IN THE SUPREME COURT
OF THE STATE OF ARIZONA

CENTER FOR ARIZONA POLICY INC., an Arizona nonprofit corporation; ARIZONA FREE ENTERPRISE CLUB; DOE I; DOE II, Plaintiffs-Appellants, v. ARIZONA SECRETARY OF STATE; ARIZONA CITIZENS CLEAN ELECTIONS COMMISSION, Defendants-Appellees, ARIZONA ATTORNEY GENERAL'S OFFICE; VOTERS RIGHT TO KNOW PAC, Intervenors-Defendants-Appellees.	Arizona Supreme Court No. CV-24-0295-PR Arizona Court of Appeals No. CA-CV 24-0272 Maricopa County Superior Court No. CV2022-016564 FILED WITH THE WRITTEN CONSENT OF THE PARTIES

BRIEF OF *AMICUS CURIAE* THE BUCKEYE INSTITUTE IN SUPPORT OF PLAINTIFFS-APPELLANTS

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The Buckeye Institute was founded in 1989 as an independent research and educational institution—a think tank—to formulate and promote free-market policy in the states. The Buckeye Institute accomplishes its mission by performing timely and reliable research on key issues, compiling and synthesizing data, formulating free-market policies, and marketing those policy solutions for implementation in Ohio and replication across the country. The Buckeye Institute also files lawsuits and submits amicus briefs in cases where free-market policies or governmental overreach are at issue. The Buckeye Institute is a nonpartisan, nonprofit, tax-exempt organization, as defined by I.R.C. section 501(c)(3).

SUMMARY OF THE ARGUMENT

A first blush, Publius, Cato, and Common Sense would seem to have little in common. But these are just three of dozens of pseudonyms the Founding Fathers used to communicate and publish literature during the Revolutionary War and the debates over the Constitution. *See Pseudonyms in American History*, Matt Rickard (Dec. 5, 2023), https://mattrickard.com/pseudonyms-in-american-history. The Founders' ability to organize, associate, and speak anonymously was fundamental to the public acceptance and ratification of the Constitution and the Bill of Rights

[1] Pursuant to Ariz. R. Civ. App. P. 16 (b)(3), no party or counsel for a party authored this brief in whole or in part. And no party, counsel for a party, or any person other than amici curiae and its counsel made a monetary contribution to the preparation or submission of this brief.

and likely remained at the forefront of their minds when drafting the First Amendment. "The bottom line is that it is highly probable that the United States would not even exist without anonymous speech." Bradley Smith, Opinion, *What Hamilton teaches us about the importance of anonymous speech*, Wash. Post (Nov. 8, 2016), https://tinyurl.com/2pvdxub5. And the public, too, recognized anonymous speech's value at the time of ratification. At one point, the *Massachusetts Centinel* announced it would not publish Antifederalists essays unless the authors disclosed their names. *Pseudonyms and the Debate over the Constitution*, Center for the Study of the American Constitution (July 22, 2022), https://tinyurl.com/5t49f6z5. Bostonians, a largely Federalist group, decried this decision, causing the *Centinel* to reverse course. *Id.* But the damage was done. The *Centinel* "justified [its] failure to print Antifederalist pieces because none were submitted." *Id.* By requiring author disclosure, the *Centinel* limited Antifederalists' access to the press for fear of public persecution and alienation.

Appellants wish to vindicate that very same right of their donors to associate and speak without forced disclosure to the state of Arizona. With political polarization and violence becoming an increasingly unfortunate reality, donating to one's preferred causes anonymously is not a luxury, but a necessity. Fortunately, the First Amendment and Arizona's Free Speech Clause protect individuals' right to speak and associate anonymously.

ARGUMENT

I. Proposition 211's chilling effect is real.

Appellants averred "that their staff members have received threatening and harassing phone calls, voicemails, emails, and social media posts in response to the organizations' public activities." *Ctr. for Arizona Policy Inc. v. Arizona Sec. of State*,258 Ariz. 570, ¶ 56 (App. 2024), *review granted* (May 6, 2025). The lower court nonetheless deemed these threats as "too speculative to show a reasonable probability that donors would face threats, harassment, or reprisals because of disclosures required under the Act." *Id.*

The Court of Appeals' conclusion here suggests that organizations must all but endure a serious act of violence before availing themselves of judicial intervention. Recent attacks on mission-based nonprofits of all philosophical stripes demonstrate the risk borne by such groups. In 2022, a pro-life advocacy organization in Madison, Wisconsin, was vandalized and lit on fire. *See Fire at Wisconsin anti-abortion office investigation as arson, police say*, CBS News (May 9, 2022), https://tinyurl.com/mrnvd6y6. That same year, on the flipside, pro-choice advocacy organization Planned Parenthood in Southern California was also firebombed. *See* the Associated Press, *A former Marine gets 9 years for firebombing a California Planned Parenthood clinic*, NPR (April 16, 2024), https://tinyurl.com/5abbmd22. A Texas Buddhist meditation center was destroyed

by an arsonist in 2023. *See The Asian American Foundation (TAAF) Statement on Huyen Trang Buddhist Meditation Centre*, TAAF (Nov. 9, 2023), https://tinyurl.com/ye2dbme3. In 2024, Center of the American Experiment was firebombed. *See* John Hinderaker, *They Firebombed My Office*, Powerline (Feb. 1, 2024), https://tinyurl.com/4hmyv8dr. In May 2025, a man detonated a car bomb outside a Southern California fertility clinic. *See Authorities say suspect in California fertility clinic car bombing left behind 'anti-pro-life' writings*, PBS (May 19, 2025), https://tinyurl.com/ycpyxnf8.

On August 15, 2012, Floyd Corkins shot a security guard at Family Research Council (FRC), intending "to kill as many people as possible" because he disagreed with FRC's conservative views on same-sex marriage. Carol Cratty & Michael Pearson, *DC shooter wanted to kill as many as possible, prosecutors say*, CNN (Feb. 7, 2013), https://tinyurl.com/nv4r2fj8. According to police investigators, Corkins planned to kill employees of other conservative organizations as well. *Id.*

In November 2011, protesters attacked and harassed attendees of a forum hosted by Americans for Prosperity Foundation, a think tank that advocates for economic freedom. Clare O'Connor, *Occupy The Koch Brothers: Violence, Injuries, and Arrests at DC Protest*, Forbes (Nov. 5, 2011), https://tinyurl.com/pks4v85x. Several people were hurt, including two elderly folks

who were shoved down a set of stairs as they attempted to escape the escalating chaos. *Id.*

Wisconsin's "John Doe" investigations provide yet another troubling example of the harassment individuals have faced based upon the views espoused by organizations they support. "Initially a probe into the activities of Governor [Scott] Walker and his staff, the ['John Doe'] investigation expanded to reach nonprofits nationwide that made independent political expenditures in Wisconsin, including the League of American Voters, Americans for Prosperity, and the Republican Governors Association." Jon Riches, *The Victims of "Dark Money" Disclosure: How Government Reporting Requirements Suppress Speech and Limit Charitable Giving*, Goldwater Institute (Aug. 5, 2015), https://tinyurl.com/bdpu5ny. The raids targeted individuals associated with those organizations, some of whom were awakened in the middle of the night by "loud pounding at the door," floodlights illuminating their homes, and police with guns drawn. David French, *Wisconsin's Shame: 'I Thought It Was a Home Invasion'*, National Review (May 4, 2015), https://tinyurl.com/e7hr447j. These individuals were then forced to watch investigators rifle through their homes, seeking an astonishingly broad range of documents and information, all because they supported organizations advocating or holding specific viewpoints on various issues of public interest. *Id.* The Wisconsin Supreme Court eventually put an end to

these unconstitutional investigations, concluding that they were based on a legal theory "unsupported in either reason or law" and that the citizens investigated "were wholly innocent of any wrongdoing." *State ex rel. Two Unnamed Petitioners v. Peterson*, 866 N.W.2d 165, 211–12 (Wis. 2015), *decision clarified on denial of reconsideration sub nom. State ex rel. Three Unnamed Petitioners v. Peterson*, 875 N.W.2d 49 (Wis. 2015).

The list of incidents like the aforementioned goes on and on, but car bombs and firebombs are not speculative—they are real, destructive, and intimidate citizens from voicing unpopular opinions or otherwise supporting organizations that espouse any controversial view.

When otherwise good people are scared away from associating with each other and with organizations, those organizations suffer harm as well. In 2013, our organization—The Buckeye Institute ("Buckeye")—actively and unabashedly served as the lone public opposition in the state of Ohio to the expansion of the federal Medicaid program. *See* Mot. Summ. J. at 8–9, *Buckeye Inst. v. IRS*, Case 2:22-cv-04297 (S.D. Ohio May 3, 2023), https://www.ifs.org/wp-content/uploads/2023/05/036-Buckeye-MSJ.pdf. Buckeye produced policy papers, spoke to the media, and met with legislators to advocate our position, which ultimately prevailed. Shortly after Ohio's General Assembly rejected Medicaid expansion, the IRS's Cincinnati office informed Buckeye that our organization had

been selected for a full field audit. *Id.* at 9. Sensibly fearing that this audit was most likely politically-motivated retaliation, Buckeye's financial contributors expressed concern that they, too, would be subjected to retaliatory individual and corporate audits if their names appeared on Buckeye's Schedule B or were otherwise disclosed to the IRS. *Id.* Buckeye supporters cited the then-unfolding story regarding the IRS's disparate, adverse treatment of conservative, libertarian, or right-of-center-leaning organizations applying for nonprofit status. *Id.* The controversy directly implicated the IRS's Cincinnati office, which was auditing Buckeye. *Id.* (citing Gregory Korte, *Cincinnati IRS agents first raised Tea Party issues*, USA Today (June 11, 2013), https://perma.cc/DNK9-NVR6). To avoid potential financially-harmful retribution based upon their association with The Buckeye Institute, some existing and regular donors chose to give anonymously, but legally, through donor-advised funds, while at least one individual made an anonymous donation via cashier's check and another person gave actual cash, both of them thereby foregoing receipts (as well as the corresponding tax deduction for the charitable contributions). *Id*. Other donors reduced their donations to avoid appearing on Buckeye's Schedule B as "substantial contributors," while some donors entirely stopped their donations. *Id.*

In *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310 (2010), the Court took note that donors to certain causes were "blacklisted, threatened, or otherwise

targeted for retaliation" and found that such events were a "cause for concern," but that the plaintiff in the case had not provided evidence of suffering a similar injury. *Id.* at 370. Such is not the situation here, where Plaintiffs-Appellants have presented uncontroverted evidence of threats, harassment, and reprisals. *See, e.g.,* Herrod Decl. 1 ¶ 20, IR.3 at ep. 24–25. Further, there is growing evidence that attitudes in the United States are shifting toward tolerating political violence as acceptable behavior. One recent study found that 32.8% of respondents "considered violence to be usually or always justified to advance at least one of 17 specific political objectives, such as preventing discrimination based on race or ethnicity, stopping an election from being stolen, or stopping voter fraud or intimidation." *New study looks at attitudes towards political violence*, UC Davis Health (Oct. 5, 2023), https://tinyurl.com/46fnajdt. This problematic theoretical social acceptance has unfortunately also corresponded to regular acts of actual political violence. *See The growing list of political violence in the U.S.*, PBS News (April 14, 2025), https://tinyurl.com/y4ss4y3b.

The lingering background threat of political violence materialized into reality yet again when a man posed as a police officer and targeted two Minnesota lawmakers earlier in June, killing one of them as well as another non-lawmaker victim. *See* Steve Karnowski et al., *The man suspected of shooting 2 Minnesota lawmakers is in custody after surrendering to the police*, AP (June 16, 2025),

https://tinyurl.com/3fbb84v5. It would be naïve not to recognize the chilling impact these tragic events committed by people of all political persuasions have on at least some donors and potential donors who rightly worry that their names and contact information, too, could become public and associated with an unpopular cause—whether on the right or the left.

Since *Citizens United* was decided in 2010, technological advancements—including AI—have increased the force of these disclosure-driven chilling effects. After all, once donors' names and addresses become public:

> anyone with access to a computer [or smart phone] could compile a wealth of information about [them], including … the names of their spouses and neighbors, their telephone numbers, directions to their homes, pictures of their homes, information about their homes…, information about any motor vehicles they own, any court case in which they were parties, any information posted on a social networking site, and newspaper articles in which their names appeared (including such things as wedding announcements, obituaries, and articles in local papers about their children's school and athletic activities).

Doe v. Reed, 561 U.S. 186, 208 (2010) (Alito, J., concurring). Not only does technology enable more opportunities to track and harass people physically, but online doxing and social media harassment are regrettably common. Modern technology "allows mass movements to arise instantaneously and virally," "[a]ny individual or donor supporting virtually any cause is only a few clicks away from being discovered and targeted" for harassment or worse. Nick Dranias, *In Defense*

of Private Civic Engagement: Why the Assault on "Dark Money" Threatens Free Speech—and How to Stop the Assault 16 (Apr. 2015), https://tinyurl.com/4j3znt5j.

In fact, such harassment has already occurred. After California published the names and addresses of individuals—now known as doxing—who had supported Proposition 8, a ballot initiative amending California's constitution to define marriage as between one man and one woman, opponents of the measure "compiled this information and created Web sites with maps showing the locations of homes or businesses of Proposition 8 supporters." *Citizens United*, 558 U.S. at 481 (Thomas, J., dissenting); *see also Doe*, 561 U.S. at 208 (Alito, J., concurring) (describing similar efforts in Washington). Some individuals who supported Proposition 8 eventually lost their jobs as a result of pressure on their employers; others faced death threats. *See Citizens United*, 558 U.S. at 481–82 (Thomas, J., dissenting).

As of 2024, an estimated 11 million Americans have been victims of doxing. Max Sheridan, *Doxxing Statistics in 2024: 11 Million Americans Have Been Victimized*, SafeHome (Aug. 8, 2024), https://www.safehome.org/family-safety/doxxing-online-harassment-research/. In March, a website called "Dogequest" published the names, addresses, and phone numbers of Tesla owners. Ariel Zilber, *Doxing website that shows personal details of Tesla owners has Molotov cocktail as cursor: report*, New York Post (Mar. 18, 2025),

https://tinyurl.com/29kdrhmd. The website, protesting Elon Musk's DOGE efforts and presence within the Trump Administration, included an interactive U.S. map to find Tesla owners and dealerships, as well as a Molotov cocktail curser. *Id.* As if those ominous hints were not enough, the websites operators "said that they will remove identifying information about Tesla drivers only if they provide proof that they sold their electric vehicles[.]"

In 2022, during the Canadian truckers' protest, a crowdfunding website collected nearly $9 million in support of the truckers. *Shutting Down Support for the Truckers*, Wall St. J. (Feb. 16, 2022), https://tinyurl.com/5xxx97yp. Hackers who opposed the truckers' political position infiltrated the website and disseminated "names, emails, locations and other personal information of 92,845 donors." *Id.* One exposed donor, a café owner, temporarily closed her business and recanted her support after "callers threatened to throw bricks through her store window." *Id.*

"The success of such intimidation tactics has apparently spawned a cottage industry that uses forcibly disclosed donor information to pre-empt citizens' exercise of their First Amendment rights." *Citizens United*, 558 U.S. at 482 (Thomas, J., dissenting) (emphasis deleted). Before the 2008 Presidential election, Accountable America, a "'newly formed nonprofit group,'" "'planned to confront donors to conservative groups, hoping to create a chilling effect that will dry up

contributions.'" *Id.* (quoting Michael Luo, *Group Plans Campaign Against G.O.P. Donors*, N.Y. Times (Aug. 8, 2008), https://tinyurl.com/mw268mbs). The group's leader, "who described his effort as 'going for the jugular,' detailed the group's plan to send a warning letter alerting donors who might be considering giving to right-wing groups to a variety of potential dangers, including legal trouble, public exposure and watchdog groups digging through their lives." *Id.* at 482–83 (internal quotation marks omitted).

In short, the "deterrent effect" that disclosure of membership and donor lists has on "the free enjoyment of the right to associate" is even more significant in today's Internet age than it was when the United States Supreme Court decided cases like *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958); *Shelton v. Tucker*, 364 U.S. 479 (1960); and *Talley v. California*, 362 U.S. 60 (1960). The Court must consider this changed technological landscape and political realities when addressing this case and others like it.

II. The Arizona Constitution's protections for speech and association are stronger than the U.S. Constitution's.

Where the First Amendment limits the government's ability to regulate speech, the Arizona Constitution's Free Speech Clause, Article 2, Section 6, guarantees Arizonans "the individual right to 'freely speak, write, and publish,' subject only to constraint for the abuse of that right." *Brush & Nib Studio, LC v. City of Phoenix*, 247 Ariz. 269, 281, ¶ 45 (2019) (citation omitted). As such, "the

Arizona Constitution provides broader protections for free speech than the First Amendment," even though this Court often relies upon federal case law when interpreting Arizona's Free Speech Clause. *Id.* at ¶¶ 45–46.

Moreover, the Arizona Constitution has a separate provision: "The right of petition, and of the people peaceably to assemble for the common good, shall *never* be abridged." Ariz. Const. art. II, § 5 (emphasis added). Further, Arizona "history, therefore, demands that we not ignore the Arizona Constitution and leaves us only to decide whether to commence our analysis with the federal or state constitution.... [T]he methodology whenever a right that the Arizona Constitution guarantees is in question: we first consult our constitution." *Mountain States Tel. & Tel. Co. v. Arizona Corp. Comm'n*, 160 Ariz. 350, 356 (Ariz. 1989). This methodology is consistent with the admonition of other state constitution advocates. *See* Justice R. Patrick DeWine, *Ohio Constitutional Interpretation*, 86 Ohio St. L.J. (forthcoming 2025) at 11, https://tinyurl.com/mrxu7w8m.

Although Appellants should prevail whether the Court analyzes this case under either the United States Constitution or Arizona Constitution, this Court should resist finding the unique speech and association protections of Arizona's Constitution to be coterminous with the United States Constitution's protections of the same. The issue before the Court is one of first impression under the Arizona Constitution. The Court may wish to look to the established jurisprudence in the

federal courts for preliminary guidance, but it should give full effect to the Arizona Constitution's even more protective provisions. Locking the interpretation of key provisions of state constitutions to the U.S. Constitution is "[a] grave threat to independent state constitutions, and a key impediment to the role of state courts in contributing to the dialogue of American constitutional law...." Jeffrey S. Sutton, *51 Imperfect Solutions: States and the Making of American Constitutional Law* 174 (2020). As Chief Judge Sutton notes, even state constitutional provisions that are worded similarly to their federal counterpart should be scrutinized on their own merit. *Id.*; *see also* DeWine, *supra*, at 24.

Arizona's heightened protection is consistent with this country's history and tradition, which the United States Supreme Court's has recognized in its jurisprudence regarding the ability to speak anonymously, particularly on political issues. Long before the Federalist and Anti-Federalist Papers were published under pseudonyms, pamphlets questioning British policies and practices circulated throughout the colonies. *See generally* Online Library of Liberty, *The Anonymous Pamphleteer 1775*, OLL, https://tinyurl.com/45t3nkbd (last visited June 17, 2025). Accordingly, the United States Supreme Court has vigorously defended the right to politically associate and speak without fear of "suppression or impairment through harassment, humiliation, or exposure by government." *Bates v. Little Rock*, 361 U.S. 516 (1960) (Black, J, concurring); *see also McIntyre v. Ohio Elections Com'n*,

514 U.S. 334 (1995) (holding that Ohio's statutory prohibition against distribution of any anonymous campaign literature violated the First Amendment). By contrast, "the idea that political contributions should be widely disclosed is not deeply rooted in the nation's history. The earliest campaign-disclosure laws date to the late nineteenth century, and they were essentially meaningless until the 1970s." Bradley A. Smith, *In Defense of Political Anonymity*, City Journal, Winter 2010.

This tradition of anonymous speech is consistent with existing federal jurisprudence. The United States Supreme Court has "recognized a First Amendment right to associate for the purpose of speaking, which [it has] termed a 'right to expressive association.'" *Rumsfeld v. Forum for Acad. & Inst'l Rights, Inc.*, 547 U.S. 47, 68 (2006) (citations omitted) (*"FAIR"*). The United States Constitution protects association because "[t]he right to speak is often exercised most effectively by combining one's voice with the voices of others." *Id*. "[I]mplicit in the right to engage in activities protected by the First Amendment [is] a corresponding right to associate with others." *Ams. for Prosperity Found.* ("*AFPF*") *v. Bonta*, 594 U.S. 595, 606 (2021). "If the government were free to restrict individuals' ability to join together and speak, it could essentially silence views that the First Amendment is intended to protect." *FAIR*, 547 U.S. at 68. Such action would contravene the First Amendment's purpose, which is "to preserve an

uninhibited marketplace of ideas in which truth will ultimately prevail...." *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 390 (1969) (citations omitted).

To that end, the right to associate also includes the right to do so privately. A "vital relationship [exists] between freedom to associate and privacy in one's associations." *AFPF*, 594 U.S. at 606 (quoting *NAACP*, 357 U.S. at 462). "[I]t is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association as [other] forms of governmental action." *Id.* (quoting *NAACP*, 357 U.S. at 462). But direct regulation on speech is not necessary for an action to chill First Amendment interests, as "compelled disclosure of political affiliations and activities" can impose the same burden on protected speech. *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003).

Four years ago, the United States Supreme Court facially invalidated a California law that required tax-exempt charities to provide confidential information about their donors to the government as a matter of course. *See AFPF*, 594 U.S. at 619. Absent "a substantial relation between the disclosure requirement and a sufficiently important governmental interest," the United States Supreme Court explained, compelling charitable organizations to disclose the names of their donors violates the First Amendment right to association. *Id.* at 607. The United States Supreme Court thus prevented California from enforcing its across-the-

board requirement that every nonprofit organization turn over this sensitive information. *Id.* at 619.[2]

What Arizona attempted to do here is arguably worse, insofar as it sweeps in even more and lower-dollar donors than the California disclosure requirement. Arizona has no need for the "dragnet" collection that Proposition 211 mandates. *See AFPF*, 594 U.S. at 614. Enforcing the law creates an "inevitable" chill against exercising the Article II, Section 6 right to associate. *See id.* at 607. Even if the lower court's interpretation of federal case law were correct, this Court should provide the requisite free speech protection to Arizonans under the Arizona Constitution. *See Brush*, 247 Ariz. at 281, ¶ 45.

AFPF and *NAACP* make clear that the First Amendment protects the anonymous speech and associational rights of donors to nonprofit corporations. Even if the United States Constitution did not already protect Arizonans from doxing and danger, then this Court should confirm that Arizona's Constitution does.

[2] In *AFPF*, six justices agreed that disclosure laws must *at least* meet exacting scrutiny "[r]egardless of the type of association" at issue. *Id.* Justice Thomas argued that strict scrutiny—a higher standard—should apply. *Id.* at 619–620 (Thomas, J., concurring). And Justices Alito and Gorsuch agreed that because the law at issue in *AFPF* did not meet exacting scrutiny, the Court need not decide whether strict scrutiny should apply. *Id.* at 622–623 (Alito, J., concurring).

III. Proposition 211 is not narrowly tailored.

Even if the State could establish a substantial relation between the donor disclosure requirement and a sufficiently important government interest, that alone would not justify encroachment on the associational rights of Appellants and their supporters. *See Davis v. FEC*, 554 U.S. 724, 744 (2008) (citing *Buckley v. Valeo*, 424 U.S. 1, 68, 71 (1976) (per curiam)). "While exacting scrutiny does not require that disclosure regimes be the least restrictive means of achieving their ends, it does require that they be narrowly tailored to the government's asserted interest." *AFPF*, 594 U.S. at 608.

In *AFPF*, California argued that it needed donor information to enforce its laws governing charitable organizations—including 501(c)(3)s. California asserted that it had an interest in "protecting the public from fraud" relating to the "misuse, misappropriation, and diversion of charitable assets" as well as preventing "false and misleading charitable solicitations." *Id.* at 612. But the only relation between those ends and the collection of Schedule B donor information that California could articulate was that "having th[e] information on hand ma[de] it easier to police misconduct by charities." *Id.* at 601. The United States Supreme Court rejected this pretextual justification, noting that the state's Attorney General could obtain any information needed from a specific organization through a subpoena or audit letter. *Id.* at 613. Although the Court did "not doubt that California has an

important interest in preventing wrongdoing by charitable organizations," there was "a dramatic mismatch" between the up-front preemptive collection of donor identities from all 60,000 charities registered to fundraise in the state and that interest. *Id.* at 612–13. "California is not free to enforce *any* disclosure regime that furthers its interest. It must instead demonstrate its need for universal production in light of any less intrusive alternatives." *Id.* at 13.

Arizona's dragnet collection and storage of sensitive data likewise far exceeds what might be needed to further an important government interest in disclosing donor information, particularly in the context of independent expenditures where there is no risk of quid pro quo corruption.

IV. The Court should permanently enjoin the donor-disclosure requirement.

"A party is entitled to a permanent injunction if it can establish that it suffered a constitutional violation and will suffer continuing irreparable injury for which there is no adequate remedy at law." *Saieg v. City of Dearborn*, 641 F.3d 727, 733 (6th Cir. 2011). The donor-disclosure rule violates Appellants' right to association for the reasons discussed above. And "'[t]he loss of First Amendment freedoms, for even minimal periods of time,' amounts to irreparable injury." *Sisters for Life, Inc. v. Louisville-Jefferson Cnty.*, 56 F.4th 400, 408 (6th Cir. 2022) (quoting *Roman Catholic Diocese v. Cuomo*, 592 U.S. 14, 19 (2020) (per curiam)); *see also Toma v. Fontes*, 258 Ariz. 109, ¶ 88 (App. 2024), *review granted* (Jan. 7,

2025) ("Ordinarily, *ongoing* constitutional violations cannot be remedied through monetary damages, rendering the harm caused by such a violation irreparable." (citing *Washington v. Trump*, 847 F.3d 1151, 1169 (9th Cir. 2017) (emphasis original)). Appellants are thus entitled to a permanent injunction to prevent further harm to their constitutional rights.

CONCLUSION

Arizona's requirement to disclose donors is unconstitutional and dangerous. Individuals have a right to speak as one group and to do so without fear of retribution arising from compulsory disclosure requirements that fail exacting scrutiny. This right is expressly recognized in Arizona's Constitution, as well as this country's history, tradition, and federal jurisprudence. As such, this Court should reverse the Court of Appeals.

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RESPECTFULLY SUBMITTED this 24th day of June 2025.

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