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IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

REPUBLICAN PARTY OF ARIZONA,
LLC, an Arizona limited liability company
and political party committee; REPUBLICAN
NATIONAL COMMITTEE, a national
political party committee; and GINA
SWOBODA, an individual,

Plaintiffs,

v.

STATE OF ARIZONA, a body politic; and
ADRIAN FONTES, in his official capacity as
the Secretary of State of Arizona,

Defendants.

No. _____

COMPLAINT

Plaintiffs Republican Party of Arizona, LLC (“RPAZ”), the Republican National
Committee (“RNC”), and Gina Swoboda hereby state and allege as follows:

SUMMARY OF THE CASE

1. The Arizona Constitution provides that only *bona fide* residents of this State
are eligible to register to vote in its elections. *See* Ariz. Const. art. VII, § 2(A).

2. In direct contravention of this categorical constitutional command, A.R.S. § 16-103(E) allows individuals who have “never resided in the United States,” let alone in the State of Arizona, to register to vote here if one of their parents is a registered Arizona voter.

3. Residency is not inherited and cannot be established by proxy. An individual who has never personally made Arizona his home necessarily has not “resided in this state” for *any* period of time, within the meaning of Article VII, Section 2(A). It follows that A.R.S. § 16-103(E) is contrary to the Arizona Constitution.

4. By permitting such “never resident” registrants, who, upon information and belief, are disproportionately non-Republican in their political party affiliations relative to the Arizona electorate as a whole, to cast votes in Arizona elections, A.R.S. § 16-103(E) illegally structures the competitive environment in which the RPAZ and RNC participate, and also unlawfully dilutes the voting power of constitutionally eligible qualified electors, such as Ms. Swoboda.

5. The Plaintiffs accordingly are entitled to a declaration that A.R.S. § 16-103(E) violates Article VII, Section 2(A) of the Arizona Constitution, and injunctive remedies that cease and prohibit its enforcement or effectuation.

JURISDICTION

6. This Court has jurisdiction over this action pursuant to Article 6, § 14 of the Arizona Constitution and A.R.S. §§ 12-1801, 12-1831.

7. Venue for this action lies in Maricopa County pursuant to A.R.S. § 12-401(16) because the Defendant Secretary of State holds office in this county.

PARTIES

8. Plaintiff Republican Party of Arizona, LLC is an Arizona limited liability company whose sole member is the Republican Party of Arizona. The Republican Party of Arizona is a statewide political party committee under Title 16, Chapter 5 of the Arizona Revised Statutes, and the organizing body of Arizona electors who are registered members of the Republican Party, the largest political party in Arizona. Its principal place of business

1 is in Phoenix, Arizona. The RPAZ sponsors and conducts voter registration drives, expends
2 significant resources supporting Republican candidates in Arizona, and has an interest in
3 the administration of elections and the competitive environment affecting Republican
4 candidates in Arizona.

5 9. Plaintiff Republican National Committee is a national political party with its
6 principal place of business in Washington, D.C. In addition to managing the Republican
7 Party's strategic and day-to-day operation at the national level, the RNC represents over 35
8 million registered Republicans in all 50 states, the District of Columbia, and the U.S.
9 territories. It is comprised of 168 voting members representing state and territorial
10 Republican Party organizations. The RNC promotes the election of Republican candidates
11 in Arizona and across the United States. The RNC sponsors and conducts voter registration
12 drives, expends significant resources supporting Republican candidates in Arizona, and has
13 an interest in the administration of elections and the competitive environment affecting
14 Republican candidates in Arizona.

15 10. Plaintiff Gina Swoboda is a citizen of the United States and a resident and
16 qualified elector of Maricopa County, Arizona. Ms. Swoboda intends to vote in all future
17 Arizona elections in which she is eligible to do so, including but not limited to the August
18 4, 2026 statewide primary election and the November 3, 2026 statewide general election.
19 Ms. Swoboda is the Chair of the Republican Party of Arizona.

20 11. Defendant State of Arizona is a body politic.

21 12. Defendant Adrian Fontes is the Secretary of State of Arizona and is named in
22 this action in his official capacity only. The Secretary of State is the "chief state election
23 officer" responsible for overseeing and administering certain laws governing the
24 registration of voters, to include "providing information on registration and absentee or
25 early ballot procedures" to absent military and overseas voters, and maintaining a statewide
26 voter registration database. A.R.S. §§ 16-142(A), 16-138(A).

GENERAL ALLEGATIONS

13. In 1986, Congress enacted the federal Uniformed and Overseas Voters Absentee Voting Act, 52 U.S.C. § 20301, *et seq.* (“UOCAVA”), which prescribes registration and voting procedures in federal elections for military personnel and certain American civilians residing overseas. UOCAVA affords a limited right to vote in federal elections to certain individuals who previously resided in the State in which they wish to vote. But it otherwise left intact the States’ prerogative to prescribe substantive prerequisites for voting in both federal and state elections, and UOCAVA permits U.S. citizens to register and vote under its auspices *only if* such individuals also qualify under the constitution and laws of the relevant State.

14. UOCAVA requires the States to “permit absent uniformed services voters and overseas voters to use absentee registration [and voting] procedures” in federal elections, and to “accept and process . . . any otherwise valid voter registration application” such individuals timely submit. 52 U.S.C. § 20302(a)(1)-(2).

15. UOCAVA affords two primary mechanisms for an eligible individual to register to vote: the Federal Post Card Application (“FPCA”) and the Federal Write-In Absentee Ballot (“FWAB”). Individuals who submit a timely and properly completed FPCA will be registered to vote (if they had not previously registered) and issued an early ballot by mail. Individuals who submit a timely and properly completed FWAB may vote concomitantly with registering by writing in the names of their preferred candidates on the FWAB form. *See* 52 U.S.C. §§ 20301(b)(2), 20302(a)(4), 20304; A.R.S. §§ 16-543, 16-543.02; *see also* Ariz. Sec’y of State, 2023 ELECTIONS PROCEDURES MANUAL at 68 (Dec. 2023) (providing that if a FWAB is received “sufficiently in advance of the election,” the voter should be sent an early ballot, which, if timely cast, will be tabulated in lieu of votes recorded on the FWAB). Some states, including Arizona, permit a UOCAVA voter to submit an FPCA or FWAB electronically through an online portal.

16. The Department of Defense administers UOCAVA voting procedures and processes as part of the Federal Voting Assistance Program (“FVAP”). Although the FPCA

and FWAB are promulgated by the Department of Defense, each form incorporates state-specific instructions that govern applications to register and/or obtain absentee ballots in that State. *See* 52 U.S.C. §§ 20301(b)(5), 20305; Exec. Order No. 12642, 53 Fed. Reg. 21975 (Jun. 8, 1988); 32 C.F.R. § 233.6(a)(4); DoD Instruction 1000.04.

17. The FPCA and FWAB contain several check-box options for applicants to denote their residency status. One of these check-box fields states: “I am a U.S. citizen living outside the country, I have never lived in the United States.” The FPCA and FWAB state-specific instructions for Arizona provide that “A U.S. citizen who has never resided in the U.S. and whose parent or legal guardian is a United States citizen who is registered to vote in Arizona is eligible to register to vote in Arizona.”

18. Two categories of individuals may utilize UOCAVA’s registration and voting procedures: “absent uniformed services voters” and “overseas voters.”

19. An “absent uniformed services voter” is an active-duty member of the military, an active-duty member of the merchant marine, or a spouse or dependent of either of the foregoing, who, by reason of their service, “is absent from the place of residence where the member is otherwise qualified to vote.” 52 U.S.C. § 20310(1)).

20. An “overseas voter” is (a) an “absent uniformed services voter” who is “absent from the United States” on Election Day, (b) “a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States,” or (c) “a person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.” 52 U.S.C. § 20301(5).

21. In other words, UOCAVA entitles an “absent uniformed services voter” or an “overseas voter” to register and obtain a ballot if—*and only if*—that individual (notwithstanding their current absence from the State) otherwise is “qualified to vote” under the laws of the State in which they reside or were previously domiciled. UOCAVA does not require any State to alter or waive its generally applicable eligibility qualifications to accommodate registrants who have never lived in the State.

22. Arizona amended A.R.S. § 16-103 in 2005 to permit “[a]ny United States citizen who has never resided in the United States and whose parent is a United States citizen who is registered to vote in this state” to register and vote using the FWAB. 2005 Ariz. Laws ch. 271, § 1 (H.B. 2288).

23. Although A.R.S. § 16-103(E) allows individuals who have never resided in Arizona to register and vote using only the FWAB, upon information and belief, the Secretary of State has unilaterally purported to permit these individuals to utilize the FPCA as well.

24. Article VII, Section 2(A) of the Arizona Constitution provides that no person may vote in any candidate or ballot measure election in this State “unless such person be a citizen of the United States of the age of eighteen years or over, and shall have resided in the state for the period of time preceding such election as prescribed by law.”

25. While Article VII, Section 2(A) permits the Legislature to calibrate the specific temporal *duration* of the residency prerequisite, the Constitution by its own terms limits the franchise to individuals who have, at some point prior to the election, established *bona fide* residency in the State of Arizona.

26. An individual “who has never resided in the United States,” A.R.S. § 16-103(E), necessarily has never “resided in the state” for *any* period of time “preceding [the] election,” Ariz. Const. art. VII, § 2(A).

27. The subset of Arizona voters who are registered to vote pursuant to UOCAVA are less Republican in their political party affiliation than the electorate as a whole.

28. Approximately 34.4% of all registered voters in Maricopa County are Republicans, 27.9% are Democrats, 35.8% are registered as independents/no party preferred, and 1.8% are affiliated with other recognized political parties.

29. By contrast, only 23.8% of Maricopa County voters who have registered through UOCAVA are registered Republicans, while 45.2% are Democrats, 26.1% have no political party affiliation, and 4.9% identify with other recognized political parties.

30. If military personnel and their families stationed within the United States—who, almost by definition, have resided in the United States and thus did not register pursuant to A.R.S. § 16-103(E)—are excluded,¹ the partisan discrepancy becomes even more stark. Among only overseas UOCAVA voters registered in Maricopa County, which include registrants who have never resided in Arizona, only 18.2% are registered Republicans, 51.3% are registered Democrats, 26.5% have no political party affiliation, and 4% are associated with other recognized political parties.

31. Upon information and belief, the subset of UOCAVA voters who have never resided in Arizona are at least as non-Republican in their partisan composition as UOCAVA voters generally, and are disproportionately non-Republican relative to the electorate as a whole.

32. “[T]he burden of being forced to compete under the weight of a state-imposed disadvantage” is a cognizable legal injury. *Mecinas v. Hobbs*, 30 F.4th 890, 899 (9th Cir. 2022).

33. When a statute or regulation that is alleged to be unconstitutional skews the electoral competitive environment to one political party’s detriment, the adversely affected party has sustained competitive harm, regardless of whether the statute or rule causally affects election outcomes. *Mecinas*, 30 F.4th at 899; *see also Shays v. Fed. Election Comm’n.*, 414 F.3d 76, 85 (D.C. Cir. 2005) (recognizing a competitive injury when “the rules of the game” violate a superseding law).

34. A.R.S. § 16-103(E) inflicts a competitive injury on the RPAZ and RNC because it is adding to the voter rolls—and thereby permitting to vote in Arizona elections—a population of constitutionally ineligible individuals who are disproportionately non-Republican in their partisan affiliations.

¹ A.R.S. § 16-103(E) likewise is inapplicable to all, or substantially all, military families stationed overseas. A voting-age dependent of a servicemember would rely on A.R.S. § 16-103(E) to register to vote only if she had spent the entire eighteen or more years of her life residing abroad. Given the typically limited duration of overseas deployments, that is, upon information and belief, an extremely rare occurrence.

35. In addition, the RPAZ and RNC, as political party organizations that participate in voter registration and compete in Arizona elections, have a direct interest in the effectuation and enforcement of Arizona’s constitutional residency qualification for voting in this State.

36. A.R.S. § 16-103(E)’s inclusion of constitutionally ineligible individuals in the Arizona electorate also dilutes the voting power of each constitutionally eligible qualified elector, including Ms. Swoboda, which is itself a concrete and particularized harm. *See Hall v. Dist. of Columbia Bd. of Elections*, -- F.4th --, 2025 WL 1717330, at *4 (D.C. Cir. Jun. 20, 2025) (holding that District of Columbia voters had standing to challenge ordinance that would permit non-citizens to vote in District elections, reasoning that “[t]he claimed injury is hardly abstract, as each voter experiences a direct reduction in the strength of his or her ‘individual and personal’ vote”).

COUNT I

Violation of Article VII, Section 2(A) of the Arizona Constitution

37. Plaintiffs incorporate by reference the allegations contained in the foregoing paragraphs as if fully set forth herein.

38. Although the Legislature has discretion to prescribe the durational length of residency prerequisites (and UOCAVA permits certain absent residents to vote in federal elections), the Arizona Constitution requires that all individuals “shall have resided in the state” as a condition precedent to registering to vote here. Ariz. Const. art. VII, § 2(A).

39. A.R.S. § 16-103(E), however, allows individuals “who ha[ve] never resided in the United States,” and hence, by necessary implication, have never resided in the State of Arizona, to register and vote in this State if one of their parents is a qualified Arizona elector.

40. A.R.S. § 16-103(E) is, on its face, inconsistent with and violative of Article VII, Section 2(A) of the Arizona Constitution. *See also Griffin v. N.C. State Bd. of Elections*, 915 S.E.2d 212, 227–28 (N.C. Ct. App. 2025) (finding that statute substantively

1 similar to A.R.S. § 16-103(E) violated state constitutional requirement that voters must have
2 resided of the state).

3 41. Upon information and belief, the non-residents who have registered to vote
4 pursuant to A.R.S. § 16-103(E) are, in the aggregate, disproportionately less Republican in
5 their political party affiliations relative to the Arizona electorate as a whole.

6 42. Because it is inconsistent with the Arizona Constitution, A.R.S. § 16-103(E)
7 is unlawfully structuring the electoral environment in a manner that is disadvantageous to
8 the Republican Party, thereby causing a competitive injury to the RPAZ and RNC.

9 43. In addition, including constitutionally ineligible individuals on the voter rolls,
10 which enables them to obtain and cast ballots in Arizona elections, unlawfully dilutes the
11 voting power of Ms. Swoboda and other qualified electors who satisfy the Arizona
12 Constitution's residency requirement.

13 44. Plaintiffs' competitive and vote dilution injuries are not compensable by
14 monetary damages, and thus are irreparable.

15 45. The balance of equities and considerations of public policy counsel in favor
16 of enforcing the Arizona Constitution's residency requirement and not authorizing or
17 effectuating the registrations of voters who, by their own representations, have never
18 resided in the State of Arizona.

19 46. Even in the absence of actual injury, Plaintiffs, as political party organizations
20 that engage in voter registration efforts and participate in Arizona elections and (in the case
21 of Ms. Swoboda), voters, have a direct legal interest in the enforcement and implementation
22 of constitutional provisions and statutes that govern voter registration in the State of
23 Arizona. A.R.S. § 16-103(E) directly affects those interests.

24 47. There is an actual and justiciable controversy between the Plaintiffs and the
25 Defendants concerning the constitutionality and enforceability of A.R.S. § 16-103(E), and
26 a judgment of the Court would resolve that controversy.

1 48. Accordingly, Plaintiffs are entitled to a declaration that A.R.S. § 16-103(E) is
2 unconstitutional and/or an injunction prohibiting its enforcement and implementation in
3 Arizona elections.

4 **DEMAND FOR RELIEF**

5 WHEREFORE, the Plaintiffs demand relief in the following forms:

- 6 A. A declaration pursuant to the Arizona Declaratory Judgments Act,
7 A.R.S. § 12-1831, *et seq.*, that A.R.S. § 16-103(E) is inconsistent with
8 and violative of Article VII, Section 2(A) of the Arizona Constitution.
- 9 B. An injunction pursuant to A.R.S. § 12-1801, *et seq.* and Arizona Rule
10 of Civil Procedure 65 that prohibits the Secretary of State and any
11 officers, agents, agencies, or instrumentalities of the State of Arizona
12 from accepting or effectuating voter registrations and mail ballot
13 requests by individuals who have never resided in the State of Arizona.
- 14 C. An injunction pursuant to A.R.S. § 12-1801, *et seq.* and Arizona Rule
15 of Civil Procedure 65 requiring the Secretary of State to take all actions
16 necessary or appropriate to ensure that the Arizona-specific
17 instructions accompanying the Federal Post Card Application and the
18 Federal Write-In Absentee Ballot reflect that individuals who have
19 never resided in the State of Arizona are not eligible to register to vote
20 or cast ballots in federal or state elections in Arizona.
- 21 D. An award of reasonable attorneys' fees and costs pursuant to A.R.S. §
22 12-341, 12-348, the private attorney general doctrine, or other
23 applicable law.
- 24 E. Such other relief as the Court deems necessary, equitable, proper, or
25 just.
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DATED this 30th day of June, 2025.

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