

Multiple Documents

Part	Description
1	12 pages
2	Exhibit
3	Text of Proposed Order

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12 *Bill Gates, Councilwoman Suzanne Klapp,*
Sen. Debbie Lesko, and Rep. Tony Rivero

13
14
15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE DISTRICT OF ARIZONA

17 Leslie Feldman; Luz Magallanes; Mercedes
18 Hymes; Julio Morera; Alejandra Ruiz; Cleo
Ovalle; Marcia Baker; Former Chairman
19 and First President of the Navajo Nation
Peterson Zah; Democratic National
20 Committee; DSCC a.k.a. Democratic
Senatorial Campaign Committee; Arizona
21 Democratic Party; Kirkpatrick for U.S.
Senate; Hillary for America,

22 Plaintiffs,

23 v.

24 Arizona Secretary of State’s Office;
25 Michele Reagan, in her official capacity as
Secretary of State of Arizona; Maricopa
26 county Board of Supervisors; Denny
Barney, in his official capacity as a member
27 of the Maricopa county Board of
Supervisors; Steve Chucuri, in his official
28 capacity as a member of the Maricopa

No. CV-16-1065-PHX-DLR

MOTION TO INTERVENE

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1 County Board of Supervisors; Andy
2 Kunasek, in his official capacity as a
3 member of the Maricopa County Board of
4 Supervisors; Clint Hickman, in his official
5 capacity as a member of the Maricopa
6 County Board of Supervisors; Steve
7 Gallardo, in his official capacity as a
8 member of the Maricopa County Board of
9 Supervisors; Maricopa County Recorder
and Elections Department; Helen Purcell, in
her official capacity as Maricopa County
Recorder; Karen Osborne, in her official
capacity as Maricopa County Elections
Director; and Mark Brnovich, in his official
capacity as Arizona Attorney General,
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Defendants.

Pursuant to Federal Rule of Civil Procedure 24, Arizona State lawmakers Debbie Lesko and Tony Rivero, current City of Phoenix Councilman, Precinct Committeeman, and candidate for the Board of Maricopa County Supervisors Bill Gates, and current City of Scottsdale Councilwoman and Precinct Committeewoman Suzanne Klapp (collectively, the “Proposed Intervenors”) respectfully move this Court for leave to intervene in this action as Defendants. This Motion is supported by the following Memorandum of Points and Authorities. Additionally, the Proposed Intervenors have attached to this Motion, in accordance with Federal Rule of Civil Procedure 24(c), a responsive pleading setting out the defenses for which intervention is sought.¹

MEMORANDUM OF POINTS AND AUTHORITIES

Introduction

On April 15, 2016, Plaintiffs initiated this action seeking relief pursuant to the First and Fourteenth Amendments to the U.S. Constitution and the Voting Rights Act of 1965, challenging Arizona’s laws, policies, and procedures for carrying out its elections. (Dkt.

¹ The Proposed Intervenors and their counsel understand that the current parties have stipulated to an extension of time for all Defendants to answer or otherwise respond to the First Amended Complaint (“FAC”), based on the expectation of a ruling on Plaintiffs’ forthcoming Motion for Preliminary Injunction. (Dkt. 31.) Given that, Proposed Intervenors respectfully advise that, in conjunction with the Arizona Republican Party, they plan to file a Motion to Dismiss portions of the FAC, but intend to do so on the timeline contemplated by the Parties’ stipulation and only after properly conferring with Plaintiffs per the Court’s Order (Dkt. 5).

1 1.) On April 19, 2016, the initial Plaintiffs were joined by Hillary for America in filing a
2 First Amended Complaint (“FAC”), primarily alleging that certain constitutional and
3 statutory deficiencies in Arizona’s elections scheme during the Presidential Preference
4 Election (“PPE”) will somehow impact the wholly separate Maricopa County General
5 Election—even though it is conducted under a completely separate mandate and format
6 from the PPE. (Dkt. 12, FAC, at ¶ 10.)

7 The Proposed Intervenors are parties that will be significantly impacted by the
8 relief that Plaintiffs seek in this action. The Proposed Intervenors are all registered
9 Republican voters and elected officials in Maricopa County, and have announced their
10 candidacy for election to public office in the upcoming 2016 primary and general
11 elections in Arizona. More specifically, Senator Debbie Lesko and Representative Tony
12 Rivero are members of the Arizona Legislature. Senator Debbie Lesko currently
13 represents Arizona State Senate District 21 and has announced her candidacy for re-
14 election. She is a Precinct Committeewoman for Arizona’s 21st Legislative District.
15 Representative Tony Rivero represents Arizona’s 21st Legislative District and has
16 announced his candidacy for re-election. Bill Gates currently serves as a City of Phoenix
17 Councilman and Precinct Committeeman for Arizona’s 28th Legislative District, and he
18 has announced his candidacy for the Maricopa County Board of Supervisors. And,
19 Suzanne Klapp currently serves as a City of Scottsdale Councilwoman and Precinct
20 Committeewoman for Arizona’s 23rd Legislative District. For this matter, the Proposed
21 Intervenors have an interest equal to those of the individually-named Plaintiffs who are
22 registered voters affiliated with the Democratic Party.

23 Because they have already declared their candidacy for elected office, the Proposed
24 Intervenors have a significant interest in ensuring that the Democratic Party does not
25 specifically advocate for the allocation of polling locations in Maricopa County to benefit
26 solely Democratic Party candidates and not all candidates for elected office within
27 Maricopa County. Furthermore, the Proposed Intervenors all have a fiduciary duty to
28 represent the interests of their constituents. The Proposed Intervenors have constituents

1 from across Maricopa County, including many eligible voters who regularly support and
2 vote for candidates affiliated with the Republican Party. The constituents of the Proposed
3 Intervenors have a significant interest in ensuring that a single political party, *i.e.*, the
4 Democratic Party, does not abuse judicial proceedings for the sole purpose of
5 manipulating local election officials and creating legal authorities that would impact the
6 constituents' right to vote, and impact Republican candidates' right to a fair election
7 carried out with integrity.

8 In addition, the Proposed Intervenors have an interest in ensuring that the Court
9 receives counter-arguments and -perspectives to the Democratic Party's challenge to the
10 not-yet-effective Arizona law found in H.B. 2023, which prohibits the collection of signed
11 and sealed absentee ballots in order to prevent voter fraud, as any changes to the law
12 could ultimately affect the number of votes a candidate receives, and thus would directly
13 impact the outcome of the Proposed Intervenors' election to public office. Moreover,
14 three of the Proposed Intervenors, current Arizona State lawmakers Lesko and Rivero,
15 have a significant interest in this Court upholding the law embodied in H.B. 2023, as each
16 affirmatively voted in support of its enactment.

17 Precinct Committeepersons Debbie Lesko, Bill Gates, and Suzanne Klapp have a
18 significant interest in the allocation of polling places, specifically regarding any potential
19 decision to have voting centers as opposed to precinct polling locations, because precinct
20 committeepersons currently can only be elected at precinct polling locations. Furthermore,
21 as is the tradition throughout the nation, other specific local issues are addressed via the
22 precinct method of voting and that is not conducive to a centralized or free for all election
23 that is not able to track voters and ensure that their votes are accurately counted.

24 Additionally, Councilwoman Suzanne Klapp has a significant interest in the
25 allocation of polling places in the upcoming 2016 general election, as challenged by the
26 Plaintiffs in this action, because the polling places used in the City of Scottsdale will be
27 the polling places established by Maricopa County.

28 The Proposed Intervenors seek intervention on behalf of their constituents, as well as

1 in their own right. For all these reasons, and as set forth below, the Proposed Intervenors
2 should be granted leave to intervene so that they may protect their interests in this matter.

3 Argument

4 **I. THE PROPOSED INTERVENORS ARE ENTITLED TO INTERVENTION** 5 **AS A MATTER OF RIGHT UNDER RULE 24(a)(2).**

6 Federal Rule of Civil Procedure 24(a)(2) provides a right of intervention, “[o]n
7 timely motion,” to anyone that “claims an interest relating to the property or transaction
8 that is the subject of the action, and is so situated that disposing of the action may as a
9 practical matter impair or impede the movant’s ability to protect its interest, unless
10 existing parties adequately represent that interest.” Accordingly, “[t]he district court must
11 grant the motion to intervene if four criteria are met: timeliness, an interest relating to the
12 subject of the litigation, practical impairment of an interest of the party seeking
13 intervention if intervention is not granted, and inadequate representation by the parties to
14 the action.” *United States v. Washington*, 86 F.3d 1499, 1503 (9th Cir. 1996).

15 In considering whether these criteria are satisfied, courts have stated that “Rule
16 24(a) is construed broadly in favor of intervention.” *Id.* Moreover, the Rule 24(a)(2)
17 analysis must be “guided primarily by practical considerations, not technical distinctions.”
18 *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 818 (9th Cir. 2001) (internal
19 citation & quotation marks omitted). Courts also “accept[] all of the applicant’s non-
20 conclusory allegations as true” in considering a motion to intervene. *Wildearth Guardians*
21 *v. Jewel*, No. 2:14-CV-00833 JWS, 2014 WL 7411857, at *1 (D. Ariz. Dec. 31, 2014).
22 Applying these standards, the Proposed Intervenors easily satisfy the four conditions for
23 intervention of right.

24 **A. The Motion to Intervene is Timely.**

25 Courts look to the following three factors to determine if a motion to intervene is
26 timely filed: “(1) the stage of the proceeding at which an applicant seeks to intervene; (2)
27 the prejudice to other parties; and (3) the reason for and length of the delay.” *Cal. Dep’t of*
28 *Toxic Substances Control v. Commercial Realty Projects, Inc.*, 309 F.3d 1113, 1119 (9th

1 Cir. 2002) (internal quotation marks omitted). Prejudice to existing parties is “the most
 2 important consideration in deciding whether a motion to intervene is timely.” *See United*
 3 *States v. Oregon*, 745 F.2d 550, 552 (9th Cir. 1984) (internal citation & quotation marks
 4 omitted).

5 This Motion is being filed less than a month after the First Amended Complaint
 6 was filed. No prejudice to the existing parties will result from intervention at such an early
 7 stage of the case. The Defendants in this case have not yet filed an answer or otherwise
 8 responded to the First Amended Complaint. Furthermore, Bernie 2016, Inc. and the
 9 Arizona Republican Party have also recently sought intervention, and such intervention is
 10 not opposed by the Plaintiffs. Therefore, the Proposed Intervenors have made a timely
 11 motion for intervention. *See, e.g., Jewel*, 2014 WL 7411857, at *1 (motion to intervene
 12 timely where it “was filed prior to any substantive briefing, the court ha[d] not yet ruled
 13 on any dispositive motion, and intervention [would] not cause any discovery delays”).

14 **B. The Proposed Intervenors Have a Significant Interest in this**
 15 **Proceeding.**

16 “Whether an applicant for intervention as of right demonstrates sufficient interest in
 17 an action is a practical, threshold inquiry, and no specific legal or equitable interest need be
 18 established.” *Nw. Forest Res. Council v. Glickman*, 82 F.3d 825, 837 (9th Cir. 1996)
 19 (quotation marks and alteration in original omitted). “To demonstrate this interest, a
 20 prospective intervenor must establish that (1) the interest [asserted] is protectable under
 21 some law, and (2) there is a relationship between the legally protected interest and the
 22 claims at issue.” *Id.* (alteration in original; internal quotation marks & citation omitted).

23 Here, the Proposed Intervenors have multiple interests protectable under law and
 24 related to the claims in this case. First, the Proposed Intervenors have an interest equal to
 25 those of the individually-named Plaintiffs who are registered voters affiliated with the
 26 Democratic Party.

27 Second, because they have already declared their candidacy for elected office, the
 28 Proposed Intervenors have a significant interest in ensuring that the Democratic Party

1 does not specifically advocate for the allocation of polling locations in Maricopa County
2 to benefit solely Democratic Party candidates and not all candidates for elected office
3 within Maricopa County. Furthermore, the Proposed Intervenors all have a fiduciary duty
4 to represent the interests of their constituents. The Proposed Intervenors have constituents
5 from across Maricopa County, including many eligible voters who regularly support and
6 vote for candidates affiliated with the Republican Party. The constituents of the Proposed
7 Intervenors have a significant interest in ensuring that a single political party, *i.e.*, the
8 Democratic Party, does not abuse judicial proceedings for the sole purpose of
9 manipulating local election officials and creating legal authorities that would impact the
10 constituents' right to vote, and impact Republican candidates' right to a fair election
11 carried out with integrity.

12 Third, the Proposed Intervenors have an interest in ensuring that the Court receives
13 counter-arguments and -perspectives to the Democratic Party's challenge to the not-yet-
14 effective Arizona law found in H.B. 2023, which prohibits the collection of signed and
15 sealed absentee ballots in order to prevent voter fraud, as any changes to the law could
16 ultimately affect the number of votes a candidate receives, and thus would directly impact
17 the outcome of the Proposed Intervenors' election to public office. Moreover, three of the
18 Proposed Intervenors, current Arizona State lawmakers Lesko and Rivero have a
19 significant interest in this Court upholding the law embodied in H.B. 2023, as each
20 affirmatively voted in support of its enactment.

21 Precinct Committeepersons Debbie Lesko, Bill Gates, and Suzanne Klapp have a
22 significant interest in the allocation of polling places, specifically regarding any potential
23 decision to have voting centers as opposed to precinct polling locations, because precinct
24 committeepersons can only be elected at precinct polling locations.

25 Finally, Councilwoman Suzanne Klapp has a significant interest in the allocation of
26 polling places in the upcoming 2016 primary and general elections, as challenged by the
27 Plaintiffs in this action, because the polling places used in the City of Scottsdale will be
28 the polling places established by Maricopa County.

1 The Proposed Intervenors’ interests here are not undifferentiated or generalized;
 2 they are “direct, non-contingent, and substantial.” *See California ex rel. Lockyer v. United*
 3 *States*, 450 F.3d 436, 441 (9th Cir. 2006) (where effect would result in “practical
 4 impairment of [intervenor’s] interests as a result of the pending litigation,” intervention is
 5 appropriate *even if* intervenor does not have an existing, enforceable right). Because the
 6 Proposed Intervenors have the necessary interest in the outcome of this matter, the Court
 7 should grant this motion to intervene.

8 **C. The Disposition of the Action Will Impair or Impede the Proposed**
 9 **Intervenors’ Ability to Protect Their Interests.**

10 The disposition of this action may impair or impede the Proposed Intervenors’
 11 ability to protect their legally protested interests. Fed. R. Civ. P. 24(a)(2) & advisory
 12 committee note (1966) (intervenor need only show that disposition of action “*may . . .*
 13 *impair or impede the movant’s ability to protect its interest*” and “[i]f an absentee would
 14 be substantially affected in a practical sense by the determination made in an action, he
 15 should, as a general rule, be entitled to intervene”) (emphasis added). “[T]he nature of the
 16 applicant’s interest and the effect that the disposition of the action may have on the
 17 applicant’s ability to protect its interest . . . are closely related issues.” Charles Alan
 18 Wright, et al., 7C FED. PRAC. & PROC. CIV. § 1908 (3d ed.).

19 Here, absent intervention, the Proposed Intervenors will be unable to protect their
 20 interests as candidates, and their constituents’ interests in ensuring their related rights are
 21 protected; and that members of an opposing political party do not inappropriately co-opt
 22 the events surrounding the PPE to (1) impact the wholly separate General Election and (2)
 23 overturn legislation that it is not yet effective. If Plaintiffs prevail, Republican candidates
 24 for publicly elected positions, and their constituents, may be subjected to violations of
 25 their rights without having any representation in this litigation on the matter.

26 **D. The Existing Parties Do Not Adequately Represent the Proposed**
 27 **Intervenors’ Interests.**

28 Intervention as of right is appropriate, as here, where other parties in the litigation

1 will not adequately represent the intervenor’s interest. “The burden of showing
 2 inadequacy of representation is ‘minimal’ and satisfied if the applicant can demonstrate
 3 that representation of its interests ‘may be’ inadequate.” *Citizens for Balanced Use v.*
 4 *Mont. Wilderness Ass’n*, 647 F.3d 893, 898 (9th Cir. 2011) (internal citation & quotation
 5 marks omitted). To assess whether a party’s interest is adequately represented, a court
 6 considers several factors, including:

- 7 (1) whether the interest of a present party is such that it will
 8 *undoubtedly* make all of a proposed intervenor’s arguments;
 9 (2) whether the present party is capable and willing to make
 10 such arguments; and (3) whether a proposed intervenor would
 offer any necessary elements to the proceeding that other
 parties would neglect.

11 *Perry v. Proposition 8 Official Proponents*, 587 F.3d 947, 952 (9th Cir. 2009) (emphasis
 12 added; internal citation omitted). The “most important factor” in assessing the adequacy
 13 of representation is “how the interest compares with the interests of existing parties.”
 14 *Citizens for Balanced Use*, 647 F.3d at 898.

15 Here, the Proposed Intervenors’ interests are not the same as the existing parties.
 16 Those interests are, in fact, directly contrary to the Plaintiffs’ claimed interests. Unlike
 17 Plaintiffs, the Proposed Intervenors seeks to *defend* existing state law and advocate for the
 18 rights of Republican candidates and their constituents during the upcoming Primary and
 19 General Elections.

20 The Proposed Intervenors’ interests are not adequately represented by the existing
 21 Defendants in the case, either. The Defendants are officials who have already been elected
 22 or appointed to public office, and are named in their official capacities only. Those
 23 Defendants, as they should, “must represent the interests of *all* people in Arizona”—not
 24 the specific interests of Republican candidates for public office. *Planned Parenthood*
 25 *Ariz., Inc. v. Am. Ass’n of Pro-Life Obstetricians & Gynecologists*, 227 Ariz. 262, 279 ¶
 26 58, 257 P.3d 181, 198 (App. 2011) (emphasis added). “As a result, the state might not
 27 give [the Proposed Intervenors’] interests ‘the kind of primacy’ that [the Proposed
 28 Intervenors] would.” *Id.* (reversing denial of motion to intervene when state could not

1 adequately represent interests of associations that, like the state, sought to uphold a
2 challenged law, since state had to represent all Arizonans) (quoting *Fund for Animals, Inc.*
3 *v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003)). Because the existing parties do not
4 adequately represent the Proposed Intervenors’ interests, the Court should grant this
5 motion to intervene.

6 **II. IN THE ALTERNATIVE, PERMISSIVE INTERVENTION IS**
7 **APPROPRIATE UNDER RULE 24(b)(2).**

8 If the Court does not grant intervention of right under Rule 24(a)(2), the Proposed
9 Intervenors should be granted permissive intervention under Federal Rule of Civil
10 Procedure 24(b)(2). Rule 24(b)(2) states that “[o]n timely motion, the court may permit
11 anyone to intervene who . . . has a claim or defense that shares with the main action a
12 common question of law or fact.”

13 The standards for permissive intervention are less stringent than those for
14 intervention as of right, and require: “(1) an independent ground for jurisdiction; (2) a
15 timely motion; and (3) a common question of law and fact between the movant’s claim or
16 defense and the main action.” *Blum v. Merrill Lynch Pierce Fenner & Smith Inc.*, 712
17 F.3d 1349, 1353 (9th Cir. 2013).² “In exercising its discretion, the court must consider
18 whether the intervention will unduly delay or prejudice the adjudication of the original
19 parties’ rights.” Fed. R. Civ. P. 24(b)(3). All requirements for permissive intervention are
20 met here.

21 The timeliness requirement is satisfied for all the reasons discussed above. As
22 noted, there is no risk of prejudice to the existing parties given the early posture of this
23 case. Moreover, the Proposed Intervenors seek intervention in order to protect the interests
24 of Republican candidates for public office, and their constituents, that will directly be
25 impacted by the legal and factual claims made by the Plaintiffs. As such, the Proposed
26 Intervenors’ defenses necessarily “share[] with the main action a common question of law
27

28 ² “Rule 24(b) does not require a showing of inadequacy of representation.” *Groves v. Ins.*
Co. of N. Am., 433 F. Supp. 877, 888 (E.D. Pa. 1977).

1 or fact.” Fed. R. Civ. P. 24(b)(1)(B). And if the Plaintiffs had jurisdictional grounds to
2 assert their claims in this action, there is certainly jurisdiction to present defenses to those
3 claims. Since the requirements in Rule 24(b)(2) are all met, permissive intervention
4 constitutes appropriate, alternative relief to intervention as of right.

5 **Conclusion**

6 All potentially affected parties deserve the opportunity to be heard in this matter.
7 The Proposed Intervenors thus respectfully request that the Court permit them to
8 intervene to protect their interests in this action.

9 DATED this 16th day of May, 2016.

10 Respectfully submitted,

11 SNELL & WILMER L.L.P.

12
13 By: /s/ Brett W. Johnson

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26 *Rep. Tony Rivero*
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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2016, I electronically transmitted the foregoing document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a notice of electronic filing to the EM/ECF registrants.

/s/ Marge Johnson

24090404

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12 *Bill Gates, Councilwoman Suzanne Klapp,*
Sen. Debbie Lesko, and Rep. Tony Rivero

13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE DISTRICT OF ARIZONA

15 Leslie Feldman, et al.,
16 Plaintiffs,

No. CV-16-1065-PHX-DLR

**PARTIAL ANSWER-IN-
INTERVENTION TO AMENDED
COMPLAINT**

17 v.

18
19 Arizona Secretary of State’s Office, et al.,
20 Defendants.
21

22 For their Partial Answer-in-Intervention to Plaintiffs’ Amended Complaint (Dkt.
23 12), Intervenor-Defendants the Arizona Republican Party, Arizona State lawmakers
24 Debbie Lesko and Tony Rivero, current City of Phoenix Councilman, Precinct
25 Committeeman, and candidate for the Board of Maricopa County Supervisors Bill Gates,
26 and current City of Scottsdale Councilwoman and Precinct Committeewoman Suzanne
27 Klapp (collectively, the “Intervenor-Defendants”) admit, deny, and allege as follows:
28

NATURE OF THE ACTION

1
2 1. Intervenor-Defendants admit that the above-captioned action was brought
3 under 42 U.S.C. § 1983. Intervenor-Defendants deny the remaining allegations in
4 paragraph 1 of the Amended Complaint.

5 2. Intervenor-Defendants admit that the language quoted in paragraph 2 of the
6 Amended Complaint can be found in *Wesberry v. Sanders*, 376 U.S. 1 (1964). Intervenor-
7 Defendants are without knowledge or information sufficient to form a belief as to the truth
8 of the allegations in paragraph 2 of the Amended Complaint as to the rationale behind
9 Plaintiffs bringing suit in the above-captioned action, and therefore deny the same.
10 Intervenor-Defendants deny the remaining allegations in paragraph 2 of the Amended
11 Complaint.

12 3. Intervenor-Defendants admit that the language quoted in paragraph 3 of the
13 Amended Complaint can be found in 52 U.S.C. § 10302(c) (2006) (formerly cited as 42
14 U.S.C. § 1973(a)). Intervenor-Defendants admit that Arizona became a covered
15 jurisdiction subject to the requirements of Section 5 of the Voting Rights Act on
16 September 18, 1975. Voting Rights Act Amendments of 1975: Partial List of
17 Determinations, 40 Fed. Reg. 43746 (Sept. 18, 1975). Intervenor-Defendants deny the
18 remaining allegations in paragraph 3 of the Amended Complaint.

19 4. Paragraph 4 contains legal conclusions to which a response is not required.
20 To the extent a response is required, Intervenor-Defendants deny the allegations in
21 paragraph 4 of the Amended Complaint.

22 5. Intervenor-Defendants deny the allegations in paragraph 5 of the Amended
23 Complaint.

24 6. Intervenor-Defendants admit that Maricopa County has been in the news for
25 election-related matters. Intervenor-Defendants are without knowledge or information
26 sufficient to form a belief as to the truth of the allegation that voters were unable to wait in
27 lines or were disenfranchised, and therefore deny the same. Intervenor-Defendants deny
28 the remaining allegations in paragraph 6 of the Amended Complaint.

1 7. Intervenor-Defendants are without knowledge or information sufficient to
2 form a belief as to the truth of the allegations in paragraph 7 of the Amended Complaint,
3 and therefore deny the same.

4 8. Intervenor-Defendants are without knowledge or information sufficient to
5 form a belief as to the truth of the allegations in paragraph 8 of the Amended Complaint,
6 and therefore deny the same.

7 9. Intervenor-Defendants are without knowledge or information sufficient to
8 form a belief as to the truth of the allegations in paragraph 9 of the Amended Complaint,
9 and therefore deny the same.

10 10. Intervenor-Defendants deny the allegations in paragraph 10 of the
11 Amended Complaint.

12 11. Intervenor-Defendants deny the allegations in paragraph 11 of the
13 Amended Complaint.

14 **JURISDICTION AND VENUE**

15 12. Intervenor-Defendants admit that this Court has subject matter jurisdiction
16 over this action. Intervenor-Defendants further admit that this Court has jurisdiction to
17 grant declaratory relief.

18 13. Intervenor-Defendants admit that this Court has personal jurisdiction over
19 the parties for purposes of this action.

20 14. Intervenor-Defendants admit that venue is proper in this Court. Intervenor-
21 Defendants deny the remaining allegations in paragraph 14 of the Amended Complaint.

22 **PARTIES**

23 15. Intervenor-Defendants are without knowledge or information sufficient to
24 form a belief as to the truth of the allegations in paragraphs 15–30, and 34, of the
25 Amended Complaint, and therefore deny the same.

26 16. Paragraphs 31–33 and 35–38 contain legal conclusions to which a response
27 is not required. To the extent a response is required, Intervenor-Defendants deny the
28 allegations in paragraphs 31–33 and 35–38 of the Amended Complaint.

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1 17. Intervenor-Defendant the Arizona Republican Party is a state committee, as
2 defined by 52 U.S.C. § 30101(15) and A.R.S. §§ 16-801, *et seq.* The Arizona Republican
3 Party has members and constituents from across Arizona, and is dedicated to electing
4 local, state, and national candidates of the Republican Party to public office in Arizona
5 and throughout the United States.

6 18. Intervenor-Defendant Bill Gates is a City of Phoenix Councilman and
7 Precinct Committeeman for Arizona’s 28th Legislative District. Intervenor-Defendant
8 Gates has announced his candidacy for the Maricopa County Board of Supervisors.

9 19. Intervenor-Defendant Suzanne Klapp is a City of Scottsdale Councilwoman
10 and Precinct Committeewoman for Arizona’s 23rd Legislative District. Intervenor-Defendant
11 Klapp has announced her candidacy for re-election to the Scottsdale City Council.

12 20. Intervenor-Defendant Debbie Lesko represents State Senate District 21 and
13 has announced her candidacy for re-election. She is a Precinct Committeewoman for
14 Arizona’s 21st Legislative District.

15 21. Intervenor-Defendant Tony Rivero represents Arizona’s 21st Legislative
16 District in the Arizona House of Representatives, and has announced his candidacy for re-
17 election.

18 **GENERAL ALLEGATIONS**

19 22. Intervenor-Defendants admit that Arizona became a covered jurisdiction
20 subject to the requirements of Section 5 of the Voting Rights Act on September 18, 1975.
21 Voting Rights Act Amendments of 1975: Partial List of Determinations, 40 Fed. Reg.
22 43746 (Sept. 18, 1975). Intervenor-Defendants deny the remaining allegations in
23 paragraph 39 of the Amended Complaint.

24 23. Intervenor-Defendants admit that Arizona became a state in 1912, and that
25 Native Americans were able to vote in Arizona in 1948. Intervenor-Defendants deny the
26 remaining allegations in paragraph 40 of the Amended Complaint.

27 24. Intervenor-Defendants admit that the Voting Rights Act was amended in
28 1970 to suspend the use of literacy tests. Intervenor-Defendants are without knowledge or

1 information sufficient to form a belief as to the truth of the remaining allegations in
2 paragraph 41 of the Amended Complaint, and therefore deny the same.

3 25. Intervenor-Defendants are without knowledge or information sufficient to
4 form a belief as to the truth of the allegations in paragraphs 42–43 of the Amended
5 Complaint, and therefore deny the same.

6 26. Intervenor-Defendants admit that Proposition 203 was passed in Arizona on
7 November 7, 2000. Intervenor-Defendants are without knowledge or information
8 sufficient to form a belief as to the truth of the remaining allegations in paragraph 44 of
9 the Amended Complaint, and therefore deny the same.

10 27. Intervenor-Defendants are without knowledge or information sufficient to
11 form a belief as to the truth of the allegations in paragraph 45–46 of the Amended
12 Complaint, and therefore deny the same.

13 28. Intervenor-Defendants admit that Proposition 200 was passed in Arizona in
14 2004, and that *Arizona v. Inter Tribal Council of Arizona, Inc.*, 133 S. Ct. 2247 (2013),
15 held that the National Voter Registration Act preempted Arizona’s proof-of-citizenship
16 requirement. Intervenor-Defendants are without knowledge or information sufficient to
17 form a belief as to the truth of the remaining allegations in paragraph 47 of the Amended
18 Complaint, and therefore deny the same.

19 29. Intervenor-Defendants admit that the language quoted in paragraph 48 of the
20 Amended Complaint can be found in *Melendres v. Arpaio*, 989 F. Supp. 2d 822 (D. Ariz.
21 2013). Intervenor-Defendants are without knowledge or information sufficient to form a
22 belief as to the truth of the remaining allegations in paragraph 48 of the Amended
23 Complaint, and therefore deny the same.

24 30. Intervenor-Defendants admit that the Arizona Legislature passed Senate Bill
25 1070 in 2010. The remaining allegations in paragraph 49 are legal conclusions to which a
26 response is not required. To the extent a response is required, Intervenor-Defendants deny
27 the remaining allegations in paragraph 49 of the Amended Complaint.

28 31. Intervenor-Defendants admit that Arizona became a covered jurisdiction

1 subject to the requirements of Section 5 of the Voting Rights Act on September 18, 1975.
2 Voting Rights Act Amendments of 1975: Partial List of Determinations, 40 Fed. Reg.
3 43746 (Sept. 18, 1975). Intervenor-Defendants are without knowledge or information
4 sufficient to form a belief as to the truth of the remaining allegations in paragraph 50 of
5 the Amended Complaint, and therefore deny the same.

6 32. Intervenor-Defendants are without knowledge or information sufficient to
7 form a belief as to the truth of the allegations in paragraphs 51–57 of the Amended
8 Complaint, and therefore deny the same.

9 33. Paragraph 58 contains legal conclusions to which a response is not required.
10 To the extent a response is required, Intervenor-Defendants deny the allegations in
11 paragraph 58 of the Amended Complaint.

12 34. Paragraph 59 contains legal conclusions as it relates to A.R.S. §§ 16-583
13 and -411, to which a response is not required. To the extent a response is required,
14 Intervenor-Defendants deny the allegations related to A.R.S. §§ 16-583 and -411 in
15 paragraph 59 of the Amended Complaint. Intervenor-Defendants are without knowledge
16 or information sufficient to form a belief as to the truth of the remaining allegations in
17 paragraph 59 of the Amended Complaint, and therefore deny the same.

18 35. Intervenor-Defendants are without knowledge or information sufficient to
19 form a belief as to the truth of the allegations in paragraphs 60–75 of the Amended
20 Complaint, and therefore deny the same.

21 36. Intervenor-Defendants admit that Arizona became a covered jurisdiction
22 subject to the requirements of Section 5 of the Voting Rights Act on September 18, 1975.
23 Voting Rights Act Amendments of 1975: Partial List of Determinations, 40 Fed. Reg.
24 43746 (Sept. 18, 1975). Intervenor-Defendants are without knowledge or information
25 sufficient to form a belief as to the truth of the remaining allegations in paragraph 76 of
26 the Amended Complaint, and therefore deny the same.

27 37. Intervenor-Defendants are without knowledge or information sufficient to
28 form a belief as to the truth of the allegations in paragraphs 77–80 of the Amended

1 Complaint, and therefore deny the same.

2 38. Intervenor-Defendants assert that paragraphs 81–92 will be addressed in
3 their forthcoming Motion to Dismiss, after appropriate consultation pursuant to the
4 Court’s Order (Dkt. 5), and therefore are not addressed herein.

5 39. Intervenor-Defendants assert that paragraphs 93–108 will be addressed in
6 their forthcoming Motion to Dismiss, after appropriate consultation pursuant to the
7 Court’s Order (Dkt. 5), and therefore are not addressed herein.

8 **CAUSES OF ACTION**

9 40. Intervenor-Defendants incorporate by this reference the previous answers to
10 Plaintiffs’ Amended Complaint as if fully set forth herein.

11 41. Intervenor-Defendants assert that paragraphs 119, 127, 134, 136, and 137
12 will be addressed in their forthcoming Motion to Dismiss, after appropriate consultation
13 pursuant to the Court’s Order (Dkt. 5), and therefore are not addressed herein.

14 42. Intervenor-Defendants deny the allegations in paragraphs 111–112, 114–
15 115, 118, 121–122, 125–126, 128, 131, and 132 of the Amended Complaint.

16 43. Intervenor-Defendants are without knowledge or information sufficient to
17 form a belief as to the truth of the allegations in paragraphs 113, 116–117, and 120 of the
18 Amended Complaint, and therefore deny the same.

19 44. Paragraphs 110, 124, and 130 contain legal conclusions to which a response
20 is not required. To the extent a response is required, Intervenor-Defendants deny the
21 allegations in paragraphs 110, 124, and 130 of the Amended Complaint.

22 **GENERAL DENIAL**

23 Intervenor-Defendants deny all allegations in the Amended Complaint not
24 expressly admitted herein, other than those found in paragraphs 119, 127, 134, 136, and
25 137, which will be specifically addressed in Intervenor-Defendants’ forthcoming Motion
26 to Dismiss, after appropriate consultation pursuant to the Court’s Order (Dkt. 5).

27 **PRAYER FOR RELIEF**

28 Intervenor-Defendants deny Plaintiffs’ prayer for relief contained in the

1 unnumbered paragraph beginning “Wherefore,” including every subparagraph, to the
2 extent that such requested relief violates applicable state and federal law.

3 **AFFIRMATIVE DEFENSES**

4 1. Plaintiffs fail to state a claim upon which relief can be granted.

5 2. Plaintiffs’ claims are futile because the actions described are neither
6 discriminatory nor suppressive.

7 3. Plaintiffs lack standing to bring some or all of the claims asserted in this
8 suit.

9 4. Certain Plaintiffs are not qualified electors as required by state law and
10 therefore cannot bring some or all of the claims asserted in this action.

11 5. Plaintiffs are estopped from bringing some or all of the claims asserted in
12 this action.

13 6. Plaintiffs are equitably estopped from bringing some or all of the claims
14 asserted in this action.

15 7. Plaintiffs’ claims are barred in whole or part by the doctrine of laches.

16 8. Plaintiffs have waived their rights to bring some or all of the claims asserted
17 in this action.

18 9. Plaintiffs are barred from bringing some or all of the claims in this action
19 after the Presidential Preference Election.

20 10. Plaintiffs are barred from bringing some or all of the claims in this action
21 prior to the effective date of the law contained in H.B. 2023.

22 11. Plaintiffs’ claims are barred in whole or in part by the doctrine of res
23 judicata.

24 12. Plaintiffs’ claims are barred in whole or in part by the doctrine of illegality.

25 13. Plaintiffs’ requested relief violates the equal protection provisions of the
26 Arizona and United States Constitutions.

27 14. Plaintiffs’ requested relief violates the Tenth Amendment to the United
28 States Constitution.

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15. Plaintiffs have failed to exhaust administrative remedies.

16. Plaintiffs’ claims fail, in whole or in part, to the extent that they rely on inadmissible hearsay.

17. Plaintiffs’ claims fail, in whole or in part, to the extent that one or more of the named voters listed did not suffer any actionable harm.

WHEREFORE, Intervenor-Defendants pray for judgment as follows:

- A. That Plaintiffs take nothing by way of their Amended Complaint;
- B. That the Court enter judgment in favor of Defendants and Intervenor-Defendants and against Plaintiffs on any and all claims for relief alleged in the Amended Complaint;
- C. That Intervenor-Defendants recovers their attorneys’ fees and costs in this suit; and
- D. For such other relief as the Court deems fair, just, and proper.

DATED this 16th day of May, 2016.

Respectfully submitted,

SNELL & WILMER L.L.P.

By: /s/ Brett W. Johnson

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*Attorneys for Intervenor-Defendants
Arizona Republican Party, Councilman
Bill Gates, Councilwoman Suzanne
Klapp, Sen. Debbie Lesko, and Rep.
Tony Rivero*

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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2016, I electronically transmitted the foregoing document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a notice of electronic filing to the EM/ECF registrants.

/s/ Marge Johnson

24112017

Snell & Wilmer
LLP
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Leslie Feldman, et al.,
Plaintiffs,
– and –
Bernie 2016, Inc.
Intervenor-Plaintiff,
v.
Arizona Secretary of State’s Office, et al.,
Defendants,
– and –
Arizona Republican Party, Councilman Bill
Gates, Councilwoman Suzanne Klapp, Sen.
Debbie Lesko, and Rep. Tony Rivero,
Intervenor-Defendants.

No. CV-16-1065-PHX-DLR
ORDER

The Court having read and considered the Motion to Intervene by proposed Intervenor-Defendants Councilman Bill Gates, Councilwoman Suzanne Klapp, Senator Debbie Lesko, and Representative Tony Rivero, and good cause appearing,

IT IS HEREBY ORDERED granting the Motion to Intervene by Councilman Bill Gates, Councilwoman Suzanne Klapp, Senator Debbie Lesko, and Representative Tony

1 Rivero. Councilman Bill Gates, Councilwoman Suzanne Klapp, Senator Debbie Lesko,
2 and Representative Tony Rivero are added as Intervenor-Defendants in this matter.

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General Information

Court	United States District Court for the District of Arizona; United States District Court for the District of Arizona
Federal Nature of Suit	Civil Rights - Voting[441]
Docket Number	2:16-cv-01065