

IN THE SUPREME COURT

STATE OF ARIZONA

ARIZONA BOARD OF REGENTS,

Petitioner,

v.

OWEN ANDERSON,

Respondent.

Supreme Court

No. CV-26-0012-PR

Court of Appeals

No. CA-SA 25-0007

Maricopa County Superior Court

No. CV2024-05713

**RESPONSE TO THE BRIEF OF AMICI CURIAE
PRESIDENT PETERSEN AND SPEAKER MONTENEGRO**

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April 28, 2026

The arguments of amici curiae Senate President Warren Petersen and House Speaker Steve Montenegro are not properly before the Court, for two independent reasons.

First, as the Court of Appeals correctly concluded, amici's arguments about equity were not properly raised below. Amici filed a substantively identical brief in the Court of Appeals arguing that absent a cause of action in A.R.S. § 14-1494, Anderson would have an "*equitable* cause of action for injunction." *See* Brief of Amici Curiae Senate President Petersen and Speaker Montenegro in Support of Respondent's Response to Petition for Special Action at 2, *Ariz. Bd. of Regents v. Anderson*, No. 1 CA-SA 25-0007 (Ariz. App. Feb. 14, 2025). The Board explained below why those arguments were not properly before the court, as well as wrong on the merits. *See* Response to Brief of Amici Curiae at 6-8, *Ariz. Bd. of Regents*, No. 1 CA-SA 25-0007 (Mar. 14, 2025). As the Court of Appeals correctly found, Anderson "did not ask the superior court to deny the Board's motion for that reason," did not even "comment[] on Amici's brief" below, and made only a passing, unexplained reference to "equity" in his own briefing. Memorandum Decision at 7 ¶ 18, *Ariz. Bd. of Regents*, No. 1 CA-SA 25-0007 (Dec. 17, 2025). The Court of Appeals thus correctly declined to address amici's arguments.

See id. ¶ 20 (citing, *inter alia*, *Ruiz v. Hull*, 191 Ariz. 441, 446 ¶ 15 (1998) (court should “base [its] opinion solely on legal issues advanced by the parties themselves”), *White Mountain Health Ctr., Inc. v. Maricopa County*, 241 Ariz. 230, 238 ¶ 27 (App. 2016) (“amici cannot raise issues not raised below or by the parties”)).

Second, Anderson did not address the possibility of an equitable cause of action for a writ of injunction in his Petition for Review in this Court. Anderson’s Petition does not even contain the words “equity” or “writ.” Because “amic[i] curiae are not permitted to create, extend, or enlarge the issues,” *City of Tempe v. Prudential Insurance Co. of America*, 109 Ariz. 429, 432 (1973), this Court should instead “resolve the case on the merits as presented by the parties,” *Ruiz*, 191 Ariz. at 446 ¶ 15.

This Court should deny review of the single question that Anderson presented: whether the Court of Appeals correctly decided that A.R.S. § 41-1494 “provides no implied private right of action.” Pet. for Review at 4. To the extent that amici try to address that question, their argument fails for the same reasons set forth by the Court of Appeals and in the Board’s Response to the Petition. No other question is before the Court.

April 28, 2026

Respectfully submitted,

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