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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

UNION LLC d/b/a UNION HOSPITALITY
GROUP, an Arizona limited liability
company; and GRANT KRUEGER, an
individual,

Plaintiffs,

vs.

STATE OF ARIZONA; and PAUL E.
BRIERLEY, Director of Arizona
Department of Agriculture, in his official
capacity,

Defendants.

Case No. CV2023-018151

**FIRST AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. In little more than a year, the Arizona Department of Agriculture (“AZDA”) will require that all egg-laying hens in Arizona be raised in a cage-free manner and all eggs and egg products sold in Arizona come from hens raised in a cage-free manner. R3-2-901–07 (the “Cage-Free Egg Rule”).

2. But this important policy decision was not made by the Arizona Legislature—the branch of the Arizona government constitutionally responsible for making laws—it was made by AZDA, an executive branch agency.

3. The Cage-Free Egg Rule was promulgated by AZDA in consultation with Arizona egg producers and industry groups.

1 4. The egg producers first went to the Arizona Legislature to request legislation
2 requiring the cage-free housing of egg-laying hens. But they were directed to AZDA instead.

3 5. AZDA then promulgated the rule itself without any further input from the
4 Arizona Legislature pursuant to an impermissibly broad statutory delegation of lawmaking
5 power.

6 6. The applicable statute is so expansive that it functions as little more than an
7 enabling act permitting AZDA to make whatever laws it wishes regarding poultry
8 husbandry and the sale of eggs in Arizona.

9 7. Neither Arizona’s statutes governing executive branch rulemaking nor the
10 Arizona Constitution permit AZDA to promulgate rules pursuant to such a standardless
11 grant of authority.

12 8. Here, the placing of the lawmaking power in the hands of AZDA led to a
13 collusive process in which egg producers and industry groups worked closely with the
14 agency to develop the rule they wanted and to thwart the efforts of voters to pass a ballot
15 initiative enacting a similar law with a different structure.

16 9. As a result, consumers, restaurateurs, and restaurants—three groups expected
17 to be impacted by increased egg prices resulting from the rule—did not have adequate
18 protection of their interests in the rulemaking process.

19 10. Union LLC d/b/a Union Hospitality Group (“Union Hospitality Group”) and
20 Grant Krueger are members of those groups and will be negatively impacted by the
21 additional financial burdens of the rule and its restriction of their ability to find and choose
22 suppliers for Union Hospitality Group’s restaurants and Mr. Krueger’s personal
23 consumption.

24 11. Through this suit, Union Hospitality Group and Mr. Krueger seek to ensure
25 that policies that impact the lives and finances of Arizonans are enacted by the elected
26 Arizona Legislature to ensure the consideration and protection of all Arizonans’ interests,
27 not just the interests of the regulators and their regulated entities.
28

1 20. No “political subdivision” of Arizona may issue its own poultry husbandry
2 regulations “related to the production of eggs” to ensure regulatory consistency across the
3 state. A.R.S. § 3-710(K).

4 21. The statute provides no standards, policies, or otherwise intelligible principles
5 for Defendants to follow in their development of poultry husbandry and egg production
6 regulations or by which the reasonable necessity of any such regulation can be evaluated.

7 22. The statute does not specifically authorize Defendants to issue a rule requiring
8 egg-laying hens to be housed in a cage-free manner or to otherwise regulate the housing of
9 egg-laying hens.

10 23. The statutory authorization for Defendants to regulate poultry husbandry and
11 egg production was passed in 2008. AZ H.R. B. Summ., 2008 Reg. Sess. S.B. 1373 (Apr.
12 8, 2008).

13 **Development of the Cage-Free Egg Rule**

14 24. The Cage-Free Egg Rule was promulgated not by the Arizona Legislature—
15 which has the exclusive power to make laws—but by AZDA pursuant to an impermissible
16 delegation of lawmaking authority to the executive branch by the Arizona Legislature.

17 25. Prior to the promulgation of the Cage-Free Egg Rule, egg-laying hens in
18 Arizona had to be “raised according to” the United Egg Producers’ Animal Husbandry
19 Guidelines for U.S. Egg Laying Flocks, 2017 edition (“2017 UEP Guidelines”) and all eggs
20 sold in Arizona had to come from egg-laying hens that were “raised according to the” 2017
21 UEP Guidelines. 28 A.A.R. 808, attached as Ex. A.

22 26. The 2017 UEP Guidelines provide for the housing of egg-laying hens either
23 in cages or in a cage-free manner.

24 27. Arizona egg producers wanted the state to impose a requirement that egg-
25 laying hens be raised in a cage-free manner.

26 28. The egg producers originally went to the Arizona Legislature seeking
27 legislation to mandate a transition to cage-free housing. But the legislative process was
28 disrupted by the COVID-19 pandemic.

1 29. Afterwards, the egg producers were told by members of the Arizona
2 Legislature to pursue imposition of a cage-free housing requirement for egg-laying hens
3 through AZDA regulation.

4 30. Arizona egg producers supporting the rule wanted the state to impose a cage-
5 free housing requirement for egg-laying hens partly to avoid the passage of an Arizona
6 ballot initiative that would have imposed such a requirement on a timeline that Arizona egg
7 producers did not believe was feasible.

8 31. Arizona egg producers and industry groups collaborated with the Governor
9 of Arizona and the Arizona Attorney General to develop the Cage-Free Egg Rule on terms
10 favorable to the industry and to thwart voters' efforts to pass the ballot initiative.

11 **Cage-Free Egg Rule**

12 32. On April 22, 2022, the Arizona Secretary of State published a Notice of Final
13 Rulemaking amending Title 3, Chapter 2, Article 9 (Egg and Egg Products Control) of the
14 Arizona Administrative Code to require that egg-laying hens raised in Arizona be housed in
15 a cage-free manner ("Hen Rule") and that all eggs and egg products sold in Arizona come
16 from hens raised in the same way ("Sale Rule")—the Cage-Free Egg Rule. 28 A.A.R. 802–
17 08, attached as Ex. A.

18 33. Egg products are "eggs, in raw or pasteurized form, that are removed from
19 the shell in a liquid, frozen, dried, or freeze-dried state, but are not fully cooked." *Id.* at
20 806.

21 34. The Cage-Free Egg Rule imposed the cage-free housing requirement on egg
22 producers in two phases.

23 35. Since October 1, 2022, each egg-laying hen in Arizona must be housed such
24 that they each have "no less than one square foot of usable floor space." *Id.* at 808.

25 36. Also, since October 1, 2022, all eggs and egg products sold in Arizona —
26 regardless of their state of origin—must come from hens housed in the same manner. *Id.*

27 37. By January 1, 2025, all egg-laying hens in Arizona and those hens producing
28 eggs and egg products for sale in Arizona have to be "housed in a cage-free manner." *Id.*

1 38. To house hens in a cage-free manner, the housing system must (1) contain the
2 floor space required by the 2017 edition of the United Egg Producers' Animal Husbandry
3 Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing, (2) allow the
4 hens "unrestricted freedom to roam," (3) provide "an environment that allows [the hens] to
5 exhibit natural behaviors," and (4) allow "farm employees [to] provide care while standing
6 within the hens' usable floor space." *Id.* at 806.

7 39. All eggs and egg products sold in Arizona must be certified as compliant with
8 the Cage-Free Egg Rule and be stored in containers marked with "ARS 710J." *Id.* at 808.

9 40. Egg producers that have "fewer than 20,000 egg-laying hens producing eggs"
10 are exempt from the cage-free housing requirement, but not the certification requirement.
11 *Id.*

12 **AZDA's Justifications for the Cage-Free Egg Rule**

13 41. AZDA's primary justification for the adoption of the Cage-Free Egg Rule is
14 to address "the public's growing concerns about animal welfare, including the hens' ability
15 to move freely and express their natural behaviors." *Id.* at 803.

16 42. AZDA also identified three other justifications for the adoption of the Cage-
17 Free Egg Rule:

- 18 a. Cage-free egg production "reflect[s] market trends;"
- 19 b. It would "minimize [AZDA's] regulatory burden;" and
- 20 c. It "[is] intended to represent the best management practices in the shell
21 egg industry that ensure the production of high-quality, cruelty-free
22 eggs."

23 *Id.*

24 43. AZDA reiterated the public's concern for hen welfare as the justification for
25 the rule in its discussion of the economic, small business, and consumer impact of the rule.

26 44. AZDA explained that the commercial egg-production industry was shifting
27 towards cage-free production "primar[ily] drive[n]" by "consumers and retailers concerned
28

1 about the welfare of the laying hens in caged housing environments, including the inability
2 to move around and express natural behaviors.” *Id.*

3 45. Citing the concerns of egg producers, AZDA also justified the rule as a means
4 of avoiding the passage of a ballot initiative proposing a similar requirement for housing
5 egg-laying hens in a cage-free manner. AZDA observed that “[i]nterest groups also filed a
6 ballot initiative in Arizona ... requiring (among other things) that all eggs produced or sold
7 in Arizona after May 1, 2023, come from hens housed in cage-free production
8 environments.” *Id.* at 804.

9 46. AZDA reported that the relatively accelerated timeline of the ballot initiative
10 “create[d] significant concerns about the adequacy of the cage-free egg supply.” *Id.*

11 47. The ballot initiative also purportedly would have imposed higher regulatory
12 costs on AZDA because it required Arizona inspectors to inspect the housing facilities of
13 out-of-state egg producers as opposed to the third-party certification process required by
14 the Cage-Free Egg Rule. *Id.*

15 **Adoption of the Cage-Free Egg Rule**

16 48. After notice and comment Rulemaking, AZDA adopted the Cage-Free Egg
17 Rule. *See* R3-2-901–07.

18 49. The Hen Rule is set out at R3-2-907(C) and (E).

19 50. The Sale Rule is set out at R3-2-907(D) and (F).

20 **Economic Impact of Cage-Free Egg Rule**

21 51. The Cage-Free Egg Rule will have substantial economic impacts on both egg
22 consumers and producers, as AZDA itself has acknowledged.

23 52. AZDA anticipates that the cage-free housing of egg-laying hens will increase
24 egg production costs relative to caged systems, including a 41% increase in labor inputs. 28
25 A.A.R. 804, attached as Ex. A.

26 53. The Cage-Free Egg Rule will increase inspection costs for out-of-state egg
27 producers that will have to provide certifications from third-party inspectors that their egg
28 production facilities are in compliance with the Cage-Free Egg Rule. *Id.*

1 54. Experts consulted by AZDA expect the wholesale price of eggs to increase by
2 \$0.39 per dozen as a result of the Cage-Free Egg Rule. *Id.*

3 55. Additionally, AZDA expects that the Cage-Free Egg Rule will increase the
4 amount consumers spend on eggs per year between \$2.71 and \$8.79 per person. *Id.*

5 56. The transition to cage-free egg production will also result in enormous capital
6 expenditures. *Id.*

7 57. One Arizona egg producer estimated that hundreds of millions of dollars of
8 capital investment would be required to convert its production facilities to cage-free
9 housing. *Id.*

10 **Harm to Plaintiffs**

11 58. Union Hospitality Group is based in Tucson, Arizona and operates three
12 restaurants: Union Public House, Reforma Modern Mexican Mezcal + Tequila, and Proof
13 Artisanal Pizza and Pasta.

14 59. Union Hospitality Group currently employs approximately 225 people.

15 60. Union Hospitality Group purchases eggs as ingredients for the menu items it
16 offers its customers.

17 61. Union Hospitality Group has also purchased egg products as a substitute for
18 eggs.

19 62. Union Hospitality Group's restaurants do a significant amount of brunch
20 business, which requires large quantities of eggs for their menu items.

21 63. From November 2022 through October 2023, Union Hospitality Group
22 purchased 578 cases or 104,040 eggs for its restaurants.

23 64. When purchasing eggs or egg products, Union Hospitality Group does not
24 specifically seek out eggs produced in a cage-free manner.

25 65. The Cage-Free Egg Rule will increase the amount Union Hospitality Group
26 must spend on eggs or egg products over what its egg costs would be without the Cage-Free
27 Egg Rule, according to AZDA. *Id.*

1 66. Union Hospitality Group—like most restaurant businesses—runs on small
2 margins, with the bulk of its revenue going to pay for the overhead of running a full-service
3 restaurant.

4 67. Like all Arizonans, Union Hospitality Group has already been impacted by
5 the inflationary pressure on food prices.

6 68. Any relative price increase as a result of the Cage-Free Egg Rule will
7 negatively impact the finances of Union Hospitality Group.

8 69. In addition to the economic effects on Union Hospitality Group, the Cage-
9 Free Egg Rule directly injures Union Hospitality Group by restricting its right to buy and
10 sell eggs or egg products it would otherwise buy and sell, and to do business with egg or
11 egg product suppliers with whom it would otherwise do business.

12 70. Grant Krueger is a Tucson restaurateur and the manager of Union Hospitality
13 Group.

14 71. Mr. Krueger has been in the restaurant business for 34 years, having begun
15 his career as a dishwasher and bus boy and working his way up to an owner.

16 72. Mr. Krueger regularly purchases eggs for personal consumption, and in doing
17 so he does not specifically seek out eggs produced in a cage-free manner.

18 73. The Cage-Free Egg Rule will increase the price of the eggs Mr. Krueger
19 purchases for personal consumption over what the price would be without the rule,
20 according to AZDA. *Id.*

21 74. Mr. Krueger will also be prevented by the Cage-Free Egg Rule from choosing
22 the type of egg for his personal consumption that best suits his needs because only those
23 eggs produced in a cage-free manner will be available.

24 75. As a result, Union Hospitality Group and Mr. Krueger seek declaratory
25 relief pursuant to A.R.S. §§ 12-1831 and 41-1034(A), and injunctive relief pursuant to
26 A.R.S. § 12-1801 to stop the implementation of the Cage Free Egg Rule, prevent the
27 harms that would be caused by it going into effect, and protect the statutory and
28 constitutional requirement that lawmaking must be done by the Arizona Legislature.

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Count I

**The Hen Rule is Not Specifically Authorized by Statute
(A.R.S. § 41-1030(D)(3))**

76. Plaintiffs incorporate the allegations in Paragraphs 1–75.

77. An agency is not permitted to “[m]ake a rule that is not specifically authorized by statute.” A.R.S. § 41-1030(D)(3).

78. AZDA relied on two statutes as its authority for promulgating the Hen Rule, neither of which provides specific authorization to regulate the housing of egg-laying hens:

79. The first statute authorizes the AZDA director to “adopt administrative rules to effect its program and policies.” A.R.S. § 3-107(A)(1).

80. The second statute authorizes the AZDA director to “adopt rules for poultry husbandry and the production of eggs sold in” Arizona. A.R.S. § 3-710(J).

81. A.R.S. § 3-107(A)(1) and A.R.S. § 3-710(J) are the only two statutes AZDA relied on as its authority for promulgating the Hen Rule in the notice of final rulemaking. 28 A.A.R. 802, attached as Ex. A.

82. The general authorization of rulemaking authority granted to AZDA in A.R.S. § 3-107(A)(1) does not and cannot specifically authorize AZDA to promulgate the Hen Rule.

83. The Hen Rule violates A.R.S. § 41-1030(D)(3) because neither § 3-710(J), nor any other statute, *specifically* authorizes AZDA to impose hen housing standards.

84. Union Hospitality Group and Mr. Krueger will suffer the harms described in Paragraphs 58–75 as a result of the unlawful promulgation of the Cage Free Egg Rule.

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Count II

**The Sale Rule Is Not Specifically Authorized by Statute
(A.R.S. § 41-1030(D)(3))**

85. Plaintiffs incorporate the allegations in Paragraphs 1–84.

86. An agency is not permitted to “[m]ake a rule that is not specifically authorized by statute.” A.R.S. § 41-1030(D)(3).

87. AZDA relied on two statutes as its authority for promulgating the Sale Rule, neither of which provides specific authorization to regulate the housing of egg-laying hens producing eggs for sale in Arizona:

88. The first statute authorizes the AZDA director to “adopt administrative rules to effect its program and policies.” A.R.S. § 3-107(A)(1).

89. The second statute authorizes the AZDA director to “adopt rules for poultry husbandry and the production of eggs sold in” Arizona. A.R.S. §3-710(J).

90. A.R.S. § 3-107(A)(1) and A.R.S. § 3-710(J) are the only two statutes AZDA relied on as its authority for promulgating the Sale Rule in the notice of final rulemaking. 28 A.A.R. 802, attached as Ex. A.

91. The general authorization of rulemaking authority granted to AZDA in A.R.S. § 3-107(A)(1) does not and cannot specifically authorize AZDA to promulgate the Sale Rule.

92. The Sale Rule violates A.R.S. § 41-1030(D)(3) because neither Section 3-710(J), nor any other statute, *specifically* authorizes AZDA to restrict the sale of eggs in Arizona to those eggs laid by hens housed in a cage-free manner.

93. The Sale Rule also violates A.R.S. § 41-1030(D)(3) because neither Section 3-710(J), nor any other statute, *specifically* authorizes AZDA to impose any requirements regarding the production of “egg products” sold in Arizona.

94. Union Hospitality Group and Mr. Krueger will suffer the harms described in Paragraphs 58–75 as a result of the unlawful promulgation of the Cage Free Egg Rule.

Count III

**The Hen Rule Is Not Reasonably Necessary to Carry Out the Purpose of the Statute.
(A.R.S. § 41-1030(A))**

95. Plaintiffs incorporate the allegations in Paragraphs 1–94.

96. “A rule is invalid unless it is ... reasonably necessary to carry out the purpose of the statute.” A.R.S. § 41-1030(A).

97. The Hen Rule cannot be reasonably necessary to carry out the purpose of § 3-107(A)(1) and § 3-710(J) because these statutes provide no purpose or other standard by which AZDA may promulgate poultry husbandry rules.

98. The statutes provide no basis on which to determine whether the Hen Rule is reasonably necessary.

99. To the extent the necessity of the Hen Rule can be evaluated against the general concept of “poultry husbandry” or the phrase “production of eggs sold in this state,” the reasoning provided by the AZDA in the preamble of the notice of final rulemaking does not demonstrate that the Hen Rule is reasonably necessary.

100. The primary impetus for the Hen Rule, according to AZDA, is the public's perception of the welfare of egg-laying hens and egg producers' opposition to a ballot initiative that would have more quickly implemented a similar rule. 28 A.A.R. 803–04, attached as Ex. A.

101. Neither of these justifications for the Hen Rule are reasonably related to poultry husbandry or egg production.

102. Union Hospitality Group and Mr. Krueger will suffer the harms described in Paragraphs 58–75 as a result of the unlawful promulgation of the Cage Free Egg Rule.

Count IV

**The Sale Rule Is Not Reasonably Necessary to Carry Out the Purpose of the Statute.
(A.R.S. § 41-1030(A))**

103. Plaintiffs incorporate the allegations in Paragraphs 1–102.

104. “A rule is invalid unless it is ... reasonably necessary to carry out the purpose of the statute.” A.R.S. § 41-1030(A).

105. The Sale Rule cannot be reasonably necessary to carry out the purpose of § 3-107(A)(1) and § 3-710(J) because these statutes provide no purpose or other standard by which AZDA may promulgate rules for the production of eggs sold in Arizona.

106. The statutes provide no basis on which to determine whether the Sale Rule is reasonably necessary.

107. Neither § 3-107(A)(1) and § 3-710(J) mention the regulation of egg products.

108. To the extent the necessity of the Sale Rule can be evaluated against the general concept of “poultry husbandry” or the phrase “production of eggs sold in this state,” the reasoning provided by the AZDA in the preamble of the notice of final rulemaking does not demonstrate that the Sale Rule is reasonably necessary.

109. The primary impetus for the Sale Rule, according to AZDA, is the public's perception of the welfare of egg-laying hens and the egg producers' opposition to a ballot initiative that would have more quickly implemented a similar rule. 28 A.A.R. 803-04, attached as Ex. A.

110. Neither of these justifications for the Sale Rule are reasonably related to poultry husbandry or egg production.

111. Union Hospitality Group and Mr. Krueger will suffer the harms described in ¶¶ 58–75 as a result of the unlawful promulgation of the Cage Free Egg Rule.

Count V

The Cage-Free Egg Rule Is the Product of an Unconstitutional Delegation of Legislative Authority.

112. Plaintiffs incorporate the allegations in Paragraphs 1–111.

113. The Arizona Constitution provides that “[t]he powers of the government of the state of Arizona shall be divided into three separate departments, the legislative, the executive, and the judicial; and except as provided in this constitution, such departments shall be separate and distinct, and no one of such departments shall exercise the powers properly belonging to either of the others.” Ariz. Const. art. III.

114. Arizona’s legislative authority is “vested in the legislature,” with the people retaining the ability to legislate through a ballot initiative process. Ariz. Const. art. IV, Pt. 1 § 1.

115. Neither the legislature nor the people can delegate to an executive branch agency the power to legislate.

1 116. A statute must be definite and certain enough to enable every person, by
2 reading the law, to know what his rights and obligations are and how the law will operate
3 when put into execution.

4 117. To the extent that the legislature delegates any power, it may only delegate
5 power to implement a statute.

6 118. To avoid an unconstitutional delegation of legislative power, the powers given
7 to an administrative agency must, by provisions of a statute, be surrounded by standards,
8 limitations, and policies that establish the boundaries within which an agency may act.

9 119. A statute that fails to provide such boundaries to an agency unconstitutionally
10 delegates legislative power to the executive branch in violation of Article III of the Arizona
11 Constitution's separation of powers.

12 120. Section 3-710(J) provides no standards, limits, or boundaries or otherwise
13 makes any policy determinations with respect to poultry husbandry or the production of
14 eggs sold in Arizona that AZDA can implement in promulgating administrative rules on
15 those subjects.

16 121. Section 3-710(J) is simply an enabling act that delegates the legislative power
17 to the executive branch to make the laws for poultry husbandry and the production of eggs
18 for sale in Arizona.

19 122. Section 3-107(A)(1) also does not provide any standards, limits, boundaries,
20 or other policy determination to guide AZDA's rulemaking with respect to poultry
21 husbandry and the production of eggs for sale in Arizona.

22 123. Moreover, decisions on major policy questions are to be made by the
23 legislature alone.

24 124. The appropriate housing arrangement for egg-laying hens in Arizona and egg-
25 laying hens producing eggs for sale in Arizona is a major policy question that must be
26 decided by the legislature.

125. Even if Section 3-710(J) could be said to provide some standard by which AZDA regulates poultry husbandry and the production of eggs for sale in Arizona, it is insufficient to avoid a delegation of legislative power.

126. Legislative standards must be sufficiently defined so that those charged with their administration are amenable to the courts for failure to put them into effect, or for their maladministration (i.e. judicially administrable).

127. Sufficient definition requires that the statute provide sufficient identification of (1) the persons and activities potentially subject to regulations; (2) the harm sought to be prevented; and (3) the general means intended to be available to the administrator to prevent the identified harm.

128. Section 3-710(J) does not provide a judicially administrable standard for AZDA to apply when creating rules for poultry husbandry and the production of eggs for sale in Arizona.

129. The terms “poultry husbandry” and “production of eggs” are too indeterminate to sufficiently identify the persons and activities potentially subject to regulations.

130. Section 3-710(J) identifies no harm to be prevented.

131. Section 3-710(J) also does not sufficiently identify the general means by which the AZDA can prevent an identified harm.

132. Section 3-107(A)(1) does not add any guidance such that Section 3-710(J) becomes judicially administrable when the two statutory sections are read together.

133. Union Hospitality Group and Mr. Krueger will suffer the harms described in ¶¶ 58–75 as a result of the delegation of legislative power to AZDA in violation of Article III of the Arizona Constitution.

REQUEST FOR RELIEF

For their relief, Plaintiffs respectfully request that this Court take the following actions:

A. Permanently enjoin Defendants from enforcing the Hen Rule;

1 B. Permanently enjoin Defendants from enforcing the Sale Rule;

2 C. Permanently enjoin Defendants from enforcing the Cage-Free Egg Rule in its
3 entirety;

4 D. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
5 that the Hen Rule violates A.R.S. § 41-1030(D)(3) because the Hen Rule is not specifically
6 authorized by statute;

7 E. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
8 that the Sale Rule violates A.R.S. § 41-1030(D)(3) because the Sale Rule is not specifically
9 authorized by statute;

10 F. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
11 that the Cage-Free Egg Rule violates A.R.S. § 41-1030(D)(3) because the Cage-Free Egg
12 Rule is not specifically authorized by statute;

13 G. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
14 that the Hen Rule violates A.R.S. § 41-1030(A) because the Hen Rule is not reasonably
15 necessary to carry out the purpose of A.R.S. §§ 3-107 and 3-710(J);

16 H. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
17 that the Sale Rule violates A.R.S. § 41-1030(A) because the Sale Rule is not reasonably
18 necessary to carry out the purpose of A.R.S. §§ 3-107 and 3-710(J);

19 I. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
20 that the Cage-Free Egg Rule violates A.R.S. § 41-1030(A) because the Cage-Free Egg Rule
21 is not reasonably necessary to carry out the purpose of A.R.S. §§ 3-107 and 3-710(J);

22 J. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
23 that the Cage Free Egg Rule was promulgated pursuant to an unconstitutional delegation of
24 legislative authority in A.R.S. § 3-710(J);

25 K. Award Plaintiff his costs pursuant to A.R.S. § 12-341, and attorney fees
26 pursuant to the private attorney general doctrine; *Arnold v. Ariz. Dep't of Health Services*,
27 160 Ariz. 593, 608–09 (1989); *Ansley v. Banner Health Network*, 248 Ariz. 143, 153 ¶ 39–
28 40 (2020); and

1 L. Award such other and further relief as may be just and equitable.

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3 **RESPECTFULLY SUBMITTED** this 12th day of December 2023.

4 GOLDWATER INSTITUTE

5 /s/ John Thorpe

6 Jonathan Riches (025712)

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