to far-fetched hypotheticals and past litigation positions that have no bearing on the Secretary's actions in *this* case. What is important is that, in this case, the Secretary has vigorously defended the witness requirement—adopting the very same litigation positions that the Republican Committees advanced in their proposed filings—and has opposed Plaintiffs' request for a temporary injunction in the district court. The Secretary has even taken the extraordinary step of seeking an interlocutory appeal from the district court's denial of his motion to dismiss.[2]

Finally, the district court did not abuse its discretion in denying the Republican Committees' alternative request for permissive intervention. A denial of permissive intervention is generally not appealable at all, except in the narrow circumstance where it is based on the district court's conclusion that the proposed intervenor lacks an interest in the subject matter of the litigation. The district court's decision here was based on several factors in addition to the Republican Committees' failure to show an interest in this case: including (1) its conclusion that allowing the Republican Committees to intervene would unnecessarily turn this legal dispute into a political one, (2) that the Republican Committees seek no relief that is different from what the Secretary seeks, (3) that the district court could not grant relief against the Republican Committees, and (4) that the Secretary is already vigorously defending against Plaintiffs' claims. Its decision therefore is not appealable. And even if it were, denials of permissive intervention are reviewed for

[2] *See Minn. Alliance for Retired Ams. Educ. Fund v. Simon*, No. A24-1134.

abuse of discretion. Under any standard of review, the district court's conclusion that the Republican Committees lack a legally protectible interest in this case was correct. And the district court appropriately exercised its discretion to conclude that the Republican Committees' participation would add nothing to the case that could not be accomplished through amicus status and would counterproductively politicize this dispute.

ARGUMENT

I. The district court did not err in denying the Republican Committees' request to intervene as of right under Rule 24.01.

To intervene as a matter of right, a movant must: (1) make "a timely application;" (2) show "an interest in the subject of the action;" (3) demonstrate "an inability to protect that interest unless" they are permitted to participate as "a party to the action;" and (4) show their "interest is not adequately represented by [the] existing parties." *League of Women Voters Minn. v. Ritchie*, 819 N.W.2d 636, 641 (Minn. 2012). Failure to satisfy any one of these requirements supplies an independent basis to deny intervention. *See* Minn. R. Civ. P. 24.01. This Court reviews "orders concerning intervention as a matter of right . . . de novo." *State Fund Mut. Ins. Co. v. Mead*, 691 N.W. 2d 495, 499 (Minn. App. 2005).

Here, the district court correctly held that the Republican Committees do not have a unique and cognizable interest in this action, that they "do not show how they will be harmed if intervention is denied," and that they are adequately represented by the Secretary, who "has adequately, and vigorously, defended against Plaintiffs' claims." RNC Add. at 31–34. This Court should affirm.

A. The Republican Committees have no cognizable interest in this action.

Intervention as of right is reserved for parties that can demonstrate "a direct and concrete interest that is accorded some degree of legal protection." *Miller*, 953 N.W.2d at 494 (quoting *Diamond*, 476 U.S. at 75); *League of Women Voters Minn.*, 819 N.W.2d at 642 (same). And that interest must be sufficiently connected to "the subject of the action." Minn. R. Civ. P. 24.01; *see also Veranth v. Moravitz*, 284 N.W. 849, 851 (Minn. 1939) (explaining that a proposed intervenor must show that it "will either gain or lose by the judgment between the original parties"). In the proceedings below, and now on appeal, the Republican Committees advance generalized interests that failed to meet these standards.

1. First, the Republican Committees assert an interest in "a fair and competitive environment where all laws related to election integrity and reliability—including the witness requirement—are enforced," RNC Br. 13. But that interest is shared with just about every citizen, which is why courts have found that it is too abstract and insufficiently "direct, significant, [or] legally protectable" to justify intervention. *Liebert v. Wis. Elections Comm'n*, 345 F.R.D. 169, 173 (W.D. Wis. 2023) (quoting *Bost v. Ill. State Bd. of Elections*, 75 F.4th 682, 686 (7th Cir. 2023) (*Bost I*)); *see also Schroeder v. Simon*, 950 N.W.2d 70, 78 n.6 (Minn. App. 2020) ("MVA's general public interest is insufficient to support intervention as a matter of right."). It is not, as the Republican Committees argue, enough to vaguely assert that Republican candidates would have to "participate in an illegally structured competitive environment." RNC Br. 13 (quoting *Mecinas v. Hobbs*, 30 F.4th 890, 898 & n.3 (9th Cir. 2022)). That is just another way of alleging "that the law . . . has not been followed," which is "precisely the kind of undifferentiated, generalized

grievance about the conduct of government" that courts "refuse[] to countenance." *Lance v. Coffman*, 549 U.S. 437, 442 (2007). For this reason (among others), a Wisconsin federal district court denied the motion of the RNC and the Republican Party of Wisconsin to intervene in a challenge to Wisconsin's absentee ballot witness requirement. *Liebert*, 345 F.R.D. at 173.

Instead of identifying a direct and substantial interest in the outcome of this suit, the Republican Committees retreat to the unremarkable fact that political parties have sometimes been granted intervention in other cases touching on election law issues. But the cases they rely on for the proposition that courts "routinely grant intervention to political parties" underscore the weakness of their argument. RNC Br. 16-17. In *Ohio Democratic Party v. Blackwell*, the court granted *permissive* intervention, and did not consider whether the intervenor was entitled to intervention as of right. No. 2:04-CV-1055, 2005 WL 8162665, at *2 (S.D. Ohio Aug. 26, 2005) ("[T]he Court need only analyze the question of whether permissive intervention is appropriate under Rule 24(b)."). And in *Pennsylvania State Conference of the NAACP v. Chapman*, the court specifically noted that "no party has objected to the Republican Committees' claim that they have a substantial and particularized interest in ensuring that Pennsylvania administers free and fair elections." No. 1:22-cv-00339-SPB, 2023 WL 121867, at *5 (W.D. Pa. Jan. 6, 2023).

To be sure, election rules can cause cognizable harm to political parties and candidates for purposes of standing and intervention; but not just any disadvantage will do. Courts have allowed intervention, for instance, when the outcome of a lawsuit could make it harder for a political party's supporters to vote or have their ballots counted, or could

lead to an outcome that would require the party to divert resources to educate or assist impacted voters to comply with voting requirements that may otherwise impede their access to the franchise. *E.g.*, *Issa v. Newsom*, No. 2:20-cv-01044-MCE-CKD, 2020 WL 3074351, at *4 (E.D. Cal. June 10, 2020); *Paher v. Cegavske*, No. 3:20-cv-00243-MMD-WGC, 2020 WL 2042365, at *1 (D. Nev. Apr. 28, 2020); *cf. La Union del Pueblo Entero v. Abbott*, 29 F.4th 299, 306 (5th Cir. 2022) ("*LUPE*") (granting intervention to political party committees that "expend significant resources in the recruiting and training of volunteers and poll watchers who participate in the election process").

But courts have denied intervention—or found a lack of standing—when parties cannot show such a concrete interest and instead rely on generalized grievances common to all citizens. *E.g. Liebert*, 345 F.R.D. at 173; *Bost v. Ill. State Bd. of Elections*, --- F.4th ----, No. 23-2644, 2024 WL 3882901, at *5–6 (7th Cir. Aug 21, 2024) ("*Bost II*") (finding Republican congressional candidate lacked standing to challenge mail voting rule based on claimed diversion of resources and competitive harm); *Bognet v. Sec'y Commonwealth of Pennsylvania*, 980 F.3d 336, 351–52 (3d Cir. 2020) *cert. granted, judgment vacated sub nom. Bognet v. Degraffenreid*, 141 S. Ct. 2508 (2021) (vacated on grounds of mootness) (same); *Republican Nat'l Comm. v. Burgess*, No. 3:24-CV-00198-MMD-CLB, 2024 WL 3445254, at *3 (D. Nev. July 17, 2024) (same); *United States v. Alabama*, No. 2:06-CV-392-WKW, 2006 WL 2290726, at *3 (M.D. Ala. Aug. 8, 2006) (denying intervention to Democratic party officials that claimed "an interest relating to fair and adequate voter registration procedures and in ensuring that voters have confidence in Alabama's electoral systems."); *cf. Common Cause Ind. v. Lawson*, No. 1:17-cv-03936-TWP-MPB, 2018 WL

1070472, at *4–5 (S.D. Ind. Feb. 27, 2018) (finding organization's claimed interests in "state control over structuring its own election system" and the state's "ability to conduct fair and robust elections" were "too generalized to afford a right to intervention under Rule 24(a), as they are the same for the proposed intervenor as for every registered voter in Indiana").

At bottom, the Republican Committees' asserted interest in the "competitive environment" is nothing more than a desire to have elections in Minnesota conducted according to their view of the law. That is not "a direct and concrete interest that is accorded some degree of legal protection." *Miller*, 953 N.W.2d at 494. It does not establish that the Republican Committees "will either gain or lose by the judgment between the original parties." *Veranth*, 284 N.W. at 851. It is, instead, "precisely the kind of undifferentiated, generalized grievance about the conduct of government" that courts routinely reject. *Lance*, 549 U.S. at 442.

2. Next, the Republican Committees attempt to disguise their generalized interests with various theories of electoral disadvantage. None are entitled to legal recognition under the facts presented in this case. As the district court correctly recognized, the witness requirement impacts all Minnesotans who choose to vote absentee, and removing unlawful restrictions on the franchise benefits all voters. The electoral disadvantage that the Republican Committees allude to is not the result of any unfairness in the voting rules, but rather the choices of voters who have a constitutional right to participate in the political process. Put differently, the law does not recognize a right to restrict *how* citizens vote because of *who* they might support. Quite the opposite. *See Short*

v. Brown, 893 F.3d 671, 677 (9th Cir. 2018) (holding that a law that "makes it easier for some voters to cast their ballots by mail" "does not burden anyone's right to vote"); *Bognet*, 980 F.3d at 351–52 ("Bognet does not explain how counting *more* timely cast votes would lead to a *less* competitive race."); *Donald J. Trump for President, Inc. v. Cegavske*, 488 F. Supp. 3d 993, 1002 (D. Nev. 2020) (observing that in cases where courts have recognized organizational standing to challenge an election rule, "the challenged law has a direct and specific impact on a voter's ability to vote"). The Republican Committees' desire to maintain restrictions on absentee ballots due to fears that absentee voters might support their political opponents is not cognizable by any means, and the district court did not err in refusing to recognize these undemocratic goals as legally protectable interests. RNC Add. 32.

Even when disguised with vague references to the "competitive environment," the Republican Committees' asserted interests fall short because they are rooted in objections to voters' political preferences. That is what distinguishes this case from *Shays*, *Crawford*, *LUPE*, and other authorities the Republican Committees rely on. RNC Br. 13–14. In *Shays v. Federal Election Commission*, congressional candidates challenged Federal Election Commission rules that subjected them to *increased attack* through unregulated advertising. 414 F.3d 76, 84–85 (D.C. Cir. 2005). Those ads were harmful to the candidates because the ads conveyed messages that sought to influence voters in the candidates' reelection contests. *Id*. In *Crawford*, the political party was injured by laws that would *prevent* citizens, including its supporters, from voting. *Crawford v. Marion Cnty. Election Bd.*, 472 F.3d 949, 951 (7th Cir. 2007). And in *LUPE*, the Fifth Circuit granted intervention because

the challenged law provided "new rights" and "new remedies" to partisan poll observers—which would be lost if the plaintiffs prevailed. 29 F.4th at 307. These concrete rights included the right to "free movement where election activity is occurring" and a discrete cause of action for any poll observer who "was unlawfully prevented or obstructed." *Id.*

By contrast, the witness requirement does not set the rules for how the Republican Committees compete with other political parties, nor does it govern the conduct of candidates, campaigns, or volunteers. It merely regulates how voters cast an absentee ballot. There is no scenario where the Republican Committees must "respond to a broader range of competitive tactics" as the *Shays* plaintiffs did.[3] and the Republican Committees have identified no such tactics or new competitive strategies. Nor is there anything inherently unfair about allowing citizens to vote without burdensome witness requirements. Indeed, Minnesota is an outlier in this regard: The vast majority of states do not require their citizens to obtain the endorsement of another registered voter or a notary in order to exercise the right to vote.[4] The only disadvantage the Republican Committees have alleged here is that once these restrictions are removed, some Minnesotans whose ballots would otherwise be rejected will instead be cast for the Republican Committees' political opponents.

[3] *Shays*, 414 F.3d at 86; *see also id.* at 91–92 (noting the "distinct risk" that "political rivals will exploit the challenged rules to their disadvantage")

[4] *See Tbl. 14: How States Verify Voted Absentee/Mail Ballots*, Nat'l Conf. of State Legs. (Jan. 22, 2024), https://www.ncsl.org/elections-and-campaigns/table-14-how-states-verify-voted-absentee-mail-ballots.

The Ninth Circuit's decision in *Mecinas*—a case on which the Republican Committees rely—illustrates the sort of structural disadvantage that courts have recognized as giving rise to "competitive" injury. The ballot order statute challenged in *Mecinas* ensured that the candidates of certain parties would almost always appear above those of others, and because of the "recognized psychological phenomenon known as 'position bias' or the 'primacy effect'" this placement unfairly disadvantaged Democratic candidates. 30 F.4th at 895. The same is true of the other ballot-order cases cited by the Republican Committees. *See Nelson v. Warner*, 12 F.4th 376, 385 (4th Cir. 2021) (expert testimony showed that "the primacy effect would have a negative impact on Nelson's vote tally"); *Pavek v. Donald J. Trump for President, Inc.*, 967 F.3d 905, 907 (8th Cir. 2020) (plaintiffs alleged that the challenged statute "unequally favors supporters of *other* political parties"); *Green Party of Tenn. v. Hargett*, 767 F.3d 533, 544 (6th Cir. 2014) (party who backed candidates affected by ballot-ordering state had standing). In other words, in these cases, the "state imposed" ballot order "disadvantaged" Democratic candidates by influencing voters to vote for their opponents—not unlike the unregulated spending at issue in *Shays*.

Here, eliminating the witness requirement would not force the Republican Committees to compete on a tilted playing field because any "disadvantage" they would suffer is simply a function of how their voters choose to cast their ballots, not any unequal treatment under the law. Eliminating the witness requirement would make it easier for *all* voters to vote by mail—including the Republican Committees' own supporters. If Democratic voters choose to take advantage of absentee voting at higher rates than

Republican voters, that does not establish that one side has been given an "unfair advantage." As one federal district court explained in rejecting a similar theory as a basis for Article III standing, "Republican candidates face no harms that are unique from their electoral opponents when all [] voters are uniformly given greater access to the ballot box." *Burgess*, 2024 WL 3445254, at *3 (cleaned up). That is because "[a]ny 'advantage' that Democrats may gain" from making mail voting more accessible "is one that appears to be equally available to, but simply less often employed by, Republicans." *Id.* It is not the sort of state-imposed thumb on the scale that courts have the power to redress, like the ballot order statute in *Mecinas*. *See also Lake v. Hobbs*, 623 F. Supp. 3d 1015, 1029 (D. Ariz. 2022), *aff'd sub nom*. *Lake v. Fontes*, 83 F.4th 1199 (9th Cir. 2023) (explaining that to claim competitive injury based on fairness of the electoral system, a party must "show that it is plausible that the field is 'tilted.'"); *Bognet*, 980 F.3d at 351 (candidate lacked competitive injury where "all candidates in Pennsylvania, including [his] opponent, are subject to the same rules").[5]

The Republican Committees' gloss on "competitive harm" also rests on an unacceptable premise: a protectible legal interest in suppressing the votes of certain segments of the population—particularly those residing in "the Twin Cities region and St. Louis, Lake, and Olmstead [*sic*] Counties"—who the Republican Committees believe are

[5] To the extent the Republican Committees attempt to establish the requisite "unfairness" by arguing that eliminating the witness requirement would be "illegal," that is just another way of articulating their generalized interest in upholding their view of the law. In each case in which courts have recognized "competitive" standing, "it was not the mere illegality of the competitive environment but instead the resultant unfair disadvantage from that illegality which constituted an injury in fact." *Burgess*, 2024 WL 3445254, at *3.

more likely to vote for their opponents. RNC Br. 26. While courts have regularly held that political parties have an interest in protecting the voting rights of their members, no court has recognized an interest in making it *harder* for one's *political opponents* to vote. Suppressing votes to improve one's chances of winning an election is not a direct, significant, or legally protectable interest. *Cf. Short*, 893 F.3d at 677 (holding that a law that "makes it easier for some voters to cast their ballots by mail" "does not burden anyone's right to vote"). The district court was correct to reject this theory.

3. In a retreat from the generalized grievances that they pressed in their motion to intervene before the district court, the Republican Committees now contend for the first time on appeal that their interests will be impaired because they would be forced to divert resources if Plaintiffs succeed in this lawsuit. But they did not make that argument in their motion to intervene below; therefore, it is waived. *State v. Campbell*, 814 N.W. 2d 1, 4 n.4 (Minn. 2012) ("Issues not raised in the district court but raised for the first time on appeal are considered waived").[6]

Regardless, the Republican Committees' explanation for why eliminating the witness requirement will impair their allocation of resources is far too vague to meet their

[6] The Republican Committees raised their alleged resource-diversion harm in their "proposed" brief in opposition to Plaintiffs' motion for a temporary injunction—submitted on the same day as Plaintiffs' opposition to their motion to intervene. *See* Doc. Index # 64. They also attached to this proposed filing two declarations that they now cite in support of their request for intervention. *See* Doc. Index # 65, 68. But the Republican Committees never raised this argument in connection with their motion to intervene—either in their memorandum in support of their motion to intervene, Doc. Index # 43, or in their reply, Doc. Index # 77. And they cannot get a second bite at the apple by supplementing their intervention briefing with additional "proposed" briefing when they are not parties to the case.

burden under Rule 24.01. They simply assert that they will be forced to "divert their limited resources to reeducate voters and retrain volunteers regarding a new set of rules for mail voting," RNC Br. 24, but never explain what new or additional "education" or "training" will be necessary. That is because there is none: the relief that Plaintiffs seek here will *remove* an unnecessary requirement for casting a mail ballot. That is one *less* requirement to educate voters about. As the Wisconsin federal district court explained in rejecting an identical contention: "[T]he plaintiffs in this case are seeking to *eliminate* a requirement, not add one. The Republicans identify no education that is needed regarding a requirement that no longer exists, so that voting absentee becomes easier, not harder." *Liebert*, 345 F.R.D. at 173. At most, the Republican Committees would merely need to alter the training they are *already* providing to volunteers and voters—eliminating the witness requirement would not force them to undertake *additional* training. *Cf. Burgess*, 2024 WL 3445354, at *4. In any event Plaintiffs no longer seek relief for the 2024 election, so any "resources" that the Republican Committees have already "invested" to "encourage Republican voters throughout Minnesota to vote by mail in 2024" are beside the point.

Plaintiffs' requested relief makes it easier for everyone to vote and to have their ballots counted. It would not impede anyone's access to the franchise, nor would it require the Republican Committees to expend resources to protect voters, because the lawsuit seeks only to eliminate one of the grounds for rejecting absentee ballots—in other words, no voter, regardless of their political affiliation, will be worse off if the Court enjoins the witness requirement. *See Liebert*, 345 F.R.D. at 173.

4. Finally, the series of non-binding cases cited by the Republican Committees provides no support for their intervention here. In *Growe v. Simon*, the Republican Party of Minnesota's intervention was unopposed. And the Minnesota Supreme Court granted the party's consent motion in an unpublished order with no analysis. *See* Order, *Growe v. Simon*, No. A23-1354 (Minn. Sept. 20, 2023); Mot. of Republican Party of Minn. to Intervene as a Respondent at 1, *Growe v. Simon*, No. A23-1354 (Minn. Sept. 20, 2023) ("The RPM has obtained verbal consent from the existing parties in this action to intervene."). Like *Growe*, the supreme court in *Erlandson v. Kiffmeyer* merely noted that the Republican Party of Minnesota's motion to intervene was granted just two days after the initial petition was filed. 659 N.W.2d 724, 726 (Minn. 2003). The same is true of *Reiter v. Kiffmeyer*, where a candidate moved to intervene in a ballot access challenge brought by an opposing candidate and the Minnesota Supreme Court granted the motion in a one-sentence order two days later. *See* Order, *Reiter v. Kiffmeyer*, No. A06-1508 (Minn. Aug. 17, 2006).[7]

The Republican Committees attempt to write off the "lack of analysis" in these cases by arguing that it "simply reflects the well-settled state of the law on political party intervention." RNC Br. 21. But in fact, a "full-blown Rule 24 analysis" was "unnecessary" in most of those cases, *id.*, because no party opposed the requested intervention. In any event, each of these cases involved far more direct and particularized harms than what the

[7] Although not specified in the supreme court's order, it appears likely that the motion to intervene in *Reiter* was unopposed, based on the short timeframe between the filing of the motion and the order, and on the lack of any filed responses to the motion.

Republican Committees have claimed here. *Growe* was a direct challenge to the eligibility of a Republican presidential candidate—Donald Trump—to be placed on the ballot. *Growe v. Simon*, 2 N.W.3d 490, 494 (Minn. 2024). *Erlandson* addressed complications arising from the sudden death of Democratic Senator Paul Wellstone in 2002, while absentee voting was already ongoing. 659 N.W.2d at 726. The Republican intervenors in that case intervened specifically to argue that election officials must continue to distribute and accept absentee ballots with Senator Wellstone's name on them—to the obvious benefit of the Republican candidate. *Id.* at 730. And in *Reiter*, a Republican candidate successfully moved to intervene in a challenge to *his own placement on the ballot*. *Reiter v. Kiffmeyer*, 721 N.W.2d 908, 909 (Minn. 2006). Such disputes about a candidate's placement on the ballot much more directly implicate legally cognizable interests than the desire to restrict voting that the Republican Committees advance here.

Finally, in *DSCC v. Simon*, the district court summarily concluded that the Republican Committees had a sufficient interest in the contested action because their interests were "similar" to those expressed by the plaintiff Democratic committees. No. 62-CV-20-585, 2020 WL 4519785, at *16 (Ramsey Cnty. Dist. Ct. July 28, 2020). That is consistent with other cases that have recognized "mirror interest" standing where a political party seeks to intervene in a case that the opposing political party brought. *Democratic Nat'l Comm. v. Bostelmann*, No. 20-cv-249-wmc, 2020 WL 1505640, at *5 (W.D. Wis. Mar. 28, 2020) (denying intervention of right but granting permissive intervention solely because the state Republican Party and Republican National Committee "are uniquely qualified to represent the 'mirror-image' interests of the plaintiffs, as direct counterparts

to" the Democratic National Committee and state Democratic Party); *Issa*, 2020 WL 3074351, at *1 (granting intervention to Democratic Party committees in case brought by Republican Party committees and congressional candidates). But Plaintiffs here are not Democratic Party organizations—they are individual voters and a non-profit social welfare organization seeking to make it easier for *everyone* to vote in Minnesota, including Republicans. None of these cases—and nothing in Minnesota law—suggests that a political party must automatically be granted intervention whenever a social welfare organization brings a case with which the party disagrees.

B. None of the Republican Committees' purported interests will be impaired by this litigation.

For the same reasons that the Republican Committees lack an interest in the subject matter of this litigation, they cannot demonstrate that any of their legally protected interests will be impaired by the outcome. *See Nat. Res. Def. Council v. U.S. Nuclear Regulatory Comm'n*, 578 F.2d 1341, 1345 (10th Cir. 1978) ("[T]he question of impairment is not separate from the question of existence of an interest."); *Taco Bell Corp. v. TBWA Chiat/Day, Inc.*, No. SACV 03-1107 DOC (ANx), 2004 WL 7334916, at *2 (C.D. Cal. May 5, 2004) ("[T]he 'interest' and 'impairment of interest' prongs are intertwined and best analyzed together.").

For one, even assuming their generalized interests in a "fair competitive process" could suffice under Rule 24.01, the Republican Committees never explain why maintaining the witness requirement is necessary to protect that interest. At best, they assert that the witness requirement is a "prophylactic rule that aims to protect absentee voting, curb voter

fraud, and safeguard voter confidence in the State's elections," RNC Br. 2 (cleaned up). But they understandably stop short of ever alleging that the witness requirement accomplishes those purported goals, or that its elimination will lead to fraud. That is for good reason: none of the items that the witness must attest to under Minnesota law has anything to do with curbing voter fraud. For most voters, the witness must certify only that "the ballots were displayed to [the witness] unmarked" and that "the voter marked the ballots in [the witness's] presence without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them[.]" Minn. Stat. § 203B.07, subd. 3. The witness need not even know the voter's identity. Nothing in the record suggests, and the Republican Committees do not argue, that this requirement does anything to deter the submission of fraudulent absentee ballots. If anything, requiring the Secretary to conduct voting processes consistent with federal requirements will *promote* election integrity by eliminating an unnecessary obstacle to absentee voting; removing a disincentive for potential voters who are unable to cast their ballots in person; and ensuring that election results reflect the views of all qualified voters—even those who lack ready access to the necessary witness.

For the reasons explained, the Republican Committees' competitive and resource-related interests are not implicated by this action and therefore will not be impaired by its outcome. In arguing otherwise, the Republican Committees mistakenly rely on the First Circuit's decision in *Castro v. Scanlan*, 86 F.4th 947 (1st Cir. 2023), to suggest that this Court must accept their conclusory explanations and excuse their failure to connect their abstract interest to the witness requirement. RNC Br. 22. But in fact, *Castro* says the

opposite: the First Circuit held that a plaintiff *lacked* standing to challenge Donald Trump's placement on the ballot because "although [Plaintiff] is a registered political candidate . . . he has failed to show" an injury in fact. 86 F.4th at 949. The court observed, in dicta, that it had previously said courts "should not 'second-guess a candidate's *reasonable* assessment of his own campaign.'" *Id.* at 958 (emphasis in original) (quoting *Becker v. FEC*, 230 F.3d 381, 387 (1st Cir. 2001)). "But," the Court went on to say, "we were careful in *Becker* not to adopt a rule that would grant standing to *any* political entrant to challenge any aspect of an election that might *someday* affect them." *Id.* (emphasis in original) (cleaned up). The First Circuit has "therefore required the candidate to show a 'plausible' chance of being competitively affected by the conditions that they challenged." *Id.* at 959 (quoting *Becker*, 230 F.3d at 386 n.4).

The Republican Committees have made no such showing, even with their belatedly-produced declarations. Their asserted competitive and resource-diversion harms are insufficient as a matter of law for the reasons already described. But, as the district court also correctly observed, the Republican Committees' claims that eliminating the witness requirement before the 2024 election will cause voter confusion and require them to divert resources to "voter education" are no longer at issue in this case.[8] RNC Add. 33–34. The district court also quite reasonably "d[id] not find credible the notion that some people may not vote if absentee voting is made easier." RNC Add. 34. The Republican Committees

[8] The Republican Committees' complaint about the district court's cursory treatment of these issues, RNC Br. 27, is puzzling, given that they were not mentioned in the briefing on the Republican Committees' motion to intervene.

bear the burden of establishing each element of intervention as of right. They cannot satisfy that burden with their bare say-so, and *Castro* does not hold otherwise. The district court correctly found that the Republican Committees' ability to protect their purported interests is not likely to be impaired, and that ruling should be affirmed.

C. The Secretary adequately represents the Republican Committees' purported interests.

The Republican Committees' generalized interest in maintaining the current state of Minnesota election law is adequately represented by the Secretary of State. The Republican Committees face an especially high hurdle here because the Secretary, represented by the Attorney General, is already defending the witness requirement. "[W]hen one of the parties is an arm or agency of the government, and the case concerns a matter of sovereign interest, the bar is raised, because in such cases the government is presumed to represent the interests of all its citizens." *N. Dakota ex rel. Stenehjem v. United States*, 787 F.3d 918, 921 (8th Cir. 2015) (quoting *Mausolf v. Babbitt*, 85 F.3d 1295, 1303 (8th Cir. 1996)); *see also Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003) (explaining that a "very compelling showing" is required to rebut a "presumption of adequacy" when "the government is acting on behalf of a constituency that it represents" or when the applicant and existing party "have the same ultimate objective"); *DSCC*, 2020 WL 4519785, at *17 ("This court is persuaded by federal authority which raises the bar for demonstrating inadequacy when one of the parties is an arm or agency of the government and the case concerns a matter of sovereign interest"). The presumption may be overcome only by

showing that the government defendant "has committed misfeasance or nonfeasance in protecting the public." *Stenehjem*, 787 F.3d at 922 (cleaned up).[9]

That presumption applies here. The Republican Committees repeatedly cast their interest in this case as upholding the current state of the law. They articulate a general desire for a "fair and competitive environment where all laws related to election integrity and reliability—including the Witness Requirement—are enforced." RNC Br. 13. They claim a "legally protectable interest in seeking office in contests untainted by violations of the Witness Requirement." *Id.* at 15; *see also* Doc. Index # 43 at 6 (claiming a general desire for "fair elections where all valid ballot regulations are enforced."). And under the governing standards for intervention, this generalized interest in "election integrity" and "enforce[ment]" of Minnesota law is functionally indistinguishable from the "sovereign interest" that the Secretary is already representing. *Mausolf*, 85 F.3d at 1303. Indeed, "[t]he interests the Republicans identify do not affect Republicans more than any other party." *Liebert*, 345 F.R.D. at 173. The Secretary need not "shirk[his] duty to advance the narrower interest of [the Republican Committees] at the expense of [his] representation of the general public interest," because, by the Republican Committees' own telling, those

[9] In *DSCC*, the court found the presumption overcome only because the Secretary entered into a consent decree in a related case in which he conceded an identical issue: "By conceding an identical issue, in a contemporaneous case, the Secretary of State may be unable to adequately represent the interest of the Republican Committees here. Under these unique circumstances, this court holds that the Republican Committees should have the opportunity to intervene and present their own defense to the challenged laws." 2020 WL 4519785 at *18. As explained below, there are no comparable circumstances here.

interests overlap fully. *Stenehjem*, 787 F.3d at 921 (8th Cir. 2015).[10] And their "ultimate goal" in this litigation is the same as the Secretary's. *See Oakland Bulk & Oversized Terminal, LLC v. City of Oakland*, 960 F.3d 603, 620 (9th Cir. 2020) (requiring a "very compelling showing" where the defendants and proposed intervenors "share the same ultimate objective of upholding the [challenged law]"); *Prete v. Bradbury*, 438 F.3d 949, 957 (9th Cir. 2006) (same). There is "no reason to believe" that the Republican Committees' different *reasons* for defending the witness requirement will cause the Secretary to stake out a legal position in this case that is undesirable from their perspective." *Mussi v. Fontes*, No. CV-24-01310-PHX-DWL, 2024 WL 3396109, at *3 (D. Ariz. July 12, 2024). To overcome the presumption, it is not sufficient "that the party seeking intervention merely disagrees with the litigation strategy or objectives of the party representing its interests." *Little Rock Sch. Dist. v. N. Little Rock Sch. Dist.*, 378 F.3d 774, 780 (8th Cir. 2004); *see also id.* at 781 ("That the [proposed intervenor] has asserted its interest with arguably greater fervor than has the state and would have made different procedural choices, including a decision to appeal, does not make its interest distinct."). As the district court explained: "[The Secretary] has adequately, and vigorously, defended against Plaintiffs' claims. While [the Secretary] is not and will not represent partisan

[10] Nor is it relevant, as the Republican Committees suggest, that Secretary Simon is an "elected Democrat." RNC Br. 32. *See Miracle v. Hobbs*, 333 F.R.D. 151, 156 (D. Ariz. 2019) (rejecting a similar argument); *Anchorage Baptist Temple v. Coonrod*, 166 P.3d 29, 34 (Alaska 2007) (explaining that courts "presume that the state will adequately represent the interests of all of its citizens in trying to uphold a statute against a constitutional challenge, because the state is 'charged by law with representing the interests of the people'").

interests, [the Secretary] represents the sovereign interest of fair elections where all valid ballot regulations are enforced, which is what the Republican Committees argue as their primary goal." RNC Add. 34. [11]

In any event, even if the court does not apply the presumption of adequate representation, the Republican Committees have failed to carry even the "minimal burden" of showing that the Secretary "may not adequately represent their interests." *Jerome Faribo Farms*, 464 N.W.2d at 570 (cleaned up). Even the most lenient view of adequate representation requires some showing of potential conflict. *Bost*, 75 F.4th at 690. But the Committees "ha[ve] not proposed even a possible conflict between [themselves] and the [Secretary]." *Id.* The Republican Committees have not identified any divergence—potential or otherwise—in their respective litigation positions. Instead, their Proposed Motion to Dismiss, Doc. Index # 49, largely repeated the same arguments made in the Secretary's Motion to Dismiss, Doc. Index # 39. And despite the Republican Committees' claim that they prefer a ruling on the merits, while the Secretary would be content with dismissal on standing grounds, RNC Br. 33, the Republican Committees' proposed Motion to Dismiss makes the *same* standing arguments that the Secretary does. Doc. Index # 49 at 5–9. There is no potential conflict between the Secretary's position and the Republican Committees' position. *See League of Women Voters Minn.*, 819 N.W.2d at 643 (denying

[11] In the district court, but not in their principal appellate brief , the Republican Committees argued that Minnesota courts do not apply this presumption of adequate representation, observing that this Court did not do so in *Jerome Faribo Farms, Inc. v. County. of Dodge*, 464 N.W.2d 568 (Minn. App. 1990), which involved a government defendant. But in that case, the Court did not even consider whether the presumption applies. *Id.* at 571; *see also Schroeder*, 950 N.W.2d at 79 n.10 (declining to reach this question).

intervention to a nonprofit where the position it sought to advance in the litigation was "substantially the same as the position advanced by the House and Senate"); *see also State ex rel. Donnell v. Jourdain*, 374 N.W.2d 204, 206 (Minn. App. 1985) (explaining that a non-party's interests can be adequately represented by a real party in interest who vigorously pursues the matter); *Husfeldt v. Willmsen*, 434 N.W.2d 480, 483 (Minn. App. 1989) (affirming denial of intervention where there was "no suggestion" that the existing defendants "will not vigorously defend" the case).

Nor is the Secretary's prior litigation position in a case that was resolved more than four years ago instructive. *See* RNC Br. 35. The Republican Committees cite *DSCC v. Simon* as an example in which "the Secretary refused to appeal a temporary injunction" and the "Republican Committees were able to vindicate their interest solely because they had been allowed to intervene." RNC Br. 35 (citing *DSCC v. Simon*, 950 N.W.2d 280, 284 (Minn. 2020)). There, the Secretary agreed that limits on voter assistance were preempted by the VRA—but only after the court in a related criminal case had already held as much. *See DSCC*, 950 N.W.2d at 285 (describing history of related criminal case). That litigation involved a different provision, different challenge, and different facts. In *this* case, the Secretary is vigorously defending the challenged law, including taking the extraordinary step of seeking interlocutory review of an order denying a motion to dismiss.[12] "The Republicans point to no evidence in this lawsuit that the [Secretary] will not defend [the Witness Requirement]," *Liebert*, 345 F.R.D. at 173, nor do they identify any error in the

[12] *See Minn. Alliance for Retired Ams. Educ. Fund v. Simon*, No. A24-1134 (Pet. for Discretionary review filed by the Secretary on July 15, 2024).

district court's ruling.[13] *Cf. Miracle*, 333 F.R.D. at 155 (holding intervention was inappropriate where the "Attorney General is representing Defendant, and Defendant has already moved to dismiss the complaint").

II. The district court did not abuse its discretion in denying the Republican Committees' request to intervene permissively under Rule 24.02.

Permissive intervention *may* be allowed "when an applicant's claim or defense and the main action have a common question of law or fact." Minn. R. Civ. P. 24.02. In making this determination, the court must consider "whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties." *Id.*

"Denials of requests for permissive intervention are generally not appealable." *Deal*, 740 N.W.2d at 760. The Minnesota Supreme Court has carved out a narrow exception, however, when such a denial is "based on a finding that the applicant had no protectable interest in this litigation." *Id.* (internal quotation marks omitted). And even when appellate courts may review a denial of a request to permissively intervene, it "will be reversed only when a clear abuse of discretion is shown." *Id.* (internal quotation marks omitted). This standard permits reversal only in the rare case where "the district court resolves the matter in a manner that is 'against logic and the facts on [the] record.'" *O'Donnell v. O'Donnell*,

[13] Unable to identify any substantive diversion of interest, the Republican Committees fault the district court for "distort[ing] the legal standard for adequacy of representation" and "concluding that the Secretary could adequately defend against Plaintiffs' claims, rather than that the Secretary adequately represents the Republican Committees' interests." RNC Br. 10. Not so. The district court specifically found that that the "Defendant represents the sovereign interest of fair elections where all valid ballot regulations are enforced, *which is what the Republican Committees argue as their primary goal*." RNC Add. 34 (emphasis added).

678 N.W.2d 471, 474 (Minn. App. 2004) (quoting *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984)).

The district court's denial of the Republican Committees' request for permissive intervention was not "based on" its finding that the Republican Committees had no protectable interest in this litigation. *Id.* To be sure, the district court did, correctly, make that finding. But it *also* found that the Republican Committees "fail[ed] to show how their interests will be impaired in this action." RNC Add. 33–34. The court also rejected the Proposed Intervenors' baseless assertion, that the public might not "accept" the "legitimacy" of the court's ruling in this case unless "all sides of the political spectrum have had a chance to make their case." Doc. Index # 43 at 16–17. As the district court correctly noted in response to this argument, "this action involves only two sides." RNC Add. 34.[14] And acceding to the Republican Committees' demands would "threaten to make this action a political dispute rather than a legal one," and "tacitly invite [Democratic committees] to also intervene." *Id.* at 33. The court further observed that the Republican Committees "seek no relief in this action that is different than what [the Secretary] seeks, and the court could grant no relief against the Republican Committees nor enjoin or compel them in any way if made parties." *Id.* at 34. And while the court concluded that "there appears to be minimal prejudice to existing parties if the Republican Committees were parties," "minimal" prejudice is not the same as "no" prejudice. *Id.* at 32. All of this was well within the district court's discretion to consider in denying the Republican

[14] The Republican Committees take this remark out of context to suggest it was part of the district court's analysis of adequacy of representation. RNC Br. 36 (citing RNC Add. 34).

Committees' request for permissive intervention. *See Bost I*, 75 F.4th at 691 (affirming denial of permissive intervention to a political party because "[i]ncreasing the number of parties to a suit can make the suit unwieldy"); *Liebert*, 345 F.R.D. at 173 ("[A]dding the Republicans as a party would create more complexity in the case without any benefit.").

Finally, the Republican Committees argue that they "will simply offer the 'mirror-image' arguments of Plaintiffs, making permissive intervention more appropriate.'" RNC Br. 39 (quoting *Bostelmann*, 2020 WL 1505640, at *5). They are wrong. Plaintiffs are two individual voters and a nonprofit group that advocates for the rights of retired voters—not political party organizations. The Republican Committees therefore do not present the "mirror image" of Plaintiffs. Their presence will not ensure that "all sides of the political spectrum [have] had a chance to make their case" because the Republican Committees represent only *one* such "side." RNC Br. 41. Despite the Republican Committees' vague and ominous warning that members of the public may not "accept" the Court's ruling, the "legitimacy" of the court's decision does not turn on the presence of the Republican Party. *See id*. The district court appropriately exercised its discretion in rejecting the Republican Committees' attempt to reduce this legal dispute to a partisan brawl.[15] Its decision should be affirmed.

[15] The Court should also reject the Republican Committees' baseless attempt to conflate Plaintiffs' counsel's representation of Democratic Party committees in other, unrelated litigation, with the claims advanced on behalf of individual voters and a nonprofit organization in this lawsuit. RNC Br. 41. Like most lawyers, Plaintiffs' counsel represents a wide array of clients with varied interests; the interests of one such client cannot be imputed to others simply because they share the same attorney. To the contrary, Democratic Party entities have often sought to intervene alongside the Alliance's sister

CONCLUSION

The Court should affirm the district court's denial of the Republican Committees' motion to intervene.

organizations in other states. *See, e.g.*, Order, *Republican Nat'l Comm. v. Burgess*, No. 3:24-cv-00198-MMD-CLB, ECF No. 70 (D. Nev. June 6, 2024); *Republican Nat'l Comm. v. Wetzel*, No. 1:24-cv-0025-LG-RPM, 2024 WL 988383 (S.D. Miss. Mar. 7, 2024). The Republican Committees' attempt to recast this entire litigation in partisan terms was reason enough to deny permissive intervention.

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Respectfully submitted,

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**Admitted Pro Hac Vice by the district court*