EXHIBIT A

DECLARATION OF DANA LEWIS

I, Dana Lewis, declare as follows:

1. I am over 18 years of age, of sound mind, and capable of making this declaration. I have personal knowledge of the matters set forth herein. If called as a witness to testify as to the matters set forth here, I could and would testify competently with respect thereto.

2. I am the Recorder of Pinal County and have held that office since August 2022. I am responsible for, among other things, maintaining the county's voter registration database, the county's active early voting list, and sending notices to voters when required by law.

3. I am familiar with the notices required by A.R.S. § 16-544(L), which are to be sent to a voter on the county's active early voting list who has not voted an early ballot in any election for the past two consecutive election cycles.

4. To implement this notice prior the 2026 primary election, the county must send the notice at least ninety days prior to the date we mail early ballots, July 8, 2026. This means that the last possible day for A.R.S. § 16-544(L) notices to be issued is April 9, 2026.

5. Pinal county uses a vendor that requires final proofs to be sent four weeks prior to the mail date.

6. If working on an expedited basis, my office expects it could prepare the notices in two weeks to meet the March 12, 2026 proof deadlines.

7. This means Pinal County would need certainty on the implementation of A.R.S. § 16-544(L) by February 26, 2026, to send out the required notices for the 2026 Primary Election.

8. However, if Pinal County prepared the proofs in anticipation of the Court's order, though difficult, it could still implement the notices required by A.R.S. § 16-544(L) for the primary election if the court makes its determination before March 12, 2026.

9. It would also be possible for Pinal County to implement A.R.S. § 16-544(L) prior to the 2026 General Election.

10. Pinal County mails early ballots on October 7, 2026 for the general election.

11. Therefore any notice under A.R.S. § 16-544(L) would need to be sent by July 8, 2026.

12. Final proofs for July 8 notices would be due June 10, 2026.

13. This means Pinal County would need certainty on the implementation of A.R.S. § 16-544(L) by May 27, 2026, to send out the required notices for the 2026 General Election.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: January 27, 2026

Dana Lewis
Pinal County Recorder

EXHIBIT B

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ARIZONA COURT OF APPEALS

DIVISION ONE

WARREN PETERSEN, et al.,

Plaintiffs/Appellees/
Cross-Appellants,

v.

ADRIAN FONTES,

Defendant/Appellant/
Cross-Appellee.

No. 1 CA-CV 25-0219

Maricopa County Superior Court
No. CV2024-001942

REPLY IN SUPPORT OF MOTION TO ACCELERATE APPEAL AND EXPEDITE BRIEFING SCHEDULE

The Secretary does not object to designating this case—one which poses purely legal issues of substantial statewide importance—as an "accelerated appeal." Thus, the only issue in dispute is whether an expedited briefing schedule is warranted. As articulated in the Legislative Leaders' Motion, an expedited briefing schedule is warranted due to the statutory timeline to adopt a new EPM and the need to provide clear guidance well in advance of the 2026 elections.

Fortunately here, an expedited briefing schedule is not an obstacle to thoughtful briefing. This appeal presents pure legal issues that were already briefed and argued before the superior court. The parties are well-equipped to efficiently explain these identical legal issues and the superior court's December 2024 ruling to this Court.

Nevertheless, the Secretary advances four arguments to explain why the briefing schedule should not be accelerated:

1. That guidance from this Court will not meaningfully impact the 2025 EPM drafting process;
2. That the AEVL effective date issue will not be mooted by the current briefing schedule;
3. That the Legislative Leaders allegedly "have not expeditiously advanced this case"; and
4. The Secretary's counsel cannot meet the proposed deadlines.

None of these arguments are persuasive grounds to deny the Motion.

ARGUMENT

I. Good Cause Exists to Accelerate the Briefing.

Good cause exists to expedite briefing because this Court's decision is needed to provide clarity for drafting the 2025 EPM and administering the upcoming elections. *See* ARCAP 3(a).

A. The Statutory EPM Public Comment and Publication Deadlines Warrant Resolution of this Appeal by August.

Generally, the Secretary argues (at 3–4) that the operative statutory deadline to conclude this appeal is the publication of the EPM in December 2025, because the Secretary has an opportunity to revise the EPM up until that time.

If the appeal is accelerated but briefing is not, briefing will not be complete until September 2025. Even assuming a speedy resolution by this Court after the briefing concludes, it is unlikely an order will be issued before October 1, 2025.

But by October 1, the public comment period is over, and the Secretary is statutorily required to submit the draft EPM to the Governor and Attorney General for review and approval. The Secretary's arguments to support resolution of this appeal after the conclusion of the public comment period are unpersuasive.

First, the Secretary argues (at 3–4) that there is still plenty of time after the formal notice and comment period for the public to review and comment on potentially or actually invalid provisions. But if past practice is any indication, this

is not true. When the Secretary promulgated the 2023 EPM, he initially published a 268-page draft for public comment. (IR 1 at 5). Later, he submitted a revised 268-page revised draft to the Governor and Attorney General for their review. (*Id.* at 6). Then, on the penultimate day to finalize the EPM, the Secretary published a 385-page EPM. (*Id.*) Several of the new provisions contained in the 385-page EPM—which were never published for public comment or review—formed the bases for this litigation. (*Id.*)

Second, this Court's decision will provide needed clarity for the public comment period. Without this Court's decision, commenters may submit comments, but those comments will not be informed by an authoritative interpretation of the law. If this Court provides expedited guidance before the August 2025 public comment period, the draft EPM will presumably comply with this guidance and require the Secretary to promulgate procedures that actually flow from the statutory framework. As a result, regulated parties, election officials and the general public will have a meaningful opportunity to comment on the proposed procedure.

If not, the Secretary may incorporate the challenged procedures into the draft EPM, and this Court could later invalidate those provisions. A post-comment-period decision invalidating certain provisions will give the Secretary a reason to add new provisions without the benefit of public comments. Or worse, a post-finalization

decision invalidating certain provisions could leave a vacuum and result in disparate application of election statutes among localities.

The Secretary argues that this should not matter (at 4–5) because the draft EPM can footnote those challenges and thus commenters can still provide their opinions on the draft EPM. The Secretary further argues that those commentors "may agree or disagree with Plaintiffs' positions on these EPM provisions." While public feedback is important, public opinion is irrelevant if it advocates for a position that this Court concludes is invalid.

Additionally, the Secretary suggests (at 5) that the length of the public comment period mitigates the timing of this Court's decision because it is twice as long as the comment period he allowed for the 2023 EPM public comment period. Importantly, the Secretary has increased the public comment period for the 2025 EPM because Division Two of the Court of Appeals concluded that the abbreviated public comment period for the 2023 EPM failed to satisfy rulemaking requirements. *See Republican Nat'l Comm. v. Fontes*, __ P.3d __, 2025 WL 719097, at *7 ¶ 27 (Ariz. App. 2025) (holding Arizona law requires the Secretary to provide, at minimum, a thirty-day comment period for rules). Additionally, the length of the public comment period does nothing to mitigate the impact of this case's timing if it is over before an opinion is issued. This Court's expedited decision will ensure

commenters' analysis of the 2025 EPM is informed by an authoritative interpretation of the law, rather than mere personal opinion.

Third, the Secretary argues (at 6–7) that expediting the briefing schedule here may eliminate any "potential efficiency" if he "decides to change any of" the four challenged provisions in the 2025 EPM. Though the Secretary could choose to not carry the invalid provisions forward, none of his litigation decisions to date support that hypothetical. To the contrary, the Secretary has vigorously defended the validity of the challenged provisions and appealed the superior court's ruling to the contrary.

But even if the Secretary does not include the challenged provisions in the 2025 EPM, this would not automatically narrow the issues on appeal as he suggests. *See State ex rel. v. Babbitt v. Goodyear Tire & Rubber Co.*, 128 Ariz. 483, 486 (1981) ("It is apparent that voluntary cessation of the questioned practices will not automatically moot the injunctive remedy. This is especially so when the practices are discontinued subsequent, rather than prior, to commencement of the litigation."). And even if the issues in this case did become moot, this Court could still decide them. *See Miceli v. Indus. Comm'n of Ariz.*, 135 Ariz. 71, 73 (1983) (stating it is "within an appellate court's discretion to decide questions which have become moot").

Accordingly, timing this Court's decision prior to public comment period is essential to the meaningful evaluation of the 2025 draft EPM.

B. The Upcoming 2026 Election Cycle Further Supports the Need for a Speedy Resolution.

Election related challenges almost always pose special timing considerations. Paramount of these considerations is the need to avoid last minute shifts in governing law before an election. *See Purcell v. Gonzalez*, 549 U.S. 1, 4–5, 8 (2006). The Secretary argues (at 7–8) that proactively raising these concerns is somehow an "attempt to manufacture an emergency where there is none."

The Secretary's attempt to downplay the Legislative Leaders' concerns regarding potential laches and *Purcell*-doctrine arguments rings hollow considering the Secretary's frequent invocation of the same. *See, e.g.*, *Ariz. Republican Party v. Fontes*, No. 1 CA-CV 22-0388, 2023 WL 193620, at *3 ¶¶ 14–15 (Ariz. App. Jan. 17, 2023) (addressing the Secretary's laches and *Purcell* doctrine arguments in election case); *Ariz. Pub. Integrity All. v. Fontes*, 250 Ariz. 58, 65 ¶ 30 (2020) (addressing the Secretary's laches argument in election case); *Ariz. Republican Party v. Fontes*, No. CV 2020-014553, 2021 WL 11586196, at *2 (Ariz. Super. Mar. 15, 2021) (same), *rev'd on other grounds Ariz. Republican Party v. Richer*, 257 Ariz. 237 (2024); *Aguilera v. Fontes*, No. CV 2020-014562, 2020 WL 11273092, at *8 (Ariz. Super. Nov. 30, 2020) (same). As time progresses, elections and the cutoffs for procedures necessary to implement those elections grow close and future laches arguments become inevitable.

In addition, the looming 2026 elections risk depriving the Legislative Leaders of the benefit of their cross-appeal. Under the default schedule, briefing will not be complete until September 2025. Even if this Court's decision comes shortly after, it is possible this Court will affirm the superior court's interpretation of the AEVL Implementation Rule. In that case, the Legislative Leaders would file a petition for review. But the Supreme Court is unlikely to act on a petition for review until spring of 2026, at the earliest.

Because the AEVL Implementation Rule delays implementation of A.R.S. § 16-544 until 2027, and it should be effective as of 2025, the 2026 elections are the last opportunity to enforce the full scope of the law. However, the deadline to file AEVL notices for the 2026 primary election is April 9, 2026. A.R.S. § 16-544(D). If the Legislative Leaders do not have the opportunity to have a final appeal resolved prior to this time, they will lose the full benefit of their cross-appeal.

This is preventable. If expedited briefing is granted, this Court can issue a decision before the draft EPM is published for public comment and the Arizona Supreme Court will be able to decide any appeal with adequate time for implementation (including reprogramming the statewide and county voter

registration systems and timely mailing required notices) for the 2026 Primary Election.[1]

Ultimately, resolving this case sooner rather than later will benefit all involved. For his part, the Secretary has requested this Court stay part of the superior court's judgment, arguing the order places county recorders at risk of a federal enforcement action and disenfranchises voters. Given the alleged irreparable harm—which is so urgent that the Secretary could not wait for a ruling from the superior court on the Secretary's motion to stay pending there, (IR 129)—it follows that the Secretary should also like to see this case resolved as expeditiously as possible. Certainly, the people of Arizona deserve clear answers regarding the propriety of the challenged EPM provisions.

II. Legislative Leaders Have Advanced This Case with Expediency.

Legislative Leaders have consistently advanced this case in an efficient and expeditious manner.

On December 30, 2023, the Secretary published a 385-page EPM. (IR 1 at 6). Notably, this version contained 117 new pages. (*Id.*) By January 31, the Legislative Leaders analyzed all 385 pages (including the 117 new pages published for the first

[1] The Secretary argues (at 6) that expedited briefing is futile because it would not allow either party to appeal this Court's decision to the Arizona Supreme Court before the conclusion of the public comment period. But leaving this time for a potential appeal to the Arizona Supreme Court only amplifies the need for expedited briefing.

time on December 30) and filed a targeted, six-count complaint. (IR 1). The Legislative Leaders, as a professional courtesy, stipulated to two extensions of time for the Secretary to respond to the complaint and motion for preliminary injunction. (IRs 18, 31). After the Secretary filed its Motion to Dismiss and response to the Motion for Preliminary injunction on March 4, 2024, (IRs 39–40), the court held a hearing on March 5, 2024, (IR 45). At this hearing, the parties agreed that the case involved primarily (if not exclusively) issues of law that did not require factual development and agreed to consolidate the evidentiary hearing on the motion for preliminary injunction with a trial on the merits. (IRs 45–46). The Court held the evidentiary hearing/trial on May 23, 2024, and took the matter under advisement. (IR 81).

While the parties were waiting for a ruling, this Court issued its opinion in *Toma v. Fontes*, 553 P.3d 881 (Ariz. App. 2024), and the Secretary filed a notice of supplemental authority regarding the same. (IRs 82–83). On August 2, 2024, the parties filed supplemental briefing regarding the impact of this case on the Secretary's standing arguments. (IRs 92–93). The parties then waited again for a ruling from the superior court. Nearly sixty days later, the superior court *sua sponte* set a status conference/oral argument for October 2, 2024, to discuss the impact of *Toma* on the case. (IR 107). Because other courts had issued rulings that also potentially impacted the claims in this case, and those rulings were raised during the

oral argument, the parties filed a joint notice of supplemental authorities for the court's reference on October 15, 2024. (IR 109–110).

On December 19, 2025, 65 days later, the superior court issued its under advisement ruling. (IR 111). The under advisement ruling instructed the Legislative Leaders to lodge a proposed form of judgment on or before January 10, 2025. (IR 111 at 14). During this time, the parties negotiated a stipulation to extend the deadline for filing a fee application, which was memorialized in the proposed form of judgment. (IRs 121–122). The Court issued a final judgment on March 4, 2025. (IR 127).

From filing their initial complaint to the issuance of a final judgment, the Legislative Leaders successfully litigated their case in just over a year. And notably, more than seven months of that time was spent waiting for court action (i.e., the time between the hearing/trial and the notice of supplemental authority: 39 days; the time between the submission of the parties' supplemental briefing and the court's hearing on standing: 62 days; the time between the joint notice of supplemental authorities and the issuance of the under advisement ruling: 65 days; and the time between lodging the proposed form of judgment and the issuance of a final judgment: 53 days).

This litigation schedule does not demonstrate a lack of urgency. Rather, it demonstrates an efficient adjudication of several legal issues in a rapidly changing

area of law. Moreover, any delays—either due to the issuance of new authority or the superior court's review of the issues—were beyond the Legislative Leader's control and do not weigh against the need for expedited briefing on appeal.

III. Legislative Leaders Are Open to an Alternative Briefing Schedule.

Though the Legislative Leaders proposed their preferred briefing schedule, they are open to another reasonably expedited schedule to accommodate the conflicts identified by Secretary's counsel. The Legislative Leaders were unaware of these specific conflicts prior to the Secretary's Response. Moreover, when workload and scheduling demands conflict with the timeline of a particular case, the Attorney General's office has dozens of staff attorneys that can step in to assist and alleviate the burdens. Nevertheless, adding approximately a week to the proposed deadlines can alleviate the burdens articulated by counsel while still addressing the legitimate need to resolve the issues raised by this appeal before the EPM is published for public comment, and well-before the 2026 elections.

CONCLUSION

An expedited briefing schedule, coupled with the acceleration of this appeal, will provide clarity for the drafting and finalization of the 2025 EPM and in upcoming elections. Accordingly, this Court should grant the Legislative Leaders' Motion to Accelerate Appeal and Expedite Briefing Schedule with adjustments to accommodate counsel's scheduling conflicts.

RESPECTFULLY SUBMITTED this 10th day of April, 2025.

SNELL & WILMER L.L.P.

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