

No. 25-1022

In the
Supreme Court of the United States

STATE OF ARIZONA AND
ARIZONA ATTORNEY GENERAL KRISTIN K. MAYES,
Petitioners,

v.

PROMISE ARIZONA, ET AL.,
Respondents.

*On Petition for Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit*

**SUPPLEMENTAL BRIEF FOR THE
PETITIONERS**

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SUPPLEMENTAL BRIEF

Pursuant to Supreme Court Rule 15.8, Petitioners the State of Arizona and Arizona Attorney General Kristin K. Mayes (together, “Arizona”) alert this Court to the Ninth Circuit’s recent decision in *Arizona Alliance for Retired Americans v. Mayes* (“AARA”), 186 F.4th 622 (9th Cir. 2026) (en banc), issued after Arizona filed its reply in this Court. The decision from the en banc AARA court undermines the reasoning of the Ninth Circuit panel majority in this case regarding the requirements for establishing representational standing. This development along with the existing conflict between the Ninth Circuit panel’s decision and this Court’s holding in *Summers v. Earth Island Institute*, 555 U.S. 488, 497–98 (2009), warrant granting Arizona’s petition for writ of certiorari, vacating the judgment, and remanding the case for further proceedings before the Ninth Circuit.

1. Arizona’s petition for writ of certiorari concerns a discriminatory purpose challenge to a 2022 voter registration law by two non-profit groups—Promise Arizona and the Southwest Voter Registration Education Project (“SVREP”). Below, the district court found that Promise Arizona and SVREP had organizational standing because the challenged law “frustrates the organizations’ missions and will require the diversion of resources to respond to its effects.” *Mi Familia Vota v. Fontes*, 719 F. Supp. 3d 929, 986–97 (D. Ariz. 2024). The district court also determined that Promise Arizona had standing to sue on behalf of its members, without requiring Promise Arizona to identify any members who would be

affected by the challenged provisions of the Arizona voter registration laws. *Id.*

Promise Arizona and SVREP were the only plaintiffs who appealed the district court’s finding that the law they challenged was not enacted with intent to discriminate. *Mi Familia Vota v. Fontes*, 129 F.4th 691, 701 (9th Cir. 2025). Thus, to reach the issue of discriminatory intent, the Ninth Circuit panel had to determine whether either Promise Arizona or SVREP had standing. *Id.* at 702, 708–09. The Ninth Circuit panel majority concluded that Promise Arizona had representational standing because “one or more” of its members “may be adversely affected” and it did not need to “identify by name its members who would be injured.” *Id.* at 709 (citing *Nat’l Council of La Raza v. Cegavske*, 800 F.3d 1032, 1041 (9th Cir. 2015)). SVREP is not a membership organization and never asserted representational standing. *See Mi Familia Vota*, 719 F. Supp. 3d at 976. The panel therefore did not address SVREP’s representational standing nor whether either Promise Arizona or SVREP had organizational standing. *See id.*

On February 19, 2026, the State of Arizona and the Arizona Attorney General petitioned for certiorari, arguing that the panel majority’s holding that representational standing can be established without identifying at least one injured member conflicts with this Court’s holding in *Summers v. Earth Island Institute*, 555 U.S. 488, 497–98 (2009), and with the rule in a majority of Circuits. *See Pet.* at 25–28.

2. On August 7, 2026, the Ninth Circuit, sitting en banc, issued its decision in *AARA*. 186 F.4th 622. In *AARA*, a group of organizational plaintiffs sought

and obtained a preliminary injunction against a different set of recently enacted Arizona voter registration laws. *Id.* at 628. The en banc *AARA* court reversed, holding that the organizations’ diversion of resources and frustration of mission theories failed to show standing under this Court’s decision in *FDA v. Alliance for Hippocratic Medicine*. *See id.* (citing *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 395 (2024)). In doing so, *AARA* expressly overruled prior circuit precedent analyzing organizational standing “without the benefit of *Hippocratic Medicine*.” *Id.* at 633–34.

One of the organizational plaintiffs argued that it also had representational standing. *Id.* at 631 n.1. Recognizing that an organization may sue on behalf of its members in certain circumstances, the en banc court nevertheless rejected the plaintiff’s claim of representational standing because it had “*not identified a member*” who had been affected by the challenged law or intended to engage in protected conduct arguably prohibited by the challenged law. *Id.* (emphasis added).

The Ninth Circuit panel’s holding in this case directly conflicts with *AARA*. The panel’s conclusion that Promize Arizona “need not identify” any member who would be affected by the challenged law cannot be squared with *AARA*’s rejection of representational standing based on the same failure to identify a member who would likely be injured. 186 F.4th at 631 n.1.

AARA also explicitly overruled prior Ninth Circuit precedent that permitted organizational standing based on “diversion of resources” and “frustration of purpose.” *Id.* at 633–34. Because such a theory was

the organizations’ only other basis for standing before the district court, *Mi Familia Vota*, 719 F. Supp. 3d at 986–87, it is now apparent that Promise Arizona and SVREP lack both organizational and representational standing as a matter of Ninth Circuit law, *see Yovino v. Rizo*, 586 U.S. 181, 183 (2019) (a Ninth Circuit en banc decision “constitutes a precedent that all future Ninth Circuit panels must follow”); *United States v. Caperna*, 251 F.3d 827, 831 n.2 (9th Cir. 2001) (to the extent a three-judge panel decision and an en banc decision are inconsistent, a Ninth Circuit panel is “bound by the en banc case”).

Given the incompatibility between the en banc AARA decision and the Ninth Circuit panel’s holding in this case, the Court should grant the petition for writ of certiorari, vacate the judgment, and remand for further proceedings. AARA is an “intervening development” that creates “a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration.” *Lawrence ex rel. Lawrence v. Chater*, 516 U.S. 163, 167 (1996). And “redetermination” on the existence of standing “may determine the ultimate outcome of the litigation.” *Id.*; *see, e.g., Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 94 (1998) (“Without jurisdiction the court cannot proceed at all in any cause.” (quoting *Ex parte McCardle*, 74 U.S. (7 Wall.) 506, 514 (1868))).

This Court has previously found it appropriate to grant, vacate, and remand when a Circuit Court of Appeals, sitting en banc, issues a controlling opinion after a petition for certiorari is filed. *See, e.g., Brown v. United States*, 584 U.S. 928 (2018) (granting,

vacating, and remanding in light of an intervening Eight Circuit en banc opinion). Because correctly applying *AARA* in this case would result in the dismissal of Promise Arizona and SVREP's appeal, granting, vacating, and remanding is the right course in these circumstances. *See id.*

3. On June 29, 2026, this Court granted the Republican National Committee's petition for certiorari in *RNC v. Mi Familia Vota*, No. 25-1017, which arises from the same lower court proceeding. The issues in the *RNC* petition are distinct from the standing and discriminatory intent issues raised in Arizona's petition. *See* Pet. Br. at i, *RNC*, No. 25-1017 (Aug. 28, 2026). Arizona accordingly requests that this Court grant the petition for certiorari, vacate the judgment, and remand the case for further proceedings before the Ninth Circuit after the *RNC* petition is resolved so that the Ninth Circuit can simultaneously resolve all remaining issues on remand.

CONCLUSION

For the reasons above, Petitioner requests that the petition for writ of certiorari be granted, the judgment vacated, and the case remanded for further proceedings before the Ninth Circuit.

Respectfully submitted,

October 6, 2026

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