



ATTORNEYS AT LAW  
The Wilenchik & Bartness Building  
2810 North Third Street Phoenix, Arizona 85004

Telephone: 602-606-2810 Facsimile: 602-606-2811

Dennis I. Wilenchik, #005350

John D. Wilenchik, #029353

[admin@wb-law.com](mailto:admin@wb-law.com)

*Attorneys for Intervenor Third-Party Plaintiff*

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF ARIZONA**

**John Anthony Castro,**

**Plaintiff,**

**v.**

**Secretary of State, Adrian Fontes; and  
Donald J. Trump,**

**Defendants.**

**No. 2:23-cv-01865-PHX-DLR**

**THIRD-PARTY COMPLAINT  
IN INTERVENTION**

**Arizona Republican Party, a state  
committee,**

**Intervenor Third-Party Plaintiff,**

**v.**

**John Anthony Castro,**

**Third-Party Defendant.**

Intervenor Third-Party Plaintiff, through undersigned counsel, alleges as follows:

1. The Arizona Republican Party (“AZGOP”) is a political party committee organized and operated pursuant to Title 16, Chapter 5 of the Arizona Revised Statutes. As stated in its bylaws, the purpose of the AZGOP is to conduct party activities, promote Republican principles

1 and policies, and support the election of Republican candidates in national, state, and local  
2 elections, all in coordination with the Republican National Committee.

3 2. The AZGOP possesses a unique interest in protecting access of registered Arizona  
4 Republicans to as many candidates as possible for any primary election, including the presidential  
5 preference election. Supporting candidates and facilitating the free and unhindered input of  
6 registered Arizona Republicans in the process of candidate selection are core purposes of the  
7 AZGOP that are also protected by the First Amendment to the United States Constitution. The  
8 AZGOP also has a strong interest in ensuring that its presidential preference elections are fair to  
9 all potential candidates and are perceived as such both by registered Arizona Republicans and  
10 others. Moreover, the AZGOP’s interests in this area are continuing and applicable to each future  
11 primary or presidential preference election, not only the 2024 presidential preference election.

12 3. The Plaintiff’s identity is set forth in paragraph 2 of the Verified Complaint. The  
13 AZGOP acknowledges Plaintiff’s identity as pleaded but does not concede any factual allegation.

14 4. Defendant Secretary of State’s identity is set forth in paragraph 3 of the Verified  
15 Complaint. He is sued in his individual capacity.

16 5. Defendant Donald J. Trump’s identity is set forth in paragraph 4 of the Verified  
17 Complaint.

18 **JURISDICTION AND VENUE**

19 6. This action arises under the First Amendment of the Constitution of the United  
20 States.

21 7. This Court has jurisdiction under 28 USC 1331, 1367, and 1343(a)(4).

22 8. This Court has authority to award the requested declaratory relief pursuant to 28  
23 USC 2201 and 2202, and Rule 57 of the Federal Rules of Civil Procedure.

24 9. This Court has authority to award the AZGOP its reasonable costs and attorneys’  
25 fees pursuant to the general legal and equitable powers of this Court.

26 10. Venue is proper in this district under 28 USC 1391(b).

WILENCHIK & BARTNESS  
A PROFESSIONAL CORPORATION

**FACTUAL ALLEGATIONS**

1  
2 11. The AZGOP, as Intervenor, hereby intervenes in this action pursuant to Rule 24 of  
3 the Federal Rules of Civil Procedure and seeks declaratory relief.

4 12. This action was filed on September 5, 2023, in the United States District Court for  
5 the District of Arizona, under civil action number 2:23-cv-01865-PHX-DLR.

6 13. Plaintiff has moved for a preliminary injunction. However, the motion has not yet  
7 been decided nor has Defendants’ deadline to oppose the motion passed.

8 14. Therefore, this motion to intervene is timely.

9 15. Pursuant to its bylaws and Arizona state statute, the AZGOP possesses significantly  
10 protectable interests 1) in promoting the fairness and appearance of fairness of Arizona  
11 Republican presidential preference elections, both for the 2024 election and onwards; 2) in  
12 presenting registered Arizona Republicans with a wide slate of possible candidates; and 3) in  
13 safeguarding the related rights of free speech and free association closely connected with these  
14 goals. The AZGOP itself exists, pursuant to Arizona state mandate, to safeguard and facilitate the  
15 political process on behalf of its registered members. These laws by which the AZGOP is  
16 organized, themselves, give rise to a significantly protectable legal interest of the AZGOP to  
17 continue fulfilling its core duties on behalf of its members.

18 16. The AZGOP is situated such that disposition of this action will impair its ability to  
19 protect its interests, both its interests in ensuring that former President Trump is included as a  
20 candidate in the 2024 Arizona Republican presidential preference election and its interests in  
21 promoting, supporting and assisting with a candidate’s inclusion on the slate of any future Arizona  
22 Republican presidential preference election.

23 17. The AZGOP’s rights in this situation are distinct from the other defendants and will  
24 not adequately be represented by those defendants because they do not share the same long-term  
25 and speech/association-focused ultimate objectives.

26 18. Plaintiff’s requested relief violates the constitutional rights of the AZGOP and its  
27 members.  
28



1 19. The AZGOP and its members have associational and speech rights protected by the  
2 First Amendment to the United States Constitution and the Arizona Constitution, Article 2  
3 Sections 5 & 6, which are implicated here.

4 20. Given the early posture of the case and Plaintiff’s recent motion to continue the  
5 preliminary injunction hearing date, Plaintiff would not be prejudiced, and this action would not  
6 be unduly delayed, by permitting the AZGOP to intervene.

7 **CAUSES OF ACTION**

8 **Count I**

9 **(Declaratory Relief Regarding First Amendment – Freedom of Speech and Association)**

10 21. The allegations in the foregoing paragraphs are incorporated by reference here as if  
11 fully set out.

12 22. The First Amendment of the United States Constitution protects private speech and  
13 expression from government interference or restriction when the specific motivating ideology or  
14 the opinion or perspective of the speaker is the rationale for the restriction.

15 23. The First Amendment protects the speech and associational rights of associations,  
16 including those of the AZGOP.

17 24. Plaintiff’s requested relief, *i.e.*, the conduct it seeks to compel of the Secretary of  
18 State, unlawfully deprives the AZGOP of its First Amendment rights to engage in protected  
19 speech, expression, and association.

20 25. The relief sought by Plaintiff is a restriction on AZGOP’s speech which is content  
21 and viewpoint-based and demonstrates an effort to intimidate and silence the AZGOP’s  
22 association and expression.

23 26. The AZGOP has been and will continue to be harmed as a direct and proximate  
24 result of Plaintiff’s attempts to violate the AZGOP’s constitutional rights.

25 27. The AZGOP seeks a declaration pursuant to Fed. R. Civ. P. 57 and 28 USC 2201  
26 that Plaintiff’s requested relief violates the AZGOP’s rights under the U.S. Constitution, and  
27 therefore, must be denied.  
28

WILENCHIK & BARTNESS  
A PROFESSIONAL CORPORATION

**Count II**

**(Declaratory Relief Regarding Article 2 of the Arizona Constitution–  
Freedom of Speech and Association)**

28. The allegations in the foregoing paragraphs are incorporated by reference here as if fully set out.

29. The Arizona Constitution enshrines and protects the freedom of speech and freedom of association, including the speech and associational rights of associations, such as the AZGOP.

30. “By its terms, the Arizona Constitution provides broader protections for free speech than the First Amendment.” *Brush & Nib Studio v. City of Phoenix*, 247 Ariz. 269, 281 (Ariz. 2019). “A violation of First Amendment principles “necessarily implies a violation of the broader protections of Article 2 Section 6” of the Arizona Constitution. *Id.* at 282.

31. Plaintiff’s requested relief, *i.e.*, the conduct it seeks to compel of the Secretary of State, unlawfully deprives the AZGOP of its Article 2 rights to engage in protected speech, expression, and association.

32. The AZGOP has been and will continue to be harmed as a direct and proximate result of Plaintiff’s attempts to violate the AZGOP’s Arizona state constitutional rights.

33. The AZGOP seeks a declaration pursuant to Fed. R. Civ. P. 57 and 28 USC 2201 that Plaintiff’s requested relief violates the AZGOP’s rights under Article 2 of the Arizona Constitution, and therefore, must be denied.

**Count III**

**(Declaratory Relief Regarding Applicability of U.S. Const. amend. XIV, Sec. 3)**

34. The allegations in the foregoing paragraphs are incorporated by reference here as if fully set out.

35. Plaintiff seeks an order requiring the Arizona Secretary of State to remove or preclude former President Trump from the ballot for the 2024 Arizona Republican presidential preference election pursuant to U.S. Const. amend. XIV, Sec. 3.

36. The actions alleged by Plaintiff do not suffice to support Plaintiff’s desired relief against the Arizona Secretary of State.



1 37. The AZGOP therefore seeks a declaration pursuant to Fed. R. Civ. P. 57 and 28  
2 USC 2201 that the Secretary of State does not have the authority pursuant to U.S. Const. amend.  
3 XIV, Sec. 3 to preclude former President Trump from being included on the ballot of Arizona’s  
4 2024 Republican presidential preference election.

5 **PRAYER FOR RELIEF**

6 The AZGOP repeats and realleges all allegations set forth above and incorporates those  
7 allegations herein by reference, and requests that this Court grant to it the following relief and  
8 enter final judgment denying the relief sought by Plaintiff:

- 9 A. Declare the relief sought by Plaintiff to be in violation of the AZGOP’s rights under  
10 the First Amendment to the United States Constitution, Article 2 of the Arizona  
11 State Constitution, and improper under U.S. Const. amend. XIV, Sec. 3; and
- 12 B. Award to the AZGOP the costs of this action and its reasonable attorneys’ fees; and
- 13 C. Award such other and further relief as the Court deems equitable and just.

14 **RESPECTFULLY SUBMITTED** on October 18, 2023.

15 **WILENCHIK & BARTNESS, P.C.**

16 */s/ Dennis I. Wilenchik*  
 17 \_\_\_\_\_  
 18 Dennis I. Wilenchik, Esq.  
 19 John “Jack” D. Wilenchik, Esq.  
 20 The Wilenchik & Bartness Building  
 21 2810 North Third Street  
 22 Phoenix, Arizona 85004  
 23 [admin@wb-law.com](mailto:admin@wb-law.com)  
 24 *Attorneys for Intervenor Third-Party Plaintiff*

WILENCHIK & BARTNESS  
A PROFESSIONAL CORPORATION