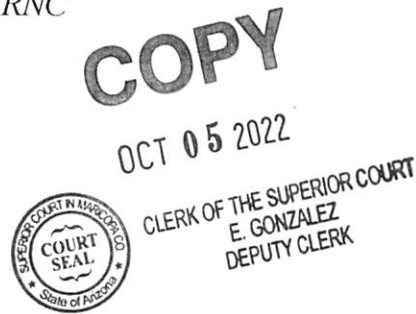


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Attorneys for Plaintiff AZGOP

**IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

REPUBLICAN NATIONAL COMMITTEE,
a national political party committee;
REPUBLICAN PARTY OF ARIZONA; a
recognized political party,

Plaintiffs,

v.

STEPHEN RICHER, in his official capacity
as the Maricopa County Recorder; REY
VALENZUELA, in his official capacity as
the Maricopa County Director of Elections
for Election Services and Early Voting;
SCOTT JARRETT, in his official capacity
as the Maricopa County Director of
Elections for Election Day and Emergency
Voting; BILL GATES, CLINT HICKMAN,
JACK SELLERS, THOMAS GALVIN,
AND STEVE GALLARDO, in their
official capacities as members of the
Maricopa County Board of Supervisors; and
MARICOPA COUNTY,

Defendants.

No.
CV 2022-013185

**VERIFIED SPECIAL
ACTION COMPLAINT**

The Republican National Committee (“RNC”) and Republican Party of Arizona (“AZGOP”) (collectively “Plaintiffs”) allege as follows:

SUMMARY OF THE CASE

1. For more than forty years, Arizona has guaranteed the largest political parties an equal number of “seats at the table” in the administration of its elections (collectively, the “Equal Access Statutes”). *See e.g.*, A.R.S. §§ 16-531, -532, -549, -551, -552, -621.

2. The Equal Access Statutes and the corresponding portions of the 2019 Election Procedures Manual wisely ensure procedural and substantive fairness, and sharply reduce opportunities for accusations of intentional maladministration of Arizona elections.

3. Maricopa County has violated, and appears likely to continue violating, the requirements of the Equal Access Statutes in the 2022 election cycle.

4. Maricopa County's failure inevitably breeds distrust and doubts among the electorate.

5. The Plaintiffs bring this suit to ensure that Maricopa County meets the requirements of the Equal Access Statutes, and seats members of the Republican Party in appropriate election-administration positions for the remainder of the 2022 election cycle.

JURISDICTION

6. This Court has jurisdiction over this action pursuant to Article 6, § 14 of the Arizona Constitution, A.R.S. §§ 12-1801 and -2021, Arizona Rules of Special Action Procedure 3 and 4, the Arizona Uniform Declaratory Judgments Act, and other applicable law.

7. Venue for this action lies in Maricopa County pursuant to A.R.S. § 12-401(7) and (16) because one or more Defendants reside and/or hold office in that county.

PARTIES

8. Plaintiff Republican National Committee is a national political party committee that is responsible for the strategic and day-to-day operation of the Republican Party at the national level in collaboration with state and local party committees, and for

1 promoting the election of Republican candidates for federal office in Arizona and across
2 the United States.

3 9. The Republican Party in Arizona primarily operates through Plaintiff
4 Republican Party of Arizona. The AZGOP is one of the two largest political parties entitled
5 to representation pursuant to A.R.S. § 16-804 of which Republican county committees form
6 one component part. See A.R.S. § 16-821. The AZGOP is responsible for the strategic and
7 day-to-day operation of the Republican Party at the state level and for promoting the
8 election of Republican candidates for office in Arizona.

9 10. Defendant Maricopa County is political subdivision of the State of Arizona.
10 It is charged by law with conducting elections within its jurisdictional boundaries, to include
11 overseeing the operations of polling locations on Election Day, and through its Board of
12 Supervisors, appointing polling place Boards of Elections, Early Ballot Boards, and certain
13 Central Counting Boards. See A.R.S. §§ 11-251(3), 16-446, -447(A), -511, -531 -551, -642,
14 -645.

15 11. DEFENDANTS BILL GATES, CLINT HICKMAN, JACK SELLERS,
16 THOMAS GALVIN, and STEVE GALLARDO make up the Maricopa County Board of
17 Supervisors. By law, the Board of Supervisors manages various functions in Maricopa
18 County, including various election functions, and the Board of Supervisors appoints polling
19 place Boards of Elections, Early Ballot Boards, and certain Central Counting Boards. See
20 A.R.S. §§ 11-251(3), 16-446, -447(A), -511, -531 -551, -642, -645. These Defendants are
21 named in their official capacities only.

22 12. Defendant Stephen Richer is the Maricopa County Recorder (the
23 "Recorder"), a constitutionally created public office, see Ariz. Const. art. XII, § 3. The
24 Recorder is the principal elections officer of Maricopa County and is responsible for
25 overseeing and directing numerous components of election administration within this
26 jurisdiction, to include early voting procedures and the tabulation and auditing of votes, and
27 appointing certain Central Counting Boards. See A.R.S. §§ 16-541, -542, -543, -544, -549,
28 -550, -602, -621. The Recorder is named in this action in his official capacity only.

13. Rey Valenzuela is the Maricopa County Director of Election Services & Early Voting, and oversees all early voting activities in Maricopa County. Mr. Valenzuela is named in this action in his official capacity only.

14. Scott Jarett is the Maricopa County Director of Election Day & Emergency Voting, and oversees all emergency and Election Day voting activities in Maricopa County. Mr. Jarett is named in this action in his official capacity only.

GENERAL ALLEGATIONS

Boards Overseeing Arizona Elections

15. The day-to-day administration of elections in Arizona is entrusted to five species of boards. Four are at issue here:

- a. Election Boards oversee in-person voting on Election Day by confirming voter identity, handing out ballots to qualified electors, assisting voters, returning materials to the county at the conclusion of voting, etc. Their members in Maricopa County include one inspector and two judges. Each polling place also must have a marshal and may have as many clerks as necessary. The inspector is the most senior position, and the number of inspectors countywide who are members of the two largest political parties “**shall** be . . . equal.” Where the inspector is a member of one of the two largest political parties, the marshal (*i.e.*, the second-most senior position), “**shall**” be a member of the other of the two largest political parties. The number of judges countywide who are members of the two largest parties “**shall** be divided equally.” *See* A.R.S. § 16-531(A).
- b. Early Ballot Boards oversee the processing and tabulation of early ballots. Their membership and party-affiliation requirements mirror those of election boards. *See* A.R.S. § 16-551(A)-(B).
- c. Electronic Vote Adjudication Boards manually review ambiguously marked ballots to ensure an accurate tabulation of votes. They are comprised of an inspector and two judges. The two judges “**shall**” be drawn from the two

largest political parties, with equal representation of each party. *See* A.R.S. § 16-621(B).

d. Central Counting Place Boards oversee operations at Maricopa County’s election headquarters that are not statutorily assigned to other boards. Each Central Counting Place Board “is comprised of two members of different political parties,” selected from nominations submitted by the Maricopa County political committees representing the two largest political parties. If a political party fails to nominate members of such boards, the Board or its designee may identify and appoint to a Central Counting Place Board a member from the appropriate political party. *See* Arizona Secretary of State, *Elections Procedures Manual* (2019) (“EPM”) at 197.¹ The EPM has the force and effect of law. *See* A.R.S. § 16-452.

16. Parity is not all the law requires. As further set forth below, in an effort to further build confidence in the election process, the law gives political parties the right to designate trusted members to be appointed to such boards. *See e.g.*, EPM at 133 (“At least 90 days before an election, the county chairperson of the two largest political parties may designate qualified electors to serve on election boards. When the list is timely submitted, it **shall** be used to appoint judges.”). *See also for e.g.*, A.R.S. § 16-531, , 549, 551, 621; EPM at 66, 196-97.

Violations of the Equal Access Statutes in the 2022 Primary Election

17. In anticipation of the 2022 primary election, in or around May 2022 the Chairwoman of the Maricopa County Republican Party, Mickie Niland, timely transmitted to Maricopa County hundreds of Republican nominees for appointment to the various Maricopa County boards for the 2022 primary election.

¹ If it is “impossible” to staff each Central Counting Place Board with members of the two largest political parties, the Recorder must “exercise best efforts . . . to ensure that there is a diversity of political party affiliation (including no affiliation) on the boards and that no board is comprised of members of only one party.” EPM at 197 n.1.

1 18. Maricopa County nevertheless failed to meet the requirements of the Equal
2 Access Statutes and the equal representation requirements of the EPM during the 2022
3 primary election.

4 19. At the highest level, Maricopa County hired 857 Democratic poll workers but
5 only 712 Republican poll workers.

6 20. More specifically, the following 11 Maricopa County voting centers during
7 the 2022 primary election did not have any Republican poll workers:

- 8 a. Aguila Fire Department
- 9 b. Brophy College Prep
- 10 c. Cartwright School District Annex
- 11 d. Charles W. Harris School
- 12 e. David Crockett School
- 13 f. El Tianguis Mercado
- 14 g. Estrella Mountain Community College
- 15 h. Fowler School
- 16 i. Memorial Presbyterian Church
- 17 j. Salt River Pima Community Center
- 18 k. San Lucy District Administration Building

19 21. In comparison, only 2 Maricopa County voting centers in the 2022 primary
20 election lacked any Democratic poll workers.

21 22. The Central Counting Place Boards in Maricopa County for the 2022
22 primary election included only 88 (28%) Republican workers, but 148 (47%) Democratic
23 workers.

24 23. Maricopa County has approximately 836,611 active registered Republican
25 voters and 726,450 active registered Democratic voters.²

26
27 ² See Maricopa County Voter Registration Totals found at
28 https://recorder.maricopa.gov/Elections/VoterRegistration/redirect_new.aspx?view=congression
[1](#) (last accessed 10/4/2022).

1 24. On information and belief, the defendants failed to contact federal, state, or
2 county Republican Party officials to discuss and remedy any last-minute shortfall in
3 Republican workers in the 2022 primary election.

4 25. On September 9, 2022 the RNC sought an explanation from Maricopa County
5 of its violations of the Equal Access Statutes during the 2022 primary election and made a
6 public records request (the “First Records Request”).

7 26. On September 16, 2022 Maricopa County forwarded to counsel for the RNC
8 an email from Mr. Jarett, asserting that Maricopa County’s statutory violations were due to
9 worker turnover (Mr. Jarett estimated that “well over 500 temporary workers [had] left their
10 positions”) and the unwillingness of many Republican nominees to work the schedule
11 demanded by Maricopa County.

12 **Imminent Violations in the 2022 General Election**

13 27. In anticipation of the upcoming general election, on or around August 10,
14 2022 Chairwoman Niland timely transmitted to Maricopa County nearly 500 Republican
15 nominees for appointment to the various Maricopa County boards for the 2022 general
16 election.

17 28. The First Records Request was preceded by several informal conversations
18 between the RNC’s legal counsel and the Maricopa County Attorney’s Office regarding the
19 types of documents and information the RNC sought from the Defendants in connection
20 with the hiring and composition of various election administration boards.

21 29. The RNC has sought but not received adequate assurances that Maricopa
22 County will comply with the unequivocal requirements of the Equal Access Statutes and
23 the equal representation requirements of the EPM.

24 30. In the September 16, 2022 email forwarded to counsel for the RNC, Mr.
25 Jarett:

- 26 a. implied that the EPM licenses the defendants to violate the Equal Access
27 Statutes so long as the defendants exercise “best efforts.” *But see* EPM at 134
28 n. 38 (“If it is impossible to sufficiently staff the boards with members of

1 differing political parties, the officer in charge of elections shall, at minimum,
2 exercise best efforts . . . However, nothing in this Manual shall be
3 interpreted to supersede otherwise applicable statutory requirements,
4 including the requirement that board workers be of differing political
5 party affiliation.”) (emphasis supplied); *Leach v. Hobbs*, 250 Ariz. 572, 576,
6 ¶ 21 (2021) (“[A]n EPM regulation that . . . contravenes an election statute’s
7 purpose does not have the force of law.”);

- 8 b. denied any “statutory” obligation to ensure parity in Central Counting Place
9 Boards, apparently because the parity requirement for Central Counting Place
10 Boards arises in the EPM;
- 11 c. explained the facts resulting in Maricopa County’s failure to employ any
12 Republican poll workers at 4 of the 11 Maricopa County voting centers
13 described above;
- 14 d. offered no explanation for the remaining 7 Maricopa County voting centers
15 at which no Republican poll workers were employed for the 2022 primary
16 election; and
- 17 e. more broadly, stopped short of assuring the RNC that the Defendants would
18 meet their unambiguous and unqualified obligations under the Equal Access
19 Statutes during the 2022 general election.

20 31. The three most significant factors contributing to Maricopa County’s
21 violations of the Equal Access Statutes appear to be under Maricopa County’s direct
22 control.

- 23 a. On information and belief, Maricopa County informs Republican board
24 nominees that they will be required to work long hours (*i.e.*, up to 14-hour
25 workdays) throughout the early voting period, including all weekends. Such
26 onerous hours requirements naturally deter earnest and civic-minded citizens
27 who would, under ordinary conditions, make temporary sacrifices in order to
28 help administer Arizona’s elections; the Defendants’ hours requirements

foreseeably exclude virtually all persons who wish to participate but cannot abandon all other personal and professional obligations in October and November.

b. On information and belief, Maricopa County maintains unduly difficult working conditions such that, by Mr. Jarett's admission, "well over 500" election workers quit their positions before the 2022 primary election. This level of attrition is abnormal and suggests that Maricopa County does not make earnest efforts to attract and retain citizens in the administration of Arizona elections.

c. On information and belief, Maricopa County does not maintain a "bullpen" of election workers sufficient to backfill foreseeable attrition arising from inhospitable work conditions. Although Maricopa County has admitted "well over 500" defections and therefore can reasonably anticipate absences of or resignations by board appointees, the Defendants have not adopted a practice of hiring and training enough election workers to backfill such vacancies and ensure compliance with the Equal Access Statutes and the equal representation requirements of the EPM.

32. There are approximately 836,611 active registered Republicans in Maricopa County—an enormous labor pool from which to draw, particularly given the eagerness of the federal, state, and county committees of the Republican Party to assist with recruiting and placement efforts. The Defendants cannot establish onerous hours requirements, or create unduly inhospitable working conditions, that deter Republican workers from participating in the administration of Arizona elections—and then claim that compliance with the Equal Access Statutes was impossible. At bottom, if the Defendants' hours requirements and working conditions cannot be maintained absent violations of the Equal Access Statutes, the Equal Access Statutes must win out.

33. In addition, Defendants have no authority to impose any requirements on the Republican Party's direct board appointees.

1 34. For example, the EPM provides that: “At least 90 days before an election, the county
2 chairperson of the two largest political parties may designate qualified electors to serve on
3 election boards. When the list is timely submitted, it **shall** be used to appoint judges.” EPM
4 at 133 (emphasis added). *See also for e.g.*, A.R.S. § 16-531(A) (“If not less than ninety days
5 before the election the chairman of the county committee of either of the parties designates
6 qualified voters of the precinct, or of another precinct if there are not sufficient members of
7 that party available in the precinct to provide the necessary representation on the election
8 board as judge, such designated qualified voters **shall** be appointed.”), (E) (same rule for
9 write-in tally boards), -551(A) (same rule for early election boards), -621(B)(2) (same rule
10 for electronic vote adjudication boards).

11 35. Even if it were the case that Defendants had discretion to impose requirements (they
12 don’t), these and similar laws would indicate that the scope of their discretion, if any is
13 tightly constrained. The purpose of these laws is not efficiency. Rather, the purpose is to
14 allow for third-party oversight of, and participation in, the elections process by
15 independently appointed board members that the political parties themselves deem
16 trustworthy. Though Board Members are paid a nominal amount, they are essentially
17 volunteers. Telling such potential board members that they will not be appointed unless
18 they agree to lengthy and onerous day and hour commitments screens out anyone with full-
19 time employment or family commitments and thus many of the individuals the Republican
20 Party has nominated.

21 36. Such requirements also screen out even many elderly and disabled people who would
22 otherwise be willing to serve. For example, in a 2018 interview, Gila County’s election
23 director noted as follows with respect to poll workers: “Most of the county’s poll workers
24 are 65 or older, he said, and “they experience a lot of medical issues ... so, they come out
25 and try to do a job for us, but then they find out that the length of day is (it’s) just incredibly
26 difficult for them and so we lose a lot of them.”³

27 ³ Brendan Campbell, *Long hours, low pay, but poll workers are still signing up – for now*,
28

37. Further, even if the EPM purported to license a violation of the Equal Access Statutes (and it cannot, *see Leach*, 250 Ariz. at 576, ¶ 21), the Defendants cannot claim that they satisfy any “best efforts” standard. Given the ineffectiveness of the Defendants’ recruiting strategy and the alarmingly high attrition rate in the Defendants’ workforce, the Defendants must revisit their hours requirements and working conditions rather than blindly adhere to failed employment practices that foreseeably result in violations of the Equal Access Statutes and the equal representation requirements of the EPM. “Best efforts” requires no less.

COUNT I

Violations of the Equal Access Statutes and the EPM

38. Plaintiffs incorporate by reference the allegations contained in the foregoing paragraphs as if fully set forth herein.

39. The Defendants have failed to adopt policies and practices sufficient to ensure compliance with the Equal Access Statutes and the equal representation requirements of the EPM by (a) adopting onerous minimum hours requirements that deter nearly all citizens who would be willing to participate in the administration of elections under reasonable hours requirements, (b) adopting onerous minimum durational requirements that deter nearly all citizens who would be willing to participate in the administration of elections under reasonable requirements, (c) maintaining inhospitable working conditions causing “well over 500” board appointees to resign over a relatively short period of time, and (d) failing to organize a “bullpen” of board appointees to backfill reasonably foreseeable vacancies and ensure compliance with the Equal Access Statutes and the equal representation requirements of the EPM.

40. Defendants have also informed even the Republican Party’s own board nominees that they would not be appointed if they did not comply with these onerous requirements -

CRONKITE NEWS (available at: <https://cronkitenews.azpbs.org/2018/10/30/arizona-poll-workers-sign-up-for-long-hours-low-pay/>) Oct. 30, 2018.

1 despite the fact that the EPM and Title 16 make clear they have no authority to reject the
2 Republican Party's board nominees. *See e.g., Ex. A, Emails, Ex. B, Declarations.*
3 Alternatively, their onerous requirements constitute an abuse of discretion.

4 41. Under either the unqualified language of the Equal Access Statutes or the
5 Defendants' preferred "best efforts" standard, the Defendants have failed to meet their legal
6 obligations.

7 42. The Defendants' failure materially prejudices public confidence in the procedural
8 and substantive fairness of the administration of elections in Maricopa County.

9 43. In violating the Equal Access Statutes and EPM, the Defendants have failed to
10 perform a duty required by law as to which they have no discretion.

11 44. In administering elections in violation of the Equal Access Statutes and the equal
12 representation requirements of the EPM and adopting policies that ensure such non-
13 compliance, the Defendants have proceeded or are threatening to proceed without or in
14 excess of jurisdiction or legal authority.

15 45. In adopting policies that result in non-compliance with the Equal Access Statutes
16 and the equal representation requirements of the EPM, the Defendants have made
17 determinations that are arbitrary and capricious or an abuse of discretion.

18 46. The balance of equities and considerations of public policy support the entry of
19 injunctive relief.

20 47. Accordingly, Plaintiffs are entitled to an injunction or mandamus relief sufficient to
21 ensure Defendants' future compliance with the Equal Access Statutes and the equal
22 representation requirements of the EPM and corresponding declaratory relief.

23 **DEMAND FOR RELIEF**

24 WHEREFORE, Plaintiffs demands relief in the following forms:

- 25 A. Injunctive or mandamus remedies requiring the Defendants to adopt
26 policies and practices sufficient to ensure compliance with the Equal
27 Access Statutes and the equal representation requirements of the EPM
28 including, without limitation, a relaxation of Maricopa County's hours

1 requirements for board appointees, the maintenance of reasonably
2 hospitable workplace conditions such that the attrition rate of board
3 appointees does not result in the unlawful and unrepresentative
4 administration of elections, and the maintenance of a bullpen of
5 Republican election workers sufficient to backfill projected attrition
6 amongst other Republican board appointees arising due to inhospitable
7 work conditions. Such remedies to apply to the 2022 General Election
8 and all future elections.

9 B. A declaration, pursuant to the Arizona Uniform Declaratory
10 Judgments Act, that Defendants' current policies and practices violate
11 the Equal Access Statutes and the EPM.

12 C. Injunctive or mandamus remedies requiring Defendants to appoint the
13 Republican Party's board nominees.

14 D. A declaration, pursuant to the Arizona Uniform Declaratory
15 Judgments Act that Defendants may not impose requirements on the
16 Republican Party's board nominees in either the 2022 General Election
17 or in future elections. Alternatively, for a declaration that the current
18 requirements imposed upon the Republican Party's board nominees
19 constitute an abuse of discretion.

20 E. An award of fees, costs, and other expenses pursuant to A.R.S. §§ 12-
21 348, 12-2030, the private attorney general doctrine, and other
22 applicable law.

23 F. Such other relief as the Court deems necessary, equitable, proper, or
24 just.

1 DATED this 4th day of October, 2022.

2 TIMOTHY A. LA SOTA, PLC

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