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

24 REPUBLICAN NATIONAL  
25 COMMITTEE, *et al.*,

26 Plaintiffs,

27 vs.

28 STEPHEN RICHER, *et al.*,

Defendants.

No. CV2022-013185

**DEFENDANTS' MOTION TO DISMISS  
PLAINTIFFS' AMENDED VERIFIED  
SPECIAL ACTION COMPLAINT**

(The Honorable Katherine Cooper.)

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1 **Motion**

2 Pursuant to Arizona Rule of Civil Procedure 12(b)(6), Defendants (“County”) move  
3 to dismiss this lawsuit for failure to state a claim upon which relief can be granted.

4 **Memorandum**

5 **Introduction**

6 The original Verified Special Action Complaint (the “Original Complaint”) filed by  
7 Plaintiffs the Republican National Committee (“RNC”) and the Republican Party of Arizona  
8 (“AZGOP”) asserted a single claim that focused on alleged violations of A.R.S. §§ 16-531,  
9 16-532, 16-549, 16-551, 16-552, and 16-621 (collectively, the “Election Board Statutes”)<sup>1</sup>  
10 and the 2019 Elections Procedures Manual (“EPM”). Specifically, Plaintiffs alleged that the  
11 County hired more Democratic poll workers and other election board workers (together,  
12 “poll workers”) than Republican poll workers and did not staff Republican poll workers at  
13 some vote centers during the 2022 Primary Election. Additionally, Plaintiffs argued that the  
14 County’s poll worker work requirements act as a barrier to recruiting Republicans to work  
15 as poll workers for the 2022 General Election and that the County lacks legal authority to  
16

17 <sup>1</sup> Plaintiffs refer to these statutes as the “Equal Access Statutes.” That, however, is a  
18 misnomer, and a mischaracterization of what the statutes regulate and require. These  
19 statutes are about election board workers—poll workers, and others—who help the County  
20 administer its election. They provide for many things, including setting the qualifications  
21 for election board workers, requiring that they receive training, and describing how they are  
22 appointed. While they require the County to strive for parity between Republicans and  
23 Democrats on the election boards, that is not the statutes’ focus. Nor do they require the  
24 County to achieve absolute equality to administer a lawful election, which is what Plaintiffs  
25 allege. If that *were* the requirement, one of the political parties could prevent elections from  
26 occurring by instructing their members to refuse to serve as election board workers.  
27 Further, the County would have to cancel its election if a single poll worker did not show  
28 up for work, creating an imbalance between Republicans and Democrats. Even though the  
statutes command equality, such rigorous literalism cannot be the law; and indeed, it is not.  
The County cannot control whether *every* poll worker will come to work to ensure that  
*exactly equal* numbers of Republican and Democratic workers are present in the polling  
location on Election Day. What the County *can* control is the effort it makes to hire poll  
workers and other election board workers of different political parties, in order to attempt  
to achieve equal numbers. The County goes to great lengths to recruit persons of all political  
parties, as well as those without a political party preference, to serve on its election boards.  
And it works with the chairs of the Maricopa County Republican Committee and the  
Maricopa County Democratic Committee to hire their members in a further attempt to  
achieve equality of numbers. The County satisfies the law’s parity requirements, and  
Plaintiffs’ allegations to the contrary are incorrect.

1 set some of those work requirements. For relief, Plaintiffs asked the Court to: (1) enter  
2 injunctive or mandamus relief requiring the County to adopt specific policies and procedures  
3 to ensure compliance with the Election Board Statutes and EPM; (2) declare that the  
4 County’s current policies and practices violate the Election Board Statutes and EPM;  
5 (3) enter injunctive or mandamus relief requiring the County to appoint as poll workers all  
6 persons nominated by the County Republican Committee Chair; and (4) declare that the  
7 County cannot impose its current employment requirements on Republicans in the 2022  
8 General Election and any election thereafter or, in the alternative, that the County imposing  
9 work requirements on Republicans is an abuse of discretion. [Compl., Prayer for Relief.]

10 On October 21, 2022, Plaintiffs filed their Amended Verified Special Action  
11 Complaint (“FAC”). The FAC includes two significant additional details: (1) the FAC  
12 concedes that the County satisfied its obligation to maintain parity of election poll workers.  
13 [FAC, ¶ 7.]; and (2) the FAC identifies legislative changes that expanded the percentage of  
14 vote differential triggering an automatic recount; asserts an extensive, multi-week recount  
15 will occur; argues that the County imposes onerous minimum day and hour work  
16 requirements and inhospitable work conditions; and speculates that the Plaintiffs will have  
17 difficulty recruiting nominees to participate in a hand recount. [FAC, ¶¶ 7–9, 42–59.]

18 As explained below, the FAC fails to state a claim upon which relief can be granted.  
19 First, the Plaintiffs’ claims are inappropriate for special action relief. Second, Plaintiffs lack  
20 standing to bring these claims. Third, the claims raised in the FAC are not ripe for  
21 determination. For these reasons, the FAC must be dismissed.

### 22 Legal Standard

23 A special action defendant may file a motion to dismiss for failure to state a claim.  
24 Ariz. R. Spec. Act. 4(d); *see also Ringier Am. v. State Dep’t of Revenue*, 184 Ariz. 250, 255  
25 (App. 1995) (upholding trial court’s dismissal of special action for failure to state a claim).  
26 “In determining if a complaint states a claim on which relief can be granted, courts must  
27 assume the truth of all well-pleaded factual allegations and indulge all reasonable inferences  
28 from those facts, **but mere conclusory statements are insufficient.**” *Coleman v. City of*

1 *Mesa*, 230 Ariz. 352, 356, ¶ 9 (2012) (emphasis added); *see also Cullen v. Auto-Owners*  
2 *Ins. Co.*, 218 Ariz. 417, 419, ¶ 7 (2008) (stating that “[b]ecause Arizona courts evaluate a  
3 complaint’s well-pled facts, mere conclusory statements are insufficient to state a claim  
4 upon which relief can be granted”). To survive a motion to dismiss, there must be some  
5 basis in law to allow Plaintiff to prevail. *Sensing v. Harris*, 217 Ariz. 261, 262 ¶¶ 2, 13–17  
6 (App. 2007); *see also Stuart v. Castro*, 76 Ariz. 147, 151 (1953) (explaining that “if, upon  
7 the whole case as it then stands, a reasonable mind may infer the facts to be such that under  
8 the applicable law the plaintiff is entitled to no relief, then the trial court as trier of fact may  
9 properly infer such state of fact and grant the motion to dismiss”); *Balistreri v. Pacifica*  
10 *Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990) (recognizing that a complaint may be  
11 properly dismissed for failure to state a claim “based on the lack of a cognizable legal  
12 theory”).

### 13 **Argument**

#### 14 **I. This lawsuit fails as a special action.**

##### 15 **A. The FAC fails to establish the availability of mandamus relief.**

16 Plaintiffs bring this lawsuit as a special action, citing A.R.S. § 12-2021. [FAC, ¶  
17 10.] Section 12-2021 has no application here; that statute concerns writs of mandamus. As  
18 the Arizona Supreme Court has explained, “[m]andamus is an extraordinary remedy issued  
19 by a court to compel a public officer to perform an act which the law specifically imposes  
20 as a duty.” *Sears v. Hull*, 192 Ariz. 65, 68, ¶ 11 (1998). “[T]he general rule is that if the  
21 action of a public officer is discretionary that discretion may not be controlled by  
22 mandamus.” *Id.* The Supreme Court “has long held that mandamus will lie only ‘to require  
23 public officers to perform their official duties when they refuse to act,’ and not ‘to restrain  
24 a public official from doing an act.’” *Id.* (citation omitted). “Thus, the requested relief in  
25 a mandamus action must be the performance of an act and such act must be non-  
26 discretionary.” *Id.* At bottom, mandamus is not “available to compel an officer to perform  
27 acts not authorized or required by some plain provision of the law.” *Kahn v. Thompson*,  
28 185 Ariz. 408, 411 (App. 1995).

1 Here, Plaintiffs seek a writ of mandamus to force the County to adopt specific work  
2 conditions for temporary election workers, to the benefit of only Republicans; hire  
3 additional Republican election workers to replace those who fail to show up to work; and  
4 appoint any and all election workers nominated by the County Republican Party Chair  
5 (“Republican Nominees”). [FAC, Prayer for Relief ¶¶ A, C]. To support their demands,  
6 Plaintiffs cite what they call the Election Board Statutes—A.R.S. §§ 16-531, 16-549, 16-  
7 551, 16-621—and the EPM. These statutes and the cited portions of the EPM address  
8 appointment of election boards (§ 16-531 and EPM at 133), equal numbers of board  
9 members (*id.*), special election boards (§ 16-549), early election boards (§ 16-551), and  
10 proceedings at the counting center (§ 16-621 and EPM at 196).

11 But these statutes and EPM provisions impose no requirements related to the relaxed  
12 work conditions Plaintiffs desire. Nor do they require the County to hire extra Republican  
13 poll workers to make sure that Republican poll workers who choose to quit after being hired  
14 are replaced with other Republicans. As a result, Plaintiffs are not entitled to mandamus  
15 relief because no provision of law commands the County to adopt the work and hiring  
16 policies that Plaintiffs desire.

17 Even if that were not so, mandamus is available only “to require public officers to  
18 perform their official duties when **they refuse to act.**” *Sears*, 192 Ariz. at 68, ¶ 11  
19 (emphasis added). The County is not refusing to hire Republican poll workers. Nor is it  
20 refusing to comply with the requirements of law related to the hiring of poll workers.  
21 Plaintiffs admit this: “First, on October 19, the County informed [Plaintiffs] that it had now  
22 come into compliance with the law requiring parity in the general labor pool for board  
23 workers.” [FAC, ¶ 7.] The County disputes Plaintiffs’ word choice, which incorrectly  
24 suggests that the County was once not in compliance with state law. But the fact remains  
25 that Plaintiffs admit that the County’s current policies and procedures have (a) ensured  
26 compliance with the Election Board Statutes and EPM and (b) resulted in the hiring of  
27 Republican Nominees. The County is performing its legal duty. Mandamus is only  
28 available when a public official or body is not acting—meaning it is unavailable when a

1 public official or body acts. Here, the County is acting in accordance with the applicable  
2 law and mandamus is not available.

3 Further, Plaintiffs’ assertion that the County “ha[s] no authority to impose any  
4 requirements on the Republican Party’s direct board appointees” is absurd. [FAC ¶ 33.]  
5 These are the County’s employees. Were Plaintiffs’ contention correct, the County would  
6 be required to issue paychecks to Republican Party poll workers irrespective of whether  
7 they performed their job responsibilities. The County would not even be able to require  
8 them to show up for work—the County would have to pay Republican Party poll workers  
9 no matter what, *if* Plaintiffs’ assertion were correct. But that is obviously not how  
10 employment law works, and Plaintiffs’ assertion to the contrary is wrong on its face.

11 Plaintiffs nonetheless attempt to justify their comical assertion with citation to  
12 A.R.S. §§ 16-531, 16-532, and 16-535. But these statutes only create a legal duty for the  
13 County to appoint and instruct inspectors, judges, marshals, and clerks. They do not impose  
14 a legal duty for the County to employ the specific work requirements that Plaintiffs seek.

15 As a result, the County has discretionary power to require its employees, including  
16 poll workers, to work set hours and perform necessary tasks as a condition of employment.  
17 For each election, the County employs persons nominated by all recognized political parties  
18 as poll workers and pays them an hourly wage. In return for their paycheck, the County  
19 requires the poll workers to work their required shift and perform their required tasks. This  
20 is necessary to ensure that all voters are served and all lawful votes are counted, thereby  
21 enabling the County to fulfill its statutory obligation to conduct elections. *See generally*,  
22 A.R.S. Title 16. Because those employment decisions—including the work requirements  
23 for the various job positions—are discretionary, they are not subject to mandamus. *See*  
24 *Sears*, 192 Ariz. 68, ¶ 12. At its core, the FAC is a sixteen-page airing of grievances about  
25 the County’s effective employment policies. This is not the proper basis for a mandamus  
26 action, and the FAC should be dismissed.

27 **B. Injunctive relief is unavailable through a special action.**

28 The FAC requests injunctive relief in the same manner as mandamus relief. [FAC,

1 Prayer for Relief ¶¶ A, C]. But injunctive relief “is not available through an action for  
2 mandamus or any other form of special action.” *Sears*, 192 Ariz. 65, 69. Plaintiffs’ claims  
3 fail as a matter of law, and the Court should dismiss the FAC.

## 4 **II. The RNC and AZGOP lack standing.**

5 Arizona courts “require[] persons seeking redress in the courts first to establish  
6 standing.” *Bennett v. Napolitano*, 206 Ariz. 520, 524, ¶ 16 (2003). “The Arizona  
7 Constitution does not require a party to assert an actual ‘case or controversy’ in order to  
8 establish standing. As matter of sound judicial policy, however, [Arizona courts] have long  
9 required that persons seeking redress in Arizona courts must first establish standing to sue.”  
10 *Bennett v. Brownlow*, 211 Ariz. 193, 195 (2005).

11 Although Arizona courts “are not constitutionally constrained to decline jurisdiction  
12 based on lack of standing,” they will not consider the merits of a claim that fails to allege a  
13 “particularized injury,” absent “exceptional circumstances.” *Napolitano*, 206 Ariz. at 527,  
14 ¶ 31; *see also Sears*, 192 Ariz. at 70 ¶ 16 (“To gain standing to bring an action, a plaintiff  
15 must allege a distinct and palpable injury”). “[T]he ‘mandamus statute reflects the  
16 Legislature’s desire to broadly afford standing to members of the public to bring lawsuits  
17 to compel officials to perform their public duties.’” *Ariz. Pub. Integrity All. v. Fontes*, 250  
18 Ariz. 58, 62, ¶ 11 (2020) (in division) (quoting *Ariz. Dep’t of Water Res. v. McClennen*, 238  
19 Ariz. 371, 377, ¶ 32 (2015)). But, when interpreting a statute, a Court should find and  
20 give effect to legislative intent. *Ariz. Chapter of the Assoc. Gen. Contractors of Am. v. City*  
21 *of Phoenix*, 247 Ariz. 45, 47, ¶ 7 (2019). When a statute has only one reasonable meaning,  
22 the Court must apply that meaning without further analysis. *Leibsohn v. Hobbs*, --- Ariz. -  
23 --, ¶ 10, 517 P.3d 45, 48 (Ariz. 2022).

24 In this case, Plaintiffs rely on A.R.S. §§ 16-531, 16-532, 16-549, 16-551, 16-552,  
25 16-621, and 16-602 as the basis for their claims concerning poll workers. These statutes  
26 explicitly identify those persons with responsibility and authority to appoint poll workers.  
27 The chairs of the **county** political parties are among those who can make appointments for  
28 some election board worker positions, and they have a statutory role in the election board

1 appointment process. But neither the national nor the state political parties have any  
2 statutory role in the appointment process.<sup>2</sup> Therefore, the RNC and AZGOP cannot show  
3 or identify a particularized injury under the statutory scheme; because the RNC and AZGOP  
4 have not identified exceptional circumstances, they do not have standing to pursue this case.

5 Separately, the RNC and AZGOP do not allege injury. First, the FAC’s admission  
6 that the County is complying with the Election Board Statutes and EPM and hiring  
7 Republican poll workers proves the Maricopa County Republican Committee Chair **can**  
8 recruit Republicans to participate, and so neither the nonparty Maricopa County Republican  
9 Committee (“MCRC”) nor Plaintiffs have suffered a distinct and palpable injury from the  
10 County’s employment conditions. [FAC, ¶ 7.] The admission also highlights that  
11 “exceptional circumstances” do not exist.

12 Second, November 8, 2022, has come and gone and the RNC did not seek emergency  
13 intervention by this Court to rectify any alleged injury relating to poll workers’ employment  
14 conditions. The only emergency intervention the RNC sought on November 8, 2022, was  
15 to force the County to keep the voting centers open past 7:00 p.m., which, if it had been  
16 successful, would have forced poll workers to work **longer** hours under the employment  
17 conditions the RNC in this case allege are inhospitable and cause them harm. *See*  
18 *Republican Nat’l Comm. v. Richer*, CV2022-014827; Verified Complaint, Demand for  
19 Relief.<sup>3</sup> The RNC’s positions in the separate cases are antithetical and illogical.<sup>4</sup> Plaintiffs  
20 simply do not like the employment commitment the County requests from their poll

21 \_\_\_\_\_  
22 <sup>2</sup> The RNC identifies itself as “a national political party committee that is responsible for  
23 the strategic and day-to-day operation of the Republican Party at the national level.” [FAC,  
24 ¶ 12.] The AZGOP operates similarly at the state level. [*Id.*]

25 <sup>3</sup> “It is proper for a court to take judicial notice of its own records or those of another  
26 action tried in the same court.” *In re Sabino R.*, 198 Ariz. 424, 425 (App. 2000).

27 <sup>4</sup> This includes a November 11, 2022, statement from California attorney Harmet  
28 Dhillon, on behalf of the RNC and AZGOP, that demanded the County install “around-the-  
clock shifts of ballot processing” and “would not hesitate to take legal action if necessary.”  
Exhibit 2 (RNC Statement). Apparently, the RNC’s tactic is seek an order for less onerous  
working conditions in this court while potentially seeking more onerous conditions from  
another court.

1 workers—from all political parties or no political party. But this is not a “particularized  
2 injury.” And Plaintiffs have not alleged that something unique about Republicans makes  
3 the terms and conditions of temporary election employment more burdensome on them than  
4 those who are not registered to vote as Republicans. Instead, it is a meager complaint and  
5 exactly the type of “generalized harm” that cannot establish standing. *Sears*, 192 Ariz. at  
6 69, ¶ 16.

7 In sum, Plaintiffs allege only non-cognizable, generalized grievances and thus lack  
8 standing. Dismissal of the FAC is appropriate.

9 **III. This lawsuit is both not ripe for determination and moot.**

10 Corollary to the standing issue are the “notions of judicial restraint” that require “that  
11 cases be ripe for decision and not moot[.]” *Brownlow*, 211 Ariz. at 195, ¶ 16 (citing *Armory*  
12 *Park Neighborhood Ass’n v. Episcopal Cmty. Servs.*, 148 Ariz. 1, 6 (1985)). “The ripeness  
13 doctrine prevents a court from rendering a premature judgment or opinion on a situation  
14 that may never occur.” *Winkle v. City of Tucson*, 190 Ariz. 413, 415 (1997).

15 Relatedly, a court cannot “decide moot questions or abstract propositions, or to  
16 declare, for the government of future cases, principles or rules of law which cannot affect  
17 the result as to the thing in issue in the case before it.” *Mesa Mail Pub. Co. v. Bd. of Sup’rs*,  
18 26 Ariz. 521, 524 (1924) (quoting *California v. San Pablo & Tulare R.R. Co.*, 149 U.S. 308  
19 (1893)). “A moot case is one which seeks to determine an abstract question which does not  
20 arise upon existing facts or rights.” *Id.*; see also *Contempo-Tempe Mobile Home Owners*  
21 *Ass’n v. Steinert*, 144 Ariz. 227, 229 (App. 1985) (noting courts do not “act as a fountain of  
22 legal advice”).

23 In this case, the FAC seeks court intervention relating to the 2022 Election and future  
24 elections. [FAC, Prayer for Relief.]. First, because the November 8, 2022 Election Day  
25 and post-Election Day ballot processing and auditing have come and gone, Plaintiffs cannot  
26 fix the past and any requested relief relating to how the County employed its poll worker  
27 employees for the 2022 General Election must be denied as moot.

28 Next, the FAC requests relief from the County’s work conditions for future elections.

1 These claims must be dismissed under the ripeness principle because any claims that the  
2 County has not hired an equal number of party members or maintained a sufficient reserve  
3 of Republican poll workers is extremely premature, may never occur, and would result in  
4 the court issuing an advisory opinion. *Winkle*, 190 Ariz. at 415.

5 Lastly, the FAC goes to great lengths to present the court with Plaintiffs'  
6 unwarranted concerns regarding the post-election hand count. The FAC inaccurately  
7 explains post-election hand counts to the Court. Regardless, these allegations must also be  
8 dismissed on ripeness and mootness grounds. There are two instances when political party  
9 members hand count votes. [FAC, ¶ 42.] The first instance is a hand count audit conducted  
10 during the post-election tabulation of votes. A.R.S. § 16-602; EPM at 213. In “each  
11 countywide primary, special, general and presidential preference election, the county officer  
12 in charge of the election shall conduct a hand count” audit, as prescribed in § 16-602 and  
13 the EPM, of “[a]t least two percent of the precincts in that county, or two precincts,  
14 whichever is greater” that are selected at random. A.R.S. § 16-602(B)(1); EPM at 213. If  
15 the hand count audit results are within the “‘designated margin’ of the electronic results for  
16 the selected ballots,” the hand count audit is considered to have “confirmed the accuracy of  
17 the electronic tabulation equipment,” the hand count audit ceases, and the electronic results  
18 for the county are the official results of the election. A.R.S. § 16-602(C); EPM at 213.  
19 Should the hand count audit’s results fall outside the designated margin, the statute calls for  
20 a second and potentially a third hand count audit. *Id.* The initial hand count audit has  
21 occurred in every election since the statute was enacted and has never resulted in a second  
22 or third hand count in Maricopa County.

23 The second referenced hand count audit is conducted after a court-ordered recount.  
24 A.R.S. § 16-663; EPM at 234. After the election results are canvassed and if the official  
25 canvass demonstrates for certain races that the difference in votes between the two  
26 candidates receiving the highest number of votes “is less than or equal to one-half of one  
27 percent of the number of votes cast for both such candidates,” then an automatic recount is  
28 performed. A.R.S. § 16-661(A); EPM at 245. But that automatic recount must be initiated

1 by a court order and, depending on the election results at issue, only the Secretary of State,  
2 county board of supervisors, or city or town council shall initiate the lawsuit. A.R.S. § 16-  
3 662. “A third-party may not request a recount as a matter of right.” EPM at 246. When  
4 the court orders a recount of the votes, the recount is conducted by using the same electronic  
5 voting equipment used for the initial count. A.R.S. § 16-664; EPM at 246. Thereafter, a  
6 hand count audit of the recounted ballots is conducted, following the same procedures set  
7 forth in A.R.S. § 16-602 described above. A.R.S. § 16-663(B); EPM at 234. A second and  
8 third hand count audit during a recount has never occurred in Maricopa County.

9 As with all elections, all political parties participate in the hand count audit and this  
10 year was no different. On November 10, 2022, MCRC Chair Mickie Niland tweeted that  
11 Republicans participated in the County’s post-election hand count audit. *See* Exhibit 1.  
12 Despite the FAC’s claims to the contrary, the County’s employment conditions were not a  
13 barrier to recruiting and retaining Republican hand count audit workers. MCRC Chair  
14 Niland and the County worked together to recruit Republicans for the hand count audit  
15 boards and the FAC’s allegations about 2022 Election post-election hand count audit are  
16 rendered moot.

17 The FAC claims that “a post-canvass automatic recount, if triggered, would require  
18 recounting, by hand, an extremely large number of ballots for a statewide race[,]” may  
19 require “substantially larger number of ballots, or even all of the ballots cast in Maricopa  
20 County,” “could take an extremely prolonged and indefinite period of time[,]” and it is  
21 difficult to recruit Republican Nominees who “can commit to working such a prolonged  
22 and indefinite schedule.” [FAC, ¶¶ 46, 51, 54.]. These claims also fail and should be  
23 dismissed.

24 First, while the RNC may predict an automatic recount may occur—and, indeed, it  
25 appears from the unofficial vote totals that an automatic recount of some contests will  
26 occur—whether there will be such a recount will not be known until the statewide canvass  
27 on December 5, 2022. Second, should an automatic recount occur, the automatic recount  
28 will be conducted by tabulating the ballots with the same electronic tabulation equipment

1 used to initially count the ballots. **It is not done by hand.** A.R.S. § 16-664; EPM at 246.  
2 A full hand count of the ballots is theoretically *possible* if a sufficient deviation exists  
3 between the machine count and the hand count audit. Arizona law requires the hand count  
4 audit to produce results within a certain margin of the machine tabulation totals. If it does  
5 not, a second hand count audit is conducted. If the differential is still greater than the  
6 acceptable margin, an expanded hand count audit is conducted. If that expanded hand count  
7 audit also fails to produce results within the acceptable margin of the machine tabulation  
8 totals, a full hand count of that election contest is conducted. A.R.S. § 16-602(C)–(E). But  
9 such a situation has *never* previously occurred in Maricopa County and there is no reason  
10 to expect it to occur here. As such, this claim is not ripe for adjudication, because “the  
11 ripeness doctrine prevents a court from rendering a premature judgment or opinion on a  
12 situation that may never occur.” *Winkle*, 190 Ariz. at 415.

### 13 **Conclusion**

14 The RNC and AZGOP believe that the County does not properly manage its poll  
15 workers’ work schedules and seeks court intervention—but only for Republican poll  
16 members’ benefit. Plaintiffs’ concession, however, that the County is in compliance with  
17 the Election Board Statutes and EPM, their inaction in this case during the administration  
18 of the election, and their contradictory filings in separate actions implies that this belief is  
19 hollow.

20 Simply put, the FAC fails to set forth any legal authority to establish any of its claims.  
21 Instead, the FAC merely supplies conclusory and speculative claims that express Plaintiffs’  
22 subjective dislike of the County’s discretionary employment practices. This sentiment is  
23 insufficient to survive a motion to dismiss. As explained more fully above, the County  
24 complied with the Election Board Statutes and EPM; Republicans actively participated in  
25 all aspects of the election processes that call for Party members’ involvement; and no law  
26 requires the County to treat Republican poll workers differently than those registered with  
27 other recognized political parties or no political party. As a result, this Court should dismiss  
28

1 this action pursuant to Arizona Rule of Civil Procedure 12(b)(6) for failure to state a claim  
2 upon which relief may be granted.

3 RESPECTFULLY SUBMITTED this 22nd day of November, 2022.

4 RACHEL H. MITCHELL  
5 MARICOPA COUNTY ATTORNEY

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# EXHIBIT 1

Mickie Niland Tweet



**Mickie Niland**  
@NilandMickie



Preparing for this weekends hand count!

 **Maricopa County GOP** @MaricopaGOP · 1h

Our Chairwoman Mickie Niland was at the hand count draw last night. The races drawn to recount were Governor, US Senate, US House of Representatives and Arizona State Representatives. [twitter.com/MaricopaVote/s...](https://twitter.com/MaricopaVote/s...)

8:22 AM · Nov 10, 2022 · Twitter Web App

3 Retweets 7 Likes



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# EXHIBIT 2

RNC Statement



## **RNC, RPAZ Statement on Maricopa County**

**WASHINGTON** – Today, the Republican National Committee (RNC) and Republican Party of Arizona (RPAZ) released the following statement on Maricopa County:

“This election has exposed deep flaws in Maricopa County’s election administration. Arizona deserves better — transparency, certainty, efficiency — and most importantly, an accurate and prompt announcement of election results that can be accepted by all voters.

The RNC and the Republican Party of Arizona demand that around-the-clock shifts of ballot processing be pressed into service until all votes have been counted, accompanied by complete transparency and regular, accurate public updates. We will not hesitate to take legal action if necessary to protect Arizona voters’ right to have their ballots counted.” – **Harmeet Dhillon, on behalf of the RNC and RPAZ**