

1 KRISTIN K. MAYES
2 Attorney General
3 Firm State Bar No. 14000
4 Karen J. Hartman-Tellez (No. 021121)
5 Kara Karlson (No. 029407)
6 Senior Litigation Counsel
7 Kyle Cummings (032228)
8 Assistant Attorney General
9 2005 North Central Avenue
10 Phoenix, Arizona 85004-2926
11 Telephone: (602) 542-8323
12 Karen.Hartman@azag.gov
13 Kara.Karlson@azag.gov
14 Kyle.Cummings@azag.gov
15 adminlaw@azag.gov (for court use only)
16 *Attorneys for Arizona*
17 *Secretary of State Adrian Fontes*

12 **ARIZONA SUPERIOR COURT**
13 **MARICOPA COUNTY**

15 ELI DALTON-WEBB,

16 Plaintiff,

17 vs.

18 ADRIAN FONTES, in his official capacity
19 as Arizona Secretary of State, MELISSA
20 AVANT, in her official capacity as Officer
21 in Charge of Elections in Cochise County,
22 BILLY CLOUD, in his official capacity as
23 Cochise County Recorder,

24 Defendants.

No. CV2026-000232

**ARIZONA SECRETARY OF
STATE'S REPLY IN SUPPORT OF
MOTION TO DISMISS**

(Assigned to Hon. Michael Valenzuela)

24 In his Response to the Motion to Dismiss that Secretary of State Adrian Fontes
25 (the "Secretary") filed, Plaintiff Eli Dalton-Webb ("Plaintiff" or "Dalton-Webb") seeks to
26 add new types of relief against the Secretary that he did not include in his Complaint.
27 But he cannot do so without amending the Complaint, and any such amendment would be
28

1 futile for several reasons. *See, e.g., Worldwide Charter Jet, Inc. v. Toulatos*, 254 Ariz.
2 331, 337 ¶¶ 22-24 (App. 2022). First, the undisputed facts in this case establish that
3 Plaintiff has been able to circulate his nomination petitions via E-Qual since no later than
4 January 12, 2026. Second, the Secretary does not control County candidates’ access to
5 E-Qual. Third, Dalton-Webb, a registered Libertarian, cannot raise claims on behalf of
6 candidates who are not members of a recognized political party who seek to qualify for
7 the general election ballot under A.R.S. § 16-341, nor can he raise claims about
8 recognition of the No Labels Party. Fourth, the “right to petition” under Ariz. Const. art.
9 2, § 5 has nothing to do with circulating nomination petitions to become a candidate for
10 office. Fifth, Plaintiff’s Complaint against the Secretary does not include a claim for
11 money damages, and Plaintiff, who is proceeding pro se, would not be entitled to
12 attorneys’ fees even if he could succeed in this case. For all of these reasons, Plaintiff’s
13 Complaint is subject to dismissal without leave to amend.

14 **Argument**

15 **I. Undisputed (and indisputable) facts establish that Plaintiff can use E-Qual.**

16 In the Complaint, Plaintiff’s claim against the Secretary was based on his mistaken
17 belief that the Secretary controls county candidates’ access to E-Qual, the state’s secure
18 online signature gathering system, and that the Secretary was barring him from using E-
19 Qual. (*See* Compl. ¶¶ 39-40). For this argument, he relies on A.R.S. § 16-317(A), which
20 states that “the secretary of state shall provide a system for qualified electors to sign a
21 nomination petition for candidates for . . . county office . . . by way of a secure internet
22 portal.” (*See* Compl. ¶ 40).¹ But as Plaintiff acknowledged during the January 16, 2026
23 hearing, he has registered to use the E-Qual portal and has been able to circulate petitions
24 electronically since he completed the steps to set up his E-Qual candidate profile on or
25 about January 12, 2026. (*See* Minute Entry, at 2 (Jan. 21, 2026) (“Jan. 21 ME”)).

26
27 ¹ As a candidate for Clerk of the Cochise County Superior Court, Plaintiff’s access to E-
28 Qual is governed by A.R.S. § 16-319, but the obligations of the Secretary are the same
under either statute. *See* A.R.S. § 16-319(A), (B)(2).

1 Consequently, Plaintiff cannot establish that he is entitled to the injunctive relief he
2 sought in the Complaint because he already has the E-Qual access that he wants this
3 Court to order the Secretary to provide.

4 Moreover, Plaintiff misapprehends the Secretary’s statutory duty with respect to
5 candidates for clerk of the superior court. A.R.S. § 16-319 requires the Secretary to
6 provide the E-Qual system for certain judicial offices and the clerk of the court. A.R.S. §
7 16-319(B); *see also* A.R.S. §§ 16-316 (requiring E-Qual for statewide and legislative
8 candidates), -317 (county and municipal offices), -318 (congressional candidates). As is
9 evident from the established facts in this case, the Secretary has provided the E-Qual
10 system. (Jan. 21 ME, at 2). The Secretary has met his statutory obligation. Moreover,
11 the Secretary actually goes above and beyond his statutory obligation and provides
12 information to county-level candidates about how to access E-Qual for county-level
13 offices, including clerk of the superior court. *See* E-Qual for Local Jurisdictions,
14 <https://azsos.gov/webform/e-equal-localjurisdictions> (stating that “[i]f you are a
15 CANDIDATE interested in using the system, *please contact your local filing office*”)
16 (emphasis added); *see also* Running for Public Office,
17 [https://azsos.gov/sites/default/files/docs/2026-Running-for-Office-Candidate-Guide-](https://azsos.gov/sites/default/files/docs/2026-Running-for-Office-Candidate-Guide-2025-1020.pdf)
18 [2025-1020.pdf](https://azsos.gov/sites/default/files/docs/2026-Running-for-Office-Candidate-Guide-2025-1020.pdf), at 11, 17-19 (explaining procedures for candidates for federal, statewide,
19 or legislative – but not municipal, county, or judicial – offices).² Plaintiff has offered no
20 facts that would support this Court entering an injunction against the Secretary when he
21 has not shown that the Secretary controls his access to E-Qual or that there is any risk
22 that he will lose such access before the March 23, 2026 deadline to file nomination
23 petitions.

27 ² The Court may take judicial notice of public records of the Secretary of State. *See* Ariz.
28 R. Evid. 201; *Mathieu v. Mahoney*, 174 Ariz. 456, 457 & n.1 (1993).

1 **II. Plaintiff lacks standing to seek relief for himself or other candidates.**

2 As explained in the Secretary’s Motion to Dismiss, Arizona has “a rigorous
3 standing requirement” that requires a plaintiff to “allege a distinct and palpable injury”
4 before a case may be heard. *Fernandez v. Takata Seat Belts, Inc.*, 210 Ariz. 138, 140, ¶ 6
5 (2005). To obtain declaratory relief, “a plaintiff must show that its ‘rights, status or other
6 legal relations’ are ‘affected by’” the law at issue. *Arizona Sch. Bds. Ass’n, Inc. v. State*,
7 252 Ariz. 219, 224, ¶ 16 (2022) (quoting A.R.S. § 12-1832). For a case to be justiciable, a
8 plaintiff must be “seeking judicial relief from actual or threatened injuries.” *Mills v. Ariz.*
9 *Bd. of Tech. Registration*, 253 Ariz. 415, 420, ¶ 11 (2022).

10 Simply put, Plaintiff lacks standing because has not established that he has been
11 injured, that the Secretary was the cause of his injury, or that the injunctive relief that he
12 seeks would redress any harm. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560
13 (1992) (describing the three elements of standing). The office Plaintiff seeks requires
14 him to collect 293 valid signatures to have his name appear on the primary election
15 ballot.³ Plaintiff has been able to circulate petitions since he filed his statement of
16 interest on or about December 22, 2025, and he has been able to obtain petition
17 signatures via E-Qual since at least January 12, 2026, when he completed the
18 administrative steps to use the E-Qual system. (*See* Jan. 21 ME, at 2). Nothing that the
19 Secretary has done has prevented Dalton-Webb from collecting signatures. Nor has
20 Plaintiff alleged that the Secretary plans to do anything in the future that would harm his
21 ability to gather signatures.

22 In his Response to the Defendants’ Motions to Dismiss, Plaintiff attempts to raise
23 additional claims that he lacks standing to pursue. In particular, he asserts that “the
24 Secretary of State still does not permit Cochise County candidates to circulate petitions

25 ³ *See* Cochise County Offices—2026 Official Signature Requirements for Nomination
26 Petitions, available at: <https://www.cochise.az.gov/DocumentCenter/View/25003/2026-Countywide-Offices-Signature-Requirements-PDF>. In contrast, Republican candidates
27 for Cochise County Clerk of Court must collect at least 614 signatures and Democratic
28 candidates must collect 468 signatures. *Id.*

1 for general election candidates.” (Resp. at 3). He also argues that Cochise County is not
2 properly recognizing the No Labels Party. (*Id.* at 7-8). But he is not a candidate who can
3 skip past the primary election, nor is he a member of the No Labels Party, and as such he
4 cannot demonstrate that he has standing to raise these claims, even if he had included
5 them in his Complaint.⁴

6 Only candidates who are *not* members of a political party entitled to representation
7 on the ballot, *i.e.*, the parties that are recognized pursuant to A.R.S. §§ 16-801 or -804,
8 are allowed to circulate petitions to be general election candidates. *See* A.R.S. § 16-
9 341(A). Members of recognized political parties must win their primary election to
10 become general election candidates. *See* A.R.S. 16-311(A); *see also* Ariz. Const. art. 7, §
11 10 (requiring direct primary elections). As such, even if Plaintiff were correct that the
12 Secretary is barring candidates who qualify under A.R.S. § 16-341 from circulating
13 petitions (he is not), the injury would be to those candidates who are not members of
14 recognized political parties, not to Plaintiff, who is a member of the Libertarian Party,
15 which is entitled to representation on the ballot under A.R.S. § 16-804. (*See* Jan. 21 ME,
16 at 2).

17 Similarly, Plaintiff is not a member of the No Labels Party. (*Cf.* Compl. ¶ 7).
18 Moreover, because the No Labels Party is a new political party that was recognized under
19 A.R.S. § 16-801, the Cochise County Recorder’s duties under A.R.S. § 16-804(D) are
20 inapplicable to that party. Simply put, Plaintiff lacks standing to make any claims about
21 the Secretary’s or Cochise County’s treatment of the No Labels Party or its candidates.

22
23
24
25 ⁴ The No Labels Party of Arizona changed its name to the Arizona Independent Party,
26 effective December 1, 2025. The status of that name change is the subject of another
27 action pending in this Court. *See Ariz. Citizens Clean Elections Comm’n v. Fontes*, No.
28 CV2025-064149 (Ariz. Super. Ct. Maricopa Cnty.). That matter has no bearing on this
case.

1 **III. Plaintiff cannot add damages or attorneys’ fees claims for the Secretary’s**
2 **alleged violation of his right to petition.**

3 In his Motion to Dismiss, the Secretary explained that the state constitutional right
4 to petition is wholly different from the ability to circulate nomination petitions to become
5 a candidate for office. (*See* Mot. to Dismiss, at 6-7). Plaintiff offers no authority to
6 counter the Secretary’s argument. Instead, he doubles down and argues that he is entitled
7 to “have his grievances heard in this Court for Fontes’ violations of various laws and for
8 a redress of those grievances, including nominal damages (\$1), other monetary relief,
9 declaratory relief, injunctive relief, or any other relief that would say that Adrian Fontes
10 violated Article 2 § 5 of the Arizona Constitution (and other laws).” (Resp. at 10; *see*
11 *also id.* at 3 (citing A.R.S. § 12-2030, which provides for awards of attorneys’ and
12 experts’ fees in mandamus actions)). But Plaintiff has not stated a cognizable claim for
13 relief that would allow his case to proceed beyond the pleading stage. *See* Ariz. R. Civ.
14 P. 12(b)(6); *Jeter v. Mayo Clinic Ariz.*, 211 Ariz. 386, 389, ¶ 4 (App. 2005) (“[The court
15 does] not accept as true allegations consisting of conclusions of law, inferences or
16 deductions that are not necessarily implied by well-pleaded facts, unreasonable
17 inferences or unsupported conclusions from such facts, or legal conclusions alleged as
18 fact.”).

19 Moreover, to the extent that Plaintiff seeks damages, nominal or otherwise, for
20 delayed access to E-Qual, he has failed to comply with the notice of claim requirements
21 of A.R.S. § 12-821.01, which is fatal to any damages claim. *See Deer Valley Unif. Sch.*
22 *Dist. No. 97 v. Houser*, 214 Ariz. 293, 295 (2007). Nor can Plaintiff properly demand
23 payment of his attorneys’ fees when he has prosecuted this matter on his own behalf
24 without an attorney. *See Connor v. Cal-Az Props., Inc.*, 137 Ariz. 53, 56 (App. 1983)
25 (requiring an attorney-client relationship to award attorneys’ fees). The additional claims
26 for relief that he attempts to add in his Response cannot rescue his Complaint.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Conclusion

For the foregoing reasons, this Court should dismiss Plaintiff’s Complaint against the Secretary.

RESPECTFULLY SUBMITTED this 11th day of March, 2026.

Kristin K. Mayes
Attorney General

/s/ Karen J. Hartman-Tellez
Karen J. Hartman-Tellez
Kara Karlson
Kyle Cummings
*Attorneys for Defendant Arizona
Secretary of State Adrian Fontes*

1 The foregoing document was electronically
2 filed through TurboCourt
3 this 11th day of March, 2026.

4 COPIES served via TurboCourt or email
5 this 11th day of March, 2026, to:

6 Hon. Michael Valenzuela
7 Maricopa County Superior Court
8 ECB 812
9 101 West Jefferson Street
10 Phoenix, Arizona 85003
11 CVJ21@jbazmc.maricopa.gov

12 Eli Dalton-Webb
13 5009 E. Ironwood Circle
14 Sierra Vista, Arizona 85650
15 dw4az@proton.me
16 *Plaintiff*

17 Dylan Hendel
18 P.O. Drawer CA
19 Bisbee, AZ 85603
20 dhendel@cochise.az.gov
21 cvattymeo@cochise.az.gov
22 *Attorney for Cochise County Defendants*

23 By: /s/ Monica Quinonez
24 Monica Quinonez, Legal Assistant
25
26
27
28