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**IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE**

HAROLD DONALD STANDHARDT, a
single man; TOD ALAN KELTNER, a
single man,

Petitioners,

v.

SUPERIOR COURT OF THE STATE OF
ARIZONA, in and for the County of
MARICOPA, MICHAEL K. JEANES, The
Clerk of the Court,

Respondents,

STATE OF ARIZONA,

Real Party in Interest.

No. 1 CA-SA 03-0150

**SENATOR ANDERSON'S
REPLY TO RESPONDENTS'
RESPONSE TO MOTION TO
INTERVENE AS RESPONDENT
OR AMICUS CURIAE**

Senator Anderson has moved to intervene as a respondent in this special
action in order to defend his unique interest as a member of Arizona's Legislature.

Remarkably, the Attorney General's cursory and conclusory Response to Senator Anderson's Motion fails to point to any case law opposing the Senator's intervention in this case.¹

On the contrary, the policy of the Supreme Court of Arizona favors interventions. *See Bechtel v. Rose*, 150 Ariz. 68, 72, 722 P.2d 236, 240 (1986) ("It is well settled . . . that Rule 24 [Intervention] is remedial and should be liberally construed"). For example, even where the Attorney General was the named respondent in a special action, both the Arizona Supreme Court and this Court have allowed third-parties to intervene. *See Ariz. Corp. Comm'n v. State ex rel. Woods*, 171 Ariz. 286, 830 P.2d 807 (1992) (allowing utility companies to intervene as respondents); *Long v. Napolitano*, 203 Ariz. 247, 53 P.3d 172 (App. 2002) (allowing two cities, the Texas Rangers baseball organization, the Fiesta Bowl, a resort association, and one additional company to intervene as respondents). The same is true when, as here, other state officials have been subjected to special actions. *See Citizens Clean Elections Comm'n v. Myers*, 196 Ariz. 516, 1 P.3d 706 (2000) (allowing third-party political committees to intervene as respondents in a special action against the Governor and Secretary of State); *Kotterman v. Killian*, 193 Ariz. 273, 972 P.2d 606 (1999) (allowing a

¹ Though his name does not appear in the Response, it is Senator Anderson who is seeking to intervene as a Respondent to this special action and not his attorneys or the attorneys' firm.

school superintendent and private parents to intervene in a special action challenging Arizona's tuition tax credit statutes). The cases clearly reflect the Arizona Supreme Court's liberal construction of Ariz.R.Civ.P. 24 as stated in *Bechtel*.

In stark contrast, the Response simply asserts that the Attorney General "will argue in favor of upholding the constitutionality of the two challenged statutes." Response at 2. This is no legal bar to Senator Anderson's intervention. Mere acknowledgement that the Attorney General has a statutory duty to defend the proceeding in accordance with A.R.S. § 41-193(A)(2), (Response at 1-2), proves nothing by itself – it is merely part of one of the six intervention factors Arizona courts consider under *Bechtel*. See Memorandum in Support of Motion to Intervene at 5-6 (demonstrating Senator Anderson's fulfillment of each of the *Bechtel* intervention factors).

This special action challenges the traditional definition of a valid marriage as confirmed by the Legislature in A.R.S. §§ 25-101(C) & 25-125(A). The outcome of this case will greatly affect Arizona's citizens and each branch of her government. A decision granting a same-sex marriage license will greatly impair the Legislature's long-standing ability to regulate the marital relationship pursuant to its police power. This significant interest asserted by the Senator is separate and distinct from the Attorney General's statutory duty to defend the challenged laws.

Senator Anderson’s participation in this case will “significantly contribute to . . . the just and equitable adjudication of the legal questions presented.” *Bechtel*, 150 Ariz. at 72, 722 P.2d at 240.² Because of his unique interest, the Senator sought prompt intervention rather than waiting for the original parties to complete all briefing. Intervening at that late stage would unnecessarily complicate litigation and delay the administration of justice. Indeed, it seems rather ironic that the Attorney General would oppose timely intervention by a member of a co-equal branch of state government – especially when that intervention would be on the same side.³

Respectfully submitted this 30th day of July, 2003.

By: _____

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² Should this Court ultimately deny Senator Anderson’s Motion to Intervene, we respectfully ask in the alternative that the Senator participate as amicus curiae with time at the oral argument.

³ Counsel for Senator Anderson has added Assistant Attorney General Kathleen P. Sweeney to the service list for all future filings, per her request.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the requisite true and correct copies of the foregoing were served this date upon the following by placing them in a sealed envelope with postage thereon fully prepaid, in the United States mail this 30th day of July, 2003, to:

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