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13 **Admitted Pro Hac Vice*

14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF ARIZONA**

16 Scot Mussi, Gina Swoboda, in her capacity) No. CV-24-01310-PHX-DWL
17 as Chair of the Republican Party of Arizona,)
18 and Steven Gaynor,) **MOTION FOR LEAVE TO**
19) **FILE BRIEF OF AMICI**
Plaintiffs,) **CURIAE ARIZONA**
20) **ALLIANCE FOR**
v.) **RETIRED AMERICANS**
21) **AND VOTO LATINO**
Adrian Fontes, in his official capacity as)
22 Arizona Secretary of State,)
23)
24 Defendant.)
25 _____)
26)
27)
28)

1 The Arizona Alliance for Retired Americans (“Alliance”) and Voto Latino move
2 for leave to file the accompanying brief as amici curiae in support of Defendant Secretary
3 of State’s motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and
4 12(b)(6). *See* ECF No. 20. A copy of the proposed brief is attached as **Exhibit A**. In support
5 of their motion, the Alliance and Voto Latino state as follows:

6 1. The Alliance is a nonprofit corporation whose membership includes 51,000
7 retirees from every county in Arizona. The Alliance’s mission is to ensure social and
8 economic justice and protect the civil rights of retirees after a lifetime of work, including
9 by ensuring that its members have access to the franchise and can meaningfully participate
10 in Arizona’s elections. The Alliance’s members are 55 or older, and often have disabilities,
11 illness, or mobility challenges, and it is common for the Alliance’s members to be in the
12 process of relocating to assisted living facilities, moving to be closer to or to move in with
13 family, or transitioning into smaller homes for financial reasons. Many of the Alliance’s
14 members also frequently travel out of state to visit family or for personal travel. They are,
15 as a result, at a particular risk of missing purge notices that are meant to advise them that
16 their voter registration is at risk.

17 2. Voto Latino is the largest Latino advocacy organization in the nation. Its
18 mission is to grow political engagement in historically underrepresented communities,
19 especially in its core constituency of young, Latino voters. Since 2012, Voto Latino has
20 registered over 60,000 voters in Arizona. To further its mission, Voto Latino spends
21 significant resources on voter education and mobilization initiatives, including voter-
22 registration drives; email and social-media campaigns; digital ads communicating directly
23 with Latino voters; and text banking to encourage voters to vote, remind them to update
24 their voter registrations, and inform them about available means of voting. Many of Voto
25 Latino’s constituents live on and around college campuses, change addresses frequently
26 due to their age and financial circumstances, and rely on assistance to navigate the state’s
27 registration and pre-registration procedures. As a result of these circumstances, students
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1 and others in Voto Latino's core constituency often do not receive removal notices, only
2 to learn later that they have been purged from the voter rolls.

3 3. To protect their members' and constituents' right to vote, the Alliance and
4 Voto Latino have been involved in voting-rights litigation in Arizona, including related to
5 voter roll maintenance. *See Ariz. All. for Retired Ams. v. Hobbs*, 630 F. Supp. 3d 1180,
6 1192–94 (D. Ariz. 2022) (granting the Alliance and Voto Latino's motion for preliminary
7 injunction against multiple provisions of SB 1260); *see also* Minute Order, *RNC v. Fontes*,
8 CV2024-050553 (Maricopa Cnty. Super. Ct. May 10, 2024) (noting the Alliance and Voto
9 Latino's intervention and granting motion to dismiss); Ruling and Order, *Ariz. Free Enter.*
10 *Club v. Fontes*, No. S1300CV202300872 (Yavapai Cnty. Super. Ct. April 25, 2024) (noting
11 the Alliance and Voto Latino's intervention and granting motion for summary judgment);
12 Ruling and Order, *Ariz. Free Enter. Club v. Fontes*, No. S1300CV202300202 (Yavapai
13 Cnty. Super. Ct. April 25, 2024) (same); Minute Order, *Strong Cmty. Found. of Ariz. v.*
14 *Yavapai County*, No. CV2024-002441 (Yavapai Cnty. Super. Ct. April 3, 2024) (granting
15 the Alliance and Voto Latino's motion to intervene as defendants).¹

16 4. The Alliance and Voto Latino have also participated as amici curiae in
17 various lawsuits affecting their members' and constituents' voting rights in Arizona,
18 including during this election cycle. *See* Order, *Petersen v. Fontes*, No. CV2024-001942
19 (Maricopa Cnty. Super. Ct. March 7, 2024) (granting the Alliance and Voto Latino leave
20 to file amici brief in support of the Secretary's motion to dismiss); *see also* Minute Entry,
21 *Am. Encore v. Fontes*, No. 2:24-CV-01673-MTL (D. Ariz. July 19, 2024) (granting the
22 Alliance leave to participate as amici in support of the Secretary's motion to dismiss and
23 the Secretary's opposition to plaintiffs' preliminary injunction).

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25 ¹ The Alliance also brought successful litigation to protect its members' voting rights when
26 county officials sought to delay and disrupt the canvass of election results in Cochise
27 County in 2022, *see Ariz. All. for Retired Ams. v. Crosby*, No. S0200CV2022-00552
28 (Cochise Cnty. Super. Ct.); *Ariz. All. for Retired Ams. v. Crosby*, No. CV2022-00518
(Cochise Cnty. Super. Ct.), and was recently granted intervention in a similar suit in
Mohave County this year, *see* Order, *Gould v. Mayes*, No. CV2024-000815 (Maricopa
Cnty. Super. Ct. June 28, 2024) (granting the Alliance's motion to intervene as defendant).

1 5. “A district court has broad discretion to permit individuals or entities to
2 participate in a case as amici curiae.” *WildEarth Guardians v. Provencio*, No. CV-16-
3 08010-PCT-SMM, 2017 WL 11631003, at *1 (D. Ariz. July 6, 2017). The role of an amicus
4 curiae is “to provide assistance in a case of general public interest, supplement the efforts
5 of counsel in the case, and draw the court’s attention to law that escaped consideration.”
6 *Id.* (citing *Miller-Wohl Co. v. Comm’r of Labor and Indus.*, 694 F.2d 203, 204 (9th Cir.
7 1982)).

8 6. The Court denied the Alliance and Voto Latino’s motion to participate as
9 intervenors in this case on the ground that the Secretary adequately represents their
10 interests, *see* ECF No. 26, but the Alliance and Voto Latino maintain a significant interest
11 in the litigation and can offer a unique perspective as the only organizations in the case
12 with the singular goal of protecting voters. In contrast, the Secretary is expressly charged
13 with pursuing the NVRA’s “twin objectives—easing barriers to registration and voting,
14 while at the same time protecting electoral integrity and the maintenance of accurate voter
15 rolls.” *Bellitto v. Snipes*, 935 F.3d 1192, 1198 (11th Cir. 2019). These two goals are
16 “naturally” in “tension” with one another. *Id.* Because Plaintiffs seek an order to compel
17 additional removals of voters from the rolls, and the Secretary must balance the State’s
18 dual obligations under the NVRA, there is no party dedicated solely to the protection of
19 the rights of the voters who are at risk of being purged. *See, e.g., Pub. Int. Legal Found. v.*
20 *Winfrey*, 463 F. Supp. 3d 795, 799–800, 802 (E.D. Mich. 2020). The Alliance and Voto
21 Latino represent those voters and will provide a pro-voter perspective. *See id.* And as amici,
22 they seek to present arguments that have not been fully addressed by the existing parties.
23 *See, e.g., Ex. A* at 17 (arguing that the Eleventh Amendment and the National Voter
24 Registration Act pose a complete bar to aspects of the relief requested by Plaintiffs); *id.* at
25 14–17 (explaining data deficiencies and unreliable methodology underlying Plaintiffs’
26 claims); *id.* at 15 (explaining Plaintiffs cannot attach expert report to complaint); *id.* at 11
27 n.6 (arguing that Plaintiffs, as individuals, cannot assert rights of non-party organizations).

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