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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

ARIZONA PUBLIC INTEGRITY
ALLIANCE, INC., et al.,

Plaintiffs,

v.

ADRIAN FONTES, in his official capacity
as Maricopa County Recorder, et al.,

Defendants.

Case No: LC2020-000252-001 DT

**UNOPPOSED MOTION FOR LEAVE
TO FILE AMICUS BRIEF OF
ARIZONA ATTORNEY GENERAL
MARK BRNOVICH IN SUPPORT OF
PLAINTIFFS**

(Hon. James D. Smith)

Arizona Attorney General Mark Brnovich hereby moves for leave to file an amicus brief in support of Plaintiffs' special action complaint seeking declaratory and injunctive relief under Rule 2(b) of the Arizona Rules of Procedure for Special Actions. The parties' respective counsel, Alexander Kolodin and Joseph La Rue, have informed undersigned counsel that neither Plaintiffs nor Defendants oppose this motion.

1 As discussed in the Attorney General’s amicus brief simultaneously submitted
2 with this motion, the Attorney General is authorized to enforce provisions of Title 16 in
3 Arizona Revised Statutes (“A.R.S.”) “[i]n any election for state office, members of the
4 legislature, justices of the supreme court, judges of the court of appeals or statewide
5 initiative or referendum ... through civil and criminal actions.” A.R.S. § 16-1021.
6 Accordingly, the Attorney General has authority to enforce provisions of Title 16 for the
7 upcoming General Election on November 3, 2020 (“November Election”), which
8 includes all the aforementioned races. The Attorney General also approves the Election
9 Procedures Manual (“EPM”), which is promulgated by the Secretary of State and carries
10 the force of law. A.R.S. § 16-452(B), (C).

11 In this special action, Plaintiffs seek to enjoin Defendants, Maricopa County
12 Recorder Adrian Fontes and the Maricopa Board of Supervisors, from mailing
13 instructions that accompany early ballots to voters that are contrary to provisions of Title
14 16 and the EPM. *See* Verified Complaint for a Special Action (“Complaint”), ¶33.
15 Given the Attorney General’s clear statutory interests at stake in this special action, the
16 Attorney General moves for leave to file an amicus brief as an interested party in lieu of
17 intervention as-of-right to conserve judicial resources and facilitate an expeditious
18 determination of this matter. *See* Ariz. R. P. Spec. Actions 2(b) (court “may allow other
19 persons to intervene” under Ariz. R. Civ. P. 24 “or may allow them to participate [as]
20 amicus curiae”);¹ *Perini Land & Dev. v. Pima County*, 170 Ariz. 380, 382 (1992)
21 (emphasizing courts may employ expedited procedures to resolve election cases before
22 an upcoming election); *see, e.g., City of Flagstaff v. Mangum*, 164 Ariz. 395, 397 (1990)
23 (allowing League of Arizona Cities and Towns to file amicus brief in a time-sensitive
24 election case where “[t]he questions presented involve [recurring] issues of law with
25 statewide significance”).

26 ¹ Rule 24 provides for of-right intervention when a person “claims an interest relating to
27 the subject of the action and is so situated that disposing of the action in the person’s
28 absence may as a practical matter impair or impede the person’s ability to protect that
interest, unless existing parties adequately represent that interest.” Ariz. R. Civ. P.
24(a)(2).

Additionally, the Attorney General has a statutory right “to be heard[,]” and therefore file a brief, “[i]n any proceeding in which a state statute, ordinance, franchise or rule is alleged to be unconstitutional.” A.R.S. § 12-1841(A), (D). Here, Plaintiffs seek to require Defendants to comply with Arizona election laws and the EPM, and it appears that the Recorder may contend such laws are invalid or do not apply to Maricopa County. Although the parties do not expressly challenge the constitutionality of a state statute or rule, A.R.S. § 12-1841 nonetheless supports the Attorney General’s interest in upholding state election laws and procedures, and weighs in favor of allowing the Attorney General to be heard on the important legal issues presented in this time-sensitive special action. *See Sotomayor v. Burns*, 199 Ariz. 81, 83, ¶ 9 (2000) (emphasizing “[t]he real prejudice caused by delay in election cases is to the quality of decision making in matters of great public importance”).

Accordingly, the Attorney General respectfully requests the Court to grant this motion for leave to file an amicus brief.

Respectfully submitted this 2nd day of September, 2020.

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1 I hereby certify that the foregoing document
2 was filed this 2nd day of September, 2020.

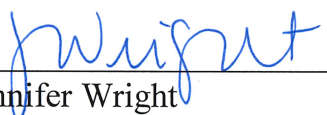
3 Copy of the same served via email this 2nd
4 day of September, 2020, to:

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17 Courtesy copy of the same e-mailed this date to:

18 Honorable James D. Smith

19 
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