IN THE SUPREME COURT
STATE OF ARIZONA

ARIZONA FREE ENTERPRISE CLUB, an Arizona nonprofit corporation; RESTORING INTEGRITY AND TRUST IN ELECTIONS, a Virginia nonprofit corporation; REPUBLICAN PARTY OF ARIZONA, LLC, a statewide political party committee; and DWIGHT KADAR, an individual, Plaintiffs/Appellants, v. ADRIAN FONTES, in his official capacity as the Secretary of State, Defendant/Appellee, and ARIZONA ALLIANCE OF RETIRED AMERICANS; and MI FAMILIA VOTA, Intervenors/Appellees.	No. _____ Court of Appeals No. 2 CA-CV 2024-0221 Yavapai County Superior Court No. S1300CV202300202

PETITION FOR REVIEW

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Plaintiffs/Appellants Arizona Free Enterprise Club, Restoring Integrity and Trust in Elections, Republican Party of Arizona, LLC ("RPAZ"), and Dwight Kadar (collectively, the "Petitioners") respectfully submit this Petition for Review.

INTRODUCTION

Conflicting opinions of the Court of Appeals have rendered standing doctrine under the Arizona Uniform Declaratory Judgments Act, A.R.S. § 12-1831, *et seq.* ("UDJA"), haphazard and arbitrary at best, and incoherent and incomprehensible at worst. Earlier this year, the Court of Appeals (correctly) held that two political party committees had standing under the UDJA to challenge the validity of the 2023 Elections Procedures Manual ("EPM"). It reasoned that the political parties had adequately alleged that they "have 'an interest in the administration' and 'procedural integrity of Arizona elections,' as well as "'the competitive environment affecting Republican candidates,'" which sustained "an actual controversy . . . between parties who are sufficiently interested." *Republican Nat'l Comm.* ["RNC"] *v. Fontes*, 566 P.3d 984, 989–90 ¶ 14 (Ariz. App. 2025) (review granted in part Aug. 19, 2025).[1]

Just months later, this case—which featured one of the same plaintiffs (*i.e.*, the RPAZ) asserting a cognate claim (*i.e.*, a challenge to an EPM provision's validity) against the same defendant (*i.e.*, the Secretary of State)—met a different

[1] Importantly, the Court limited its review in *RNC* to the Court of Appeals' disposition of the merits, and not questions of standing. *See* Order, *Republican Nat'l. Comm. v. Fontes*, No. CV-25-0089-PR (Ariz. Sup. Ct. Aug. 19, 2025).

fate. Here, the Court of Appeals held that the RPAZ had asserted no "interest" that was different from that of "any Arizona voter." *Ariz. Free Enterprise Club v. Fontes*, 2025 WL 2462952, at *6 ¶ 32 (Ariz. App. Aug. 27, 2025) ["COA Op."].

The confluence of the dueling opinions begets confusion, uncertainty, and the distinct sense that an UDJA plaintiff's ability to maintain standing will be ordained by the equivalent of a coin toss. *RNC* had it right; properly distilling the UDJA's own admonition that it be "liberally construed and administered," A.R.S. § 12-1842, and this Court's historically flexible and functionalist conception of the "interests" that underpin UDJA claims, *RNC* recognized that political party organizations possess a singular stake in the lawful structuring and administration of Arizona elections. That interest, conjoined with the extant, actual controversy precipitated by the challenged EPM provision, easily sustains the RPAZ's (if not also the other Petitioners') standing under the UDJA in this case. This Court's review is needed not only to correct the Court of Appeals' erroneous disposition of an important issue of law, but also to untangle the perplexing jurisprudential knot that the Court of Appeals' recent conflicting decisions have entwisted. ARCAP 23(d)(3).

FACTUAL & PROCEDURAL BACKGROUND

Arizona law generally permits any qualified elector to vote prior to Election Day by casting an "early ballot" either by mail or in person. *See* A.R.S. § 16-542(A). Every early ballot must be submitted in an envelope bearing a statutorily prescribed

affidavit that the voter must sign. *See id.* § 16-547. The county recorder then validates the voter's identity and eligibility by "compar[ing] the signature [on the envelope] with the signature of the elector on the elector's ***registration record***." *Id.* § 16-550(A) (emphasis added). The EPM, however, defines the term "registration record" to include polling location "signature rosters, [and] prior early ballot affidavits." Ariz. Sec'y of State, 2023 ELECTIONS PROCEDURES MANUAL (Dec. 2023) at 83, *available at* https://tinyurl.com/534ccma8 (the "Signature Verification Provision").

On March 7, 2023, the Arizona Free Enterprise Club, Dwight Kadar, and Restoring Integrity and Trust in Elections filed the Complaint in this action, seeking declaratory, injunctive, and special action relief on the grounds that the 2019 EPM improperly authorized the verification of early ballot affidavit signatures using documents that are not "registration records," within the meaning of A.R.S. § 16-550(A).[2] [ROA 1]. The Complaint was amended on April 17, 2023 to add the RPAZ as a plaintiff. [ROA 16].

After extensive briefing and oral arguments, the Superior Court denied the Secretary and Intervenors' motions to dismiss. Deeming the term "registration record" in A.R.S. § 16-550(A) "clear and unambiguous," the Superior Court

[2] The 2023 EPM, which became effective on December 31, 2023, readopted the challenged provision in substantively identical form.

concluded that it confined signature exemplars to "documents the putative voter used to register." [ROA 43 ep 3]. Given that the EPM "contains an incorrect definition of registration record," *id.*, the Superior Court found that the Amended Complaint stated a valid claim.[3]

Agreeing that discovery was unnecessary, the parties filed and briefed cross-motions for summary judgment. On April 25, 2024, the Superior Court issued an order granting summary judgment to the Secretary and Intervenors. It reasoned that, by not expressly repudiating the EPM's (mis)construction of the term "registration record" in recent statutory amendments, the Legislature ostensibly "intended to adopt the EPM's use of prior ballot envelopes to verify signatures." [ROA 69 ep 3].

The Superior Court entered final judgment on May 22, 2024. [ROA 73]. Petitioners timely appealed. On August 27, 2025, the Court of Appeals issued an opinion affirming the trial court's judgment, but on the grounds that none of the Petitioners had standing to challenge the Signature Verification Provision.

ISSUE PRESENTED FOR REVIEW

Did the Court of Appeals err in holding that none of the Petitioners possesses a sufficient "real interest" under the UDJA to challenge the EPM's allegedly improper and extra-statutory protocol for verifying early ballot affidavit signatures?

[3] The Superior Court denied from the bench the Intervenors' motions to dismiss on standing and laches grounds. [ROA 33].

ISSUES PRESENTED TO, BUT NOT DECIDED BY, THE COURT OF APPEALS

Did the trial court err in holding that documents that undisputedly cannot be used to register to vote or to amend a voter's registration (namely, precinct registers and early ballot envelopes) are nevertheless "registration records," within the meaning of A.R.S. § 16-550(A), and hence can be used to verify signatures on early ballot affidavits?

REASONS FOR GRANTING THE PETITION

The Court of Appeals' opinion offers this Court at least two independent reasons to step in. First, it embraces a significant and consequential misapprehension of standing under the UDJA and this Court's controlling precedents. Second, it is irreconcilable with the same court's disposition of UDJA standing in *RNC*, which featured the same parties and same general species of claim. This Court should grant review to preempt the confusion and unpredictability that the Court of Appeals' opposing opinions will pullulate in future (and often highly expedited and high-stakes) election-related litigation. *See* ARCAP 23(d)(3).

I. The Court of Appeals Adopted an Improperly Stringent Understanding of the "Interest" Necessary for UDJA Standing, and Erroneously Imposed an "Impairment" Requirement

The Court of Appeals deviated significantly from this Court's precedents in holding that (1) political parties' and voters' interest in the lawful conduct of

elections is insufficient to support UDJA standing, and (2) plaintiffs must establish an "impairment" of an interest as a prerequisite to relief under the UDJA.

The UDJA offers plaintiffs something of a tradeoff. On the one hand, it enables them only to "obtain a declaration of rights, status or other legal relations," A.R.S. § 12-1832; it does not (by its own force) supply any prescriptive or coercive remedies. The statute compensates for its modest remedial scope, however, by relieving plaintiffs of the need to prove an actual "injury" as a condition precedent to suit. *See Mills v. Ariz. Bd. of Technical Registration*, 253 Ariz. 415, 424 ¶ 29 (2022) (confirming that a UDJA plaintiff "is not required to suffer an actual injury before his claims become justiciable"). Rather, "[t]o have standing under the UDJA, there must . . . 'be [1] an actual controversy ripe for adjudication,' and [2] 'parties with a real interest in the questions to be resolved.'" *Ariz. Creditors Bar Ass'n., Inc. v. State*, 257 Ariz. 406, 410 ¶ 12 (App. 2024) (quoting *Bd. of Sup'rs. of Maricopa Cnty. v. Woodall*, 120 Ariz. 379, 380 (1978)).

There should be little disagreement concerning the standard's first prong. There is an "actual," concrete, and ongoing controversy concerning the Signature Verification Provision's validity. Its implementation is in no sense contingent or conjectural. Not only does the 2023 EPM remain in effect, but the Secretary confirmed to the Court of Appeals that the disputed content "almost assuredly will appear in the 2025 EPM that is in process." Joint Response Indicating How to

Proceed with Appeal (Jun. 23, 2025); *contrast Mills*, 253 Ariz. at 424 ¶ 25 (declaratory judgment standing is lacking when the claim is "dependent upon future events and contingencies within control of the plaintiff" (citation omitted)). The Petitioners' dispute with the Secretary concerning the Signature Verification Provision's validity accordingly "is an actual one based on presently existing facts." *Id*. at 425 ¶ 30.

A. Voters, and Certainly Political Party Committees, Have a Concrete and Cognizable Interest in Challenging Illegal Election Regulations

Each Petitioner has adduced the requisite "real interest" in conforming early ballot validation to the governing statute.[4]

1. RPAZ: The RPAZ's integral immersion in Arizona's electoral structures engenders a real and concrete interest in the Signature Verification Provision's lawfulness. *RNC*'s holding that the RNC (and, by implication, other political party entities) "are necessarily affected by the administration of procedures that govern every stage of the electoral process," 566 P.3d at 990 ¶ 15, aptly crystallizes this Court's understanding of the UDJA's "liberal[]," A.R.S. § 12-1842,

[4] When (as here), multiple plaintiffs seek the same non-monetary relief, the existence of one plaintiff's standing obviates the issue as to the remaining plaintiffs. *See City of Tucson v. Pima Cnty.*, 199 Ariz. 509, 514 ¶ 14 (App. 2001) ("[E]ven if Pima County and Tortolita lack standing, there remain parties with unequivocal standing who offer the same arguments."); *Melendres v. Arpaio*, 695 F.3d 990, 999 (9th Cir. 2012) ("The general rule . . . is that once the court determines that one of the plaintiffs has standing, it need not decide the standing of the others.")

standing rubric, which (for example) permitted "a trade association with members living and working in Pima County" to challenge a state statute that preempted local mask mandates that Pima County might otherwise have enacted. *See Ariz. Sch. Bds. Ass'n. v. State*, 252 Ariz. 219, 225 ¶ 20 (2022); *see also Pena v. Fullinwider,* 124 Ariz. 42, 44 (1979) ("Appellants as consumers are 'affected' by the amendment [which related to labeling standards] because cost-per-unit pricing information is designed to allow them to compare the costs of different commodities. They have an actual or real interest in the matter for determination.").

The Court of Appeals' holding dissipates under the reasoning of these precedents. If a given county employee (and her trade union) has a cognizable legal interest in the county government's possible adoption of an as-yet nonexistent ordinance, and any consumer can challenge the contents of a product label, then a political party organization surely has at least an equally palpable stake in the constitutionality of a statute that directly governs the qualification of the voters who will elect or defeat that party's candidates.[5] *See also Yes on Prop. 200 v. Napolitano*,

[5] The Court of Appeals' strained effort to distinguish *Arizona School Boards* is especially unconvincing. It asserted that the trade union was found to have standing because its "members worked in schools, which were directly affected by the county's inability" to enact a mask mandate. COA ¶ 30. But reasoning by analogy within that framing: the RPAZ and its candidate members "work" (which is to say, compete within and engage with) the early voting system, which even the Secretary seemingly agrees would be "directly affected by" a successful challenge to the Signature Verification Provision. Any mode of analysis that produces divergent

215 Ariz. 458, 470 ¶ 39 (App. 2007) (holding that political committee and residents' complaint challenging the implementation of a statewide ballot measure "set forth sufficient facts to establish a real dispute based upon an actual controversy between the Plaintiffs and the Governor"). Indeed, the RPAZ's palpable interest in early ballot signature verification is reified, in concrete terms, in A.R.S. § 16-550(A) (as amended by 2024 Ariz. Laws ch. 1, § 6), which requires county recorders to provide to recognized political parties a regularly updated "list of voters whose signatures require curing."[6]

2. Remaining Petitioners: Although only one plaintiff's standing is necessary to revive the claim, Mr. Kadar, the Arizona Free Enterprise Club, and Restoring Integrity and Trust in Elections likewise maintain a real and articulable interest in the EPM's propagation of unlawful early ballot verification practices. This Court has expressly held that voters and election-oriented nonprofit organizations have a "beneficial interest" in ensuring that county recorders' election

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outcomes in such substantively similar circumstances eludes principled and predictable application.

[6] The Court of Appeals faulted the Petitioners for not adducing "facts" concerning the statutory provision's "effect" on the RPAZ. COA Op. ¶ 36. This objection misunderstands the point; the statute's ***existence*** manifests a political party's intertwinement with the early voting process and its attendant interest in its compliant administration. *See Pena*, 124 Ariz. at 44 (beneficiaries of constitutional provision have standing to seek declaration concerning meaning and constitutionality of related statute). *See also infra* Section I.B.

administration practices conform to controlling laws. *See Ariz. Pub. Integrity All.* ["AZPIA"] *v. Fontes*, 250 Ariz. 58, 62 ¶ 12 (2020). While *AZPIA* presented a mandamus claim, *see* A.R.S. § 12-2021, there is no authority for the proposition that a "beneficial interest" for purposes of mandamus is not also "an actual or real interest," *Ariz. Sch. Bds. Ass'n*, 252 Ariz. at 224 ¶ 16 (citation omitted), under the UDJA. In a similar vein, the Court recognized that any resident of a jurisdiction can be "affected by" a public agency's violation of the Open Meeting Law, A.R.S. § 38-431, *et seq.*—even if the resident did not actually seek to attend the non-compliant meeting. *See Welch v. Cochise Cnty. Bd. of Supr'rs*, 251 Ariz. 519, 526–27 ¶¶ 25–27 (2021).

The curious import of the Court of Appeals' opinion thus is that the "liberally construed and administered" (A.R.S. § 12-1842) UDJA demands a *more* restrictive standing threshold than a claim for (coercive) mandamus relief and other remedial statutes, such as the Open Meeting Law. *Compare Welch*, 251 Ariz. at 526 ¶ 23 ("Given the statute's remedial purpose, we read its enforcement provision broadly," and apply a flexible "zone of interests" test) *with* A.R.S. §§ 12-1842 ("This article is declared to be remedial."), 12-1835 (declaring that the UDJA's enumeration of specific types of claims "does not limit or restrict the exercise of the general powers conferred in section 12-1831, in any proceeding where declaratory relief is sought,

in which a judgment or decree will terminate the controversy or remove an uncertainty").

The Petitioners respectfully submit that this anomalous and counterintuitive doctrinal result is not countenanced by this Court's precedents—and in fact undermines them. But either way, this case provides an opportune vehicle for clarifying an important facet of Arizona law.

B. The UDJA Does Not Require the "Impairment" of a Unique Interest

The Court of Appeals' erroneous holding derives from two significant flaws in its reasoning.

First, the court waved off the Petitioners' asserted interest in the EPM provision's illegality as "generalized" and common to "any Arizona voter." COA Op. ¶¶ 26, 32. Preliminarily, this argument embraces the fallacy of confusing "concreteness" with "numerosity." *Hall v. Dist. of Columbia*, 141 F.4th 200, 207 (D.C. Cir. 2025). "Often the fact that an interest is abstract and the fact that it is widely shared go hand in hand. But their association is not invariable, and where a harm is concrete, though widely shared, the [Supreme] Court has found 'injury in fact,'" including in voting rights contexts implicating "large numbers of voters." *Fed. Election Comm'n v. Akins*, 524 U.S. 11, 24 (1998); *see also Welch*, 251 Ariz. at 527 ¶ 26 ("Our interpretation's recognition of a large class of claimants under the open-meeting law does not cause us to question its soundness.").

More to the point, the court's analysis obscures the undeniable and intuitively obvious reality that political party organizations are the engine of electoral politics; they register voters, incubate candidates, frame the issues, and engage substantively and integrally with the regulatory structures through which votes are cast and elections are decided. If they are not "necessarily affected by the administration of procedures that govern every stage of the electoral process," *RNC*, 566 P.3d at 990 ¶ 15, then who is? *Cf. La Union del Pueblo Entero v. Abbott*, 29 F.4th 299, 309 (5th Cir. 2022) (recognizing political parties' unique interests in election-related laws, adding that they "are different in kind from the public interests of the State or its officials").

Second, the Court of Appeals deemed the Petitioners' claim of UDJA standing deficient because they had "not identified any right, status, or legal obligation impaired by the [challenged] EPM provision." COA Op. ¶ 25; *see also id.* ¶ 32. But this reasoning tacitly imports into the UDJA precisely the prerequisite of actual injury that this Court has expressly disclaimed. *See Mills*, 253 Ariz. at 424 ¶ 29. The "impairment" of a right, status, obligation, or other interest is the quintessence of a legal "injury." *See Hartman v. Summers*, 120 F.3d 157, 159–60 (9th Cir. 1997) (explaining that the actual or threatened "impairment of interests" is an "injury in fact"). By contrast, it is the ***existence*** of a germane right, status, obligation, or other interest that sustains standing under the UDJA, irrespective of whether it has been

"impaired," violated, or otherwise harmed. By its own terms, the Court of Appeals' analysis subsumes the UDJA into an "injury-in-fact" rubric. That is irreconcilable with, and encapsulates a serious misapplication of, this Court's precedents.

II. The Court of Appeals' Ruling Directly Conflicts with *RNC*

The diametrically opposing dispositions of two cases featuring the same parties, the same asserted interests, and substantially the same claim catalyzes exactly the conflict that warrants this Court's review. *See* ARCAP 23(d)(3). *RNC* expressly validated as sufficient to undergird a challenge to the EPM's validity a political party plaintiff's "interest in the administration and procedural integrity of Arizona elections, as well as the competitive environment affecting [party] candidates." *RNC*, 566 P.3d at 990 ¶ 14 (cleaned up). It likewise agreed that political party committees "expend[] significant resources supporting [their] candidates . . . and some of these resources will necessarily be diverted if election rules are not made consistent with Arizona law," adding that "because the EPM governs the conduct of persons campaigning, voting, observing, administering, and reporting on elections," and because failure to follow the EPM is a crime, the [party], as well as its candidates and volunteers, are necessarily affected." *Id.* Confronted with the same asserted interests (by one of the same plaintiffs) in this case, however, the Court of Appeals changed its mind, deeming them inadequate to sustain standing under the UDJA.

The Court of Appeals justified its tergiversation by contending that "the [Administrative Procedures Act invoked in *RNC*] has its own standing requirement and that case concerned a broader range of procedures than the specific EPM provision at issue here." COA Op. ¶ 36. Neither rationale withstands serious scrutiny. It is true that the *RNC* plaintiffs brought a claim under the APA. But the Court of Appeals' attempt here to retrospectively recast *RNC* as an idiosyncratic byproduct of the APA's standing provision obscures that the court devoted three full paragraphs to ***separately*** analyzing (and finding) standing under "Section 12-1832 of Arizona's Uniform Declaratory Judgments Act." 566 P.3d at 989–90 ¶¶ 13–15. The notion that the UDJA's scope fluctuates in relation to other, independent statutory standing provisions is detached from any recognizable interpretive principle.

The Court of Appeals' emphasis that *RNC* "concerned a broader range of procedures than the specific EPM provision at issue here" is puzzling because that distinction only buttresses the Petitioners' standing here. If the *RNC* plaintiffs (including the RPAZ) have a sufficient real interest in the entire "range" of EPM provisions, then an ineluctable corollary is that the RPAZ (if not also the other Petitioners) necessarily maintains the same interest with respect to a discrete subset of those procedures.

In sum, the constellation of "consistency, continuity, and predictability" is the lodestar of our common law legal system. *State ex rel. Brnovich v. Ariz. Bd. of Regents*, 250 Ariz. 127, 132 ¶ 17 (2020). That the right of the *same* plaintiff asserting the *same* interest in connection with the *same* regulatory enactment to obtain relief can wax and wane depending on randomly assigned Court of Appeals panels evinces the kind of abiding legal uncertainty and instability that only this Court can correct.

ARCAP 21(a) REQUEST

Petitioners request an award of reasonable costs pursuant to A.R.S. § 12-341, and an award of reasonable attorneys' fees pursuant to A.R.S. § 12-348 and/or the private attorney general doctrine. *Ansley v. Banner Health Network*, 248 Ariz. 143, 153, ¶ 39 (2020).

CONCLUSION

The Court should grant the Petition and reverse the Court of Appeals' judgment.

RESPECTFULLY SUBMITTED this 26th day of September, 2025.

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