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

13 REPUBLICAN NATIONAL COMMITTEE, a
14 national political party committee; REPUBLICAN
15 PARTY OF ARIZONA, a recognized political
16 party,

17 Plaintiffs,

18 v.

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

Defendants.

No. _____

**VERIFIED SPECIAL ACTION
COMPLAINT**

(Show Cause Hearing Requested)

1
2 Plaintiffs Republican National Committee (“RNC”) and Republican Party of
3 Arizona (“AZGOP”) bring this special action to compel the prompt production of public
4 records¹ pursuant to the Arizona Public Records Act, A.R.S. § 39-121, *et seq.* (“PRA”), and
5 hereby alleges as follows:

6 **SUMMARY OF THE CASE**

7 1. Plaintiff RNC has repeatedly requested from the Defendants the production
8 of public records relating to the staffing and composition of polling place Election Boards,
9 Special Election Boards, and Central Counting Boards in connection with the imminent
10 general election on November 8, 2022. The individuals who fill these positions are
11 responsible for critical facets of the voting and ballot tabulation process, and the integrity
12 of the impending election is dependent on equal representation of both major political
13 parties, as required by law.

14 2. Although it is undisputed that the documents and materials the RNC seeks are
15 public records, the Defendants have failed to produce or make such records available for
16 inspection promptly, thereby disregarding their statutory obligations under the PRA.

17 3. Plaintiffs lack an equally plain, speedy and adequate remedy at law, and
18 special action relief is necessary to ensure that the Defendants discharge the
19 nondiscretionary duties imposed upon them by Arizona law.

20 **JURISDICTION**

21 4. This Court has jurisdiction over this action pursuant to Article 6, § 14 of the
22 Arizona Constitution, A.R.S. §§ 12-2021, 39-121.02, and Arizona Rule of Special Action
23 Procedure 4.

24 5. Venue lies in Maricopa County pursuant to Arizona Rule of Special Action
25 Procedure 4(b) and pursuant to A.R.S. § 12-401(16) because the Defendants hold office in
26 that county.

27 _____
28 ¹ As the definitions of “records” and “other matters” have essentially merged, the term records, as
used in this action, should be construed as encompassing other matters.

1
2 **PARTIES**

3 6. Plaintiff Republican National Committee is a national political party
4 committee that is responsible for the strategic and day-to-day operation of the Republican
5 Party at the national level and for promoting the election of Republican candidates for
6 federal office in Arizona and across the United States.

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

13 8. Defendant Stephen Richer is the Recorder of Maricopa County and is named
14 in this action in his official capacity only. As the officer in charge of elections in Maricopa
15 County, Defendant Richer is responsible for appointing Special Election Boards and some
16 or all of the Central Counting Boards. *See* A.R.S. § 16-549(A); Ariz. Sec’y of State, 2019
17 ELECTIONS PROCEDURES MANUAL (rev. Dec. 2019) [“EPM”] at pp. 196–97. The County
18 Recorder is an “officer” within the meaning of A.R.S. § 39-121.01(A)(1). Upon information
19 and belief, the County Recorder has custody, and is responsible for the preservation,
20 maintenance and care, of some or all the public records requested by the RNC.

21 9. Defendant Rey Valenzuela is the Director of Elections for Election Services
22 and Early Voting in Maricopa County, and is named in this action in his official capacity
23 only. Director Valenzuela is an “officer” within the meaning of A.R.S. § 39-121.01(A)(1).
24 Upon information and belief, Director Valenzuela has custody, and is responsible for the
25 preservation, maintenance and care, of some or all the public records requested by the RNC.

26 10. Defendant Scott Jarrett is the Director of Elections for Election Day and
27 Emergency Voting in Maricopa County, and is named in this action in his official capacity
28 only. Director Jarrett is an “officer” within the meaning of A.R.S. § 39-121.01(A)(1). Upon

1 information and belief, Director Jarrett has custody, and is responsible for the preservation,
2 maintenance and care, of some or all the public records requested by the RNC.

3 11. Maricopa County is a political subdivision of the State of Arizona. Maricopa
4 County is charged by law with various duties under the PRA and charge by law with
5 conducting elections within its jurisdictional boundaries, including through its Board of
6 Supervisors, appointing inspectors, marshals and judges to staff polling places on Election
7 Day, and appointing certain Central Counting Boards. *See* A.R.S. §§ 11-251(3), 16-531;
8 EPM at pp. 196–212. The Maricopa County Board of Supervisors is a “public body” within
9 the meaning of A.R.S. § 39-121.01(A)(2). Upon information and belief, the Maricopa
10 County Board of Supervisors has custody, and is responsible for the preservation,
11 maintenance and care, of some or all the public records requested by the RNC and its
12 members are likewise sued here in their official capacities.

13 **GENERAL ALLEGATIONS**

14 **Organization and Appointment of Election Administration Boards**

15 12. The substantive integrity and perceived legitimacy of our electoral system
16 requires that it be open and accessible to both political parties on fair and equal terms. For
17 this reason, Arizona law requires every county to ensure partisan balance in positions
18 charged with conducting elections.

19 13. The Board of Supervisors must appoint for each polling place an inspector, a
20 marshal, and two judges. *See* A.R.S. § 16-531(A). “There shall be an equal number of
21 inspectors in the various precincts in the county who are members of the largest political
22 parties,” and when an inspector is a member of a major political party, the marshal for that
23 polling place must be affiliated with the other political party. *Id.* The judges must be
24 members of different political parties and selected from lists provided to the Board of
25 Supervisors by the respective chairs of the county Democrat and Republican committees.
26 *Id.* The “Board of Elections” at each polling place consists of the inspector (who serves as
27 its chair) and the two judges. *Id.*, § 16-534.

1 14. Upon information and belief, poll workers staffing voting centers in Maricopa
2 County in the August 2, 2022 primary election consisted in the aggregate of 857 Democrats
3 and 712 Republicans.

4 15. Upon information and belief, at least eleven voting centers operated in
5 Maricopa County during the August 2, 2022 primary election lacked even a single
6 Republican poll worker.

7 16. Each county also must constitute Special Election Boards, which deliver
8 unvoted ballots to, and collect completed ballots from, qualified electors who are ill or
9 disabled (for example, individuals who are confined to a hospital or nursing facility). Each
10 Special Election Board must consist of one Democrat and one Republican who are
11 appointed by the County Recorder from lists provided by the respective chairs of the county
12 Democrat and Republican committees. *See* A.R.S. § 16-549(A).

13 17. The EPM, which generally carries the force of law, *see* A.R.S. § 16-452, also
14 mandates the organization of various of “Central Counting Boards” responsible for
15 receiving, processing and tabulating ballots. In the County Recorder’s discretion, certain
16 boards can be combined, and multiple iterations of a single board are permissible. *See* EPM
17 at pp. 196–97; *See also* EPM at pp. 66, A.R.S. §§ 16-531-32, 549, 551-52, 621. The Central
18 Counting Boards are as follows:

- 19 a. Write-In Board
- 20 b. Receiving Board
- 21 c. Inspection Board
- 22 d. Central Counting Place Board
- 23 e. Ballot Duplication Board
- 24 f. Electronic Vote Adjudication Board
- 25 g. Accuracy Certification Board
- 26 h. Provisional Ballot Board
- 27 i. Audit Board
- 28 j. Snag Board

1 k. Other boards may also be appointed as needed and boards may be
2 consolidated.

3 18. In addition, the Board of Supervisors must appoint an Early Ballot Board that
4 processes voted early ballots. *See* A.R.S. § 16-551.

5 19. The Early Ballot Board, the Electronic Vote Adjudication Board, and the
6 Write-In Board each must consist of one inspector and two judges. At least one judge must
7 be affiliated a different political party than the inspector, and judges are selected from lists
8 supplied by the respective chairs of the Republican and Democrat county committees. *See*
9 A.R.S. §§ 16-551(A), 16-621(B); EPM at p. 208.

10 20. The remaining boards each are comprised of “two members of different
11 political parties. County party chairpersons may nominate persons to fill board positions.”
12 EPM at p. 197.

13 21. When equal partisan representation on any board is “impossible,” “the County
14 Recorder or office in charge of elections shall document when and how the political parties
15 in the county were contacted about the need for board workers affiliated with those parties
16 and all other actions taken in a best effort to obtain board workers from two different
17 political parties.” EPM at p. 197 n.51. However, this requirement shall not “be interpreted
18 to supersede otherwise applicable statutory requirements, including requirements as to
19 differing political party affiliation of board workers.” *Id.*

20 22. Upon information and belief, certain Central Counting Boards in the August
21 2, 2022 primary did not consist of equal numbers of Republican and Democrat designees.

22 23. Upon information and belief, Defendants are not on track to equally staff
23 voting centers and Central Count Boards with Republican and Democratic workers for the
24 2022 general election either.

25 **The RNC’s Multiple Public Records Requests**

26 24. On September 9, 2022, the RNC submitted to the Defendants a request (the
27 “First Records Request”) for the following public records:
28

- a. “[W]ritten documentation that demonstrates the County’s efforts to hire Republican poll workers at the 11 voting locations” that were staffed entirely by Democrats and other non-Republicans during the August 2, 2022 primary election;
- b. “Documentation showing any efforts to find replacement workers for these [eleven] locations”; and
- c. “Documentation regarding the County’s durational requirements for central board workers, [and] the legal basis for such requirements (if any).”

25. A true and correct copy of the First Records Request is attached hereto as Exhibit A.

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

27. On September 16, 2022, an attorney for Maricopa County sent to the RNC a copy of an email that Director Jarrett had previously sent to a third party that contained narrative information and explanations pertaining to some of the issues raised in the First Records Request.

28. Aside from this single email, the Defendants have not provided to the RNC any public records in response to the First Records Request.

29. On September 29, 2022, the RNC submitted to the Defendants another public records request (the “Second Records Request”) that reiterated the still-outstanding items identified in the First Records Request, and sought the following additional public records:

- a. “Documents sufficient to identify any and all qualifications and requirements for the following job positions in connection with the November 8, 2022 general election, including but not limited to (a) the

1 duration of the position, and (b) the number of hours per day and/or hours
2 per week that hired individuals must work as a condition of employment:

- 3 (i) Polling Place Election Boards;
- 4 (ii) Early Ballot Boards;
- 5 (iii) Special Election Boards;
- 6 (iv) Receiving Boards;
- 7 (v) Inspection Boards;
- 8 (vi) Central Counting Place Boards;
- 9 (vii) Ballot Duplication Boards;
- 10 (viii) Electronic Vote Adjudication Boards;
- 11 (ix) Provisions Ballot Boards;
- 12 (x) Write-In Boards;
- 13 (xi) Audit Boards; and
- 14 (xii) Snag Boards.”

15 b. “Documents sufficient to identify the respective numbers of registered
16 Republicans, registered Democrats, and individuals with other or no
17 political party affiliations who were hired for each of the job positions set
18 forth [above] in connection with the August 2, 2022 primary election.”

19 c. “Documents sufficient to identify the respective numbers of registered
20 Republicans, registered Democrats, and individuals with other or no
21 political party affiliations who have been hired to date for each of the job
22 positions identified [above] in connection with the November 8, 2022
23 general election.”

24 d. “Documents containing or reflecting communications (including but not
25 limited to email messages and phone logs) with the Maricopa County
26 Republican Committee (to include any officer, employee or
27 representative thereof) between June 1, 2022 concerning the
28 identification, recruitment or hiring of actual or potential candidates for
any of the positions set forth [above].”

e. “Documents containing or reflecting communications (including but not
limited to email messages and phone logs) between June 1, 2022 and the
present with any individual identified, suggested or recommended by the

1 Maricopa County Republican Committee (to include any officer,
2 employee, or representative thereof) as an actual or potential applicant or
3 candidate for any of the positions set forth [above].”

4 (collectively, the “Requested Records”).

5 30. A true and correct copy of the Second Records Request is attached hereto as
6 Exhibit B.

7 31. The Defendants confirmed receipt of the Second Records Request in a letter
8 transmitted on September 30, 2022. The September 30 letter acknowledged that the
9 documents sought by the RNC are public records, but failed to indicate even in general
10 terms when any such records would be produced or made available for inspection.

11 32. A true and correct copy of the September 30 letter is attached hereto as Exhibit
12 C.

13 33. To date, the Defendants have not produced or made available any public
14 records in response to the Second Public Records Request.

15 34. Public records requests must be fulfilled “promptly.” A.R.S. § 39-
16 121.01(D)(1).

17 35. Early voting in connection with the November 8, 2022 general election will
18 commence on October 12, 2022. *See* A.R.S. § 16-542(C).

19 36. Upon information and belief, the Defendants currently are recruiting and
20 hiring individuals to staff polling place Boards of Elections, Central Counting Boards, and
21 Special Election Boards.

22 37. In the absence of an immediate and comprehensive production of the
23 requested public records, the RNC cannot effectively monitor or verify that critical election
24 positions are being organized and filled in a manner that is compliant with governing law
25 and that is fair and equitable to the Republican Party, Republican candidates for public
26 office, and Republican voters.

27 38. The Second Records Request demanded a complete or substantially complete
28 production of public records no later than October 3, 2022. This deadline (or its substantial

1 equivalent) is, under the circumstances presented, necessary to ensure that vital public
2 records are furnished promptly and that apparent deficiencies can be remedied before the
3 2022 general election.

4 **COUNT I**
5 **Special Action Relief to Compel Prompt Production of Public Records**
6 **(A.R.S. § 39-121, *et seq.*)**

7 39. Plaintiffs incorporate by reference the foregoing allegations as if fully set
8 forth herein.

9 40. The Defendants individually and collectively are required by law to preserve
10 and maintain all records “reasonably necessary or appropriate to maintain an accurate
11 knowledge of their official activities and of any of their activities that are supported by
12 monies from this state or any political subdivision of this state.” A.R.S. § 39-121.01(B).

13 41. The Defendants are required by law to produce or make available such public
14 records to “any person” upon request. *See* A.R.S. § 39-121.

15 42. A public records request need not be presented in any particular format or
16 utilize any specific verbiage. *See* A.R.S. § 39-121.01(D)(1).

17 43. The PRA requires “the prompt and actual production of the documents”
18 sought by a public records request. *Phoenix New Times, L.L.C. v. Arpaio*, 217 Ariz. 533,
19 538, ¶ 12 (App. 2008).

20 44. An officer or public body acts “promptly” when the officer or body is “quick
21 to act” or “produc[es] the requested records ‘without delay.’” *Am. Civil Liberties Union v.*
22 *Ariz. Dept. of Child Safety*, 240 Ariz. 142, 152, ¶ 32 (App. 2016).

23 45. The officer or public body from whom public records are requested has the
24 burden of proving that the response was “prompt given the circumstances surrounding each
25 request.” *Phoenix New Times*, 217 Ariz. at 538–39, ¶ 15.

26 46. Undue delay in the fulfillment of a public records request constitutes a denial
27 of access to the requested records. *See Phoenix New Times*, 217 Ariz. at 547, ¶ 51.

1 47. A person who has been denied access to requested public records “may appeal
2 the denial through a special action in the superior court.” A.R.S. § 39-121.02(A).

3 48. A court in a special action proceeding may compel a public officer “to
4 perform a duty required by law as to which has no discretion.” Ariz. R. Proc. Special
5 Actions (“RPSA”) 3(a); *see also* A.R.S. § 12-2021.

6 49. All the documents sought by the First Records Request and the Second
7 Records Request are “public records” subject to mandatory and prompt disclosure under
8 the PRA because they have a “substantial nexus” to the Defendants’ official duties and
9 activities in connection with the conduct and administration of elections in Maricopa
10 County. *See Griffis v. Pinal County*, 215 Ariz. 1, 4, ¶ 10 (2007).

11 50. Upon information and belief, there are public records in the Defendants’
12 custody that are responsive to the First Records Request and/or the Second Records
13 Request.

14 51. The Defendants have a nondiscretionary statutory duty to promptly produce
15 or make available to the RNC all public records sought in the First Records Request and the
16 Second Records Request.

17 52. Aside from a single email, the Defendants have not produced or made
18 available to the RNC any public records in response to either the First Records Request or
19 the Second Records Request.

20 53. The Defendants’ failure to promptly produce the requested documents
21 constitutes an effective denial of access to public records and prevents Plaintiffs from
22 monitoring election activity in the most populous county with highly competitive races for
23 statewide offices, including the U.S. Senate, the governorship, as well as the state
24 legislature.

25 54. Plaintiffs are accordingly entitled to a writ of mandamus or other relief
26 compelling the immediate and full production of the requested public records.

COUNT II
Special Action Relief to Compel Defendants to Make or Maintain Necessary Records
(A.R.S. § 39-121, *et seq.*; EPM Ch. 10)

55. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth herein.

56. Plaintiffs believe that the Requested Records are in Defendants' possession, custody, or control and have simply been withheld. However, in the alternative, some or all of the Requested Records have not been produced because Defendants have failed to make them in the first place or have failed to maintain them.

57. "All officers and public bodies shall maintain all records . . . reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by monies from the state or any political subdivision of the state." *Griffis v. Pinal Cty.*, 215 Ariz. 1, 4 (2007) (citing ARS 39-121.01).

58. "Section 39-121.01(B) creates a statutory **mandate** which, in effect, requires all officers to **make** and maintain records reasonably necessary to provide knowledge of all activities they undertake in the furtherance of their duties." *Carlson v. Pima Cty.*, 141 Ariz. 487, 490, 687 P.2d 1242, 1245 (1984) (emphasis added).

59. Further, "the officer in charge of elections shall document when and how the political parties in the county were contacted about the need for board workers affiliated with those parties and all other actions taken in a best effort to obtain board workers from two different political parties" for each voting location. EPM pg. 197 (noting further: "However, nothing in this Manual shall be interpreted to supersede otherwise applicable statutory requirements, including requirements as to differing political party affiliation of board workers."); *See also* ARS 16-452(C) ("As a general rule, the EPM has the force of law and their violation is punishable as a class 2 misdemeanor.").

60. Upon information and belief, this failure to maintain occurred because Defendants do not have a practice of making records such as the Requested Records in the first place despite a legal obligation to do so.

1 61. Upon information or belief, Defendants are failing to make certain records for
2 the 2022 general election. Specifically, Plaintiffs believe, and therefore allege, that
3 Defendants are failing to make (or maintain) some or all of the following records:

- 4 a. Documentation of the County's efforts to hire Republican poll workers.
- 5 b. Documentation of the County's efforts to hire Republican central board
6 workers.
- 7 c. Documentation showing any efforts to find replacement workers for vote
8 centers if any Republican poll workers failed to show up on election day,
9 or otherwise decommit.
- 10 d. Documentation of the County's efforts to contact those Republicans on
11 the Primary and General Election lists to ask them to serve as poll
12 workers or central board workers in the 2022 General Election by:
 - 13 i. Phone
 - 14 ii. Email, *and/or*
 - 15 iii. Mail
- 16 e. Documentation regarding the County's durational requirements for
17 central board workers.
- 18 f. Documentation of efforts to contact the political parties about the need
19 for board workers affiliated with those parties.
- 20 g. Documentation of all other actions taken in a best effort to obtain board
21 workers from two different political parties.

(collectively, the "Necessary Records").

22 62. The Necessary Records are reasonably necessary or appropriate to maintain
23 an accurate knowledge of Defendants' official activities.

24 63. The Necessary Records are reasonably necessary or appropriate to maintain
25 an accurate knowledge of Defendants activities which are supported by monies from the
26 state or any political subdivision of the state.

64. The Necessary Records are reasonably necessary to document when and how political parties in the county were contacted about the need for board workers affiliated with those parties and all other actions taken in a best effort to obtain board workers from two different political parties.

65. Defendants have no discretion to disregard the statutory mandate to make (or maintain) the Necessary Records. *See* RPSA 3(a).

66. Alternatively, Defendants (i) Are threatening to proceed without legal authority in failing to make (or maintain) the necessary records and/or (ii) have abused their discretion by failing to make (or maintain) the Necessary Records or by making (or maintaining) insufficient records. *See* RPSA 3(b-c).

67. Though not required, Plaintiffs allege that there is no equally plain, speedy, and adequate remedy at law. The failure to make (or maintain) the Necessary Records is, upon information and belief, occurring at the present moment and cannot be remedied after the election.

68. Plaintiffs are accordingly entitled to a writ of mandamus or other relief compelling Defendants to make (or maintain) the Necessary Records, or such of the Necessary Records as they are currently not making or maintaining.

DEMAND FOR RELIEF

WHEREFORE, the Plaintiffs demand relief in the following forms:

- a. A writ of mandamus or other order requiring the Defendants to immediately produce or make available to the RNC all public records requested the First Records Request and/or the Second Records Request.
- b. A writ of mandamus or other order requiring Defendants to make (and maintain) the Necessary Records for the 2022 general election and all future elections.
- c. An award of reasonable attorneys' fees and costs pursuant to A.R.S. §§ 12-341, 12-348, 12-2030, 39-121.02(B), the private attorney general doctrine, and other applicable law.

1 d. Such other relief as the Court deems necessary, equitable, proper, and
2 just.

3
4 DATED this 4th day of October, 2022.

5 By: /s/ Timothy A. La Sota
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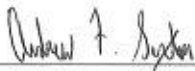
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Verification

I, Andrew Sexton, depose and say:

I have read the foregoing Verified Special Action Complaint and know the contents thereof by personal knowledge. I know the allegations of the Verified Special Action Complaint to be true, except the matters therein on information and belief, which I believe to be true.

Signed under penalty of perjury on this 4th day of October, 2022.



Andrew Sexton
Regional Political Director
Republican National Committee

EXHIBIT A

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September 9, 2022

VIA EMAIL ONLY

Tom Liddy
Maricopa County Attorney's Office
225 W. Madison Street
Phoenix, Arizona 85003
liddy@mcaco.maricopa.gov

Re: *Poll Worker Staffing Inadequacies*

Dear Mr. Liddy:

As you know, this firm represents the Republican National Committee (RNC) with respect to oversight of Arizona election administration in the 2022 elections.

I write to address serious concerns about Maricopa County's maldistribution of Republican poll workers and board workers during the August primary election, and the potential for this inequity to be repeated in the forthcoming general election. I request the County promptly and fully allay these concerns, which fall into three principal categories.

First, public records show that the County hired 857 Democrat poll workers during the primary election but only 712 Republicans. It is difficult to attribute this disparity to mere chance. A.R.S. § 16-531(A) requires that the inspector, marshal and judges at voting locations "shall be divided equally" between Republicans and Democrats, and across all voting locations "[t]here shall be an equal number of inspectors . . . who are members of the two largest political parties." The statutory scheme should have virtually guaranteed an equal distribution by party affiliation. The RNC requests a written explanation why relative parity was not achieved in the primary.

Second, public records show that 11 vote centers utilized during the primary election did not have *any* Republican poll workers whatsoever.¹ The chairwoman of the Maricopa County Republican Committee, Mickie Niland, provided the County with a list of several hundred

¹ These vote centers were the San Lucy District Administration Building, Fowler School, Memorial Presbyterian Church, Cartwright School District Annex, Charles W. Harris School, David Crockett School, Salt River Pima Community Center, El Tianguis Mercado, Brophy College Prep, Estrella Mountain Community College, and Aguila Fire Department. In contrast, only 2 vote centers lacked any Democratic Party poll workers.

Republican poll worker names (along with contact information) in May 2022, and therefore the County had an ample talent pool from which to recruit. According to the Election Procedures Manual, “the officer in charge of elections shall document when and how the political parties in the county were contacted about the need for board workers affiliated with those parties and all other actions taken in a best effort to obtain board workers from two different political parties” for each voting location.² Upon information and belief, Chairwoman Niland was not contacted about any last-minute shortfall in Republican poll workers in the primary. Accordingly, please provide the RNC with the written documentation that demonstrates the County’s efforts to hire Republican poll workers at the 11 voting locations in question. If any Republican poll workers failed to show up on election day, or otherwise decommitted from these locations prior to election day, please provide documentation showing any efforts to find replacement workers for these locations.

Finally, your records indicate a significant disparity between political parties in the central processing boards utilized at the Maricopa County Tabulation and Election Center (MCTEC) during the primary. Republicans filled 88 positions (28%) while Democrats filled 148 positions (47%), with the greatest disparity found in the receiving/inspection boards in the warehouse (10 Republicans vs. 58 Democrats). The Election Procedures Manual requires that each central board must be “comprised of two members of different political parties” and “County party chairpersons may nominate persons to fill board positions.”³ Chairwoman Niland dutifully supplied the County with hundreds of potential names for these positions in May. Please explain in writing why the County could not achieve greater parity by utilizing Ms. Niland’s list.⁴

A related problem is the durational requirements imposed on these central board positions, including special election boards. Several positions apparently require a multi-day/multi-week commitment, including the necessity to work long hours or late hours. Rigorous working conditions are not uncommon during an election, but the County has artificially limited its pool of board workers (especially Republican board workers) by refusing to allow more manageable shifts. There are more than enough qualified Republican board workers to work half-day shifts or shifts on non-consecutive days, without unduly impacting the County’s efficiency. Please provide documentation regarding the County’s durational requirements for central board workers, the legal basis for such requirements (if any), and an explanation why greater flexibility was not provided in light of the substantial Republican volunteer workforce ready and willing to serve.

In closing, while it is critically important to understand how these disparities resulted in the primary election, it is equally (if not more) important to ensure that poll worker and central board staffing for the general election comply with the letter of the law and be beyond reproach. Chairwoman Niland supplied the County with nearly 500 poll worker names and nearly 100 central

² 2019 Election Procedures Manual, pg. 134 n.38.

³ 2019 Election Procedures Manual, pg. 197.

⁴ “If it is impossible to sufficiently staff the boards with members of different political parties, the officer in charge of elections . . . shall document when and how the political parties were contacted about the need for board workers affiliated with those parties and all other actions taken in a best effort to obtain board workers from two different political parties.” 2019 Election Procedures Manual, pg. 197 n. 51.

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board worker names on August 10, 2022 for the purpose of fully staffing each location and position with Republicans in the general election. The RNC requests confirmation that all of those prospective workers will be contacted by the County to serve in the general election,⁵ that the County will make best efforts to achieve complete parity between Republicans and Democrats in each location and board, and that the County will promptly contact Chairwoman Niland for Republican workers in the event the County is having any trouble achieving this parity.

I look forward to hearing from you. It is critical that the County provide this information as soon as possible, and no later than September 16, in order to assure the RNC and countless stakeholders that the requisite number of Republican workers will be recruited, trained, and assigned to all locations and positions for the forthcoming general election. The RNC is prepared to pursue all available legal remedies if you fail to respond to this letter or adequately explain the issues discussed above.

Sincerely,

Snell & Wilmer L.L.P.



Eric H. Spencer

cc: Joseph LaRue, Maricopa County Attorney's Office (laruej@mcao.maricopa.gov)

⁵ To the extent the County plans to re-employ Republicans as judges who served in the primary election, and therefore use Chairwoman Niland's August 10th list for the purpose backfilling clerk positions in those locations, please provide documentation with each such judge's name and the voting location where that judge will be retained.

EXHIBIT B

September 29, 2022

Thomas Liddy, Esq.
Maricopa County Attorney's Office
225 West Madison Street
Phoenix, Arizona 85003
liddy@mcdo.maricopa.gov
VIA EMAIL ONLY

Re: Public Records Requests of the Republican National Committee

Dear Mr. Liddy:

This firm represents the Republican National Committee ("RNC"). I write by way of follow-up to the public records request submitted on September 9, 2022 by Eric Spencer on the RNC's behalf. To date, the RNC has received no records whatsoever in response to its request, nor any assurance that document productions are forthcoming. The RNC wishes to engage in constructive discussions to facilitate the efficient fulfillment of its records requests, avoiding any unnecessary burdens on county resources. At the same time, the RNC is prepared to pursue all available legal remedies required to ensure it receives, in a timely manner, access to public records sufficient to illuminate the county's performance of important statutory duties.

As you know, Mr. Spencer's letter expressly sought the following:

1. "[W]ritten documentation that demonstrates the County's efforts to hire Republican poll workers at the 11 voting locations" that were staffed entirely by Democrats and other non-Republicans during the August 2, 2022 primary election;
2. "Documentation showing any efforts to find replacement workers for these [eleven] locations"; and
3. "Documentation regarding the County's durational requirements for central board workers, [and] the legal basis for such requirements (if any)."

In response to these public records requests, the RNC has received only a copy of an email that Scott Jarrett, Director of Elections for Election Day and Emergency Voting, had previously sent to a third party in connection with a separate and independent request. While Mr. Jarrett's narrative representations are appreciated, they are not substitutes for "the prompt and actual production of documents" that the Public Records Act requires. *Lunney v. State*, 244 Ariz. 170, 179, ¶ 31 (App. 2017).¹

In addition to renewing the requests contained in Mr. Spencer's correspondence, the RNC requests immediate production of the following public records, to the extent they are not within the scope of Mr. Spencer's submission:

¹ Further, Mr. Jarrett's email provided no information at all with respect to seven of the 11 voting centers identified by Mr. Spencer.

4. Documents sufficient to identify any and all qualifications and requirements for the following job positions in connection with the November 8, 2022 general election, including but not limited to (a) the duration of the position, and (b) the number of hours per day and/or hours per week that hired individuals must work as a condition of employment:
 - a. Polling Place Election Boards;
 - b. Early Ballot Boards;
 - c. Special Election Boards;
 - d. Receiving Boards;
 - e. Inspection Boards;
 - f. Central Counting Place Boards;
 - g. Ballot Duplication Boards;
 - h. Electronic Vote Adjudication Boards;
 - i. Provisions Ballot Boards;
 - j. Write-In Boards;
 - k. Audit Boards; and
 - l. Snag Boards.
5. Documents sufficient to identify the respective numbers of registered Republicans, registered Democrats, and individuals with other or no political party affiliations who were hired for each of the job positions set forth in Request No. 4 in connection with the August 2, 2022 primary election.
6. Documents sufficient to identify the respective numbers of registered Republicans, registered Democrats, and individuals with other or no political party affiliations who have been hired to date for each of the job positions identified in Request No. 4 in connection with the November 8, 2022 general election.
7. Documents containing or reflecting communications (including but not limited to email messages and phone logs) with the Maricopa County Republican Committee (to include any officer, employee or representative thereof) between June 1, 2022 concerning the identification, recruitment or hiring of actual or potential candidates for any of the positions set forth in Request No. 4.²
8. Documents containing or reflecting communications (including but not limited to email messages and phone logs) between June 1, 2022 and the present with any individual identified, suggested or recommended by the Maricopa County Republican Committee (to include any officer, employee, or representative thereof) as an actual or potential applicant or candidate for any of the positions set forth in Request No. 4.

While “[a] person need not demonstrate a particular purpose to justify disclosure” of public records, *Hodai v. City of Tucson*, 239 Ariz. 34, 38, ¶ 7 (App. 2016), an immediate release of these materials is vital to vindicating

² As you know, county elections officials are required to “document when and how the political parties in the county were contacted about the need for board workers affiliated with those parties and all other actions taken in a best effort to obtain board workers from two different political parties.” Ariz. Sec’y of State, 2019 ELECTIONS PROCEDURES MANUAL (rev. Dec. 2019) at p. 197; *see also* Ariz. Rev. Stat. § 16-452.

the right of the RNC—and the electorate as a whole—to monitor the fairness and integrity of Maricopa County's voting and ballot tabulation processes. As recounted in Mr. Spencer's letter, the August primary was attended by prominent partisan disparities in the staffing of certain critical positions. While we are aware of Maricopa County's purported efforts to prevent similar asymmetries in the general election, the County has yet to provide full and comprehensive visibility into the issues identified above—most notably the requirements it has devised for Special Election Board and other Central Counting Board positions, and the ground(s) for imposing such criteria. Moreover, the RNC and its affiliates have requested similar information in every recent election cycle and, although Maricopa County has repeatedly offered its assurances that its staffing practices are fair and impartial, the RNC is statutorily entitled to access documentary evidence of the underlying facts. Not wishing to distract the county from the other pressing matters in the period leading up to the election, the RNC has previously refrained from pressing the issue of documentary evidence over the last several election cycles but, at this point, must now insist on receiving the requested records in order to ensure that its rights and interests are being adequately protected.³

Given the three-week delay that has already elapsed and the imminent commencement of early voting in the November 8 general election, the RNC expects to receive all or substantially all records responsive to these requests no later than the close of business on **Monday, October 3, 2022**. See generally *Phoenix New Times, L.L.C. v. Arpaio*, 217 Ariz. 533, 538, ¶ 14 (App. 2008) (government agencies must be “quick to act” and “produc[e] the requested records ‘without delay’”). The RNC is willing to engage constructively in discussions to streamline or prioritize these requests to facilitate their efficient fulfillment, provided that it expeditiously receives documents and information necessary to ensure full transparency into the conduct of the upcoming election.

Please be advised that all records sought by this letter or by Mr. Spencer's September 9 correspondence will be used only for non-commercial purposes.

Thank you for your attention to this matter.

Respectfully,

/s/ Kory Langhofer

Kory Langhofer

³ The RNC is currently pressing similar requests in several other states, including Nevada, Michigan, and Wisconsin.

EXHIBIT #



Maricopa County Attorney

RACHEL MITCHELL

September 30, 2022

VIA EMAIL ONLY

Kory Langhofer
Statecraft PLLC
649 North Fourth Avenue
Phoenix, AZ 85003
kory@statecraft.com

RE: Your September 29, 2022 letter sent on behalf of the RNC

Dear Mr. Langhofer:

Yesterday at 4:01 p.m., we received an email from you attaching your September 29, 2022 letter, sent on behalf of the Republican National Committee, which is a public records request seeking various records related to the County's efforts to hire poll workers. Our client will seek to fulfill your public records request promptly, as the law requires. You have demanded, however, that it be fulfilled within 96 hours, 48 of which occurs over a weekend. Neither the statute nor the relevant caselaw will uphold the proposition that a response within such a short time-frame is required.

The personnel best able to identify and locate the records you have requested are the same Elections Department employees who are responsible to administer the November 8, 2022 General Election. They will necessarily have to prioritize their responsibilities to the people of Maricopa County to conduct the election, which means that they are unlikely to be able to fulfill your public records request within your 96 hour deadline.

In your letter, you referred to a prior letter, sent by Eric Spencer on September 9, 2022, as a "public records request." It was not. Rather, it was a demand letter, which threatened litigation. The letter nowhere referenced the public records law nor stated it was making a public records request, and the County certainly did not understand it as such.

Warmest Regards,

Thomas P. Liddy
Division Chief, Civil Services Division

cc: Joseph E. La Rue
Scott Jarrett