

Exhibit A

PROPOSITION 106
OFFICIAL TITLE
AN INITIATIVE MEASURE

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV, PART 2, SECTION 1, CONSTITUTION OF ARIZONA; RELATING TO ENDING THE PRACTICE OF GERRYMANDERING AND IMPROVING VOTER AND CANDIDATE PARTICIPATION IN ELECTIONS BY CREATING AN INDEPENDENT COMMISSION OF BALANCED APPOINTMENTS TO OVERSEE THE MAPPING OF FAIR AND COMPETITIVE CONGRESSIONAL AND LEGISLATIVE DISTRICTS.

TEXT OF PROPOSED AMENDMENT

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARIZONA:

ARTICLE IV, PART 2, SECTION 1, CONSTITUTION OF ARIZONA, IS AMENDED AS FOLLOWS IF APPROVED BY THE VOTERS AND UPON PROCLAMATION BY THE GOVERNOR:

1. Senate; house of representatives; members; special session upon petition of members; CONGRESSIONAL AND LEGISLATIVE BOUNDARIES; CITIZEN COMMISSIONS

Section 1. (1) The senate shall be composed of one member elected from each of the thirty legislative districts established by the legislature PURSUANT TO THIS SECTION.

The house of representatives shall be composed of two members elected from each of the thirty legislative districts established by the legislature PURSUANT TO THIS SECTION.

(2) Upon the presentation to the governor of a petition bearing the signatures of not less than two-thirds of the members of each house, requesting that he call a special session of the legislature and designating the date of convening, the governor shall forthwith PROMPTLY call a special session to assemble on the date specified. At a special session so called the subjects which may be considered by the legislature shall not be limited.

(3) BY FEBRUARY 28 OF EACH YEAR THAT ENDS IN ONE, AN INDEPENDENT REDISTRICTING COMMISSION SHALL BE ESTABLISHED TO PROVIDE FOR THE REDISTRICTING OF CONGRESSIONAL AND STATE LEGISLATIVE DISTRICTS. THE INDEPENDENT REDISTRICTING COMMISSION SHALL CONSIST OF FIVE MEMBERS. NO MORE THAN TWO MEMBERS OF THE INDEPENDENT REDISTRICTING COMMISSION SHALL BE MEMBERS OF THE SAME POLITICAL PARTY. OF THE FIRST FOUR MEMBERS APPOINTED, NO MORE THAN TWO SHALL RESIDE IN THE SAME COUNTY. EACH MEMBER SHALL BE A REGISTERED ARIZONA VOTER WHO HAS BEEN CONTINUOUSLY REGISTERED WITH THE SAME POLITICAL PARTY OR REGISTERED AS UNAFFILIATED WITH A POLITICAL PARTY FOR THREE OR MORE YEARS IMMEDIATELY PRECEDING APPOINTMENT, WHO IS COMMITTED TO APPLYING THE PROVISIONS OF THIS SECTION IN AN HONEST, INDEPENDENT AND IMPARTIAL FASHION AND TO UPHOLDING PUBLIC CONFIDENCE IN THE INTEGRITY OF THE REDISTRICTING PROCESS. WITHIN THE THREE YEARS PREVIOUS TO APPOINTMENT, MEMBERS SHALL NOT HAVE BEEN APPOINTED TO, ELECTED TO, OR A CANDIDATE FOR ANY OTHER PUBLIC OFFICE, INCLUDING PRECINCT COMMITTEEMAN OR COMMITTEEWOMAN BUT NOT INCLUDING SCHOOL BOARD MEMBER OR OFFICER, AND SHALL NOT HAVE SERVED AS AN OFFICER OF A POLITICAL PARTY, OR SERVED AS A REGISTERED PAID LOBBYIST OR AS AN OFFICER OF A CANDIDATE'S CAMPAIGN COMMITTEE.

(4) THE COMMISSION ON APPELLATE COURT APPOINTMENTS SHALL NOMINATE CANDIDATES FOR APPOINTMENT TO THE INDEPENDENT REDISTRICTING COMMISSION, EXCEPT THAT, IF A POLITICALLY BALANCED COMMISSION EXISTS WHOSE MEMBERS ARE NOMINATED BY THE COMMISSION ON APPELLATE COURT APPOINTMENTS AND WHOSE REGULAR DUTIES RELATE TO THE ELECTIVE PROCESS, THE COMMISSION ON APPELLATE COURT APPOINTMENTS MAY DELEGATE TO SUCH EXISTING COMMISSION (HEREINAFTER CALLED THE COMMISSION ON APPELLATE COURT APPOINTMENTS' DESIGNEE) THE DUTY OF NOMINATING MEMBERS FOR THE INDEPENDENT REDISTRICTING COMMISSION, AND ALL OTHER

DUTIES ASSIGNED TO THE COMMISSION ON APPELLATE COURT APPOINTMENTS IN THIS SECTION.

(5) BY JANUARY 8 OF YEARS ENDING IN ONE, THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE SHALL ESTABLISH A POOL OF PERSONS WHO ARE WILLING TO SERVE ON AND ARE QUALIFIED FOR APPOINTMENT TO THE INDEPENDENT REDISTRICTING COMMISSION. THE POOL OF CANDIDATES SHALL CONSIST OF TWENTY-FIVE NOMINEES, WITH TEN NOMINEES FROM EACH OF THE TWO LARGEST POLITICAL PARTIES IN ARIZONA BASED ON PARTY REGISTRATION, AND FIVE WHO ARE NOT REGISTERED WITH EITHER OF THE TWO LARGEST POLITICAL PARTIES IN ARIZONA.

(6) APPOINTMENTS TO THE INDEPENDENT REDISTRICTING COMMISSION SHALL BE MADE IN THE ORDER SET FORTH BELOW. NO LATER THAN JANUARY 31 OF YEARS ENDING IN ONE, THE HIGHEST RANKING OFFICER ELECTED BY THE ARIZONA HOUSE OF REPRESENTATIVES SHALL MAKE ONE APPOINTMENT TO THE INDEPENDENT REDISTRICTING COMMISSION FROM THE POOL OF NOMINEES, FOLLOWED BY ONE APPOINTMENT FROM THE POOL MADE IN TURN BY EACH OF THE FOLLOWING: THE MINORITY PARTY LEADER OF THE ARIZONA HOUSE OF REPRESENTATIVES, THE HIGHEST RANKING OFFICER ELECTED BY THE ARIZONA SENATE, AND THE MINORITY PARTY LEADER OF THE ARIZONA SENATE. EACH SUCH OFFICIAL SHALL HAVE A SEVEN-DAY PERIOD IN WHICH TO MAKE AN APPOINTMENT. ANY OFFICIAL WHO FAILS TO MAKE AN APPOINTMENT WITHIN THE SPECIFIED TIME PERIOD WILL FORFEIT THE APPOINTMENT PRIVILEGE. IN THE EVENT THAT THERE ARE TWO OR MORE MINORITY PARTIES WITHIN THE HOUSE OR THE SENATE, THE LEADER OF THE LARGEST MINORITY PARTY BY STATEWIDE PARTY REGISTRATION SHALL MAKE THE APPOINTMENT.

(7) ANY VACANCY IN THE ABOVE FOUR INDEPENDENT REDISTRICTING COMMISSION POSITIONS REMAINING AS OF MARCH 1 OF A YEAR ENDING IN ONE SHALL BE FILLED FROM THE POOL OF NOMINEES BY THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE. THE APPOINTING BODY SHALL STRIVE FOR POLITICAL BALANCE AND FAIRNESS.

(8) AT A MEETING CALLED BY THE SECRETARY OF STATE, THE FOUR INDEPENDENT REDISTRICTING COMMISSION MEMBERS SHALL SELECT BY MAJORITY VOTE FROM THE NOMINATION POOL A FIFTH MEMBER WHO SHALL NOT BE REGISTERED WITH ANY PARTY ALREADY REPRESENTED ON THE INDEPENDENT REDISTRICTING COMMISSION AND WHO SHALL SERVE AS CHAIR. IF THE FOUR COMMISSIONERS FAIL TO APPOINT A FIFTH MEMBER WITHIN FIFTEEN DAYS, THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE, STRIVING FOR POLITICAL BALANCE AND FAIRNESS, SHALL APPOINT A FIFTH MEMBER FROM THE NOMINATION POOL, WHO SHALL SERVE AS CHAIR.

(9) THE FIVE COMMISSIONERS SHALL THEN SELECT BY MAJORITY VOTE ONE OF THEIR MEMBERS TO SERVE AS VICE-CHAIR.

(10) AFTER HAVING BEEN SERVED WRITTEN NOTICE AND PROVIDED WITH AN OPPORTUNITY FOR A RESPONSE, A MEMBER OF THE INDEPENDENT REDISTRICTING COMMISSION

Spelling, grammar, and punctuation were reproduced as submitted in the "for" and "against" arguments.

MAY BE REMOVED BY THE GOVERNOR, WITH THE CONCURRENCE OF TWO-THIRDS OF THE SENATE, FOR SUBSTANTIAL NEGLIGENCE OF DUTY, GROSS MISCONDUCT IN OFFICE, OR INABILITY TO DISCHARGE THE DUTIES OF OFFICE.

(11) IF A COMMISSIONER OR CHAIR DOES NOT COMPLETE THE TERM OF OFFICE FOR ANY REASON, THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE SHALL NOMINATE A POOL OF THREE CANDIDATES WITHIN THE FIRST THIRTY DAYS AFTER THE VACANCY OCCURS. THE NOMINEES SHALL BE OF THE SAME POLITICAL PARTY OR STATUS AS WAS THE MEMBER WHO VACATED THE OFFICE AT THE TIME OF HIS OR HER APPOINTMENT, AND THE APPOINTMENT OTHER THAN THE CHAIR SHALL BE MADE BY THE CURRENT HOLDER OF THE OFFICE DESIGNATED TO MAKE THE ORIGINAL APPOINTMENT. THE APPOINTMENT OF A NEW CHAIR SHALL BE MADE BY THE REMAINING COMMISSIONERS. IF THE APPOINTMENT OF A REPLACEMENT COMMISSIONER OR CHAIR IS NOT MADE WITHIN FOURTEEN DAYS FOLLOWING THE PRESENTATION OF THE NOMINEES, THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE SHALL MAKE THE APPOINTMENT, STRIVING FOR POLITICAL BALANCE AND FAIRNESS. THE NEWLY APPOINTED COMMISSIONER SHALL SERVE OUT THE REMAINDER OF THE ORIGINAL TERM.

(12) THREE COMMISSIONERS, INCLUDING THE CHAIR OR VICE-CHAIR, CONSTITUTE A QUORUM. THREE OR MORE AFFIRMATIVE VOTES ARE REQUIRED FOR ANY OFFICIAL ACTION. WHERE A QUORUM IS PRESENT, THE INDEPENDENT REDISTRICTING COMMISSION SHALL CONDUCT BUSINESS IN MEETINGS OPEN TO THE PUBLIC, WITH 48 OR MORE HOURS PUBLIC NOTICE PROVIDED.

(13) A COMMISSIONER, DURING THE COMMISSIONER'S TERM OF OFFICE AND FOR THREE YEARS THEREAFTER, SHALL BE INELIGIBLE FOR ARIZONA PUBLIC OFFICE OR FOR REGISTRATION AS A PAID LOBBYIST.

(14) THE INDEPENDENT REDISTRICTING COMMISSION SHALL ESTABLISH CONGRESSIONAL AND LEGISLATIVE DISTRICTS. THE COMMENCEMENT OF THE MAPPING PROCESS FOR BOTH THE CONGRESSIONAL AND LEGISLATIVE DISTRICTS SHALL BE THE CREATION OF DISTRICTS OF EQUAL POPULATION IN A GRID-LIKE PATTERN ACROSS THE STATE. ADJUSTMENTS TO THE GRID SHALL THEN BE MADE AS NECESSARY TO ACCOMMODATE THE GOALS AS SET FORTH BELOW:

A. DISTRICTS SHALL COMPLY WITH THE UNITED STATES CONSTITUTION AND THE UNITED STATES VOTING RIGHTS ACT;

B. CONGRESSIONAL DISTRICTS SHALL HAVE EQUAL POPULATION TO THE EXTENT PRACTICABLE, AND STATE LEGISLATIVE DISTRICTS SHALL HAVE EQUAL POPULATION TO THE EXTENT PRACTICABLE;

C. DISTRICTS SHALL BE GEOGRAPHICALLY COMPACT AND CONTIGUOUS TO THE EXTENT PRACTICABLE;

D. DISTRICT BOUNDARIES SHALL RESPECT COMMUNITIES OF INTEREST TO THE EXTENT PRACTICABLE;

E. TO THE EXTENT PRACTICABLE, DISTRICT LINES SHALL USE VISIBLE GEOGRAPHIC FEATURES, CITY, TOWN AND COUNTY BOUNDARIES, AND UNDIVIDED CENSUS TRACTS;

F. TO THE EXTENT PRACTICABLE, COMPETITIVE DISTRICTS SHOULD BE FAVORED WHERE TO DO SO WOULD CREATE NO SIGNIFICANT DETRIMENT TO THE OTHER GOALS.

(15) PARTY REGISTRATION AND VOTING HISTORY DATA SHALL BE EXCLUDED FROM THE INITIAL PHASE OF THE MAPPING PROCESS BUT MAY BE USED TO TEST MAPS FOR COMPLIANCE WITH THE ABOVE GOALS. THE PLACES OF RESIDENCE OF INCUMBENTS OR CANDIDATES SHALL NOT BE IDENTIFIED OR CONSIDERED.

(16) THE INDEPENDENT REDISTRICTING COMMISSION SHALL ADVERTISE A DRAFT MAP OF CONGRESSIONAL DISTRICTS AND A DRAFT MAP OF LEGISLATIVE DISTRICTS TO THE PUBLIC FOR COMMENT, WHICH COMMENT SHALL BE TAKEN FOR AT LEAST THIRTY DAYS. EITHER OR BOTH BODIES OF THE LEGISLATURE MAY ACT WITHIN THIS PERIOD TO MAKE RECOMMENDATIONS TO THE INDEPENDENT REDISTRICTING COMMISSION BY MEMORIAL OR BY MINORITY REPORT, WHICH RECOMMENDATIONS SHALL BE CONSIDERED BY THE INDEPENDENT REDISTRICTING COMMISSION. THE INDEPENDENT REDISTRICTING COMMISSION SHALL THEN ESTABLISH FINAL DISTRICT BOUNDARIES.

(17) THE PROVISIONS REGARDING THIS SECTION ARE SELF-EXECUTING. THE INDEPENDENT REDISTRICTING COMMISSION SHALL CERTIFY TO THE SECRETARY OF STATE THE ESTABLISHMENT OF CONGRESSIONAL AND LEGISLATIVE DISTRICTS.

(18) UPON APPROVAL OF THIS AMENDMENT, THE DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR SHALL MAKE ADEQUATE OFFICE SPACE AVAILABLE FOR THE INDEPENDENT REDISTRICTING COMMISSION. THE TREASURER OF THE STATE SHALL MAKE \$6,000,000 AVAILABLE FOR THE WORK OF THE INDEPENDENT REDISTRICTING COMMISSION PURSUANT TO THE YEAR 2000 CENSUS. UNUSED MONIES SHALL BE RETURNED TO THE STATE'S GENERAL FUND. IN YEARS ENDING IN EIGHT OR NINE AFTER THE YEAR 2001, THE DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR SHALL SUBMIT TO THE LEGISLATURE A RECOMMENDATION FOR AN APPROPRIATION FOR ADEQUATE REDISTRICTING EXPENSES AND SHALL MAKE AVAILABLE ADEQUATE OFFICE SPACE FOR THE OPERATION OF THE INDEPENDENT REDISTRICTING COMMISSION. THE LEGISLATURE SHALL MAKE THE NECESSARY APPROPRIATIONS BY A MAJORITY VOTE.

(19) THE INDEPENDENT REDISTRICTING COMMISSION, WITH FISCAL OVERSIGHT FROM THE DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR, SHALL HAVE PROCUREMENT AND CONTRACTING AUTHORITY AND MAY HIRE STAFF AND CONSULTANTS FOR THE PURPOSES OF THIS SECTION, INCLUDING LEGAL REPRESENTATION.

(20) THE INDEPENDENT REDISTRICTING COMMISSION SHALL HAVE STANDING IN LEGAL ACTIONS REGARDING THE REDISTRICTING PLAN AND THE ADEQUACY OF RESOURCES PROVIDED FOR THE OPERATION OF THE INDEPENDENT REDISTRICTING COMMISSION. THE INDEPENDENT REDISTRICTING COMMISSION SHALL HAVE SOLE AUTHORITY TO DETERMINE WHETHER THE ARIZONA ATTORNEY GENERAL OR COUNSEL HIRED OR SELECTED BY THE INDEPENDENT REDISTRICTING COMMISSION SHALL REPRESENT THE PEOPLE OF ARIZONA IN THE LEGAL DEFENSE OF A REDISTRICTING PLAN.

(21) MEMBERS OF THE INDEPENDENT REDISTRICTING COMMISSION ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO LAW, AND A MEMBER'S RESIDENCE IS DEEMED TO BE THE MEMBER'S POST OF DUTY FOR PURPOSES OF REIMBURSEMENT OF EXPENSES.

(22) EMPLOYEES OF THE DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR SHALL NOT INFLUENCE OR ATTEMPT TO INFLUENCE THE DISTRICT-MAPPING DECISIONS OF THE INDEPENDENT REDISTRICTING COMMISSION.

(23) EACH COMMISSIONER'S DUTIES ESTABLISHED BY THIS SECTION EXPIRE UPON THE APPOINTMENT OF THE FIRST MEMBER OF THE NEXT REDISTRICTING COMMISSION. THE INDEPENDENT REDISTRICTING COMMISSION SHALL NOT MEET OR INCUR EXPENSES AFTER THE REDISTRICTING PLAN IS COMPLETED, EXCEPT IF LITIGATION OR ANY GOVERNMENT APPROVAL OF THE PLAN IS PENDING, OR TO REVISE DISTRICTS IF REQUIRED BY COURT DECISIONS OR IF THE NUM-

BER OF CONGRESSIONAL OR LEGISLATIVE DISTRICTS IS
CHANGED.

THE SECRETARY OF STATE SHALL SUBMIT THIS PROPO-
SITION TO THE VOTERS AT THE NEXT GENERAL ELECTION.

ANALYSIS BY LEGISLATIVE COUNCIL

Proposition 106 would amend the Arizona Constitution to establish an appointed Redistricting Commission to redraw the boundaries for Arizona's legislative districts (for the members of the Arizona Legislature) and to redraw the boundaries for the Congressional Districts (for Arizona's members of the United States Congress). Currently, state law provides that the Arizona Legislature draws the legislative and congressional district lines. These lines are usually redrawn every ten years, after the state receives the results of the U.S. Census.

This proposition provides that the appointed Redistricting Commission shall first draw districts that are equal in population in a grid-like pattern across the state, with adjustments to meet the following goals:

1. Districts shall comply with the United States Constitution and the federal Voting Rights Act.
2. Both legislative and congressional districts shall be equal in population, to the extent practicable. This establishes a new strict population equality standard for legislative districts.
3. Districts shall be geographically compact and contiguous, as much as practical.
4. District boundaries shall respect "communities of interest," as much as practical.
5. District lines shall follow visible geographic features, and city, town and county boundaries and undivided "census tracts" as much as practical.
6. Political party registration, voting history data and residences of incumbents and other candidates may not be used to create district maps.
7. "Competitive districts" are favored if competitive districts do not significantly harm the other goals listed.

The Redistricting Commission would consist of five members, no more than two of whom can be from the same political party or the same county. Persons would be eligible for membership on the commission if they meet certain voter registration requirements, and if during the last three years, they have not been candidates for public office or appointed to public office, except for school board members or officers, have not served as an officer of a political party or as an officer of a candidate's election committee and if they have not been a paid lobbyist. The Speaker of the Arizona House of Representatives, the Minority Party Leader of the Arizona House of Representatives, the President of the Arizona State Senate and the Minority Party Leader of the Arizona State Senate would each appoint one person to the Redistricting Commission. These four members of the Redistricting Commission would then meet and vote to appoint a fifth member to chair the commission. The commission would provide at least 30 days for the public to review the preliminary lines drawn by the commission, and then the commission would make the lines final, subject to approval by the United States Department of Justice.

Proposition 106 allocates \$6 million to the Redistricting Commission for use in the redistricting process that begins in 2001 and allows additional money for later redistricting.

Proposition 106 Fiscal Impact Summary

Proposition 106 allocates \$6,000,000 from general state revenue to the redistricting commission for use in the redistricting process that begins in 2001. Redistricting expenses are incurred once every ten years after the completion of the decennial census. If the Proposition is not approved, the current method of redistricting will continue to require funding. The sum of \$3,000,000 has already been enacted into law for the current process.

ARGUMENTS "FOR" PROPOSITION 106

Every once in a while, an issue comes along that makes so much sense and so clearly embodies the basic principles of democracy, people put aside their partisan differences and take action to protect the collective interest of citizen self-government.

The Citizen's Redistricting Commission Initiative is such an issue. A simple idea about giving citizens a central role in creating more representative democracy with so much common sense appeal that it enjoys the support of Arizonans statewide.

Amending the state constitution is no small matter and this is no minor issue.

Every 10 years, state legislators redraw the lines of Arizona's legislative and congressional districts. It's a once-a-decade political power struggle that has grown more important as the state has grown.

When legislators draw their own lines the result is predictable. Self-interest is served first and the public interest comes in a distant second. Incumbent legislators protect their seats for today and carve out new congressional opportunities for their political future.

The legislature has created a system that distorts representative democracy. There is only a four- percent difference between the number of registered Republicans and registered Democrats in this state – yet out of 30 legislative districts, there is only one where the difference in party registration is within 5 percent.

Allowing legislators draw the lines is the ultimate conflict of interest.

I am lifelong Arizonan. I was born in Casa Grande. I attended the University of Arizona. I've built a business here and I've raised a family. There are thousands of Arizonans who share a similar background – and more who have chosen to move to Arizona and call it home.

Our voices cannot be heard in a system that distorts our representation. We share a responsibility to step forward and correct this systemic flaw.

Jim Pederson, Phoenix, Chairman, Fair Districts, Fair Elections

Paid for by Fair Districts, Fair Elections

We need a simpler and fairer way to draw voting districts. Currently districts are drawn to promote single party dominance and protect incumbents resulting in reduced voter confidence. While the Legislature could create a simpler and less partisan way, it would require the members to voluntarily give up the power to control their own political fate. That has never happened in the past and is unlikely in the future. The public will continue to be barred from meaningful participation in the process until we create an independent redistricting commission. Your YES vote can make that happen.

Two years ago Arizona had a record low number of legislative candidates. Nearly half of the districts had no choice of candidates and in most of the rest, the preponderance of a single party effectively pre-determined the election outcome.

Current district maps are contorted boundaries lacing together isolated pockets of special interests to form bulletproof districts for incumbents. Decisions, if any, are made in the primary elections. It recalls the political cartoon of the evil "Gerrymander" reptile that lent its name to such maps.

Opponents argue a redistricting commission would eliminate public accountability. To the contrary, there is no public accountability now.

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District maps are secretly drawn by powerful party leaders, hidden from the public. Even other members of the legislature are barred from viewing the maps until they are essentially complete.

Voting districts are redrawn every ten years to ensure full representation of all voters. The issue is too important for petty partisan concerns. If a party's issues only have merit because they are able to manipulate and contort the process then their basic political philosophy is suspect. Healthy and competitive districts are far more likely to foster strong political debate.

We urge all Arizonans to VOTE YES on Proposition 106.

Lisa Graham Keegan, Peoria, Superintendent of Public Instruction John C. Keegan, Peoria, Mayor of Peoria

The Citizens' Independent Redistricting Commission has put forth an initiative which is long overdue.

It allows you, the citizen, to have a voice in drawing the boundaries for your legislative and congressional districts. Through open meetings throughout the State—not backroom dealing—we will have a process run by the public.

This initiative takes redistricting out of the hands of incumbents who too often draw district lines to protect their seats rather than to create fair, competitive legislative and congressional districts.

This initiative is fair to all Arizonans because it opens up the system to public scrutiny; it eliminates conflicts of interest by taking the process of redistricting out of incumbents' hands; and, it just might encourage more people to run for public office.

We need a politically neutral commission to handle redistricting.

Join me in voting "Yes" on Proposition 106.

Janet Napolitano, Phoenix, Arizona Attorney General

Common Cause urges Yes on Proposition 106, Fair Districts, Fair Elections, The Citizens Independent Redistricting Commission Initiative.

The present system of allowing incumbent politicians to redraw their own district boundaries is "the ultimate conflict of interest," according to Grant Woods, former Arizona Attorney General.

He is joined in his opinion, and in his endorsement of this initiative, by leaders from both parties, including Janet Napolitano, Sue Gerard, Rose Mofford, John and Lisa Keegan, Skip Rimsza, Polly Rosenbaum and many others, including the League of Women Voters. Why? Because, when incumbents remove areas from their district where competitors live, or where people from opposing parties live, districts become politically imbalanced and voters no longer have no real choices. This citizen initiative will create fair districts and fair elections in Arizona. We will see better candidates and better government as a result. Real competition is as good for government as it is for business.

Arizona Common Cause is a nonpartisan group of over 3,000 Arizona families with a long history of working for open, clean, and sensible self-government.

Miriam Neiman, Treasurer, Arizona Common Cause, Sun City
Paid for by Arizona Common Cause

Dennis Burke, Executive Officer, Arizona Common Cause, Phoenix

The Arizona School Boards Association supports Proposition 106 because it would remove the redrawing of legislative and congressional district boundaries from those with the greatest conflict of interest, incumbent legislators. This conflict of interest could be compared to the parable of the "fox guarding the hen house." Instead, this "once every ten years" exercise under Proposition 106 would be in the hands of an independent redistricting commission made up of ordinary citizens.

The Commission would have five members, one each selected by the House Speaker and minority leader and one each selected by the Senate President and minority leader, and these four appointees have to agree on the fifth member that is not from either major party. No two members can be from the same county and no more than two can be from the same political party. All members of the Commission must be selected from a pool of 25 candidates selected by a non partisan commission. No current elected officials, lobbyists or officers of a political party or precinct committeemen are eligible to serve as candidates.

This method would remove the temptation to determine boundaries based upon the numbers of political party registrants living within an area allowing the commission to concentrate on its mandate to create districts that: 1) comply with the U.S. Voting Rights Act; 2) have equal population; 3) are geographically compact and contiguous; 4) reflect communities of interest 5) to the extent possible, use visible boundary lines. Compare this process with the current method whereby legislators can create safe districts for themselves ensuring little competition.

This is an unparalleled opportunity to create a legislature more responsive to the priorities and concerns of Arizona's citizens. The Arizona School Boards Association, comprised of locally elected school board members, urges you to vote YES on Proposition 106.

Myrna Sheppard, President, Arizona School Boards Association, Harry Garewal, Vice President, Arizona School Boards Association,
Phoenix Phoenix
Paid for by Arizona School Boards Association, Inc.

Dear Arizona Voters:

No quotas for Democrats, no welfare for Republicans. That's the simple philosophy behind the Fair Districts Fair Elections citizen's initiative.

For too long, both parties have created legislative and congressional districts to protect their incumbents. Such "gerrymandering" eliminates real political competition and shortchanges all of us. Why?

Because good people don't run for office because they don't think they can win. Incumbents don't stay in touch with voters because no one challenges them.

Just think back to the lively Republican nomination fight between John McCain and George Bush. It resulted in a great debate between two capable people that excited voters all across the country. While Fair Districts Fair Elections can't promise you McCain vs. Bush, it can promise more balanced legislative and congressional districts that don't give such huge advantages to incumbents and to one party over another.

By transferring redistricting responsibility from self-interested politicians to an independent citizen's panel, Fair Districts Fair Elections will generate more competition, more accountability and better government for all Arizonans.

As long-time Republicans and public servants, we're proud to support this kind of reform for Arizona along with the Honorable Lisa Keegan, Superintendent of Public Instruction; Honorable Jack Jewett, former Tucson legislator; Senator Sue Grace, District 24 and Honorable Jim Bruner, former Maricopa County Supervisor.

Grant Woods, Phoenix, Former Arizona Attorney General
William A. Mundell, Phoenix, Arizona Corporation Commissioner

Susan Gerard, Phoenix, Representative, District 18

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The League of Women Voters works to encourage the informed and active participation of citizens in government. Looking for reasons why the number of people participating in the voting process has declined, we found the boundaries of legislative districts are drawn so that only one party's candidates have a realistic chance of winning. Also, many legislative candidates faced no opposition in their bid for office. We found citizens who saw no reason to vote when the outcome of an election seemed predetermined. And, we found legislators who, when they know they had no opposition, had no incentive to listen to their constituents.

We need competitive districts to encourage citizens to vote, people to run for office, and representatives to respond to constituents' concerns. Every election cycle the ballot is filled with initiatives because a "disconnect" exists between many legislators and their constituents. The Legislature consistently fails to adequately address issues that citizens care about, issues such as education and health care.

We believe that moving the power to draw congressional and legislative districts from the legislature to a citizens commission will change the system. We urge a "yes" vote on Proposition 106, the Citizens Independent Redistricting Commission Initiative.

Ann Eschinger, President, League of Women Voters of Arizona,
Phoenix
Paid for by League of Women Voters of Arizona

Willi Waltrip, 2nd Vice President, League of Women Voters of Arizona,
Phoenix

Dear Arizona Voters:

We are fortunate and honored to serve, and have served, as mayors in some of Arizona's great cities. As a result, we know how important it is to stay in touch with you - the people who make our communities the outstanding places they are.

Being in touch, staying responsive - these are just two of the reasons we encourage you to vote "Yes" on Proposition 106, the Fair Districts Fair Elections Initiative.

Right now, legislative and congressional districts are drawn in a way that protects incumbents. The current system does not encourage candidate competition. Consequently, many legislators never face competition. When this happens, they get farther and farther away from the pulse of the community - farther away from your concerns.

Fair Districts Fair Elections responsibly reforms our redistricting system in a way that will create more competition for our elected officials, which in turn, will create better government for all of us.

Furthermore, Fair Districts will keep cities together within legislative and congressional districts. Right now, cities may have two, three or more districts running through their boundaries. This isn't right. To the fullest extent possible, cities should have more coherent representation so their concerns and issues can be more clearly expressed at the State Capitol and in Washington, D.C.

Whether you are the mayor of a city or simply a resident that wants more responsive government, Proposition 106 is one that clearly makes common sense.

Join us along with mayors: John Keegan, Peoria; Joan H. Shafer, Surprise; Robert Mitchell, Casa Grande; Edward Lowry, Paradise Valley; Skip Rimsza, Phoenix; Larry "Roach" Roberts, Wickenburg; George Miller, former Mayor of Tucson; Paul Johnson, former Mayor of Phoenix and Daniel Schweiker, Vice Mayor of Paradise Valley - VOTE YES ON 106.

Neil G. Giuliano, Mayor of Tempe, Tempe
Terry Goddard, former Mayor of Phoenix, Phoenix

Sam Campana, former Mayor of Scottsdale, Scottsdale
Paid for by Fair Districts, Fair Elections

A fair and impartial system of redistricting the state and federal election districts is the right thing to do for Arizona's future.

Rebecca Rios, State Representative, District 7, Phoenix

I support the Citizens Independent Redistricting Commission initiative because I think it will be good for rural Arizona. Under the current system many small towns across the state get divided between two different legislative districts. When this happens our voice is diluted. This has been done not only to Sierra Vista but to towns all across the state -- Casa Grande, Kingman, Gila Bend, Nogales, and even tiny towns like Tubac and Patagonia! Bullhead City is the worst example -- split into three legislative districts!

Then, when legislators draw congressional district boundaries, rural voices are again diluted in districts which draw most of their voters from metropolitan Maricopa County (primarily) and Pima County. The attention of our Representatives is concentrated on the metropolitan area where the bulk of their constituents reside. This just doesn't seem fair; rural Arizona deserves at least some representation in Congress.

Carolyn Edwards, Sierra Vista

Why can't our legislators reach compromise on issues most important to mainstream Arizona?

Better legislative decisions are possible when the Legislature represents all citizens of Arizona in approximate proportion to their political beliefs. Most Arizonans are centrists -- they generally support middle-of-the-road policies rather than those more extreme. In fact, there is only a 4% difference between the number of registered Democrats and registered Republicans in Arizona.

How is it then that we have been saddled with our current, ideologically polarized Legislature?

In Arizona, incumbent legislators redraw boundaries for legislative and congressional districts every ten years. Theoretically, this is done to maintain a balance in population among the various districts. Unfortunately, our legislators have a history of manipulating the redistricting process by stacking "their" district with members of their own party and by drawing lines which move political opponents out of "their" districts. Often times in stacked districts, the minority party in that district doesn't even field candidates for the General Election. When the General Election doesn't count, 1) Parties are more likely to promote candidates farther to the right or left of center because they don't need to worry about losing moderate and independent votes in the General Election, and 2) Voter turnout is lower leaving choices to the most heavily partisan voters in that district. In Arizona, only six of our thirty legislative districts are even remotely balanced in party registration.

Independent citizen's commissions are a better way to draw political boundaries. Incumbent legislators, who always have a vested interest, can't control the process. Currently, fourteen states have independent commissions draw their legislative district boundaries.

Arizona would have a better, more representative Legislature if more members were centrists and fewer were on either extreme.

Proposition 106 will surely be a giant step toward moderation and should be approved.

Joel Harnett, President, Valley Citizens League, Phoenix
Paid for by Valley Citizens League

Bart Turner, Executive Director, Valley Citizens League, Phoenix

ARGUMENTS "AGAINST" PROPOSITION 106

The redistricting commission amendment is a flawed proposition which will reduce the input of the will of the people of Arizona and vest disproportionate influence in the hands of bureaucratic Washington D.C. lawyers of the federal Justice Department. The people of Arizona have traditionally, through their elected representatives, drawn the lines from which the peoples' elected officials will represent them. Yes, these plans have to be submitted to the federal Justice Department for approval. But it has been our plan they have had to review—our plan drawn by our representatives—our representatives who serve with the consent of the governed. Under a commission, as experience in other states suggests, the procedure will undoubtedly be to ask the bureaucratic Washington D.C. lawyers of the federal Justice Department to design and approve the parameters under which Arizona's representatives will be elected. The Commission will be a conduit and a rubber stamp.

Arizona's must not give up our right to determine the lines from which our officials should be elected. Do not let the bureaucratic Washington D.C. lawyers of the federal Justice Department gain disproportionate influence over our election process. Maintain the right to oversee the electoral process of redistricting and reapportionment here in Arizona with the elected representatives of the people not an appointed inexperienced elite who will be the handmaidens of the government in Washington's lawyers. Vote no on this proposition.

Barry M. Aarons, Senior Fellow – Americans for Tax Reform, Phoenix

The Arizona Chamber of Commerce recommends that voters **oppose Proposition 106 that WILL TURN OVER THE DRAFTING OF ARIZONA'S POLITICAL DISTRICTS TO A SMALL GROUP OF FIVE INDIVIDUALS WHO ARE NOT ACCOUNTABLE TO VOTERS.**

The proponents claim Proposition 106 makes the redistricting process fair and less political by creating a commission of five non-elected individuals to draw the district maps for the entire state.

We disagree. Proposition 106 empowers a commission of political appointees who are selected from at least two counties in Arizona to draw the legislative and congressional district lines. That means 10 to 12 of Arizona's 15 separate and unique counties won't have representation. The Arizona Chamber believes that fair representation would not deny a majority of voters a voice.

This initiative further proposes to mold Arizona's political districts into a grid-like pattern. Drawing such a grid across Arizona threatens rural representation. It denies a logical opportunity to ensure broad, legislative membership.

In the end, any redistricting plan must be approved by the U.S. Justice Department. If they do not approve, they will require changes to the plan that will result in a redesign. Federal law thus denies the process of fair districts.

Rather than turning over the reshaping of Arizona's political boundaries to an uninformed group of five individuals or even worse to the Justice Department, leave the future of our boundaries with the 90 individuals of the State Legislature elected by you. **We urge you to vote NO on Proposition 106.**

Greg Denk, Chairman of the Board, Arizona Chamber of Commerce,
Phoenix
Paid for by Arizona Chamber of Commerce

Samantha A. Fearn, VP of Public Affairs, Arizona Chamber of Commerce,
Phoenix

Accountability. It is what you expect from your elected officials at all levels of government. And, it is the standard to which we hold ourselves—to be accountable to you.

Unfortunately, Prop. 106, the "Citizens Independent Redistricting Commission" lacks any accountability. It is an attempt by special interest groups who want to change the redistricting process because they do not like who you have elected to represent you. They want to change the process in their favor rather than participate in the democratic process of elections.

This measure is seriously flawed. Contrary to the arguments its proponents make, this initiative will make the redistricting process more secretive, more "backroom" and more political. Those who serve on the commission will have been selected for appointment by a small, powerful group of activist lawyers. That group, the Commission on Appellate Court Appointments will nominate members of the redistricting commission. While lawyers make up less than one-half of one percent of Arizona's population, they make up more than 50% of this commission.

In short, unelected, unaccountable lawyers will have more power than anyone else in the redistricting process. That will not empower the people of Arizona. It will empower lawyers and the Bar Association.

The Legislature is elected by you and represents every county in the state. The appointed Commission in the initiative is required to have representation from only two counties. No one will represent the people in the other thirteen counties.

This new Commission's price tag is \$6 million. We already have elected representatives to make decisions—why do we need a new \$6 million bureaucracy to do the same thing?

We urge you to reject this attempt to take power out of the people's hands. Vote No on Proposition 106.

Bob Stump, United States Congressman, Tolleson
J.D. Hayworth, United States Congressman, Cave Creek
John Shadegg, United States Congressman, Phoenix
Paid for by Bob Stump Election Committee

Jim Kolbe, United States Congressman, Tucson
Matt Salmon, United States Congressman, Mesa

BALLOT FORMAT**PROPOSITION 106****PROPOSED AMENDMENT TO THE CONSTITUTION
BY THE INITIATIVE****OFFICIAL TITLE**

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV, PART 2, SECTION 1, CONSTITUTION OF ARIZONA; RELATING TO ENDING THE PRACTICE OF GERRYMANDERING AND IMPROVING VOTER AND CANDIDATE PARTICIPATION IN ELECTIONS BY CREATING AN INDEPENDENT COMMISSION OF BALANCED APPOINTMENTS TO OVERSEE THE MAPPING OF FAIR AND COMPETITIVE CONGRESSIONAL AND LEGISLATIVE DISTRICTS.

DESCRIPTIVE TITLE

AMENDING ARIZONA CONSTITUTION TO CREATE A 5-MEMBER "CITIZENS' INDEPENDENT REDISTRICTING COMMISSION", WITH NO MORE THAN 2 MEMBERS FROM EACH POLITICAL PARTY AND NO MORE THAN 3 MEMBERS FROM EACH COUNTY, TO DRAW LEGISLATIVE AND CONGRESSIONAL DISTRICT BOUNDARIES AFTER EACH U.S. CENSUS; REMOVES REDISTRICTING AUTHORITY FROM THE ARIZONA LEGISLATURE.

PROPOSITION 106

A "yes" vote shall have the effect of creating a 5-member "Citizens' Independent Redistricting Commission" with no more than 2 members from each political party and no more than 3 members from each county, to draw legislative and congressional district boundaries and removing redistricting authority from the Arizona Legislature.	YES <input type="checkbox"/>
A "no" vote shall have the effect that the Arizona Legislature shall continue to have the authority to redraw legislative and congressional district boundaries.	NO <input type="checkbox"/>

Exhibit B

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-026564

09/14/2010

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

JENNIE REBECCA JORDAN, et al.

KIRSTIN T EIDENBACH

v.

KEN BENNETT, et al.

CARRIE J BRENNAN

PAUL F ECKSTEIN
KATHLEEN E RAPP
DENNIS I WILENCHIK
KAREN J HARTMAN
TIMOTHY J CASEY

MINUTE ENTRY

The Court took this matter under advisement following an evidentiary hearing on September 13, 2010. The Court has also read and considered the Maricopa County Recorder and Board of Supervisors' Post-Hearing Brief, Defendants/Contestees' Briefing to Supplement the September 13, 2010 Evidentiary Hearing, and Plaintiffs' Post-Hearing Brief.

This matter comes before the Court as an election contest filed September 8, 2010, pursuant to A.R.S. §§ 16-671, 16-672, and 16-674 with a related Application for Temporary Restraining Order. The action was brought against ten candidates (the "contestees") who qualified for a spot on the General Election ballot as Green Party candidates, after having participated as write-in candidates in the primary election. This matter was initially assigned to the Hon. Robert Oberbillig, who scheduled this matter to be heard on September 13, 2010, at 10:00 a.m. Judge Oberbillig also combined the hearing on the Application for Temporary Restraining Order with the hearing on the merits of the matter, as allowed by Rule 65(a)(2),

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Ariz.R.Civ.P. On the morning of September 13, 2010, certain defendants exercised their right to notice Judge Oberbillig, and this matter was subsequently transferred to this division.

Immediately prior to the start of the evidentiary hearing in this matter, plaintiffs (or “contestants”) entered into a stipulation on the record to dismiss the matter as to contestee Larry Gist, which the Court did. Also, prior to the hearing, six of the ten contestees filed with the Secretary of State Notices of Withdrawal of their candidacies. Two of those contestees, Benjamin Percy and Christopher Campbell, both of whom were represented in the evidentiary hearing by counsel Dennis Wilenchik, have challenged their withdrawals by filing subsequent affidavits requesting to set aside or “withdraw” their withdrawals. The other four contestees who withdrew are no longer at issue: Ryan Blackman, Drew Blischak, Clint Clement, and Matthew Shusta.

The Court notes that one of the contestees, Theodore Gomez, was not properly served with notice of the proceedings and did not appear personally or through counsel. Based on the failure to timely serve Mr. Gomez, the Court finds that he is not properly before the Court. The Court, therefore, will take no action as to Mr. Gomez’s candidacy on the general election ballot.

Turning now to the merits of the matter, the Court first notes that the contestants appear to have the necessary standing to bring this action, and that this action was timely filed.

As to the two contestees who seek to “withdraw their withdrawals,” logically, once a candidate has withdrawn from the ballot, his name is no longer on the ballot. Arizona law provides only two ways to have one’s name placed on the ballot: by prevailing in a party primary election or by submitting adequate signatures on nominating petitions to run as an independent candidate. It does not provide for a person to place his name on the ballot by withdrawing a prior, properly filed Notice of Withdrawal. Christopher Campbell withdrew on September 10, 2010. On September 13, 2010, he signed an affidavit seeking to set aside the withdrawal. It was unclear to the Court whether or when that document was filed with the Secretary of State. Benjamin Percy’s withdrawal was filed with the Secretary of State on September 13, 2010 at 8:16 a.m. Although a representative of the Secretary of State’s office credibly testified that his affidavit seeking to undo the withdrawal was received within mere minutes of the filing of the Notice of Withdrawal, the Court nonetheless finds no grounds to set aside the first document (the Notice of Withdrawal) filed with the Secretary of State. Mr. Percy did not testify regarding these issues. Accordingly, the Court finds that the withdrawal of both Mr. Campbell and Mr. Percy were effective and declines to set those withdrawals aside.

Turning now to the merits of the claims against the remaining contestees, the Court notes that this case is governed substantively by A.R.S. § 16-672(A)(3), which allows any qualified elector to contest the election of a person on the following ground: “That the person whose right

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is contested, or any person acting for him, has given to an elector, inspector, judge or clerk of election, a bribe or reward, or has offered such bribe or reward for the purpose of procuring his election, *or has committed any other offense against the elective franchise.*” (Emphasis added.) It is not suggested that any of the challenged candidates employed bribery or force against any voter to secure his nomination. So, the question for the Court is whether any of the contested candidates, or someone acting for a contested candidate, “has committed any other offense against the elective franchise.” In 1959, the Arizona Supreme Court interpreted the same statutory language (albeit differently numbered at the time). In that case, *Griffin v. Buzard*, 86 Ariz. 166 (1959), the contestants alleged that the contestee had recruited a candidate with the same name, but different middle initial, than his opponent in order to “confuse the voters and thereby split or divide the vote at said election.” *Id.* at 172. Although the trial court had dismissed the contestants’ claim as failing to state a claim upon which relief could be granted, the supreme court reversed finding that the allegations were sufficient to state a claim that the contestee had “committed any other offense against the elective franchise.” In so holding, the supreme court stated that “courts have consistently frowned upon the fraudulent device or contrivance of running a diversionary candidate of the same or a similar name such as is here alleged.” *Id.* at 173. The supreme court also cautioned: “courts must be alert to preserving the purity of elections and its doors must not be closed to hearing charges of deception and fraud that in any way impede the exercise of a free elective franchise.” *Id.* Thus, the supreme court reinstated the election contest and ordered the trial court to hold a trial on it. This Court notes that in analyzing the applicable statutes and constitutional provisions, the *Griffin* court cited the following language from a criminal statute which prohibits *inter alia* “any forcible or fraudulent device or contrivance whatever[] to impede, prevent or otherwise interfere with the free exercise of the elective franchise of any voter.”¹ While this Court sees some slight differences between a diversionary candidate based upon confusing names and a diversionary candidate designed to confuse based on party affiliation, this Court finds that the situation is not so different as to take this case out of the purview of the *Griffin* analysis.² The Court must, therefore, determine whether the challenged candidates are diversionary candidates intended to confuse voters rather than conduct a bona fide campaign on the issues.

The Court finds that Mr. Steve May recruited contestees Theodore Gomez, Anthony Goshorn, Thomas Meadows and Benjamin Percy to run as Green Party candidates. Although there was an allegation that Mr. Jim Weiers recruited contestee Christopher Campbell to run, the evidence actually adduced at trial indicated that it was Mr. Weiers’ daughter, Jana, who recruited Mr. Campbell. The Court notes that Mr. Weiers is an incumbent member of the state legislature

¹ At the time this language was found in A.R.S. § 16-1303. Today, the same language can be found in A.R.S. § 16-1013(A)(2).

² The Court found no other cases that specifically interpreted the language “has committed any other offense against the elective franchise” in A.R.S. § 16-672. Thus, *Griffin* appears to be the only available guidance in the form of case law.

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running for re-election in 2010, while Mr. May, not currently in office, is a former legislator, who until he withdrew his candidacy yesterday morning, was running again for the state House. It does not appear to the Court that Mr. May or Ms. Weiers, in recruiting individuals to run as Green Party candidates, was motivated by any desire to further the agenda of the Green Party or to secure the election of Green Party adherents. Mr. May's testimony regarding the reason he encouraged the four individuals to run for office lacked credibility. At the present moment, it is fair to say that each of the challenged candidates is a political novice whose views of the issues are largely unknown; certainly none of them was selected on the basis of his fidelity to the principles of the Green Party, whether or not reflected in its official platform. But it cannot be ignored that the Green Party, like any brand, has an image that reflects upon its candidates for office; absent publicly disseminated statements that the candidate dissents from substantial portions of the Green Party platform, a voter might quite naturally believe that he subscribes to at least its broad outlines. It also cannot be ignored that, in general, the platform of the Green Party more closely coincides with that of the Democratic Party than with that of the Republican Party, so any confusion is somewhat more likely to draw votes away from Democratic candidates than from Republicans. Based on the evidence presented, the Court has no hesitation in finding that each of these candidates was recruited in bad faith with a purpose to confuse the voting public.

However, the controlling question is not whether Ms. Weiers, Mr. May, or others, have violated election law but whether the Green Party candidates they recruited – the contestees themselves – are willing accomplices to their scheme or have instead taken legitimate advantage of an unexpected, if corruptly offered, opportunity. The Court was able to hear from three of the candidates, Messrs. Goshorn, Meadows, and Campbell. Mr. Percy, who is currently incarcerated, was not called to testify. As previously noted, Mr. Gomez did not appear and was not served.

Turning first to Mr. Campbell, plainly he was a willing accomplice to a scheme to perpetrate a fraud on voters by engendering confusion. The Court reviewed the recorded conversation admitted as trial exhibit 61,³ which quite clearly sets forth Mr. Campbell's knowledge that "just having my name on the ballot is gonna take votes away from the Democrats." Mr. Campbell indicates that his candidacy will benefit Linda Gray (his Republican opponent). Mr. Campbell also states; "Okay, I was approached by Republicans to basically say, 'hey, do you mind running to get your name out even if you aren't Green Party?' Because honestly I'm more Libertarian than I am Green, period. But, I'm just trying to get, you know, more or less I'm taking votes away from the Democrats, and just having my name on the ballot." The Court did not find Mr. Campbell's explanation that he was saying such things – even though

³ The Court notes that trial exhibit 61 contains two files. The Court listened to the first, titled "Chris Campbell phone recording" in full. The Court could not open the second file, entitled "Gail Ginger" and, therefore, did not listen to that file.

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he considered them false – for the purpose of winning over a prospective voter to be either credible or persuasive. Based on this evidence, the Court finds that it would have granted contestants’ request to remove Mr. Campbell’s name from the ballot. However, based on his prior withdrawal, which the Court has determined cannot be undone, and the fact that testimony reveals his name will not be appearing on ballots based on his prior withdrawal, the Court finds that no further relief is necessary at this time.

As to Mr. Goshorn and Mr. Meadows, however, the Court does not find that the evidence has shown that either candidate is in this race with a purpose of confusing voters, even if that was Mr. May’s motivation in recruiting them to run. Both have unique political views that are difficult to classify as connected to any particular party. And, while both clearly disagree with the Green Party platform on certain issues, the Court finds that party candidates frequently do not follow the party platform *in toto*. Although both men appear realistic about having small chances at winning their respective races, both expressed motivations to be heard and to play a part in the political process. Neither acknowledged ever being told by Mr. May that he recruited them to run to pull votes from Democrats. While Mr. Meadows does twice indicate in a secretly tape recorded conversation with a private investigator that he hopes his candidacy ensures that the “lesser of two evils” is actually elected, he is quite non-committal as to which party represents the “lesser of two evils” as between the Democrats and Republicans (or as he refers to them at least once, the “Demorats” and “Republican’ts”). When his taped conversation (trial exhibit 49) is heard in its entirety, it appears that Mr. Meadows views himself as a legitimate candidate with an important role to play in this race. Furthermore, despite many opportunities presented by the private investigator who was tape recording him to be critical of the Democrats, Mr. Meadows was equally if not more critical of Arizona’s Republican Party, and he had quite negative things to say about prominent Republicans such as Dean Martin, J.D. Hayworth, and Joe Arpaio. Additionally, although he certainly does not adopt all of the Green Party platform – for example, he differs with them on immigration reform – he is also very clearly an ardent supporter of medical marijuana, which more closely aligns with the Green Party platform (see trial exhibit 21, p.30) than, say, the Republican platform. In short, while Messrs. Goshorn and Meadows may have been recruited to confuse voters, neither appears to have entered the race for that purpose, and neither appears to be remaining in the race for that purpose. As both candidates appear to have complied with the necessary laws⁴ to actually appear on the ballot, the Court does not see that removal of either candidate would be appropriate.

⁴ The Court is aware that the Green Party is not pleased with the ease with which candidates may write-in as Green Party candidates under Arizona law, but that issue is not before this Court, and is better addressed as a legislative change, or perhaps, in the federal lawsuit (or another lawsuit) filed by the Green Party.

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Finally, with regard to Mr. Percy, the Court has determined (above) that his withdrawal may not be retrospectively undone. There was, however, testimony that Mr. Percy's withdrawal came too late for his name to be removed from the ballot without great expense and without missing certain state and federal deadlines related to ballot printing and distribution. The Court received no evidence on which to determine whether Mr. Percy entered this race with an aim to confuse voters. When coupled with the testimony of representatives of the Secretary of State and Maricopa County Recorder's Office regarding the extreme hardship that would be created were this Court to order Mr. Percy's name actually removed from the ballot, the Court concludes that removal is not warranted. Due to the exigencies of the ballot printing process, it is not uncommon for a candidate who withdraws after a certain point in the process to remain on a ballot.⁵ (It appears that, to the extent Mr. May withdrew his candidacy the morning of this hearing, he may ultimately be another example of this.) Although this is not the preferred outcome, to a certain extent we must rely on the electorate to research such issues before entering the polling place.

Based on the foregoing,

IT IS HEREBY ORDERED denying the contestants' Verified Statement of Election Contest and Application for Temporary Restraining Order.

IT IS FURTHER ORDERED denying the request of contestees Christopher Campbell and Benjamin Percy to set aside or rescind their respective Notices of Withdrawal filed with the Secretary of State.

IT IS FURTHER ORDERED denying the Motion to Dismiss filed by the governmental entities.

The Court signs this minute entry order as its final, appealable ruling.

/s/ HON. Dean M. Fink

JUDGE OF THE SUPERIOR COURT
HONORABLE DEAN M. FINK

⁵ Although evidence was not taken on this point, the Court takes judicial notice that a number of candidates who withdrew from the 2010 primary election remained on the primary ballots based upon the timing of their withdrawal.

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This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>

Exhibit C

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-015853

10/03/2011

HON. EDWARD O. BURKE

CLERK OF THE COURT
D. Glab
Deputy

MARY LOU BOETTCHER

THOMAS M RYAN

v.

KEN BENNETT, et al.

JAMES E BARTON II

COLLEEN CONNOR
ANTHONY TSONTAKIS

RULING

The court has had the issues raised in defendant, Olivia Cortes's ("Cortes") Motion To Dismiss and at the September 29, 2011, evidentiary hearing on plaintiff's Verified Statement of Election Contest and Application For A Temporary Restraining Order declaring that defendant, Olivia Cortes cannot appear on the November 8, 2011, Recall Election ballot under advisement and issues the following rulings.

Defendant, Cortes's Motion To Dismiss is DENIED.

Plaintiff, Mary Lou Boettcher's Application For A Temporary Restraining Order declaring that defendant, Cortes cannot appear on the November 8, 2011, Recall Election ballot is DENIED.

Analysis

Motion To Dismiss

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Election law is technical and exacting. Defendant Cortes argues that the current state of the law does not allow plaintiff a remedy. Cortes is correct that A.R.S. §§16-671, 16-672, 16-673, and 16-674 do not provide plaintiff a remedy for the reasons she cites.

The court does not agree that plaintiff is without any remedy and rejects Cortes's argument that this court does not have the power to impose equitable remedies when presented with proof of pre-election fraud. In *Griffin v Buzard*, 86 Ariz. 166, 173, 342 P.2d 201 (1959) our Supreme Court said:

“The courts must be alert to preserving the purity of elections and its doors must not be closed to hearing charges of deception and fraud that in any way impede the exercise of a free elective franchise.”

The following statement from our supreme court in *Rapier v. Superior Court of Greenlee County*, 97 Ariz. 153, 156, 398 P.2d 112 (1964) provides sufficient authority for this court to act in this case if appropriate:

“Only fraud and deception of the voters, and acts amounting to crimes affecting the purity of an election alter the general rule that primary election contests are moot if not finally determined in time before the absentee balloting begins for the general election”

Plaintiff was allowed to amend her complaint to allege a cause of action under A.R.S. §16-351(B), which provides a basis for her to proceed.

Application For Temporary Restraining Order

Facts

On May 31, 2011, Citizens for a Better Arizona Recall Committee submitted 18,305 signatures of persons seeking the recall of State Senator Russell Pearce (“Pearce”) of Legislative District 18 in Maricopa County (“LD 18”) to Secretary of State Ken Bennett.

On July 3, 2011, Cortes heard Greg Western (“Western”) give his testimony in their church which included a discussion of the Constitution.

On July 7, 2011, the Maricopa County Recorder certified that there were a sufficient number of qualified electors from LD 18 to call for Pearce's recall. On July 8, 2011, the Secretary of State determined that there were sufficient signatures of qualified electors from LD 18 to support Pearce's recall and he notified Governor Brewer that the Citizens for a Better

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Arizona Recall Committee met the requirements to recall Pearce. On July 12, 2011, Governor Brewer signed the official proclamation that Pearce was recalled and the recall election was set for November 8, 2011.

Western, a Pearce supporter and chair of the East Valley Tea Party, testified about a discussion Tea Party members had at a Denny's Restaurant that it would be a good idea if another candidate would run in the Pearce recall election.

Around July 17, 2011, Cortes told Western that she had been impressed by his testimony in their church and was interested in politics and he said: "It would be awesome to have you in the race," meaning the LD 18 Senate Recall Election. Cortes testified that she has not been a Pearce supporter and believes in closed borders but that Pearce has been too harsh in his approach to illegal immigrants.

On July 26, 2011, an Application For Certification As A Participating Candidate declaring that Cortes was a Republican candidate for State Senator in LD 18 and a Political Committee Statement of Organization listing Cortes as Chairman and Treasurer was filed in the Secretary of State's Office. (Exhibit 2). Cortes testified that Western was her chief volunteer and she doesn't know anyone else who is working on her campaign. She has put \$500 of her own money in a Wells Fargo Bank account for her campaign but has not spent any of the money and has not done any fund raising.

On July 27, 2011, Republican Jerry Lewis, ("Lewis") announced that he was running as a candidate for State Senator in LD 18.

Petitions were circulated nominating Cortes as a candidate in the recall election. Cortes, accompanied by Western, personally circulated one obtaining a page and one-half of signatures.

Franklin Bruce Ross, the plaintiff in *Ross v. Bennett*, Maricopa County Cause No. CV 2011-011864, an unsuccessful attempt to stop Pearce's recall election, circulated nomination petitions to place Cortes's name on the recall election ballot. He testified that both he and his wife strongly support Pearce, that he has donated money to Pearce's election campaign and to his recall election campaign, and although he has not met Cortes, he carried petitions for her because the recall is "being pushed by outsiders, namely Randy Parraz," and "Lewis came in through the back door."

Patricia "Pat" Oldroyd, a LD 18 Precinct Committeewoman, who proposed a resolution at an LD 19 Republican committee meeting supporting Pearce in the recall election (Exhibit 10), also carried nominating petitions for Cortes. She does not know Cortes either.

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Suzanne Dreher, a paid petition circulator, testified that she was hired by Petition Pros to circulate nominating petitions for Cortes and that her supervisor, Diane Burns, told her to advise Pearce supporters that signing the Cortes petition would actually help Pearce get reelected by diverting or diluting the vote. A tape recording was played at the hearing on which Ms. Dreher told at least one Pearce supporter to sign the petition because it would help Pearce get elected by dividing the vote.

On September 9, 2011, Western turned in nominating petitions to place Cortes's name on the ballot for the recall election. The nominating petitions were legally sufficient to qualify Cortes as a candidate in the recall election.

Western testified that he is not Cortes's campaign manager, but rather a helper. When he turned in Cortes's nominating petitions he was the only volunteer for Cortes, but now four volunteers are helping plan for a debate. He testified that he neither knew who manufactured, paid for, and erected campaign signs supporting Cortes nor who paid for the professional petition circulators.

Until September 28, 2011, Cortes had not given an interview to the press. She testified that she has seen the signs supporting her in various locations in LD 18, but has no idea who put them up or paid for them. She said she has no idea who paid Petition Pros to circulate her petitions; she doesn't know any of her volunteers other than Western; has not conducted any fund raising activities; and the only person she has talked to regarding her campaign is Western. Cortes testified that she is working on a website with Western but does not know who her website designer is. Western wrote a press release for her (Exhibit 8) but she does not know who helped him with it. Exhibit 8 is a press release allegedly authored by "Paul Revere" who in later testimony was identified as Doug Arnt. Cortes had not seen the press release before the hearing.

Cortes testified that she is running because Pearce has been too harsh in his treatment of illegal immigrants.

During the all-day hearing, no one impugned Cortes's honesty or integrity. The court finds that she is genuinely opposed to what she believes is Pearce's harsh legislative treatment of and comments about illegal Hispanic immigrants. Cortes, a 59-year old retiree from Motorola, who has never run for elective office and places a very high value on her privacy, is far from a prototypical candidate for the Arizona Senate.

Karen Osborne, the County Recorder's Director of Elections testified that 70,000 ballots have been printed for the recall election at a cost of \$67,022.00. On September 23, 2011, the County Recorder mailed 102 absentee ballots to military personnel and persons who are out of the country, as required by A.R.S. §16-523. As of the hearing date two absentee ballots had been

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cast. On October 13, 2011, 28,800 early voting ballots are scheduled to be mailed. Plaintiff filed this action at 5:04 p.m. on September 23, 2011, but there is no indication in the court file as to when it was served on the defendants. The court assumes that it was not served on Maricopa County until after the military and overseas ballots had been mailed.

The court finds that Ms. Cortes was persuaded to sign her Political Committee Statement of Organization and run for the Senate by Western, a Pearce supporter. The evidence was crystal clear that without Western's assistance, and that of others who have circulated nominating petitions and erected signs supporting Cortes, her name would not be on the recall election ballot. It is also clear that those who have assisted Cortes have done so to divert votes from Lewis for Pearce's benefit.

Cortes credibly testified that she has relied totally on Western in connection with her campaign to date and knew of no other volunteers. The court does not find Western credible. His testimony that he has no idea who designed, posted, and paid for campaign signs supporting Cortes or who paid the professional petition circulators is too improbable to be believed.

The court finds that Pearce supporters recruited Cortes, a political neophyte, to run in the recall election to siphon Hispanic votes from Lewis to advance Pearce's recall election bid. The court finds that without the support Cortes has received from Pearce supporters, particularly Western, the chair of the East Valley Tea Party, she would have had no chance of qualifying as a candidate in the recall election or organizing and running any kind of a political campaign. The court finds no wrongdoing by Cortes herself.

The court must decide two legal questions; i.e. does the recruitment of a diversionary or sham candidate by Pearce supporters and/or the East Valley Tea Party constitute election fraud sufficient to cause the court to take some action and, if so, what action, as a practical matter, can the court order?

A. Sham Candidacy

Plaintiff emphasizes that the fraud in this case was putting Cortes name on the ballot in violation of Article VII, §12 of the Arizona Constitution and A.R.S. §16-1006 ((A) (3) because she is a sham candidate.

In *Arizona Green Party v. Bennett*, 2010 WL 3614649 (D.Ariz.2010), U.S. District Court Judge David G. Campbell expressed the opinion that Article 7 Section 12 of the Arizona Constitution, which requires that the laws of Arizona secure the purity of elections, does not

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grant citizens a private right of action, but, rather, charges the legislature with ensuring the purity of elections.

Plaintiff relies on the Supreme Court's opinion in *Griffin v. Buzard*, 86 Ariz. 166, 342 P.2d 201 (1939), a case in which A.P. (Jack) Buzard won the Democratic Party primary election for a seat on the Corporation Commission: and the general election in which he was unopposed, He was opposed in the primary election by William A. (Bill) Brooks and William T. (Bill) Brooks, among others. Plaintiffs claimed that William T (Bill) Brooks was an illegal candidate because of defects in his nomination papers and because people were deceived into voting for a different person than they intended to vote for in violation of A.R.S. §16-1307 (a) (3). The supreme court said:

“...courts have consistently frowned upon the fraudulent device or contrivance of running a diversionary candidate of the same or similar name such as is here alleged.” 86 Ariz. 166, 173.

Cases from other jurisdictions have also discussed various types of “sham candidates.”

In *Ruck v. Greene County Board of Elections*, 24 Misc.3d 1232(A), 901 N.Y.S.2d 902, 2009 WL 2413836 (N.Y. Sup. Ct. Greene Co. 2009). Linda H. Overbaugh was a candidate in the Republican primary for the Greene County Legislature. Another candidate was listed as Linda L. Overbaugh, a retiree who never consented to run for election and was not aware that petitions were being circulated on her behalf. The court enjoined the printing of ballots containing Linda L. Overbaugh's name.

In *West v. Ficano*, 2007 WL 627875 (E.D. Mich. 2007), a pro per plaintiff alleged that defendants placed a fictitious candidate on the Republican primary ballot for Wayne County Executive. The case was dismissed on defendants' motions to dismiss and for summary judgment because even the district court judge's generous reading of plaintiff's complaint could not discern a claim for relief.

Those three cases involved deception or outright fraud in running candidates with similar or fictitious names, which is not our case.¹ Cortes does not have a deceptively similar name to Lewis and she has legally qualified to run.

In *Smith v. Cherry*, 489 F.2d 1098 (7th Cir. 1973) Cherry, an incumbent state senator, ran for re-election in the Democratic primary and after he won, he withdrew and the Democratic

¹ Nor does it resemble the Congressional election campaign of a candidate, played by Eddie Murphy, running with the endorsement of the Silver Foxes, a seniors group, as “Jeff Johnson, a name you can trust,” in place of the recently deceased incumbent of the same name in “The Distinguished Gentleman.” (Paramount Pictures 1992).

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Ward Committee designated a new candidate for the general election. Plaintiffs sued on behalf of Palmer who had lost to Cherry in the primary claiming that Cherry was a sham candidate because he did not intend to run in the general election. The district court dismissed plaintiffs' complaint based on its reluctance to require a special election.

The Seventh Circuit reversed stating that if the plaintiffs could prove an agreement that Cherry would be a stand-in candidate and a reasonable probability that Cherry's sham candidacy affected the outcome of the election, then the district court should order a new primary and general election, saying in part:

"Put another way, Cherry's name on the ballot was said to be a sham intended to deceive the voters. Those who thought they were voting for Cherry were as a practical matter voting for whomever the Committeemen might thereafter select; in effect, votes intended for Cherry were really votes for Palmer. This deception on the fact of the ballot clearly debased the rights of all voters in the election. Such an abridgment of the right to vote is impermissible..." 489 F.2d 1098, 1101.

This is not our case either as there is no evidence that Cortes would not serve if elected.

Although the court finds that Cortes was "recruited" to run by Western, at the behest of Pearce supporters, to divert votes from Lewis for Pearce's benefit, this court is not convinced that courts should examine and be the final arbiter of the motives political candidates may have for running for election, unless they jump out at one as in *Griffin*, *Ruck*, *West*, and *Smith*, supra. Mediating against a finding of fraud is that at least the paid petition circulators were clear about their intent when asked how signing the petition would affect Pearce. The fact that nothing was hidden by these petition gatherers makes it difficult for the court to find fraud.

Cortes testified that she now intends to campaign, has a website, gave one interview to the press on September 27, 2011, and plans to appear at a candidates' forum this week. Whether that is because of her desire to serve in the Arizona Senate or because plaintiff has alerted her, only she knows for sure and it is not this court's job decide this case by speculating on her motive.

The court assumes that candidates have run for office for less than the noble motive of serving the public, which could include getting a better paying job, pension benefits, achieving a position of perceived importance, boredom, or no reason at all. Divining candidates' motives and acting on them is more properly the role of the voters. Plaintiff's remedy is through the ballot box and not the courts.

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B. The Court's Authority

Plaintiff's suggestions that the court strike Cortes' name from the ballots and reprint and re-mail them to the military and overseas voters or strike her name and place copies of the order in all polling places present practical difficulties because of the extremely short time frame set by the legislature on various steps of the electoral process. A critical benchmark for election officials is the date that absentee ballots must be mailed to the military and persons living abroad. That date in this case was 5:00 p.m. on September 23, 2011, and this case was not filed until 5:04 p.m. on September 23, 2011, after 102 ballots had been mailed. Ms. Cortes filed her nominating petitions on September 9, 2011, which left plaintiff only nine business days to investigate the facts, engage counsel and file this action, an extremely short period of time to act decisively, but not unusual in election law.

In *Weaver v. Bonner*, 309 F.2d 1312 (11th Cir. 2002) Georgia's restriction on free speech in a judicial election were challenged. Although the 11th Circuit found a violation of the First Amendment it also held that there were no extraordinary circumstances to require a special election for the losing candidate because the voters were free to vote for the candidate of their choice. Nor does the court find extraordinary circumstances here which call for the ballots to be reprinted and re-mailed.

In *Hutchinson v. Miller*, 797 F.2d 1279 (4th Cir. 1986) the court said the following in declining to order a recount in a state election where irregularities were claimed:

"... federal courts are ill-equipped to monitor the details of elections and resolve actual disputes born of the political process. As one court had noted, '[w]ere we to embrace plaintiff's theory, this court would henceforth be thrust into the details of virtually every election, tinkering with the state's election machinery, reviewing petitions, election cards, vote tallies, and certificates of election for all manner of error and insufficiency...." 797 F.2d 1279, 1286.

Finally in *Duncan v. Poythress*, 657 F.2d.691 (5th Cir. 1981), another case where an elected official resigned so that his successor could be appointed the court said:

"Qualified citizens not only have a constitutionally protected right to vote,, but also have the right to have their votes counted,, a right which can neither be denied outright,... not destroyed by alteration of ballots,... nor diluted by ballot both stuffing." (citations omitted). 657 F.2d 691, 700.

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That is the case here. Two citizens have already voted. By the time new ballots could be printed and mailed to military and overseas voters, more may have voted. The court cannot take the chance that any voter will be disenfranchised by its ruling.

A concomitant right of our citizens is to run for elective office without having their motives examined by the court absent a clear case of fraud.

October 3, 2011

/S/ Edward O. Burke

Edward O. Burke, Judge

ALERT: Effective September 1, 2011, the Arizona Supreme Court Administrative Order 2011-87 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.

Exhibit D

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-008793

06/17/2014

HON. JOHN REA

CLERK OF THE COURT

L. Gilbert

Deputy

ALEJANDRO CHAVEZ

JAMES E BARTON II

v.

CESAR CHAVEZ, et al.

CESAR CHAVEZ
1621 W DENTON LN #210
PHOENIX AZ 85015

MICHELE LEE FORNEY
J KENNETH MANGUM

MINUTE ENTRY

East Court Building – Courtroom 414

Prior to commencement of the hearing, Plaintiff's exhibits 1 – 5 are marked for identification.

9:57 a.m. This is the time set for hearing re: election contest. Plaintiff is present and represented by counsel, James E. Barton and Israel Torres. Defendant Cesar Chavez is present on his own behalf. J. Kenneth Mangum is present on behalf of the Maricopa County Board of Supervisors and the Maricopa County Recorder. Michele Forney and Todd Allison are present on behalf of the Secretary of State.

A record of the proceedings is made by audio/videotape in lieu of a court reporter.

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Discussion is held.

For the reasons stated on the record,

IT IS ORDERED denying Defendant Cesar Chavez's June 16, 2014 Motion to Delay.

For the reasons stated on the record,

IT IS ORDERED denying Plaintiff's recommendation for bifurcation as set forth in Plaintiff's June 13, 2014 Prehearing Memorandum.

Plaintiff's opening statement is presented.

Plaintiff's exhibits 1 and 2 are received in evidence.

Jim Drake is sworn and testifies.

Plaintiff's exhibit 3 is received in evidence.

The witness is excused.

Jasper Altaba is sworn and testifies.

Plaintiff's exhibit 4 is received in evidence.

The witness is excused.

Ariel Reyes is sworn and testifies.

The witness is excused.

Plaintiff's exhibit 5 is received in evidence.

Plaintiff rests.

Cesar Chavez is sworn and testifies.

Defendant Chavez's exhibits 6 – 8 are marked for identification.

Defendant Chavez's exhibit 6 is received in evidence.

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Defendant Chavez's exhibits 9 and 10 are marked identification.

LET THE RECORD REFLECT that an original of Defendant Chavez's exhibit 10 was provided to the Clerk for marking. However, the exhibit being an original voter identification card, the Court has made a copy for marking and the original will be returned to Defendant Chavez.

Defendant Chavez exhibits 7 – 10 are received in evidence.

Defendant rests.

Closing arguments are presented.

Plaintiff makes an oral motion to withdraw Count 1.

Upon consideration,

The Court finds by clear and convincing evidence that Defendant Cesar Chavez presented 744 valid signatures of the required 1039 valid signatures to appear on the ballot. Without a sufficient number of valid signatures, Defendant's name cannot appear on the August 26, 2014 Primary Ballot.

IT IS ORDERED granting Plaintiff's request for an injunction prohibiting Defendant Cesar Chavez's name from appearing on the August 26, 2014 Primary Ballot for election to the Office of the United States Representative for Arizona's Congressional District 7.

IT IS FURTHER ORDERED signing this minute entry as a final written Order of the Court.

Under A.R.S. § 16-351(A), any notice of appeal must be filed within five calendar days after the Superior Court's decision in a challenge to the nomination of a candidate. See *Bohart v. Hanna*, 213 Ariz. 480, 143 P.3d 1021 (2006). An appeal that is belatedly prosecuted, such as one filed on the last day of the statutory deadline, may be dismissed on ground of laches even if timely filed. See *McClung v. Bennett*, 2205 Ariz. 154, 235 P.3d 1037 (2010). Special procedural rules govern expedited appeals in election cases. Ariz. R. Civ. App. P.8.1

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FILED: Exhibit Worksheet

/S/ JOHN C. REA

HONORABLE JOHN C. REA
JUDGE OF THE SUPERIOR COURT

Exhibit E

Commission on Appellate Court Appointments

AGENDA

October 20, 2020

Arizona Supreme Court
State Courts Building
1501 W. Washington
Room 345

8:30 a.m. **Call to Order** Chief Justice Robert Brutinel

Call for Public Comment

Disqualifications and Disclosures

**Selection of Independent Nominee for Arizona's Independent
Redistricting Commission**

Approval of September 28, 2020 Minutes

Approval of October 8 and 9, 2020 minutes

Approval of Interview Questions

Note: This discussion may be conducted in executive session to avoid public disclosure of the questions before the interviews, upon motion and approval by two-thirds of the members in attendance.

Due Diligence Reports

Note: This discussion may include one or more executive sessions, if necessary for frank discussion of the candidates' qualifications, upon motion and approval by two-thirds of the members in attendance.

10:30 a.m. **Break**

10:40 a.m. **Interviews of Applicants:**

10:40 Christopher L. Kottke
11:00 Andrew J. Becke
11:20 Serena S. Serassio
11:40 Brian Y. Furuya

12:00 p.m. **Lunch**

1:00 p.m. **Interviews Resume:**

1:00 Benjamin D. Kreutzberg
1:20 Veronika Fabian
1:40 Jared E. Holland

AGENDA (continued)

October 20, 2020

**Arizona Supreme Court
State Courts Building
1501 W. Washington
Room 345**

2:00 Robert J. Higgins
2:20 Raymond Hanna
2:40 Joseph P. Goldstein
3:00 Rick A. Williams

3:20 p.m. Break

3:30 p.m. Discussion of Applicants and Interviews

Note: This discussion may include one or more executive sessions, if necessary for frank discussion of the candidates' qualifications, upon motion and approval by two-thirds of the members in attendance.

Selection of Nominees

Note: All voting will be conducted in public session in accordance with Rule 9.e.5., Uniform Rules of Procedure for Commissions on Appellate and Trial Court Appointments.

Adjourn