

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

GAIL GOLEC,

Petitioners,

Case No.:

vs.

MARICOPA COUNTY BOARD OF
SUPERVISORS;

and

JACK SELLERS, THOMAS GALVIN,
CHAIRMAN BILL GATES, CLINT
HICKMAN, and STEVE GALLARDO, in
their respective official capacities as
members of the MARICOPA COUNTY
BOARD OF SUPERVISORS;

and

THE MARICOPA COUNTY RECORDER;

and

STEPHEN RICHER, in his official capacity
as the MARICOPA COUNTY
RECORDER;

and

MARICOPA COUNTY ELECTION
DIRECTORS;
and;

**EMERGENCY MOTION FOR
TEMPORARY RESTRAINING
ORDER IN AN EXPEDITED
ELECTION PROCEEDING**

REY VALENZUELA, and SCOTT
JARRETT, in their official capacities as
MARICOPA COUNTY ELECTION
DIRECTORS;

and

ARIZONA SECRETARY OF STATE;

and

KATIE HOBBS, in her official capacity as
ARIZONA SECRETARY OF STATE

and

DOMINION VOTING SYSTEMS, INC.,

and

U.S. DOMINION, INC.,

and,

RUNBECK ELECTION SERVICES,

Defendants.

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

COMES NOW, GAIL GOLEC, by and through her attorneys, and for her complaint in the
above-captioned matter, states, as follows:

INTRODUCTION

[V]oting is of the most fundamental significance under our constitutional structure.” *Illinois Bd. of Elections v. Socialist Workers Party*, 440 U.S. 173, 184 (1979). “[A]s a practical matter, there must be a substantial regulation of elections *if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.*” *Storer v. Brown*, 415 U.S. 724, 730 (1974) (emphasis added).

“[T]hose who govern should be *the last people to help decide who should govern.*” *McCutcheon v. FEC*, 572 U.S. 185, 192 (2014) (emphasis added).

“[T]hose who have power in their hands will not give it up while they can retain it. On the [c]ontrary we know they will always when they can rather increase it.” 1
The Records of the Federal Convention of 1787 (Max Farrand ed., 1911), p. 578.

1. On November 8, 2022, Defendants, the Maricopa County Board of Supervisors and its individual members Defendants Jack Sellers, Thomas Galvin, Chairman Bill Gates, Clint Hickman, and Steve Gallardo, (collectively, the Maricopa County Board, unless otherwise specified); the Maricopa County Recorder, Stephen Richer (Maricopa County Recorder), the Maricopa County Election Directors (Ray Valenzuela and Scott Jarrett) (Maricopa County Election Directors or Election Directors), then acting Secretary of State Katie Hobbs (Secretary of State or Secretary), Defendant Dominion Voting Systems, Inc. and U.S. Dominion (hereafter Dominion), and Defendant Runbeck Election Services (Runbeck) (all of whom are herein referred to collectively as Defendants, unless otherwise specified), undertook to manage, operate, and/or conduct the biannual national mid-term election for various state and federal offices in Maricopa County, Arizona, and in and for the State of Arizona.

2. However, this was no ordinary national mid-term election.

3. This national mid-term election came on the heels of what was the most contested and most poorly-handled national election in the history of the United States of America – the November 2020 General Election.

4. Defendants, Maricopa County Board of Supervisors, the Maricopa County Recorder, the Maricopa County Election Directors, Defendant Katie Hobbs, the Secretary of State, Runbeck Election Services (Runbeck), and Dominion, were considered, by far, to have conducted one of the most fraudulent, corrupt, scrutinized, mal-administrated, and criticized elections in the nation.

5. The fiasco that transpired in Maricopa County and across the State of Arizona in November 2020 was and remains a national embarrassment for the state, and, especially, for the Defendants named in this lawsuit.

6. Among the documented and analyzed fraud, deficiencies, defects, inadequacies, anomalies, maladministration, inter alia, before, on, and following the November 22, 2022 election, were, inter alia, including but not limited to the following:

- a. Mishandling of legitimately cast and valid ballots, such that said ballots were not properly counted, were voting machine tabulated ballots were commingled with “misread” ballots **rendering it impossible for the uncounted ballots to be identified and separated from the counted ballots.**
- b. Ballots including spoiled and mail-in / early-voting ballots, provisional ballots and misread ballots were improperly and procedurally incorrectly transferred for later “transportation and counting” some with no verification of a chain of custody as to those legitimately cast and valid voting-day ballots; many of the polling locations had little or no ballot security throughout the day on election day, and ballots were commingled regardless of whether they were legitimately cast election day ballots, mail-in / early-voting / absentee ballots, or spoiled ballots.
- c. Members of the election board were to attempt to feed misread ballots again into the tabulators after the polls closed and prior to transferring the ballots to the next location, and this did not happen
- d. The manner in which ballots were kept and stored in unsealed bins with no chain of custody assurances; the commingling of tabulated ballots, with uncounted “misread drawer #3 ballots, improper transportation including ballots thrown into black garbage bags, and placing the election “envelopes” and ballots in incorrect or improper containers, also adds to the uncertainty of the election results.
- e. Malfunctions with paper ballots being scanned into voting machines;
- f. Malfunctions of voting machines, including loss of data, data manipulation, votes disappearing, appearing, reappearing, and flipping, documented remote access errors identified on poll site books.
- g. Commingling of improperly cured ballots with properly cured ballots, illegal issuance of Provisional Ballots to those who received Regular Ballots, failure to count valid ballots, failures in the print quality of ballots, failure of machines and printers to properly scan, read and print ballots, respectively;
- h. Improper verification of signatures on mail-in and absentee ballots; Defendants were documented as having unlawfully accepted for processing and tabulation certain ballots that were accompanied by affidavits presenting signatures that did not match the signature on file in the putative voter’s registration records. See A.R.S. § 16-550(A);

- i. Ballot box stuffing;
- j. Unresolved security risks as identified by the Cybersecurity and Infrastructure Security Agency and are impossible to resolve as of today pursuant to the National Vulnerability Database.
- k. Voters were forced to have their ballots go through a proven to be broken chain of custody that has six different links in it from ballot origin to “counting” or “tabulation”;
- l. Identification of remote access errors via the Internet on to the poll site books on Election Day.
- m. Days and days of uncertainty and counting; and
- n. Failure to monitor poll book registration such that a certain unknown number of individuals were deprived of their constitutional rights to vote due to poll worker errors that prevented them from casting a vote on the erroneous basis that they had already voted.
- o. Inept Contingency Plan in place that did not provide for a voter to vote in person and have their ballot counted immediately due the over 60% failure rate in the tabulators on Election Day.
- p. Maricopa County Attorney Thomas Liddy admitted and argued that there was a potential for fraud and no way to reconcile the cast votes at the November 8th, 2022 hearing, however that same highly susceptible fraudulent practice had occurred all Election Day.
<https://drive.google.com/drive/folders/1Keegar1PTX7nrU3kegS2IsMB7Op6hpWO?usp=sharing>

7. All of the aforementioned, and more anomalies mal-administration and questionable activities and conduct, took place during the November 2022 General Election.

8. There can be no other conclusion but that these recurring fraudulent activities and systemic and integral problems with the voting systems, voting machines, and ballot creation and handling, and the conducting of the election itself in the manner that transpired, were the result of grossly negligent and reckless maladministration, if not intentional sabotage, by the Defendants.

9. Defendants cannot escape their obligations to abide by the Constitution of the State of Arizona, the Constitution of the United States of America, and all state and federal statutory laws pertaining to the conducting of elections.

10. Their intentional, reckless, grossly negligent and negligent conduct and participation in the abject failure that was the November 8, 2022 election in Maricopa County, Arizona, amounts to intentional misfeasance and malfeasance in office and maladministration, among other infractions of state and federal law, and such has caused a violation of the constitutional and statutory rights of Petitioner and those similarly situated, entitling her to the declaratory, compensatory, and injunctive relief requested herein.

11. The main object of the duties and restrictions imposed on election officers is to afford to every citizen having a Constitutional Right to vote an opportunity to exercise that Right, to prevent those not so entitled from voting, and to ensure the conduct of the election so that the true number of legal votes and their effect can be ascertained with certainty. *Findley v. Sorenson*, 35 Ariz. 265, 269-70, 276 P. 843, 844 (1929). **Relief is available where the results are rendered uncertain due to the maladministration in the making of the canvass. *Id.* The election may be nullified if the results are rendered uncertain. Honest return are matters paramount in importance to minor statutory requirements.**

12. According to the 2019 Elections Procedural Manual: **“A canvass must be conducted by the statutory deadline but should not be conducted until all necessary audits have been completed to verify the accuracy and integrity of the election results. *Id.*”**

13. All “necessary” audits have yet to be conducted, including an audit of the affidavit signatures and a hand count with a forensic analyst identifying potential illegal ballots inserted into the count. A logic and accuracy test is not an audit of the systems, procedures, and/or validity of the curing process or the chain of custody documentation etc.

14. A partially selected hand count does not account for the ballots that were counted from a mail in ballot wherein the signature was not properly cured, therefore it is deemed an illegal ballot. Due to the maladministration of this election canvass, many people did not get their ballots

cured in time. There is no clear chain of custody of an individual envelope, hence there is an uncertainty as to the efficiency and timeliness of the curing processes for each individual Elector.

15. **Petitioner, Gail Golec, and those similarly situated seek an emergency order enjoining the Defendants Maricopa County Board of Supervisors from certifying the canvass of the November 8, 2022 General Election,** as so many others have asked the Court to do pending a *substantive* fact-finding and legal determination of Defendants’ responsibilities to the citizens of Maricopa County, to the State of Arizona, and, indeed, to the United States.

16. Pursuant to Arizona Constitution, Art. II, § 21: “All elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” A.R.S. Const. Art. II, § 21.

17. Arizona Constitution, Art. VII, § 7, provides that “all elections held by the people in this state, the person, or persons, receiving the highest number of legal votes shall be declared elected.” A.R.S. Const. Art. VII, § 7.

18. The Arizona Constitution requires that “[t]here shall be enacted registration and other laws to secure the purity of elections and guard against abuses of the elective franchise.” Ariz. Const, art. VII, § 12.

19. Contesting of elections is allowed by A.R.S. § 16-672(A) and “may be brought in the superior court of the county in which the person contesting resides or in the superior court of Maricopa County.”

20. Petitioner, Gail Golec, Gail Golec (“Golec” or “Petitioner”) is a qualified elector who is registered to vote and has resided in District 2 of Maricopa County, Arizona since 2011. See Exhibit B, Declaration of Gail Golec, November 22, 2022, ¶ 1.

21. Petitioner voted in the November 8, 2022, election at the Horizon Park Community Center. *Id.*

22. Pursuant to A.R.S. § 16-672, Petitioner, as an elector residing in Maricopa County, has standing to contest elections, including, but not limited to, the grounds stated in that provision.

23. A.R.S. § 16-672(A), provides that “[a]ny elector of the state may contest the election of any person declared elected to a state office...upon any of the following grounds: (1) [f]or misconduct on the part of election boards or any members thereof in any of the counties of the state, or on the part of any officer making or participating in a canvass for a state election...; (4) [o]n account of illegal votes; (5) that by reason of erroneous count of votes the person declared elected...did not in fact receive the highest number of votes for the office...

24. Pursuant to the United States Constitution, Petitioner, as an elector participating in a national election, has standing to contest a federal election and to seek a vindication of her civil and constitutional rights, and that standing and right is as against *any individual or defendant* who has acted to deprive Petitioner of her civil and constitutional rights to have her vote properly counted, which right extends equally to the affirmative right of *not having her vote* nullified or canceled out by *any other* fraudulent, erroneous, corrupt, miscounted, overcounted, wrongfully counted, fake, and/or illegal vote. See, e.g., *United States v. Classic*, 313 U.S. 299, 315 (1941), wherein the Court specifically stated:

[I]ncluded within the right to choose [the right to vote protected by the First Amendment, inter alia], secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted at Congressional elections. This Court has consistently held that this is a right secured by the Constitution... And since the constitutional command *is without restriction or limitation, the right, unlike those guaranteed by the Fourteenth and Fifteenth Amendments, is secured against the action of individuals as well as of states.* *Id.* (emphasis added).

25. Defendants, Maricopa County Board of Supervisors (Maricopa County), and its individual members, are responsible for the proper conducting of elections in Maricopa County, Arizona, and were acting in their official capacities before, on, and after November 8, 2022.

26. In their official capacities, the individually named members of the Maricopa County Board of Supervisors are responsible for ensuring that elections are conducted in accordance with the Constitution of the United States of America, the Constitution of the State of Arizona, and all pertinent federal and state laws governing the conducting of elections.

27. Defendant, Stephen Richer is the Maricopa County Recorder, and, as such, is the principal elections officer in Maricopa County, Arizona, and is responsible for overseeing and directing numerous components of election administration within Maricopa County. Defendant Richer was acting in his official capacity as such before, on, and after November 8, 2022.

28. In his official capacity, Defendant Richer as the Maricopa County Recorder, is responsible for ensuring that elections are conducted in accordance with the Constitution of the United States of America, the Constitution of the State of Arizona, and all pertinent federal and state laws governing the conducting of elections.

29. Defendants Rey Valenzuela and Scott Jarrett are the Election Directors of Maricopa County, Arizona, and were acting in their official capacities as such before, on, and after November 8, 2022.

30. The Maricopa County Election Directors are responsible for overseeing and directing numerous components of election administration within Maricopa County.

31. In this capacity, the Maricopa County Elections Directors Valenzuela and Jarrett are responsible for ensuring that elections are conducted in accordance with the Constitution of the United States of America, the Constitution of the State of Arizona, and all pertinent federal and state laws governing the conducting of elections.

32. Defendant, Katie Hobbs, is the Secretary of State of Arizona, and was also a candidate for the office of governor of Arizona during the November 8, 2022 election.

33. In her capacity as Secretary of State, Defendant Hobbs is responsible for ensuring that elections are conducted in accordance with the Constitution of the United States of America, the Constitution of the State of Arizona, and all pertinent federal and state laws governing the conducting of elections.

34. Defendant Dominion provides voting machines and voting systems to Maricopa County in conjunction with the Maricopa County Defendants and Defendant Secretary Hobbs, and said voting machines and voting systems were used in Maricopa County before, during and after the November 8, 2022 election.

35. In providing its voting machines and voting machine systems in conjunction with the Maricopa County Defendants and Defendant Secretary Hobbs, Dominion is also a “state actor” for purposes of the Civil Rights Act of 1871, see 42 U.S.C. § 1983 and 42 U.S.C. § 1988, and subject to the remedies available thereunder.

36. Defendant, Runbeck Election Services (Runbeck) is a privately contracted vendor charged with the responsibility of printing, handling (including scanning), assembling, and sending, early ballot packets to include the carrier envelope (affidavit signature envelope – used in the verification process), the early ballot, an early ballot affidavit envelope, and voter instructions. (Exhibit A, 2022 Elections Plan, pp. 43-44).

37. In providing its services in conjunction with the Maricopa County Defendants and Defendant Secretary Hobbs, Runbeck is also a “state actor” for purposes of the Civil Rights Act of 1871, see 42 U.S.C. § 1983 and 42 U.S.C. § 1988, and subject to the remedies available thereunder.

INJUNCTIVE RELIEF

38. “Judges of the superior court may grant writs of injunction: 1. When it appears that the party applying for the writ is entitled to the relief demanded, such relief or any part thereof

requires the restraint of some act prejudicial to the applicant. 2. When, pending litigation, it appears that a party is doing some act respecting the subject of litigation, or threatens or is about to do some act, or is procuring or suffering some act to be done, in violation of the rights of the applicant, which would tend to render the judgment ineffectual. 3. In all other cases when applicant is entitled to an injunction under the principles of equity.” A.R.S. § 12-1801.

39. Section 1803 further provides: “A. An injunction may be granted at the time of commencing the action upon the complaint, and at any time afterward before judgment upon affidavits. The complaint or the affidavits shall set forth sufficient grounds therefore. B. An injunction shall not be granted on the complaint unless it is verified by the oath of the plaintiff that he has read the complaint, or heard the complaint read, knows the contents thereof, and that it is true of his own knowledge, except the matters stated therein on information and belief, and that as to those matters, he believes the complaint to be true. C. A copy of the complaint, or, when granted upon affidavit, a copy of the affidavit, shall be served with the injunction.” A.R.S. § 12-1803.

REQUEST FOR RELIEF

WHEREFORE, Petitioner seeks a declaration that the Defendants, Maricopa County Board of Supervisors, Maricopa County Recorder, Maricopa County Election Directors, and Arizona Secretary of State violated the provisions of the United States Constitution, the Constitution of the State of Arizona, federal and state laws and procedures, as more fully set forth in the accompanying Complaint, in the operation and conducting of the making of the canvass of the November 8, 2022, election, in that their actions both collectively and individually,

- a) failed to ensure their entitlement to free and equal elections in accordance with the United States and Arizona Constitution;
- b) failed to ensure that each and every voter in Maricopa County had full and free and equal access to voting centers and voting systems such that their votes were (1) legitimately and

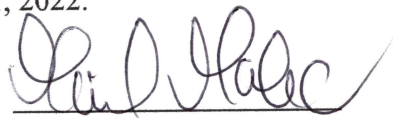
properly counted and tabulated; and (2) not nullified, canceled out, diluted, or otherwise ignored and not counted because of the failure to properly count their votes; and/or because of the counting and tabulation of an equal or greater number of illegitimate votes (either those cast by individuals who are not entitled to or registered to lawfully vote or whose ballots and submissions were not valid and legitimate votes in that the ballots and votes suffered from one or more legally recognized defects invalidating said votes);

- c) violated the Petitioner's rights under the First, Ninth, and Fourteenth, Amendments, including the Equal Protection Clause, and all of the parallel provisions of the Arizona Constitution and statutes;
- d) violated the aforementioned constitutional rights, which violations constituted injurious state action of state actors in violation of Petitioner's constitutional rights entitling Petitioner to the remedies provided by 42 U.S.C. § 1983 and 42 U.S.C. § 1988, including damages, costs, and attorney's fees, as provided by law.

And, WHEREFORE, as a result of Defendants' violations of law, and their past and current violations of the Petitioner's constitutional and legal rights as stated more fully in the accompanying complaint due to the Defendants' individual and collective intentional, grossly negligent, and/or negligent acts, which acts due to prior notice and awareness of past, current, and ongoing deficiencies and defects in the voting systems, machines, and constitutionally defective, insufficient, and deficient customs, policies and procedures, constituted malfeasance and/or misfeasance in office, deliberative indifference to Petitioner's constitutional rights, and caused and/or allowed, facilitated, encouraged, and led to said constitutional and statutory violations, Petitioner is entitled to an Emergency Order enjoining any purported certification of the canvass results of the November 8, 2022 election that occurred in Maricopa County, until the "all necessary audits" including but not limited to proper and legitimate hand count, signature verification audits,

security risk audits and chain of custody audits of the November 8, 2022 election can be properly assessed and will be attributed and after proper measures are taken to remedy these aforementioned deficiencies, so that the November 8 2022 Election results are rendered certain, true and accurately counting only legal votes.

RESPECTFULLY SUBMITTED, this 26th day of November, 2022.

A handwritten signature in dark ink, appearing to read 'Gail Golec', written over a horizontal line.

GAIL GOLEC

RETRIEVED FROM DEMOCRACYDOCKET.COM