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ARIZONA SUPERIOR COURT
MARICOPA COUNTY

CHARLENE R. FERNANDEZ, Minority Leader
of the Arizona House of Representatives, in her
official capacity; and DAVID T. BRADLEY,
Minority Leader of the Arizona Senate, in his
official capacity,

Plaintiffs,

v.

COMMISSION ON APPELLATE COURT
APPOINTMENTS; ROBERT BRUTINEL, in his
official capacity as Chair of the Commission on
Appellate Court Appointments; AMMON
BARKER; JAIME CHAMBERLAIN; LAURA
CISCOMANI; BUCHANAN DAVIS; WILLIAM
GRESSER; TRACY MUNSIL; GERALD
NABOURS; JONATHAN PATON; DANIEL
SEIDEN; LARRY SUCIU; KEVIN TAYLOR;
KATHRYN TOWNSEND; TINA VANNUCCI;
LINLEY WILSON; and JAMES ZIELER,
officially in their capacities as members of the
Commission on Appellate Court Appointments,

Defendants.

Case No.:

**VERIFIED COMPLAINT FOR
SPECIAL ACTION**

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INTRODUCTION

Charlene R. Fernandez, Minority Leader of the Arizona House of Representatives, and David T. Bradley, Minority Leader of the Arizona Senate (collectively “Plaintiffs”), hereby file this Special Action Complaint for violations of Article IV, Part 2, Section 1 of the Arizona Constitution related to the Commission on Appellate Court Appointments’ obligation to establish a pool of persons who are qualified for appointment to the Arizona Independent Redistricting Commission (“AIRC”). The Commission on Appellate Court Appointments (“CACA”) and its members in their official capacities (jointly “Defendants”) are named as defendants for their failure to execute their duty to nominate qualified persons to the pool of qualified candidates.

THE PARTIES

1. Plaintiff Charlene R. Fernandez is the representative of Arizona District 4 and the Minority Leader of the Arizona House of Representatives. As Minority Leader, she has the right to appoint one nominee to the AIRC from the pool of qualified candidates that is to be established by Defendants.

2. Plaintiff David T. Bradley is the senator of Arizona District 10 and Minority Leader of the Arizona Senate. As Minority Leader, he has the right to appoint one nominee to the AIRC from the pool of qualified candidates that is to be established by Defendants.

3. The CACA is a judicial nominating commission under Section 36 of Article VI of the Arizona Constitution. The CACA is also responsible for nominating candidates for appointment to the AIRC. *Id.* at art. IV, pt. 2, § 1.

1 4. Robert Brutinel, Chair of the CACA, and Ammon Barker, Jaime
2 Chamberlain, Laura Ciscomani, Buchanan Davis, William Gresser, Tracy Munsil, Gerald
3 Nabours, Jonathan Paton, Daniel Seiden, Larry Suciu, Kevin Taylor, Kathryn Townsend,
4 Tina Vannucci, Linley Wilson, and James Zieler, are members of the CACA responsible
5 for establishing a pool of qualified candidates for appointment to the AIRC.
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8 **JURISDICTIONAL STATEMENT**

9 5. This Court has jurisdiction under Section 14 of Article VI of the Arizona
10 Constitution and under A.R.S. § 12-123. This Court has jurisdiction over mandamus
11 actions pursuant to A.R.S. § 12-2021. Special action is appropriate in this matter because
12 Defendants have failed to perform a duty they are required by law to perform without
13 discretion. Ariz. R. Spec. Act. 3(a).
14

15 6. Venue is proper in the Court pursuant to A.R.S. 12-401.
16

17 **STATEMENT OF FACTS**

18 **AIRC Application Background**

19
20 7. On April 3, 2020, the Supreme Court issued an order amending the rules
21 entitled “Procedures for Nominations for the Independent Redistricting Commission.”

22 8. The staff for the CACA distributed an application form for individuals
23 interested in serving on the AIRC. Applications were accepted until August 20, 2020.
24 Comm. on App. Ct. Appts. Website [https://www.azcourts.gov/jnc/IRC-](https://www.azcourts.gov/jnc/IRC-Nominations/Application-Information)
25 [Nominations/Application-Information](https://www.azcourts.gov/jnc/IRC-Nominations/Application-Information), last accessed on 10/22/2020.
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1 9. One-hundred thirty-eight individuals submitted applications to the CACA
2 and the CACA’s staff issued a news release soliciting public comment on the applicants on
3 August 21, 2020. *State Seeks Comment on Applicants for Arizona’s Independent*
4 *Redistricting Commission*, (August 21, 2020)
5 [https://www.azcourts.gov/Portals/75/IRC/News%20and%20Meetings/NewsRelease-](https://www.azcourts.gov/Portals/75/IRC/News%20and%20Meetings/NewsRelease-ApplicantsforRedistrictingCommission.pdf?ver=2020-08-21-114159-953)
6 [ApplicantsforRedistrictingCommission.pdf?ver=2020-08-21-114159-953](https://www.azcourts.gov/Portals/75/IRC/News%20and%20Meetings/NewsRelease-ApplicantsforRedistrictingCommission.pdf?ver=2020-08-21-114159-953), last accessed
7
8 on 10/22/2020.

9
10 10. Of the 138 applications received, 38 individuals were registered as
11 Independent. *Id.*

12 11. On September 17, 2020, 11 Independent applicants were selected for
13 interviews at a screening meeting. *See*
14 [https://www.azcourts.gov/Portals/75/IRC/Documents/NewsRelease-](https://www.azcourts.gov/Portals/75/IRC/Documents/NewsRelease-CandidatesforRedistrictingCommission.pdf?ver=2020-09-29-122739-677)
15 [CandidatesforRedistrictingCommission.pdf?ver=2020-09-29-122739-677](https://www.azcourts.gov/Portals/75/IRC/Documents/NewsRelease-CandidatesforRedistrictingCommission.pdf?ver=2020-09-29-122739-677), last accessed
16
17 on 10/22/2020.

18
19 **The Nomination Process**

20 12. The CACA nominates qualified individuals to a pool of qualified candidates
21 which is presented to legislative leadership who in turn exercise a privilege to appoint
22 candidates to the AIRC from the pool of qualified candidate.

23
24 13. “The pool of candidates shall consist of twenty-five nominees, with ten
25 nominees from each of the two largest political parties in Arizona based on party
26 registration, and five who are not registered with either of the two largest political parties
27 in Arizona.” *See* Ariz. Const. art. IV, Pt. 2 § 1.
28

1 14. The complaint concerns the nomination of two individuals who are not
2 registered with either of the two largest political parties, in other words, the Independent-
3 registered applicants.
4

5 **The Application of Thomas Loquvam**

6 15. The constitution sets forth the criteria for qualifications of candidates to the
7 AIRC. Ariz. Const. art IV, pt. 2, § 1, ¶ 3.
8

9 16. A person is not qualified to serve on the AIRC if she or he served as a
10 registered paid lobbyist within three years previous to the appointment. *Id.*

11 17. Mr. Thomas Loquvam (“Loquvam”) is among 38 applicants who applied to
12 serve on the AIRC as an Independent. *See* application of Thomas Loquvam,
13 <https://www.azcourts.gov/LinkClick.aspx?fileticket=My6qs9ypbto%3d&portalid=75>, last
14 accessed on 10/22/2020.
15

16 18. In his application, Loquvam indicated that he is not a paid lobbyist because
17 he is not “compensated for the primary purpose of lobbying on behalf of a principal.”
18

19 19. However, Loquvam is indeed registered as an active lobbyist with the
20 Arizona Corporations Commission, Lobbyist 163; Registration Date October 25, 2019. *See*
21 [https://efiling.azcc.gov/public-records/lobbyist/detail;id=4f00d132-19d0-42e8-b749-
22 9d4bf2612d58;firstName=Thomas;lastName=Loquvam](https://efiling.azcc.gov/public-records/lobbyist/detail;id=4f00d132-19d0-42e8-b749-9d4bf2612d58;firstName=Thomas;lastName=Loquvam), last accessed on 10/22/2020.
23

24 20. Defendants nonetheless nominated him as a qualified candidate and
25 advanced his nomination to legislative leadership for potential selection to the AIRC.
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1 **The Application of Robert Wilson**

2 21. Again, the pool of candidates must consist of 10 nominees from each of the
3 two largest political parties in Arizona, in other words, 10 democratic nominees and 10
4 republican nominees. *See* Ariz. Const. art. IV, Pt. 2 § 1.

5
6 22. Mr. Robert Wilson (“Wilson”) is also among the 38 applicants who applied
7 to serve on the AIRC as an Independent. *See* application of Robert Wilson,
8 <https://www.azcourts.gov/LinkClick.aspx?fileticket=wwjfllyrSLI%3d&portalid=75>, last
9 accessed on 10/22/2020.

10
11 23. In his application Wilson claims to be registered as an Independent voter.

12 24. Although, Wilson is and has been registered as an Independent since 2005,
13 his voting history and political activities clearly show he is not an unbiased independent
14 voter with no party affiliation.

15
16 25. On information and belief, Wilson has voted Republican in 2010, 2014, and
17 again in 2018.

18
19 26. On information and belief, Wilson donated to the Republican Party for
20 Senator John McCain on June 1, 2010 in the amount of \$500.

21 27. Wilson is a member and owner of Timberline Firearms, LLC. *See*
22 <https://ecorp.azcc.gov/BusinessSearch/BusinessInfo?entityNumber=L20658420>, last
23 accessed on 10/22/2020.

24
25 28. On information and belief, Mr. Wilson hosted a Meet and Greet event with
26 Republican candidates Walt Blackman, who was elected to the Arizona House of
27 Representatives and Jon Saline, the GOP candidate for the legislature in October, 2019.
28

1 37. Loquvam served as a registered paid lobbyist within three years of his
2 placement, thus he was an unqualified applicant.

3 38. The CACA violated the constitutional prohibition of nominating a person
4 who has served as a registered paid lobbyist within three years prior to their appointment.
5

6 39. By the CACA’s actions, Plaintiffs have been deprived of making a
7 selection to the AIRC based on a complete list of qualified individuals.
8

9 **SECOND CLAIM FOR RELIEF**

10 **Violations of Art. IV, Pt. 2, § 1 (Robert Wilson Nomination)**

11 40. Plaintiffs incorporate the allegations set forth in the foregoing paragraphs of
12 this complaint as if fully set forth herein.
13

14 41. The CACA cannot advance more than 10 nominees from each of the two
15 largest political parties (i.e. the democratic and republic parties), in addition to five
16 nominees who are not registered with either party (i.e. a registered Independent voter or a
17 voter from a minor political party). Id. at ¶ 5.
18

19 42. The CACA nominated Wilson as a person not registered with either party
20 (i.e. a registered Independent).
21

22 43. Wilson’s voter record and political activities establish that he is closely
23 aligned with the republican party.
24

25 44. Thus, the CACA’s nomination of Wilson as an Independent voter violates
26 the spirit and the intent of Paragraph 5 of the constitutional nomination criteria.
27
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1 45. By the CACA’s actions, Plaintiffs have been deprived of making a
2 selection to the AIRC based on a complete list of qualified individuals.

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4 **THIRD CLAIM FOR RELIEF**

5 **Declaratory Judgment**

6 46. Plaintiffs incorporate the allegations set forth in the foregoing paragraphs of
7 this complaint as if fully set forth herein.

8
9 47. The CACA must establish a pool of persons who are qualified for
10 appointment to the AIRC based on the criteria set forth above. Ariz. const., art. IV, pt. 2,
11 § 1, ¶ 5.

12
13 48. The CACA has failed to establish such a pool of qualified candidates by
14 including in the nominee pool an individual, Loquvam, who served as a registered paid
15 lobbyist for three years previous to his potential appointment.

16
17 49. The CACA has failed to establish such a pool of qualified candidates by
18 nominating Wilson as an Independent, whose nomination violates the spirit and intent of
19 the constitutional criteria for an independent redistricting committee, as his voter record
20 and political activity establish him as a member of the republican party.

21
22 **FOURTH CLAIM FOR RELIEF**

23 **Mandamus Pursuant to A.R.S. § 12-2021**

24
25 50. Plaintiffs incorporate the allegations set forth in the foregoing paragraphs of
26 this complaint as if fully set forth herein.

1 59. Plaintiffs have no plain, adequate and speedy remedy at law to compel
2 Defendants to comply with their constitutional duties.

3 60. Plaintiffs are entitled to and request this Court to enjoin Defendants from
4 nominating the two unqualified persons, Loquvam and Wilson, to the AIRC.
5

6 WHEREFORE, Plaintiffs pray for:

7 A. A declaration that Defendants have violated the Arizona Constitution
8 by their nomination of Loquvam and Wilson as qualified candidates to serve on the
9 AIRC.
10

11 B. A Writ of Mandamus ordering Defendants to withdraw the
12 nominations of Loquvam and Wilson and submit nominations who are qualified to
13 serve on the AIRC pursuant to constitutional criteria.
14

15 C. An injunction prohibiting Defendants from nominating the two
16 unqualified applicants, Loquvam and Wilson, to AIRC.
17

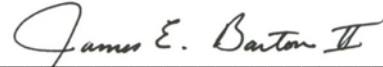
18 D. An order awarding Plaintiffs' attorneys' fees incurred in this action
19 under A.R.S. § 12-2030 and the Private Attorney General Doctrine as established in
20 *Arnold v. Arizona Dep't of Health Servs.*, 160 Ariz. 593, 775 P. 2d 521 (1989).
21

22 E. An order awarding Plaintiffs' costs.

23 F. An order awarding any such other and further relief as the Court
24 deems just and proper.
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1 DONE this 22nd day of October, 2020.

2 TORRES LAW GROUP, PLLC

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5 _____
6 James E. Barton II
7 Jacqueline Mendez Soto
8 *Attorneys for Plaintiffs*

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VERIFICATION

1
2 STATE OF ARIZONA)
3)ss.
4 County of Maricopa)

5
6 I, Charlene R. Fernandez, Minority Leader of the Arizona House of Representatives
7 and Plaintiff in the above-referenced matter, have read the foregoing Verified Complaint
8 for Special Action and know the contents thereof.

9 I declare under penalty of perjury that the foregoing is true and correct to the best
10 of my knowledge ad belief.

11
12 DATED this 22nd day of October, 2020.

13 Charlene R. Fernandez
14 Charlene R. Fernandez