

1 Roy Herrera (032901)  
Daniel A. Arellano (032304)  
2 Jillian L. Andrews (034611)  
Austin T. Marshall (036582)  
3 **HERRERA ARELLANO LLP**  
4 1001 North Central Avenue, Suite 404  
Phoenix, Arizona 85004  
5 (602) 567-4820  
[roy@ha-firm.com](mailto:roy@ha-firm.com)  
6 [daniel@ha-firm.com](mailto:daniel@ha-firm.com)  
[jillian@ha-firm.com](mailto:jillian@ha-firm.com)  
7 [austin@ha-firm.com](mailto:austin@ha-firm.com)

8 *Attorneys for Plaintiffs*

9 IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA  
10 IN AND FOR THE COUNTY OF MARICOPA

11 ARIZONA DEMOCRATIC PARTY, an  
12 Arizona political party; LISA SANOR, a  
qualified elector,

13 Plaintiffs,

14 v.

15 NO LABELS, a District of Columbia  
16 nonprofit corporation; ADRIAN FONTES, in  
17 his official capacity as the Secretary of State  
of Arizona; APACHE COUNTY BOARD OF  
18 SUPERVISORS, in their official capacity;  
COCHISE COUNTY BOARD OF  
19 SUPERVISORS, in their official capacity;  
COCONINO COUNTY BOARD OF  
20 SUPERVISORS, in their official capacity;  
GILA COUNTY BOARD OF  
21 SUPERVISORS, in their official capacity;  
GRAHAM COUNTY BOARD OF  
22 SUPERVISORS, in their official capacity;  
GREENLEE COUNTY BOARD OF  
23 SUPERVISORS, in their official capacity;  
LA PAZ COUNTY BOARD OF  
24 SUPERVISORS, in their official capacity;  
MARICOPA COUNTY BOARD OF  
25 SUPERVISORS, in their official capacity;  
26 MOHAVE COUNTY BOARD OF  
SUPERVISORS, in their official capacity;  
27 NAVAJO COUNTY BOARD OF  
SUPERVISORS, in their official capacity;  
28 PIMA COUNTY BOARD OF

**COPY**

MAR 30 2023



CLERK OF THE SUPERIOR COURT  
M. REYNA  
DEPUTY CLERK

No. CV 2023-004832

**VERIFIED SPECIAL ACTION  
COMPLAINT**

1 SUPERVISORS, in their official capacity;  
2 PINAL COUNTY BOARD OF  
3 SUPERVISORS, in their official capacity;  
4 SANTA CRUZ COUNTY BOARD OF  
5 SUPERVISORS, in their official capacity;  
6 YAVAPAI COUNTY BOARD OF  
7 SUPERVISORS, in their official capacity;  
8 YUMA COUNTY BOARD OF  
9 SUPERVISORS, in their official capacity,

Defendants.

10 Plaintiffs Arizona Democratic Party and Lisa Sanor, for their Verified Special  
11 Action Complaint against Defendants, allege as follows:

### 12 OVERVIEW

13 1. This Complaint involves a petition filed by an organization known as “No  
14 Labels” with the Arizona Secretary of State on February 10, 2023, to be recognized as a  
15 political party in Arizona: the “No Labels Party.” No Labels is not in fact organized as a  
16 political party, but instead as a nonprofit corporation organized under § 501(c)(4) of the  
17 Internal Revenue Code. It does not comply with any of the requirements political parties  
18 must satisfy under applicable law to participate in federal elections, as No Labels seeks to  
19 do in attempting to secure ballot access for the 2024 primary and general elections in  
20 Arizona.

21 2. The petition by which No Labels seeks ballot access as a political party failed  
22 to comply with the requirements of Arizona law for certifying new political parties, and the  
23 Secretary of State erroneously certified the No Labels Party as a political party on March 7,  
24 2023. This Complaint challenges that certification.

25 3. Under federal law, a “political party” is “an association, committee, or  
26 organization which nominates a candidate for election to any Federal office.” *See* 52 U.S.C.  
27 § 30101(16). As a District of Columbia nonprofit corporation organized under Internal  
28 Revenue Code § 501(c)(4), No Labels must be operated “exclusively for the promotion of

1 social welfare” and so can engage in only insubstantial campaign intervention. 26 U.S.C.  
2 § 501(c)(4); *see also* 26 C.F.R. § 1.501(c)(4)-1(a)(ii).

3 4. Based on information and belief, despite being organized as a 501(c)(4)  
4 corporation whose primary purpose cannot be political campaign intervention, No Labels  
5 has raised approximately \$50 million to secure ballot access as a political party in at least  
6 10 states, with a publicly stated goal of raising at least \$76 million. Its effort to have the No  
7 Labels Party certified in Arizona is part of that initiative.

8 5. Moreover, as a 501(c)(4) corporation that is not registered as a political party  
9 committee or other type of political organization, No Labels is generally not required to  
10 identify its donors and funders. *See, e.g., Citizens for Resp. & Ethics in Wash. v. Fed.*  
11 *Election Comm’n*, 316 F. Supp. 3d 349, 380–81 (D.D.C. 2018). To date, No Labels has not  
12 publicly disclosed its donors, leaving the sources of much of its funding largely unknown.  
13 Nor has No Labels publicly identified the donors behind the initiative to have it certified as  
14 a political party in Arizona, despite federal laws requiring political party committees  
15 spending more than \$5,000 to influence a federal election to identify their donors in filings  
16 with the Federal Election Commission. *See* 52 U.S.C. §§ 30101(4)(A), 30104(b)(3).

17 6. In Arizona, a new political party may become eligible for recognition by  
18 timely filing with the Secretary of State a petition signed by the requisite number of  
19 qualified electors. A.R.S. § 16-801(A). The “petition shall,” among other things, “[b]e  
20 verified by the affidavit of ten qualified electors of the state, asking that the signers thereof  
21 be recognized as a new political party.” A.R.S. § 16-801(A)(1).

22 7. The Secretary of State must determine the total number of valid signatures on  
23 the petition after his initial culling of signatures and review and certification of a twenty-  
24 percent signature sample by the county recorders of counties where petition signers purport  
25 to be qualified electors. A party with the requisite number of valid signatures qualifies for  
26 recognition.

27 8. While a petition for political party recognition must be “verified by the  
28 affidavit of ten qualified electors of the state,” A.R.S. § 16-801(A)(1), the petition filed by

1 No Labels was “verified” by elector affidavits that long predated the completion of the  
2 petition. Indeed, No Labels continued to collect petition signatures for months after its  
3 electors signed affidavits purporting to verify the petition.

4 9. Because these elector affiants could not verify an incomplete petition or speak  
5 for electors who had not yet signed it, the affidavits purporting to verify the petition were  
6 false, rendering the entire petition invalid. No Labels is not entitled to political party  
7 recognition in Arizona.

### 8 **PARTIES, JURISDICTION, AND VENUE**

9 10. Plaintiff Arizona Democratic Party (“ADP”) is a political party entitled to  
10 continued representation on the ballot under A.R.S. § 16-804. It is a “State committee”  
11 under federal campaign finance law. *See* 52 U.S.C. § 30101(15). Its purpose is to elect  
12 Democratic Party candidates to public office in Arizona. To accomplish this purpose, ADP  
13 supports Democratic candidates in national, state, and local elections through fundraising  
14 and organizing efforts and protecting the rights of Arizona voters. ADP has members and  
15 constituents throughout Arizona, including many voters who regularly support and vote for  
16 candidates affiliated with the Democratic Party. ADP brings this claim on its own behalf  
17 and on behalf of its members and constituents.

18 11. To protect the integrity of the ballot, Arizona law imposes appropriately strict  
19 burdens for the recognition of a new party. The unlawful recognition of No Labels as a  
20 political party, without it having met these requirements, will require ADP to expend and  
21 divert additional funds and staff time on voter education to accomplish its mission in  
22 Arizona. For example, ADP anticipates needing to focus additional educational resources  
23 to elect Democratic Party candidates. Further ADP and its constituents are directly harmed  
24 by the unlawful recognition of No Labels because it will make it more difficult to elect  
25 Democratic Party candidates.

26 12. Plaintiff Lisa Sanor is a qualified elector and a registered Democrat. As such,  
27 she will further be harmed by the unlawful recognition of No Labels as a party because it  
28

1 will make it more difficult to elect Democratic Party candidates whom she desires to be  
2 elected.

3 13. Defendant No Labels is a 501(c)(4) nonprofit corporation in the District of  
4 Columbia and is, upon information and belief, the proponent of the petition for new party  
5 recognition for the No Labels Party in Arizona.

6 14. Defendant Adrian Fontes is the Secretary of State of Arizona and is named in  
7 his official capacity only. Secretary Fontes is the officer with whom petitions for new  
8 political party recognition are filed and is responsible for reviewing and processing said  
9 petitions, determining the total number of valid signatures on the petition, and determining  
10 whether the party is eligible for recognition.

11 15. Defendants the Board of Supervisors in each of Apache, Cochise, Coconino,  
12 Gila, Graham, Greenlee, La Paz, Maricopa, Mohave, Navajo, Pima, Pinal, Santa Cruz,  
13 Yavapai, and Yuma counties (collectively, the "County Boards of Supervisors") are named  
14 in their official capacities only. The County Boards of Supervisors are the governing bodies  
15 charged by law with conducting elections within their jurisdictional boundaries, including  
16 preparing primary election ballots for recognized political parties and general election  
17 ballots that include columns for recognized political parties. A.R.S. §§ 11-251(3), 16-405,  
18 16-461, 16-502(C), 16-503(A).

19 16. This court has jurisdiction under Article VI, §§ 14, 18 of the Arizona  
20 Constitution; A.R.S. §§ 12-123, 12-1801, 12-1831, and 12-2021; and Rules 1 and 4(a) of  
21 the Arizona Rules of Procedure for Special Actions.

22 17. Venue in Maricopa County is proper under A.R.S. § 12-401(16) and Rule 4(b)  
23 of the Arizona Rules of Procedure for Special Actions because at least one of the public-  
24 officer defendants holds office and conducts official business in Maricopa County.

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1 **GENERAL ALLEGATIONS**

2 **I. The Petition and the Secretary of State’s Review and Certification.**

3 18. On February 10, 2023, No Labels filed with the Secretary of State a petition  
4 for political party recognition that consisted of 7,079 petition sheets bearing a total of  
5 56,971 signatures eligible for review.

6 19. The petition bore signatures dated as early as March 2, 2022, and as late as  
7 January 31, 2023.

8 20. The Secretary of State removed 585 individual petition signatures based on  
9 various defects under A.R.S. § 16-803(B)(1)–(2).

10 21. The Secretary of State selected a 20% random sample of the 56,387 remaining  
11 eligible signatures, identifying 11,278 petition signatures across 5,626 petition sheets for  
12 verification by county recorders under A.R.S. § 16-803(C)–(D).

13 22. The county recorders validated 8,647 signatures and disqualified 2,631  
14 signatures, resulting in an invalidity rate of 23.33%.

15 23. After deducting county-invalidated signatures and applying the invalidity rate  
16 to the remaining signatures, the Secretary of State determined that the total number of valid  
17 signatures was 41,663, which exceeded the 34,127 minimum signatures required.

18 24. On March 7, 2023, the Secretary of State issued a certification of the “Final  
19 Results of the No Labels Party of Arizona Filing,” declaring that “[t]he No Labels Party  
20 exceeds the minimum signature requirement and, therefore, qualifies as a new party for  
21 federal, statewide, and legislative races in the 2024 Primary and General Elections under  
22 Arizona law.”

23 **II. The Facially Defective and False Elector Affidavits.**

24 25. The No Labels petition was accompanied by twelve “Affidavit of Electors”  
25 sheets, which collectively bore the signatures of 16 electors averring: “We, the ten  
26 undersigned qualified electors of the state of Arizona, request that the signers of the attached  
27 petitions be recognized as a new political party, to be called No Labels Party.”  
28

1           26. The affidavit sheets were signed between October 26, 2022, and December 9,  
2 2022:

3                   a. Joe Smyth of Maricopa County signed his affidavit sheet on October  
4 26, 2022.

5                   b. Terrence Woods, Jerome Barnier Jr., and Julie Johnson of Maricopa  
6 County signed their affidavit sheets on October 27, 2022.

7                   c. Adam Trenk of Maricopa County signed his affidavit sheet on October  
8 31, 2022.

9                   d. Michael Lawson of Maricopa County and Gail Wachtel of Pima  
10 County signed their affidavit sheets on November 7, 2022.

11                   e. Steven McClain and Jerry Oliver of Maricopa County signed their  
12 affidavit sheets on November 8, 2022.

13                   f. Fredric Starner, Jana Starner, Rachel Bailey, Cohen Plummer, and  
14 Frank Langford, all of Maricopa County, signed the same affidavit sheet on  
15 November 29, 2022.

16                   g. Sentari Minor of Maricopa County signed his affidavit sheet on  
17 December 1, 2022.

18                   h. Thomas McIntyre of Pima County signed his affidavit sheet on  
19 December 9, 2022.

20           27. Most of the electors had signed an “Affidavit of Electors” sheet by November  
21 8, 2022—the latest signed on December 9, 2022—yet No Labels continued to collect  
22 additional petition signatures for months, as late as January 31, 2023.

23           28. No elector, when executing the affidavit sheet, had before him or her the  
24 petition that would be filed with the Secretary of State, meaning that no elector verified the  
25 petition that was actually filed. It is entirely unclear whether they had anything in front of  
26 them at all. But certainly, they could not have had in front of them something that did not  
27 yet exist.

28

1           29. Indeed, each elector who signed an “Affidavit of Electors” sheet on a given  
2 day had an entirely different set of petition signatures than electors who signed affidavits  
3 on a different day, as No Labels continued to collect signatures after the execution of each  
4 affidavit sheet.

5           30. As a result, no ten electors verified by affidavit the petition that was filed with  
6 the Secretary of State on February 10, 2023. That petition is unverified. *See* A.R.S. § 16-  
7 801(A)(1) (requiring that the petition for new party recognition “[b]e verified by the  
8 affidavit of ten qualified electors”).

9           31. In addition to failing to verify the petition, the affidavit sheets asked for the  
10 wrong thing and misrepresented even that. The verification affidavit must ask “that the  
11 signers *thereof* be recognized as a new political party.” A.R.S. § 16-801(A)(1) (emphasis  
12 added). But the No Labels affidavit sheets asked instead “that the signers of the *attached*  
13 *petitions* be recognized as a new political party” (emphasis added). Of course, the later-  
14 signed petition sheets could not possibly have been “attached” to any affidavit when it was  
15 executed. And the signers of the petition sheets had asked only that a new party be  
16 recognized, not that they constitute or join the party. By the affidavits’ terms, the affidavit  
17 signers both inaccurately stated what was before them and misrepresented what the petition  
18 signers actually sought.

19           32. It is well-settled Arizona law that false affidavits void the signature sheets they  
20 purport to verify, rendering the signatures on those sheets invalid. *See Brousseau v.*  
21 *Fitzgerald*, 138 Ariz. 453, 456 (1984) (“[P]etitions containing false certifications by  
22 circulators are void, and the signatures on such petitions may not be considered in  
23 determining the sufficiency of the number of signatures to qualify for placement on the  
24 ballot.”); *Moreno v. Jones*, 213 Ariz. 94, 103 ¶ 47 (2006) (“[P]etitions that are improperly  
25 certified are void.”); *Parker v. City of Tucson*, 233 Ariz. 422, 438 ¶ 48 (App. 2013) (“The  
26 false affidavits rendered the signature sheets void.”). This is so even under a substantial  
27 compliance standard. *See Moreno*, 213 Ariz. at 103 ¶ 47 (“Falsely certifying a petition is a  
28 ‘serious matter involving more than a technicality.’” (quoting *Brousseau*, 138 Ariz. at 455)).



1 33. The upshot is that “signatures on defective petitions are themselves invalid,”  
2 *Kennedy v. Lodge*, 230 Ariz. 548, 550 ¶ 9 (2012). Courts regularly toss entire petition  
3 measures for failure to comply with applicable legal requirements. *See Molera v. Reagan*,  
4 245 Ariz. 291, 294 ¶ 11 (2018) (observing that “this Court in many cases has invalidated  
5 [petition measures] that did not comply with applicable requirements,” and collecting cases  
6 where the court had done so).

7 34. Arizona law, including A.R.S. §§ 16-801, 803, establishes a petition  
8 verification process for new political parties for the purpose of safeguarding the integrity of  
9 the electoral system. No Labels’ pursuit of “political party” status has involved presenting  
10 prospective signers with petitions indicating that it is organized as a political party, “which  
11 shall be known as the No Labels Party,” and seeking to be “represented by an official party  
12 ballot” in the State of Arizona. The electors verifying the petition as required by Arizona  
13 law aver and request that the “signers of the attached petitions be recognized as a new  
14 political party.” Yet No Labels is neither organized nor functions as a political party, and it  
15 does not comply with the legal requirements that political parties seeking access to the ballot  
16 to participate in federal elections must satisfy.

17 35. It is in this context that No Labels also submitted false verifications of its  
18 petitions, as set out in the Complaint, rendering them invalid. No Labels cannot therefore  
19 qualify as a new party for federal, statewide, and legislative races in the 2024 Primary and  
20 General Elections under Arizona law.

21  
22 **COUNT I**

23 **(Special Action Relief in the Nature of Mandamus Against the Secretary of State)**

24 36. Plaintiffs reallege and incorporate the preceding paragraphs.

25 37. Courts may issue a writ of mandamus to any “person [or] corporation . . . on  
26 the verified complaint of the party beneficially interested, to compel, when there is not a  
27 plain, adequate and speedy remedy at law, performance of an act which the law specially  
28 imposes as a duty resulting from an office . . . .” A.R.S. § 12-2021. Accordingly, under

1 A.R.S. § 12-2021, members of the public who are “beneficially interested” in an action may  
2 sue to compel officials to perform their non-discretionary duties. *Ariz. Pub. Integrity All. v.*  
3 *Fontes*, 250 Ariz. 58, 62 ¶ 11 (2020). “The phrase ‘party beneficially interested’ is ‘applied  
4 liberally to promote the ends of justice.’” *Id.* (quoting *Barry v. Phx. Union High Sch.*, 67  
5 Ariz. 384, 387 (1948)).

6 38. As an Arizona political party entitled to continued representation on the ballot  
7 and as a qualified elector, Plaintiffs have a beneficial interest in compelling elections  
8 officials to comply with their non-discretionary duty to comply with Arizona election law.  
9 *See id.* at 62 ¶ 12.

10 39. Where a mandamus action is “brought to review a determination or order of a  
11 body or officer, the judgment may annul or confirm the determination in whole or in part,  
12 or modify it, and may direct, order, or prohibit specified action by the defendant.” Ariz. R.  
13 P. Special Actions 6.

14 40. The Secretary of State determined that No Labels “qualifies as a new party for  
15 federal, statewide, and legislative races in the 2024 Primary and General Elections under  
16 Arizona law,” despite No Labels having submitted a facially deficient petition that was not  
17 properly verified as required by A.R.S. § 16-801(A)(1). No Labels’ failure to verify its  
18 petition as required by A.R.S. § 16-801(A)(1) voided every signature on the petition.

19 41. Based on the facially deficient petition filed by No Labels, its petition has no  
20 valid signatures, and the Secretary of State had a nondiscretionary legal duty to determine  
21 as much and certify that No Labels would not be recognized as a party. *See* A.R.S. § 16-  
22 803(H)–(I); Ariz. R. P. Special Actions 3(a).

23 42. By certifying that No Labels would be recognized notwithstanding its facially  
24 deficient petition, the Secretary of State also exceeded his legal authority and abused his  
25 discretion. Ariz. R. P. Special Actions 3(b)–(c).

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**COUNT II**

**(Injunctive and Declaratory Relief for Violation of A.R.S. § 16-801 and -803 Against All Defendants)**

43. Plaintiffs reallege and incorporate the preceding paragraphs.

44. Arizona courts have authority to “declare rights, status, and other legal relations whether or not further relief is or could be claimed. . . . The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.” A.R.S. § 12-1831. “The declaratory judgment act is remedial and is to be liberally construed.” *Citizens’ Comm. for Recall of Jack Williams v. Morton*, 109 Ariz. 188, 192 (1973).

45. By failing to verify the petition for new party recognition filed with the Secretary of State and submitting false elector affidavits that also failed to request that its signers “be recognized as a new political party,” A.R.S. § 16-801(A)(1), No Labels has failed to meet the threshold requirements of A.R.S. § 16-801(A)(1). No Labels is not entitled to party recognition.

46. As an Arizona political party entitled to continued representation on the ballot and as a qualified elector, Plaintiffs have an actual and real interest in ensuring that only those political parties that have satisfied the legal requirements for recognition receive an official primary ballot and appear alongside (and thereby compete for votes with) ADP on the general election ballot.

47. There is an actual and justiciable controversy between Plaintiffs, No Labels, the Secretary of State, and the County Boards of Supervisors regarding No Labels’ eligibility for political party recognition, and declaratory judgment and injunctive relief from the Court would resolve the controversy.

48. The purpose of the new party statutes, including A.R.S. §§ 16-801, 803, is to protect the integrity of the electoral system and the process of giving effect to the will of voters; the statutes are intended to benefit all Arizona voters, as well as existing recognized political parties and their candidates.

1           49. Arizona courts have authority to grant injunctions. A.R.S. § 12-1801. Further,  
2 “all public officials . . . may be ‘enjoined from acts’ that are beyond [their] power.” *Ariz.*  
3 *Pub. Integrity All.*, 250 Ariz. at 62 ¶ 14 (quoting *Berry v. Foster*, 180 Ariz. 233, 235–36  
4 (App. 1994)).

5           50. As the officials responsible for preparing official ballots, the County Boards  
6 of Supervisors may afford a party ballot in a primary election, or a column on the official  
7 ballot in the general election, only to those political parties that have satisfied the  
8 requirements for new party recognition under A.R.S. §§ 16-801, -803.

9           51. Because No Labels has failed to meet the requirements for new party  
10 recognition under A.R.S. §§ 16-801, -803, the County Boards of Supervisors lack the power  
11 to prepare for No Labels an official party ballot at the next regular primary election or to  
12 accord No Labels a column on the official ballot at the next general election and should be  
13 so enjoined.

14           52. As the official responsible for reviewing new party petitions and determining  
15 their eligibility, the Secretary of State must certify only those new political parties that have  
16 satisfied the requirements for new party recognition under A.R.S. §§ 16-801, -803.

17           53. Because No Labels has failed to meet the requirements for new party  
18 recognition under A.R.S. §§ 16-801, -803, the Secretary of State lacked power to certify  
19 that No Labels would be recognized as a party, and the Secretary of State should be required  
20 to rescind his certification of the “Final Results of the No Labels Party of Arizona Filing.”

21  
22   **PRAYER FOR RELIEF**

23           WHEREFORE, Plaintiffs respectfully request that this Court provide the following  
24 relief:

25           A. A writ of mandamus annulling the Secretary of State’s recognition that No  
26 Labels “qualifies as a new party for federal, statewide, and legislative races in the 2024  
27 Primary and General Elections under Arizona law,” or directing the Secretary of State to  
28 rescind the recognition.

1 B. A declaration that the petition for new party recognition filed by No Labels  
2 with the Secretary of State on February 10, 2023 was not properly verified by the affidavit  
3 of ten qualified electors as required by A.R.S. § 16-801(A)(1), rendering all the signatures  
4 on the petition invalid and disqualifying No Labels from receiving recognition.

5 C. An injunction prohibiting the County Boards of Supervisors from preparing  
6 an official party ballot for No Labels at the 2024 primary election and from according a  
7 column on the official ballot to No Labels at the 2024 general election.

8 D. An injunction requiring the Secretary of State to rescind his March 7, 2023  
9 certification of the “Final Results of the No Labels Party of Arizona Filing.”

10 E. An order awarding Plaintiffs their taxable costs under A.R.S. §§ 12-341 and  
11 12-1840.

12 F. An order awarding Plaintiffs their attorneys’ fees under any applicable statute  
13 or equitable doctrine, including under A.R.S. §§ 12-348(A)(4) and 12-1840 and Rule 4(g)  
14 of the Arizona Rules of Procedure for Special Actions, and

15 G. Any other relief as may be appropriate.

16 Dated: March 30, 2023

17 Respectfully submitted,

18 **HERRERA ARELLANO LLP**

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20 \_\_\_\_\_  
21 Roy Herrera  
22 Daniel A. Arellano  
23 Jillian L. Andrews  
24 Austin T. Marshall  
25 1001 North Central Avenue, Suite 404  
26 Phoenix, Arizona 85004

27 *Attorneys for Plaintiffs*

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**VERIFICATION**

I, Lisa Sanor, make the following verification under penalty of perjury:

I have read the foregoing complaint and verify that the facts stated in it are true to the best of my knowledge and belief, except as to those matters alleged on information and belief, and as to them, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 24, 2023.



Lisa Sanor