ARIZONA SUPREME COURT

CENTER FOR ARIZONA POLICY, INC., et al., Plaintiffs/Plaintiffs, v. ARIZONA SECRETARY OF STATE, et al., Defendants/Appellees, and ARIZONA ATTORNEY GENERAL, et al., Intervenor-Defendants/Appellees.	Arizona Supreme Court No. CV-24-0295-PR Court of Appeals Division One No. 1 CA-CV 24-0272 Maricopa County Superior Court No. CV2022-016564

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I. In light of Arizona's constitutional framework requiring both campaign-finance disclosures and guaranteeing free speech, campaign-finance disclosure laws are subject to at most exacting scrutiny.

Although the federal and state constitutions have different substantive scopes, the standards of review used by federal courts can apply equally to Arizona's Constitution. They simply reflect the tools courts use to analyze the significance of the government interest and the degree of burden on the right. Arizona courts are not bound to follow the specific tiers of scrutiny. But because the free-speech right is not an absolute, unqualified right, Arizona courts must still determine how to categorize different types of laws based on the importance of the government interest and the degree of burden on the substantive right. The federal tiers of scrutiny are a useful tool for performing that analysis. This Court should continue to use the general framework, while preserving the ability to make adjustments to that framework when necessary to reflect the Arizona Constitution's text and structure.[1]

As for disclosure in particular, Arizona's founders embedded campaign-finance disclosure into the Constitution from the dawn of statehood, confirming that disclosure of political spending strengthens, not undermines, Arizona constitutional values. Consequently, the Court should find that under Arizona's constitutional framework, such disclosure laws serve an important purpose (of constitutional

[1] No party has asked the Court to abandon the traditional tiers of scrutiny. The Court should decide the case on issues the parties presented. *See State v. White*, 194 Ariz. 344, 354 ¶ 44 (1999) (party presentation "serve[s] as a foundation for review").

weight), and impose at most a modest, and constitutionally permissible, burden on speech rights.

A. The federal standards of review are fully compatible with Arizona's Constitution.

1. Article 2, § 6 of the Arizona Constitution provides that "[e]very person may freely speak, write and publish on all subjects, being responsible for the abuse of that right." Ariz. Const. art. 2, § 6. Under the First Amendment's free speech clause, "Congress shall make no law ... abridging the freedom of speech, or of the press." U.S. Const. amend. I.

These provisions define different substantive scopes. As this Court explained, "the First Amendment is phrased as a constraint on government." *Brush & Nib Studio, LC v. City of Phx.*, 247 Ariz. 269, 281 ¶ 45 (2019) (citation omitted). "[O]ur state's provision, by contrast, is a guarantee of the individual right to 'freely speak, write, and publish,' subject only to constraint for the abuse of that right." *Id.* "Thus, by its terms, the Arizona Constitution provides broader protections for free speech than the First Amendment." *Id.*

2. Neither constitution, however, prohibits all laws affecting speech. For example, this Court recognized that nothing in "article 2, § 6 of the Arizona Constitution even remotely suggests an absolute privilege to damage the reputation of another person." *Yetman v. English*, 168 Ariz. 71, 82 (1991).

Countless examples demonstrate the fundamental point that the government may enact laws affecting speech in many domains. For example, the government may prohibit or penalize solicitation of murder, false advertising, perjury, securities fraud, price fixing, libel, trademark infringement, extortion, and countless others.

3. Because neither constitution guarantees an absolute, unqualified free-speech right, merely finding that a law *affects* speech does not answer the question of whether the law violates the constitutional right. Instead, courts need tools to adjudicate disputes about the right.

The most useful tools categorize cases so lower courts can consistently apply the law by determining that a type of law falls into one category or another. Courts use this type of categorization across nearly all domains, from determining whether a tort duty exists to what type of competitive conduct violates antitrust laws.

For constitutional law, federal courts apply a set of standards of review known as the tiers of scrutiny. The tiers reflect decades of analysis and experience about the type of government interest involved and the degree of burden a particular government action has on the associated constitutional right. It is not controversial to say that a law with a weak government interest that severely burdens a constitutional right should receive more demanding judicial scrutiny than a law that promotes a strong interest and imposes a weak burden on the constitutional right.

The most deferential standard of review is rational basis. Under rational basis, the court will uphold a law unless the challenger shows that the law is not "rationally related to a legitimate state interest." *Pennell v. City of San Jose*, 485 U.S. 1, 14 (1988). Federal courts typically apply rational basis to due-process and equal-protection challenges.

Strict scrutiny is the most demanding federal standard of review. It requires showing that the challenged law is "necessary to serve a compelling state interest and that it is narrowly drawn to achieve that end." *Burson v. Freeman*, 504 U.S. 191, 198 (1992) (citation omitted). Federal courts apply strict scrutiny to viewpoint-based speech restrictions and some other areas (e.g., race-based discrimination).

Federal courts also apply intermediate levels of scrutiny in between those two extremes. For example, federal courts apply "exacting" scrutiny for disclosure laws. *See Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 608 (2021). Exacting scrutiny requires showing (1) "a 'substantial relation' between the disclosure requirement and a 'sufficiently important' governmental interest," *Citizens United v. FEC*, 558 U.S. 310, 366-67 (2010) (citation omitted), and (2) "that the disclosure regime be narrowly tailored to the interest it promotes," *Bonta*, 594 U.S. at 611.

4. The text of the First Amendment does not mandate using this specific framework. The U.S. Supreme Court could have adopted additional tiers or articulated the tiers in different ways. Again, the constitutional text specifies the

scope of the substantive right, but does not specify the standard of review used to adjudicate whether a law infringes the right.

Consequently, the standard of review can accommodate different substantive rights. For example, a state constitution could indicate a stronger substantive protection for commercial speech (which could justify a higher tier of scrutiny), or could indicate a constitutional interest in regulating commercial speech (which could justify applying a lower tier).

5. The Arizona Constitution does not compel Arizona courts to follow the federal tiers of scrutiny, and no party in this case has argued otherwise. But Arizona courts frequently do so. *See, e.g.*, *Brush & Nib*, 247 Ariz. at 293-94 ¶¶ 106-07 (strict scrutiny applies to compelled speech); *Coleman v. City of Mesa*, 230 Ariz. 352, 360, 362 ¶¶ 32-33, 40 (2012) (intermediate scrutiny applies to reasonable time, place, and manner regulation); *Phx. Newspapers, Inc. v. Purcell*, 187 Ariz. 74, 78 (App. 1996) (rational basis applies to equal protection).

There is good reason to continue to do so. The federal standards of review reflect decades of analysis and experience regarding the strength of governmental interests and comparative burdens on substantive rights.

Applying the federal framework, however, does not assume that Arizona's Constitution has the same substantive scope as the U.S. Constitution. Again, courts may apply the same tiered framework even if the substantive rights are different.

Even while applying the general tiered framework, Arizona courts may simply depart from federal precedent when a particular aspect of article 2, § 6 differs from the First Amendment (or if an Arizona court thinks that federal courts have miscategorized a particular type of law). *Cf. State v. Stummer*, 219 Ariz. 137, 144 ¶ 23 (2008) ("declin[ing] to strictly apply the federal test").

In sum, although Arizona courts are not required to apply the tiers of scrutiny to the Arizona Constitution, doing so does not offend any portion of the Constitution, and doing so would not require ignoring differences between the substantive rights guaranteed by the state and federal constitutions.

6. If Arizona jettisons the tiers of scrutiny used by federal courts, however, Arizona courts would still need a set of standards to adjudicate disputes about whether a law violates article 2, § 6.

Perhaps courts would not need such standards of review if the right to free speech were absolute and unqualified. But even with the broad scope of article 2, § 6, not all laws that affect speech violate the Constitution. Otherwise, Arizonans could claim a constitutional right to solicit murder or sell pond water labeled as Coca-Cola. Consequently, if this Court abandons the tiers of scrutiny, it would need to create a new comprehensive replacement framework that correctly categorizes laws that violate article 2, § 6 and laws that do not.

By contrast, continuing to apply the tiers of scrutiny would not require creating an entirely new framework, while still allowing Arizona courts to be faithful to the Constitution. This Court has never reflexively or blindly applied the federal standards of review, nor has it ever held that Arizona must reach the same result under the state and federal constitutions. It should continue to apply the general framework used by federal courts, while making appropriate adjustments to reflect Arizona's unique constitutional test and structure.

B. For campaign-finance disclosure, the Court should impose at most exacting scrutiny.

Regardless of whether the Court continues to apply the traditional tiers of scrutiny or replaces them with a new framework, the Court should at most apply exacting scrutiny (or something like it) to campaign-finance disclosure laws. Campaign-finance disclosure is consistent with the text, structure, history, and tradition of the Arizona Constitution, even more than the U.S. Constitution. Consequently, Arizona has a stronger constitutional foundation for campaign-finance disclosure laws than the federal constitution. Disclosure laws therefore warrant no more stringent review under Arizona's Constitution than under federal standards, and in fact deserve more constitutional latitude.

1. Arizona's Constitution establishes the right that "[e]very person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right." Art. 2, § 6. Campaign-finance disclosure laws "do not prevent anyone

from speaking." *Citizens United*, 558 U.S. at 366 (citation omitted). Although *Citizens United* analyzed the U.S. Constitution, its recognition that disclosure requirements do not prohibit speech reflects the inherent nature of disclosure laws rather than a constitutional interpretation specific to the First Amendment.

That does not mean that disclosure laws do not *affect* speech. Federal courts have acknowledged that disclosure requirements may "deter some individuals who otherwise might contribute[.]" *Buckley v. Valeo*, 424 U.S. 1, 68 (1976). But a law that has the effect of deterring some speech is not the same as a law prohibiting speech, and the two should not be treated the same way. Laws that prohibit speech (e.g., a law prohibiting articles critical of the governor) should receive the highest level of inquiry (strict scrutiny under federal law). But because disclosure laws do not prohibit speech, they should not be lumped in with laws that do, and therefore disclosure laws require a less-demanding inquiry.

This distinction does not mean that disclosure laws receive no free-speech scrutiny. It simply reflects the reality that disclosure laws impose a more modest burden on speech than do spending or contribution limits, let alone speech prohibitions. Take *Citizens United*, which addressed two key issues: (1) a ban on corporate spending on elections, and (2) requiring disclosure of spending on elections. The *ban* received strict scrutiny (and was unconstitutional). 558 U.S. at

340, 361. But the *disclosure requirement* received less scrutiny, and was upheld by a vote of 8–1. *Id.* at 317, 366-67.

Federal courts have also long recognized that campaign-finance disclosure *promotes* First Amendment principles, explaining that evaluating such laws must consider "the competing First Amendment interests of individual citizens seeking to make informed choices in the political marketplace." *McConnell v. FEC*, 540 U.S. 93, 197 (2003) (citation omitted), *overruled in part on other grounds*, *Citizens United*.

2. These principles apply with even greater force in Arizona. Unlike their federal counterparts, Arizona's founders enshrined in our Constitution a dual commitment to both free speech and electoral transparency, demonstrating their belief that disclosure of political spending strengthens rather than undermines core constitutional values.

Arizona's founders feared "undue influence on government decisions, a concern informed by the corruption of territorial days." John D. Leshy, *The Making of the Arizona Constitution*, 20 Ariz. St. L.J. 1, 69 (1988). Against this backdrop, from day one Arizona's Constitution directed "[t]he legislature, at its first session [to] enact a law providing for a general publicity, before and after election, of all campaign contributions to, and expenditures of campaign committees and candidates for public office." Art. 7, § 16. The Constitution also directed the legislature to enact

"laws to secure the purity of elections and guard against abuses of the elective franchise." Art. 7, § 12. And because the framers were "concerned about corporate influence on elections," Leshy, 20 Ariz. St. L.J. at 68, they adopted a provision prohibiting corporations from making "any contribution of money or anything of value for the purpose of influencing any election," Art. 14, § 18.

Arizona courts therefore do not need to speculate about whether Arizona's Constitution values transparency in campaign spending; the founders put it right there in the text. These explicit constitutional provisions leave no doubt that Arizona's founders viewed transparency in political spending as a necessary safeguard for democratic governance, not as an infringement on free speech. The Arizona Constitution never created an absolute right to anonymous political spending. To the contrary, it elevated to constitutional status the public's right to know who seeks to influence their votes. Arizona's Constitution places this right on equal footing as the free-speech right in article 2, § 6. For these reasons, although the U.S. Supreme Court recognized the importance of campaign-finance disclosure in cases like *Buckley*, *McConnell*, and *Citizens United* in cases involving the federal constitution, the principles in those cases apply with even stronger force under Arizona's Constitution.

3. Campaign-finance laws therefore should receive greater latitude under Arizona's Constitution than they do under the U.S. Constitution. Even if article 2,

§ 6 has a broader scope than the First Amendment, its protection must be construed in light of the other constitutional provisions adopted at the same time. *See, e.g.*, *Corp. Comm'n v. Pac. Greyhound Lines*, 54 Ariz. 159, 170 (1939) ("In construing the provisions of the constitution, it is clearly necessary that we consider the instrument as [a]s whole, and endeavor to give such a construction to each and every part as will make it effective and in harmony with all the other parts.").

By contrast, subjecting campaign-finance laws to more demanding standards than those applicable under the U.S. Constitution (e.g., by applying strict scrutiny) would ignore the value the Arizona Constitution places on transparency in campaign spending. It would lump disclosure laws in with laws that impose a much more severe burden on constitutional rights. A law prohibiting criticism of the governor should not be treated the same as a law that merely requires disclosing the source of money spent on campaign ads. Applying identical scrutiny to these types of laws would erase the constitutional distinction between prohibition and disclosure and disregard the constitutional mandate for electoral transparency embedded in Arizona's founding document.

Consequently, regardless of the conceptual approach the Court uses to evaluate laws under article 2, § 6, campaign-finance disclosure laws should not be subjected to more demanding standards than such laws receive under the federal constitution. At most, they should receive exacting scrutiny.

II. Prop. 211 is facially constitutional.

Regardless of whether the Court formally adopts exacting scrutiny, the Court should at a minimum consider (1) the governmental interest (or here, the voters' interest) behind Prop. 211; and (2) whether the law is designed to achieve its purpose without unnecessarily burdening speech rights ("narrowly tailored" in exacting scrutiny parlance).

Moreover, this is a facial challenge, which is a particularly disfavored posture. To succeed on a facial challenge, Plaintiffs must show that a "substantial number of [the law's] applications are unconstitutional." *AZ Petition Partners LLC v. Thompson*, 255 Ariz. 254, 258 ¶ 18 (2023) (quoting *Bonta*, 594 U.S. at 615). In a facial challenge, the Court "must be careful not to go beyond the statute's facial requirements and speculate about 'hypothetical' or 'imaginary' cases." *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 449-50 (2008); *see also State v. Burke*, 238 Ariz. 322, 327 ¶ 10 (App. 2015) (rejecting "hypothetical examples" to support facial vagueness challenge). Plaintiffs do not meet this burden.

A. Prop. 211 directly serves compelling interests.

1. Arizona's constitutional framework establishes disclosure as a core value. As explained above, Arizona's Constitution explicitly elevates electoral transparency to constitutional status. The Constitution requires "general publicity, before and after election, of all campaign contributions to, and expenditures of

campaign committees and candidates for public office." Art. 7, § 16. It emphasized "the purity of elections" (Art. 7, § 12), and even barred corporate contributions (Art. 14, § 18). This corporate provision has particular historical value because it sought to remove the very vehicles that Prop. 211 sought to address out of the election spending equation all together. These constitutional commands demonstrate that disclosure of campaign financing represents not merely an important government interest, but a fundamental state constitutional value.

As Defendants' responses to the petition for review explained, federal courts have recognized that the interest is compelling for half a century. The case for disclosure is even stronger in Arizona, where it has had constitutional status since the founding.

Prop. 211 has a broad plainly legitimate sweep. Consider a mining company that contributes $5 million to a candidate running for mine inspector. Under article 7, § 16, the people have a right to know who is contributing to that candidate. That interest isn't diminished if, instead of donating directly to a candidate, the same mining company funnels money through three intermediary LLCs before "Arizona Future Coalition, LLC" spends the $5 million on ads supporting the candidate. Prop. 211 furthers the framers' interest in electoral transparency by disclosing the original source of funds so donors can't hide behind groups with misleading names.

2. Plaintiffs' arguments about the informational interest betray Arizona's core constitutional values, and seek to win a *facial challenge*—blocking the law for everyone and everything—based on implausible hypotheticals.

After cooking up a hypothetical unaware donor (John Smith), Plaintiffs claim that voters learn "Nothing" from discovering the source of campaign funds. (Pet. at 16.) But the informational interest cannot be undermined by hypothetical scenarios where particular disclosures might be unsurprising or where donors might be unaware of how intermediaries use their funds. The constitutional inquiry focuses on whether the disclosure regime as a whole serves legitimate governmental interests, not whether each individual application yields maximally useful information.

Campaign-finance disclosure requirements may yield some unsurprising disclosures (e.g., a well-known Democrat donor contributed to a Democrat candidate for governor) or even some that may not primarily indicate ideological affiliation (e.g., a Republican donates to his Democrat brother-in-law's campaign out of family obligation, even though they disagree about policy). A smoke detector serves its purpose even if a fire never occurs, just as disclosure laws serve voters even when some disclosures reveal nothing surprising. Just because Prop. 211 could yield *some* unhelpful information doesn't make it facially unconstitutional. Plaintiffs'

arguments suggest that a law is valid only if it gives perfect information in every case. But that's not what the Constitution requires.

3. Under Plaintiffs' hypothetical, Smith donates money to a church and the church in turn donates it to an intermediary who then spends the money on campaign media spending. (Pet. at 16.) But Plaintiffs' argument that the "donors never intended to support the message or communication" (Pet. at 5)—could apply to longstanding campaign-finance laws that require disclosure for direct contributions to candidates. A donor may support a candidate for his stance on taxes, but not on immigration. Yet the candidate may use the donor's unrestricted donation to fund an ad about immigration, and disclose the donor's name in connection with the campaign.

4. Moreover, even if revealing the source of a substantial donation injures Smith, this case was not brought by a parishioner who was inadvertently disclosed and whose church chose not to consult him before passing on his funds and naming him as the source of the money. It is a facial challenge seeking to block the law for everyone. For a hypothetical like this to facially block a law, Plaintiffs need to show that this type of unaware benefactor, who doesn't restrict how his funds can be used and doesn't know where his money is going, makes up a "substantial number of applications" of Prop. 211 judged in relation to the broad constitutional scope of the law. *AZ Petition Partners*, 255 Ariz. at 258 ¶ 18 (citation omitted). A facial challenge

cannot succeed based on fanciful hypotheticals that represent a minority of applications. In other words, "[i]n the absence of a lopsided ratio, courts must handle unconstitutional applications as they usually do—case-by-case." *United States v. Hansen*, 599 U.S. 762, 770 (2023).

Plaintiffs have not even tried to meet this burden. They have not pleaded, or even argued, that inadvertent supporters represent "a substantial number" of Prop. 211's applications, making the constitutional ratio lopsided. That level of donor ignorance is implausible. Prop. 211 does not apply to small donors. It discloses only big-money donors, who contribute over $5,000. Donors who contribute big money know how to control where their money goes and how it gets used. And the law applies only to big spenders, who spend $50,000 on statewide campaigns. Big spenders and their intermediaries know that their funds will dry up if they disclose unwitting donors. John Smith's church in Plaintiffs' hypothetical will have to answer to its parishioners if it funnels their money (and their names) through intermediaries to fund political ads the parishioners disagree with.

5. To top it off, the entire premise of Plaintiffs' argument is wrong. Plaintiffs claim voters learn "Nothing" by discovering the money trail:

SMITH → CHURCH → CAP → CAMPAIGN MEDIA

But even if Smith does not know about the campaign media, the transaction sequence tells a story, and the voters have declared that they want to know about it.

Voters will learn, for example, whether Smith lives in Arizona or New York. In addition, voters will not see a first-degree connection between Smith and the ad, or even between Smith and CAP. They will instead see the series of transactions, confirming that Smith's only direct connection is with his church. The law allows voters to decide for themselves which links and which contributors are relevant, while ensuring that big donors cannot hide behind "misleading names to conceal their identity." *McConnell*, 540 U.S. at 128.

So too here. As the Ninth Circuit explained when upholding a similar traceback disclosure law, the law does not need to "ensur[e] that every donor agrees with every aspect of the message." *No on E v. Chiu*, 85 F.4th 493, 506 (9th Cir. 2023), *cert. denied*, 145 S. Ct. 136 (2024). That is not what Arizona's Constitution requires. And again, even though Plaintiffs' hypotheticals invoke donors who don't agree with the ultimate message, Plaintiffs have not attempted to plead or even argue that such naïve financiers are a substantial number of applications of the law.

At bottom, Prop. 211 serves an important interest, particularly in Arizona where the founders codified disclosure in the Constitution.

B. Prop. 211 is narrowly tailored.

The Court should also consider whether Prop. 211 is properly designed to achieve its purpose without unnecessarily burdening speech rights (what exacting scrutiny calls "narrowly tailored").

In terms of statutory design, Prop. 211 is narrow. The voters' explicit goal was to shine a light on "dark money," which the voters described as "laundering political contributions, often through multiple intermediaries, to hide the original source." 2022 Ariz. Legis. Serv. Prop. 211 § 2(C). The only way to achieve this goal is to require disclosure of the contribution chain. Disclosing less (e.g., one layer of disclosure, or two layers, etc.) would not accomplish the goal because financiers could simply add another layer or two of intermediaries to evade real disclosure.

The law is designed to be narrow. It applies only to major donors and major spenders. The law does not affect $200 charitable donations; it discloses only $5,000+ donors. It does not cover small-time ads; it covers only those who spend $50,000+ or more on statewide campaigns. It gives donors power by allowing them to opt out.

As Defendants' response to the petition explained (at 16-19), Plaintiffs' arguments about narrow tailoring misinterpret the law and ignore important narrowing features:

- They claim the disclosure threshold is $2,500 when it's twice that. A.R.S. § 16-973(A)(6).
- They suggest that "merely refer[ring]" to Donald Trump would trigger the law (Pet. at 16), when it in fact has to be a "paid communication" such as a TV commercial, with $50,000 spend in an Arizona election. A.R.S. §§ 16-971(A)(17)(a); 16-973(A). For the same reason, an uncle's unpaid Facebook post does not implicate the law, nor does a $10,000 leafletting campaign.

- Plaintiffs misinterpret the opt-out provision, ignoring the holding of the Court of Appeals and the agency rule confirming the correct interpretation, neither of which Plaintiffs directly challenged in this Court. Op. ¶¶ 35-39; A.A.C. R2-20-805(B).

Prop. 211's burden on constitutional rights is modest. Arizona's founders viewed disclosure of campaign-finance monies as fully compatible with article 2, § 6. Arizona's Constitution guarantees the right to "freely speak, write, and publish," but campaign-finance disclosure laws "do not prevent anyone from speaking." *Citizens United*, 558 U.S. at 366 (citation omitted). Even federal courts, without Arizona's constitutional disclosure provisions, recognize that "disclosure requirements certainly in most applications appear to be the least restrictive means of curbing the evils of campaign ignorance and corruption." *Buckley*, 424 U.S. at 68; *see also No on E*, 85 F.4th at 509 (traceback-disclosure law imposed only a "modest burden").

In light of the constitutional provisions requiring disclosure, the Court should hold that the constitutional burden is modest and that the law is narrowly tailored.

III. A.R.S. § 16-971(2)(a)(vii) is not vague in context.

To the extent the Court granted review on the vagueness challenge, Defendants have explained why Plaintiffs' argument about "in preparation for or in conjunction with" ignores the context of the phrase. But "[c]ontext is a primary determinant of meaning." *In re Drummond*, 257 Ariz. 15, 18 ¶ 5 (2024) (quotation marks and citation omitted). *See* Defs.' Resp. to PR at 21-23; Defs.' COA Answering

Br. at 48-50.

IV. The Court of Appeals properly dismissed Plaintiffs' as-applied challenge.

Federal courts adjudicating as-applied challenges under the Frist Amendment's free speech clause require the party to show "a reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment, or reprisals from either Government officials or private parties." *Citizens United*, 558 U.S. at 367. Plaintiffs do not dispute that the Court should apply the federal standard in this as-applied context. A lower standard should not apply because Arizona's Constitution mandates disclosure.

Plaintiffs cannot show a reasonable probability that their donors will be subjected to harassment because of Prop. 211's disclosures. As Defendants explained in their response to the petition (at 19-20), Plaintiffs have disclosed their PAC donors for years, yet CAP and FEC did not allege that any of their donors faced threats, harassment, or reprisals because of these disclosed donations. Op. ¶¶ 54-55. In fact, none of the "handful of harassing" comments Plaintiffs alleged to support their as-applied challenge over CAP's 29-year-history and FEC's 18-year history can be tied to disclosure or their donors. *Id.* ¶ 59. These incidents involved their staff members and supporters. *Id.* ¶¶ 54-61. The Court of Appeals considered these allegations and correctly found that any harm *due to disclosure* is purely speculative. *Id.* ¶ 61.

RESPECTFULLY SUBMITTED this 10th day of June, 2025.

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ARIZONA SUPREME COURT

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I certify that on June 10, 2025, the Supplemental Brief, Certificate of Compliance, and this Certificate of Service were electronically filed with the Clerk's Office, and pursuant to ARCAP 4(f), a copy was served via AZTurboCourt to:

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ARIZONA SUPREME COURT

CENTER FOR ARIZONA POLICY, INC, et al.

Plaintiffs/Appellants,

v.

ARIZONA SECRETARY OF STATE, et al.

Defendants/Appellees,

and

ARIZONA ATTORNEY GENERAL, et al.

Intervenor-Defendants/Appellees.

Arizona Supreme Court
No. CV-24-0295

Arizona Court of Appeals
Division One
No. 1 CA CV 24-0272

Maricopa County Superior Court
No. CV2022-016564

CERTIFICATE OF COMPLIANCE

Pursuant to the Court's Order dated May 21, 2025, the undersigned certifies that the accompanying Supplemental Brief complies with that Order and the governing Arizona Rules of Civil Appellate Procedure. The brief is double-spaced

and utilizes 14-point proportionally spaced Times New Roman typeface. Excluding the cover, table of contents, table of authorities, and signature blocks, the brief contains 20 pages.

RESPECTFULLY SUBMITTED this 10th day of June, 2025.

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