



649 North Fourth Avenue, First Floor
 Phoenix, Arizona 85003
 (602) 382-4078
 Kory Langhofer, Ariz. Bar No. 024722
kory@statecraftlaw.com
 Thomas Basile, Ariz. Bar. No. 031150
tom@statecraftlaw.com
Attorneys for Blake Masters for Senate

Brett W. Johnson (#021527)
 Eric H. Spencer (#022707)
 SNELL & WILMER L.L.P.
 One Arizona Center
 400 E. Van Buren, Suite 1900
 Phoenix, Arizona 85004-2202
 Telephone: 602.382.6000
bwjohnson@swlaw.com
espencer@swlaw.com
*Attorneys for Plaintiffs Republican National Committee
 and National Republican Senatorial Committee*

Timothy A La Sota, SBN # 020539
TIMOTHY A. LA SOTA, PLC
 2198 East Camelback Road, Suite 305
 Phoenix, Arizona 85016
 (602) 515-2649
tim@timlasota.com
Attorneys for Kari Lake for Arizona

Dallin Holt, Ariz. Bar No 037419
 Brennan A.R. Bowen, Ariz. Bar No. 036639
 Holtzman Vogel Josefiak Torchinsky, PLLC
 2575 East Camelback Road, Suite 860
 Phoenix, Arizona 85016
 Telephone: (540) 341-8808
dholt@HoltzmanVogel.com
*Attorneys for National Republican Senatorial
 Committee*

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

REPUBLICAN NATIONAL COMMITEE,
 a national political party committee;
 NATIONAL REPUBLICAN SENATORIAL
 COMMITTEE, a national political party
 committee; BLAKE MASTERS FOR
 SENATE, a federal political committee;
 KARI LAKE FOR ARIZONA, an Arizona
 political committee; and JILL NORGAARD,
 an individual,

Plaintiffs,

v.

STEPHEN RICHER, in his official capacity as
 the Maricopa County Recorder; and JACK
 SELLERS, THOMAS GALVIN, BILL
 GATES, CLINT HICKMAN, AND STEVE
 GALLARDO, in their respective official

No. _____

VERIFIED COMPLAINT

(Expedited Election Matter)

1 capacities as members of the Maricopa County
2 Board of Supervisors,
3 Defendants.
4

5 Plaintiffs hereby state and allege as follows:

6 **SUMMARY OF THE CASE**

7 1. Arizona law guarantees to all qualified electors a continuous period of thirteen
8 hours in which to cast their votes in-person at a designated polling location on Election Day,
9 November 8, 2022. *See* A.R.S. § 16-565(A).

10 2. At least 36% of all voting centers across Maricopa County have been afflicted
11 with pervasive and systemic malfunctions of ballot tabulation devices and printers, which
12 has burdened voters with excessive delays and long lines.

13 3. Upon information and belief, numerous individuals presenting to vote at some
14 or all of these locations were unlawfully induced by poll workers to discard their ballots or
15 otherwise forfeit their opportunity to cast a legally sufficient vote. Specifically, certain
16 voters whose ballots could not be read by the tabulation device were erroneously informed
17 by poll workers that they could spoil their ballot, present at a different voting location later
18 (where, presumably, the tabulators were properly functioning), and cast a valid, regular
19 ballot. In fact, voters who followed these instructions were, at the second voting location,
20 either denied an opportunity to vote at all, or were required to vote a provisional ballot,
21 which, upon information and belief, will not be tabulated.

22 4. On information and belief, other voters were denied an opportunity to vote, and not
23 advised of their right to vote a provisional ballot, in direct contravention of controlling law. *See*
24 A.R.S. § 16-584.

25 5. To remedy these consequential violations of Arizona law and derogation of
26 the franchise, the Court should immediately issue a temporary restraining order or
27 preliminary injunction requiring the Defendants to:
28



- 1 a. extend voting hours in Maricopa County until **10:00 p.m.** on November
- 2 8, 2022;
- 3 b. suspend the public release of any tabulated early ballot returns in
- 4 Maricopa County until **11:00 p.m.** on November 8, 2022;
- 5 c. instruct the inspector at every polling location that voters who choose to
- 6 spoil their ballot and leave the voting center without casting a ballot must
- 7 be “checked out” in the electronic pollbook; and
- 8 d. instruct the inspector at every polling location that voters whom the e-
- 9 pollbook have recorded as having previously voted in this election must
- 10 be permitted to complete and cast a provisional ballot.

11 6. Immediate judicial intervention is necessary to prevent irreparable injury to
12 the Plaintiffs, vindicate the clear directives of the Arizona Legislature, ensure the fair and
13 equal treatment of all Maricopa County electors guaranteed by the Arizona Constitution,
14 and secure the integrity of the results of the November 8, 2022 general election.

JURISDICTION

16 7. This Court has jurisdiction over this action pursuant to Article 6, § 14 of the
17 Arizona Constitution, and A.R.S. §§ 12-1801, 12-1803, and 12-1831.

18 8. Venue lies in Maricopa County pursuant to A.R.S. § 12-401(7) and (16)
19 because at least one of the Defendants resides or holds office in this county.

PARTIES

21 1. Plaintiff Republican National Committee (“**RNC**”) is a national political party
22 committee that is responsible for the strategic and day-to-day operation of the Republican
23 Party at the national level and for promoting the election of Republican candidates for
24 federal office in Arizona and across the United States.

25 2. Plaintiff National Republican Senatorial Committee (“**NRSC**”) is a national
26 political party committee that is responsible for promoting the election of Republican
27 candidates to the United States Senate in Arizona and across the United States.

28

1 3. Plaintiff Blake Masters for Senate is an unincorporated federal political
2 committee that is registered with the Federal Election Commission. Blake Masters for
3 Senate is the authorized campaign committee of Blake Masters, a candidate in Arizona for
4 the office of United States Senate in the November 8, 2022 general election.

5 4. Plaintiff Kari Lake for Arizona is an unincorporated Arizona political
6 committee that is registered with the Arizona Secretary of State. Kari Lake for Arizona is
7 the authorized campaign committee of Kari Lake, a candidate for Governor of Arizona in
8 the November 8, 2022 general election.

9 5. Plaintiff Jill Norgaard is a citizen, resident and qualified elector of the United
10 States and the State of Arizona. Ms. Norgaard is duly registered to vote as a member of the
11 Republican Party.

12 6. Plaintiffs RNC, NRSC, Blake Masters for Senate, and Kari Lake for Arizona
13 have a direct, personal, and substantial interest in ensuring that their respective supporters
14 have an adequate opportunity to cast their ballots in this election, and are not arbitrarily or
15 improperly deprived of a reasonable opportunity to vote on Election Day.

16 7. Defendant Stephen Richer is Recorder of Maricopa County, and is named in
17 this action in his official capacity only. The County Recorder is the principal elections
18 officer of Maricopa County and is responsible for overseeing and directing numerous
19 components of election administration within this jurisdiction, to include the tabulation and
20 auditing of ballots. *See* A.R.S. §§ 16-541, -542, -543, -544, -550, -602, -621.

21 8. Defendants Jack Sellers, Thomas Galvin, Bill Gates, Clint Hickman, and
22 Steve Gallardo comprise the Maricopa County Board of Supervisors, and are named in this
23 action in their respective official capacities only. The Board of Supervisors is charged by
24 law with conducting elections within its jurisdictional boundaries, to include overseeing the
25 operations of polling locations on Election Day, and canvassing the returns of elections in
26 Maricopa County. *See* A.R.S. §§ 11-251(3), 16-446, -447(A), -511, -531, -642, -645.

27
28

1 **GENERAL ALLEGATIONS**

2 **Overview of Voting Procedures**

3 9. Broadly speaking, the voting process in Arizona is bifurcated; qualified
4 electors may cast either an “early ballot” or an Election Day ballot.

5 10. A qualified elector may cast an “early ballot” at any time during the 27 days
6 preceding the election. Early ballots may be obtained and returned via mail. Alternatively,
7 early ballots may be cast in-person at designated early voting locations or dropped off at
8 polling locations on Election Day. In-person early voting concludes on the Friday
9 preceding the election, although voters confronting unforeseen exigencies that would
10 prevent them from voting in-person on Election Day may cast a ballot at an “emergency”
11 early voting location during the ensuing three-day period. *See* A.R.S. § 16-542.

12 11. Early ballots are processed and tabulated on a rolling basis during the early
13 voting period, although early voting returns cannot be released to the public prior to 8:00
14 p.m. on Election Day. *See* A.R.S. § 16-551(C).

15 12. As an alternative to early voting, voters may obtain and cast a ballot in-person
16 at a polling location on Election Day.

17 13. Polling locations must open at 6:00 a.m. and close at 7:00 p.m., although any
18 voter waiting in line as of 7:00 p.m. must be permitted to obtain and cast a ballot. *See*
19 A.R.S. § 16-565(A), (D).

20 14. Every polling location is staffed by an election board consisting of an
21 inspector, marshal, and two judges. The inspector is the chairman of the election board.
22 *See* A.R.S. §§ 16-531, -534(A).

23 15. Maricopa County has utilized a “vote center” model in the November 8, 2022
24 general election. Under this framework, a qualified elector of Maricopa County may appear
25 at any designated vote center site within the county, regardless of whether the vote center
26 is located within the precinct in which the voter resides. Once the voter’s identity is verified
27 and s/he “checks in” by signing the electronic pollbook, the poll workers print a customized
28 ballot that includes all candidate races and ballot propositions for which the elector is



1 eligible to vote. E-pollbooks reflect in real-time an elector’s status as having voted or not
2 voted, and are electronically synchronized across all polling locations countywide.

3 16. After marking their ballots at the vote center, voters feed them into the
4 tabulation machine, which instantaneously processes and tabulates all properly indicated
5 selections on the ballot.

6 **Widespread Technical Malfunctions and Poll Worker Errors in Maricopa County**

7 17. Shortly after voting hours commenced at 6:00 a.m. today, the ballot tabulation
8 devices stationed at approximately 80 vote centers in Maricopa County began to
9 malfunction. Specifically, the tabulators regularly rejected or otherwise failed to process
10 ballots that, on their face, had been properly and sufficiently completed.

11 18. These mechanical breakdowns substantially delayed the casting of ballots,
12 impelling some voters to leave the polling location rather than continue to wait in untenably
13 long lines.

14 19. Extensive and significant disruptions to Election Day operations in Maricopa
15 County have been widely reported by national and local news media outlets. *See, e.g.,*
16 Caitlin McFall, “Maricopa County, Arizona, Officials Say 20% of Voting Locations
17 Experiencing ‘Hiccups’ with Tabulators,” FOX NEWS, Nov. 8, 2022, *available at*
18 [https://www.foxnews.com/politics/maricopa-county-arizona-officials-say-20-voting-](https://www.foxnews.com/politics/maricopa-county-arizona-officials-say-20-voting-locations-experiencing-hiccups-tabulators)
19 [locations-experiencing-hiccups-tabulators](https://www.foxnews.com/politics/maricopa-county-arizona-officials-say-20-voting-locations-experiencing-hiccups-tabulators); Tweet of Brahm Resnick, Nov. 8, 2022 at 1:37
20 p.m., *available at* <https://twitter.com/brahmresnik/status/1590081166295859200> (reporting
21 that “about 60 vote centers were hit with tabulator problems”).

22 20. Voters whose ballots could not be read by a malfunctioning tabulator were
23 confronted with four possible options.

- 24 a. First, the voter could choose to simply wait until the tabulator was
25 restored to working order—an uncertain contingency that could take
26 hours.
- 27 b. Second, the voter could deposit the voted ballot into a separate receptacle
28 (known as “Door 3”) for later tabulation at the Central Counting Center.

- 1 c. Third, the voter could request to utilize an accessible voting device
2 (which is designed primarily for persons with disabilities), upon which
3 they could complete and cast a ballot electronically. *See* A.R.S. § 16-
4 447. Upon information and belief, however, most or all vote centers in
5 Maricopa County maintain only one accessible voting device on site.
- 6 d. Fourth, the voter could spoil his or her initial ballot, “check out” of the
7 polling location, and present at another voting center, where s/he could
8 check-in and vote a full regular ballot.

9 21. Importantly, however, the fourth option requires poll workers at the initial
10 polling location to “check out” the voter—*i.e.*, indicate in the e-pollbook that the voter left
11 the polling location without casting a ballot. If the voter is not checked out, he or she is
12 recorded in the e-pollbook as having already voted. Consequently, if the voter subsequently
13 presents at a different polling location, she or he will be permitted to cast only a provisional
14 ballot, which generally will **not** be tabulated. *See* A.R.S. § 16-584(D).

15 22. Upon information and belief, poll workers failed to properly “check out”
16 numerous Maricopa County voters who chose to spoil their ballots and instead cast a ballot
17 at a different vote center with functioning tabulator devices. When later presenting at the
18 second voting location, these individuals remained inaccurately recorded in e-pollbooks as
19 having already voted, and were either (a) required to vote using provisional ballots that will
20 not be counted or (b) denied an opportunity to cast either a regular or provisional ballot.

21 23. Under Arizona law, all individuals who affirm their eligibility to vote in an
22 election are entitled to obtain and complete a provisional ballot, irrespective of whether
23 such provisional ballot is ultimately deemed lawfully cast and tabulated. *See* A.R.S. § 16-
24 584.

25
26
27
28

COUNT I
Extension of Polling Place Hours
(A.R.S. § 16-565))

1
2
3 24. The Plaintiffs incorporate by reference the foregoing allegations as if fully set
4 forth herein.

5 25. Arizona law guarantees that all qualified electors be afforded a continuous
6 period of thirteen hours in which to cast a ballot in-person on Election Day. A.R.S. § 16-
7 565(A).

8 26. Upon information and belief, as a direct and proximate result of excessive
9 lines and wait times attributable to systemic tabulator malfunctions at vote centers across
10 Maricopa County, numerous qualified electors seeking to cast a ballot have been unable to
11 do so.

12 27. By preventing voters from obtaining and casting a ballot within a reasonable
13 period of time, these pervasive tabulator malfunctions have effectively truncated the
14 thirteen hour voting period secured by state law.

15 28. A reasonable extension of polling location operating hours from 7:00 p.m.
16 until 10:00 p.m. is necessary to prevent irreparable injury to the Plaintiffs and their members
17 and supporters, and is demanded by the balance of equities and crucial public policy
18 considerations.

19 29. Accordingly, the Plaintiffs are entitled to a temporary restraining order and/or
20 injunction requiring the Defendants to (a) extend the operating hours of all vote centers in
21 Maricopa County until 10:00 p.m., MST, on November 8, 2022, (b) permit any person
22 standing in line as of 10:00 p.m. MST at a vote center to obtain and cast a ballot, and (c)
23 provide that all votes cast by individuals who join the line at a vote center after 7:00 p.m.
24 MST must be cast on a provisional ballot, pursuant to 52 U.S.C. § 21082(c).

25 30. To ensure that voters availing themselves of extended polling hours have an
26 opportunity to cast their ballot on equal terms with other qualified electors of Maricopa
27
28



1 County, the Court also should enjoin the Defendants from publicly releasing or
2 disseminating any tabulated early ballot returns until 11:00 p.m. MST.

3 **COUNT II**
4 **Denial of Right to Vote**
5 **(Ariz. Const. art. II, §§ 13, 21)**

6 31. The Plaintiffs incorporate by reference the foregoing allegations as if fully set
7 forth herein.

8 32. Article 2, Section 13 of the Arizona Constitution secures the equal “privileges
9 or immunities” of all citizens.

10 33. The Arizona Constitution guarantees “the right of suffrage” and mandates that
11 “[a]ll elections shall be free and equal.” Ariz. Const. art. II, § 21.

12 34. “Arizona’s constitutional right to a ‘free and equal’ election is implicated
13 when votes are not properly counted.” *Chavez v. Brewer*, 222 Ariz. 309, 320, ¶ 34 (App.
14 2009).

15 35. Pursuant to these constitutional precepts, all qualified electors who have
16 properly verified their identity and otherwise are eligible to vote in an election are entitled
17 to cast a regular ballot that will be duly processed and tabulated. *See* Ariz. Const. art. II, §§
18 13, 21; A.R.S. §§ 16-579, -580(B).

19 36. Upon presenting at a vote center and verifying a prospective voter’s identity,
20 poll workers must “check in” the voter on the e-pollbook, which records in real-time
21 whether the elector has cast a ballot in this election.

22 37. After checking in, obtaining, and properly completing a ballot, numerous
23 voters across Maricopa County had their ballots rejected by malfunctioning electronic
24 tabulation devices and printers. Certain of these voters chose to spoil their ballots, leave
25 the vote center, and present at a different polling location with functioning tabulators.

26 38. Under Arizona law and Maricopa County’s official policies, poll workers
27 were required to “check out” these voters, which would enable them to obtain and cast a
28 regular ballot at a different polling location elsewhere in Maricopa County.



1 39. Upon information and belief, various poll workers across Maricopa County
2 refused or failed to “check out” some or all of these voters. As a result of this malfeasance,
3 the e-pollbooks erroneously designated these individuals as having previously voted in this
4 election. When subsequently presenting at a different vote center, these voters were
5 incorrectly informed that they had already voted and were permitted to complete and submit
6 only a provisional ballot. Upon information and belief, the Defendants will not tabulate
7 these provisional ballots.

8 40. These pervasive poll worker errors have denied numerous qualified electors
9 of Maricopa County, including supporters of the RNC, NRSC, Blake Masters for Senate,
10 and Kari Lake for Arizona, of their right to vote under Arizona law.

11 41. Injunctive remedies are necessary to prevent irreparable injury to the
12 Plaintiffs and their members and supporters, and is demanded by the balance of equities and
13 crucial public policy considerations.

14 42. Accordingly, the Plaintiffs are entitled to a temporary restraining order and/or
15 injunction requiring the Defendants to immediately instruct inspectors at all polling
16 locations in Maricopa County to properly “check out” on the e-pollbook any voter who has
17 spoiled a ballot and has chosen not to obtain or cast a replacement ballot.

18 **COUNT III**
19 **Violation of the Right to a Provisional Ballot**
20 **(A.R.S. § 16-584)**

21 43. The Plaintiffs incorporate by reference the foregoing allegations as if fully set
22 forth herein.

23 44. If poll workers are unable to verify a putative voter’s identity or eligibility to
24 vote, but the individual affirms that he or she is eligible to vote, he or she is entitled to
25 receive, complete and submit a provisional ballot. *See* A.R.S. § 16-584.

26 45. Upon information and belief, certain poll workers at various polling locations
27 across Maricopa County have refused to furnish provisional ballots to certain voters, on the
28 grounds that they had previously cast a ballot at another polling location earlier in the day.

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

46. Upon information and belief, in many instances the affected voters had, in fact, *not* cast a ballot at another polling location, but rather had voluntarily spoiled their ballot and left the first polling location without obtaining or casting a replacement ballot.

47. In any event, any individual whom the e-pollbook has recorded as having already voted is entitled to receive, complete and submit a provisional ballot.

48. Injunctive remedies are necessary to prevent irreparable injury to the Plaintiffs and their members and supporters, and is demanded by the balance of equities and crucial public policy considerations.

49. Accordingly, the Plaintiffs are entitled to a temporary restraining order and/or injunction requiring the Defendants to immediately instruct inspectors at all polling locations in Maricopa County that all voters who present to vote at a vote center but who are recorded in the e-pollbook as having previously voted in the November 8, 2022 general election are entitled to receive, complete and submit a provisional ballot, which will be processed in conformance with Arizona law and any future orders of this Court.

DEMAND FOR RELIEF

WHEREFORE, the Plaintiffs demand relief in the following forms:

- a. A temporary restraining order and/or preliminary injunction requiring the Defendants to (a) extend the operating hours of all vote centers in Maricopa until 10:00 p.m., MST, on November 8, 2022, (b) permit any person standing in line as of 10:00 p.m. MST at a vote center to obtain and cast a ballot, and (c) provide that all votes cast by individuals who join the line at a vote center after 7:00 p.m. MST to be cast on a provisional ballot, pursuant to 52 U.S.C. § 21082(c).
- b. A temporary restraining order and/or preliminary injunction prohibiting the Defendants from publicly releasing any tabulated early ballot returns until 11:00 p.m. MST on November 8, 2022.
- c. A temporary restraining order and/or injunction requiring the Defendants to immediately instruct inspectors at all polling locations in Maricopa

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

County to properly “check out” on the e-pollbook any voter who has spoiled a ballot and has chosen not to obtain a replacement ballot.

- d. An injunction or other order requiring the Defendants to tabulate all provisional ballots cast by individuals who (1) were provided a provisional ballot because the e-pollbook had recorded them as having previously voted in the November 8, 2022 general election but (2) demonstrate to the satisfaction of the Court that they had not previously voted in this election, but rather had spoiled an earlier ballot and not obtained or cast a replacement ballot.
- e. A temporary restraining order and/or injunction requiring the Defendants to immediately instruct inspectors at all polling locations in Maricopa County that all voters who present to vote at a vote center but who are recorded in the e-pollbook as having previously voted in the November 8, 2022 general election are entitled to receive, complete and submit a provisional ballot, which will be processed in conformance with Arizona law and any future orders of this Court.
- f. Such other relief as the Court deems necessary, equitable, proper, and just.

DATED this 8th day of November, 2022.

STATECRAFT PLLC

By: _____
Kory Langhofer
Thomas Basile
649 North Fourth Avenue, First Floor
Phoenix, Arizona 85003

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

Brett W. Johnson
Eric H. Spencer
SNELL & WILMER L.L.P.
One Arizona Center
400 E. Van Buren, Suite 1900
Phoenix, Arizona 85004-2202

Timothy A La Sota, SBN # 020539
TIMOTHY A. LA SOTA, PLC
2198 East Camelback Road, Suite 305
Phoenix, Arizona 85016

Dallin Holt, Ariz. Bar No 037419
Brennan A.R. Bowen, Ariz. Bar No. 036639
HOLTZMAN VOGEL JOSEFIAK
TORCHINSKY, PLLC
2575 East Camelback Road, Suite 860
Phoenix, Arizona 85016



RETRIEVED FROM DEMOCRACYDOCKET.COM