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7 *Attorneys for Plaintiffs*
8 *Arizona Green Party and Claudia Ellquist*

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF ARIZONA**

11 Arizona Green Party, an Arizona political party;) No.
12 and Claudia Ellquist, an individual,)

13 Plaintiffs,)

14 v.)

15 Ken Bennett, in his official capacity as)
16 Secretary of State for the State of Arizona;)
17 LeNora Johnson, in her official capacity as)
Recorder for Apache County; Jim Claw, R. John)
18 Lee and Tom White Jr., in their official capacity)
as members of the Board of Supervisors for)
19 Apache County; Christine Rhodes, in her)
20 official capacity as Recorder for Cochise)
County; Patrick Call, Ann English and Richard)
21 Searle, in their official capacity as members of)
the Board of Supervisors for Cochise County;)
22 Candace Owens, in her official capacity as)
23 Recorder for Coconino County; Elizabeth)
Archuleta, Lena Fowler, Mandy Metzger, Matt)
24 Ryan and Carl Taylor, in their official capacity)
as members of the Board of Supervisors for)
25 Coconino County; Sadie Dalton, in her official)
26 capacity as Recorder for Gila County; Shirley)
Dawson, Tommie Martin and Michael Pastor, in)
27 their official capacity as members of the Board)
28 of Supervisors for Gila County; Wendy John, in)

VERIFIED COMPLAINT

**(42 U.S.C. § 1983 and § 1988
(First Amendment and
Fourteenth Amendment);
Ariz. Const. Art. 7, Sec. 12;
A.R.S. §§ 16-1006, 16-1013,
and Injunctive Relief)**

1 her official capacity as Recorder for Graham)
County; Mark Herrington, Drew John and)
2 James Palmer, in their official capacity as)
3 members of the Board of Supervisors for)
Graham County; Berta Manuz, in her official)
4 capacity as Recorder for Greenlee County;)
5 David Gomez, Richard Lunt, and Hector)
Ruedas, in their official capacity as members of)
6 the Board of Supervisors for Greenlee County;)
7 Shelly Baker, in her official capacity as)
Recorder for La Paz County; John Drum, Holly)
8 Irwin, and Sandy Pierce, in their official)
capacity as members of the Board of)
9 Supervisors for La Paz County; Helen Purcell,)
10 in her official capacity as Recorder for)
Maricopa County; Fulton Brock, Andrew)
11 Kunasek, Don Stapley, Mary Rose Wilcox and)
Max Wilson, in their official capacity as)
12 members of the Board of Supervisors for)
Maricopa County; Carol Meier, in her official)
13 capacity as Recorder for Mohave County;)
14 Buster Johnson, Tom Sockwell and Gary)
Watson, in their official capacity as members of)
15 the Board of Supervisors for Mohave County;)
16 Laurette Justman, in her official capacity as)
Recorder for Navajo County; Jerry Brownlow,)
17 J.R. Despain, Jonathan Nez, David Tenney and)
18 Jesse Thompson, in their official capacity as)
members of the Board of Supervisors for)
19 Navajo County; F. Ann Rodriguez, in her)
official capacity as Recorder for Pima County;)
20 Sharon Bronson, Raymond Carroll, Ann Day,)
21 Richard Elias and Ramon Valadez, in their)
official capacity as members of the Board of)
22 Supervisors for Pima County; Laura Dean-)
Lytle, in her official capacity as Recorder for)
23 Pinal County; Bryan Martyn, Pete Rios and)
24 David Snider, in their official capacity as)
members of the Board of Supervisors for Pinal)
25 County; Suzanne Sainz, in her official capacity)
26 as Recorder for Santa Cruz County; John)
Maynard Jr., Rudy Molera and Manuel Ruiz, in)
27 their official capacity as members of the Board)
of Supervisors for Santa Cruz County; Ana)
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1 Wayman-Trujillo, in her official capacity as)
 Recorder for Yavapai County; Chip Davis,)
 2 Carol Springer and Thomas Thurman, in their)
 3 official capacity as official capacity as members)
 of the Board of Supervisors for Yavapai)
 4 County; Robyn Stallworth-Pouquette, in her)
 official capacity as Recorder for Yuma County;)
 5 and Greg Ferguson, Russell McCloud, Kathryn)
 6 Prochaska, Marco Reyes and Lenore Stuart, in)
 their official capacity as members of the Board)
 7 of Supervisors for Yuma County; Ryan)
 8 Blackman, an individual; Richard Grayson, an)
 individual; Christopher Campbell, an individual;)
 9 Anthony Goshorn, an individual; Matthew)
 Shusta, an individual; Clint Clement, an)
 10 individual; Andrew Blischak, an individual;)
 11 Michelle Lochmann, an individual; Thomas)
 Meadows, an individual; Theodore Gomez, an)
 12 individual; Benjamin Percy, an individual;)
 13)
 Defendants.)
 14)

15 The Arizona Green Party, an Arizona political party, and Claudia Ellquist allege
 16 for their Verified Complaint as follows:

17 **NATURE OF THE ACTION**

- 18 1. The First and Fourteenth Amendments to the United States Constitution
 19 guarantee the right of individuals to associate in a political party, the right of that party
 20 and its adherents to select their own nominees for partisan political office, and the right of
 21 that party and its adherents to limit nominees to those individuals who share the interests
 22 and ideologies of the party.
- 23 2. In ensuring the freedom of political parties to control and restrict their
 24 associations, the First Amendment protects these parties from being “hijacked” by those
 25 adverse to those parties.
- 26 3. Arizona statutes governing political party affiliation and registration,
 27 coupled with its laws governing write-in candidates for parties not qualified for continued
 28 representation on the official ballot, violate the association rights of the Arizona Green

1 Party and its members by forcing the party to be publicly associated with candidates who
2 have not been nominated by the party, who will alter the political message and agenda of
3 the party, who will mislead the voting public with respect to what the party and its
4 adherents believe, and who will cause party members to mistakenly vote for sham
5 candidates.

6 4. Arizona's statutory scheme also fosters deceptive schemes, such as the
7 scheme alleged upon information and belief herein, such that major political parties can
8 manipulate minor political parties and thereby fraudulently affect the outcome of primary
9 and general elections and corrupt the entire electoral process.

10 **JURISDICTION AND VENUE**

11 5. Plaintiffs' rights of political association and political expression are
12 guaranteed against abridgement by the State and those acting under color of its laws by
13 the First and Fourteenth Amendments to the United States Constitution and by 42 U.S.C.
14 § 1983. This Court has jurisdiction over these federal questions under 28 U.S.C. § 1331.

15 6. This Court has pendent jurisdiction over Plaintiffs' state law claims
16 pursuant to 28 U.S.C. § 1367.

17 7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) because
18 (i) all of the Defendants reside in, and may be found and served in, the District of
19 Arizona; and (ii) all of the events or omissions giving rise to these claims arose in the
20 District of Arizona.

21 **THE PARTIES**

22 *The Plaintiffs*

23 8. The Arizona Green Party ("AGP") is a recognized political party in the
24 State of Arizona lacking continued representation on the official ballot.

25 9. Claudia Ellquist is a Co-Chair of the AGP. She resides and is a registered
26 voter in Pima County, Arizona.

27 10. The AGP and Ms. Ellquist are referred to here, collectively, as "Plaintiffs."
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The Secretary of State

11. Ken Bennett is the Secretary of State for the State of Arizona and is named in his official capacity as a defendant in this action as the officer with whom write-in nomination papers are filed pursuant to A.R.S. §§ 16-311 and 312(C).

The County Boards of Supervisors

12. The members of the Board of Supervisors of Maricopa County are named as defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board of Supervisors of Maricopa County is responsible for notifying the appropriate election board inspector of all candidates who have properly filed write-in nomination papers and, pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the election and issuing certificates of nomination to successful candidates. The Maricopa County Supervisors are Fulton Brock, Don Stapley, Andrew Kunasek, Max Wilson, and Mary Rose Wilcox.

13. The members of the Board of Supervisors of Apache County are named as defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board of Supervisors of Apache County is responsible for notifying the appropriate election board inspector of all candidates who have properly filed write-in nomination papers and, pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the election and issuing certificates of nomination to successful candidates. The Apache County Supervisors are Jim Claw, R. John Lee, and Tom White Jr.

14. The members of the Board of Supervisors of Cochise County are named as defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board of Supervisors of Cochise County is responsible for notifying the appropriate election board inspector of all candidates who have properly filed write-in nomination papers and, pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the election and issuing certificates of nomination to successful candidates. The Cochise County Supervisors are Patrick Call, Ann English, and Richard Searle.

1 15. The members of the Board of Supervisors of Coconino are named as
2 defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board
3 of Supervisors of Coconino County is responsible for notifying the appropriate election
4 board inspector of all candidates who have properly filed write-in nomination papers and,
5 pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the
6 election and issuing certificates of nomination to successful candidates. The Coconino
7 County Supervisors are Elizabeth Archuleta, Lena Fowler, Mandy Metzger, Matt Ryan,
8 and Carl Taylor.

9 16. The members of the Board of Supervisors of Gila County are named as
10 defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board
11 of Supervisors of Gila County is responsible for notifying the appropriate election board
12 inspector of all candidates who have properly filed write-in nomination papers and,
13 pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the
14 election and issuing certificates of nomination to successful candidates. The Gila County
15 Supervisors are Shirley Dawson, Tommie Martin, and Michael Pastor.

16 17. The members of the Board of Supervisors of Graham County are named as
17 defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board
18 of Supervisors of Graham County is responsible for notifying the appropriate election
19 board inspector of all candidates who have properly filed write-in nomination papers and,
20 pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the
21 election and issuing certificates of nomination to successful candidates. The Graham
22 County Supervisors are Mark Herrington, Drew John, and James Palmer.

23 18. The members of the Board of Supervisors of Greenlee County are named as
24 defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board
25 of Supervisors of Greenlee County is responsible for notifying the appropriate election
26 board inspector of all candidates who have properly filed write-in nomination papers and,
27 pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the
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1 election and issuing certificates of nomination to successful candidates. The Greenlee
2 County Supervisors are David Gomez, Richard Lunt, and Hector Ruedas.

3 19. The members of the Board of Supervisors of La Paz County are named as
4 defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board
5 of Supervisors of La Paz County is responsible for notifying the appropriate election
6 board inspector of all candidates who have properly filed write-in nomination papers and,
7 pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the
8 election and issuing certificates of nomination to successful candidates. The La Paz
9 County Supervisors are John Drum, Holly Irwin, and Sandy Pierce.

10 20. The members of the Board of Supervisors of Mohave County are named as
11 defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board
12 of Supervisors of Mohave County is responsible for notifying the appropriate election
13 board inspector of all candidates who have properly filed write-in nomination papers and,
14 pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the
15 election and issuing certificates of nomination to successful candidates. The Mohave
16 County Supervisors are Buster Johnson, Tom Sockwell, and Gary Watson.

17 21. The members of the Board of Supervisors of Navajo County are named as
18 defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board
19 of Supervisors of Navajo County is responsible for notifying the appropriate election
20 board inspector of all candidates who have properly filed write-in nomination papers and,
21 pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the
22 election and issuing certificates of nomination to successful candidates. The Navajo
23 County Supervisors are Jerry Brownlow, J.R. Despain, Jonathan Nez, David Tenney, and
24 Jesse Thompson.

25 22. The members of the Board of Supervisors of Pima County are named as
26 defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board
27 of Supervisors of Pima County is responsible for notifying the appropriate election board
28 inspector of all candidates who have properly filed write-in nomination papers and,

1 pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the
2 election and issuing certificates of nomination to successful candidates. The Pima
3 County Supervisors are Sharon Bronson, Raymond Carroll, Ann Day, Richard Elias, and
4 Ramon Valadez.

5 23. The members of the Board of Supervisors of Pinal County are named as
6 defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board
7 of Supervisors of Pinal County is responsible for notifying the appropriate election board
8 inspector of all candidates who have properly filed write-in nomination papers and,
9 pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the
10 election and issuing certificates of nomination to successful candidates. The Pinal
11 County Supervisors are Bryan Martyn, Pete Rios, and David Snider.

12 24. The members of the Board of Supervisors of Santa Cruz County are named
13 as defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the
14 Board of Supervisors of Santa Cruz County is responsible for notifying the appropriate
15 election board inspector of all candidates who have properly filed write-in nomination
16 papers and, pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with
17 canvassing the election and issuing certificates of nomination to successful candidates.
18 The Santa Cruz County Supervisors are John Maynard Jr., Rudy Molera, and Manuel
19 Ruiz.

20 25. The members of the Board of Supervisors of Yavapai County are named as
21 defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board
22 of Supervisors of Yavapai County is responsible for notifying the appropriate election
23 board inspector of all candidates who have properly filed write-in nomination papers and,
24 pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the
25 election and issuing certificates of nomination to successful candidates. The Yavapai
26 County Supervisors are A.G. (“Chip”) Davis, Carol Springer, and Thomas Thurman.

27 26. The members of the Board of Supervisors of Yuma County are named as
28 defendants in their official capacities because, pursuant to A.R.S. § 16-312(D), the Board

1 of Supervisors of Yuma County is responsible for notifying the appropriate election
2 board inspector of all candidates who have properly filed write-in nomination papers and,
3 pursuant to A.R.S. §§ 16-622(A) and 645(A), the Board is charged with canvassing the
4 election and issuing certificates of nomination to successful candidates. The Yuma
5 County Supervisors are Greg Ferguson, Russell McCloud, Kathryn Prochaska, Marco
6 Reyes, and Lenore Stuart.

7 *The County Recorders*

8 27. LeNora Johnson is the Recorder for Apache County and is named in her
9 official capacity as a defendant in this action as the officer in charge of printing ballots
10 for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to
11 enjoin the Recorder from printing the names of certain sham candidates on the general
12 election ballot.

13 28. Christine Rhodes is the Recorder for Cochise County and is named in her
14 official capacity as a defendant in this action as the officer in charge of printing ballots
15 for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to
16 enjoin the Recorder from printing the names of certain sham candidates on the general
17 election ballot.

18 29. Candace Owens is the Recorder for Coconino County and is named in her
19 official capacity as a defendant in this action as the officer in charge of printing ballots
20 for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to
21 enjoin the Recorder from printing the names of certain sham candidates on the general
22 election ballot.

23 30. Sadie Dalton is the Recorder for Gila County and is named in her official
24 capacity as a defendant in this action as the officer in charge of printing ballots for the
25 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to enjoin
26 the Recorder from printing the names of certain sham candidates on the general election
27 ballot.

1 31. Wendy John is the Recorder for Graham County and is named in her
2 official capacity as a defendant in this action as the officer in charge of printing ballots
3 for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to
4 enjoin the Recorder from printing the names of certain sham candidates on the general
5 election ballot.

6 32. Berta Manuz is the Recorder for Greenlee County and is named in her
7 official capacity as a defendant in this action as the officer in charge of printing ballots
8 for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to
9 enjoin the Recorder from printing the names of certain sham candidates on the general
10 election ballot.

11 33. Shelly Baker is the Recorder for La Paz County and is named in her official
12 capacity as a defendant in this action as the officer in charge of printing ballots for the
13 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to enjoin
14 the Recorder from printing the names of certain sham candidates on the general election
15 ballot.

16 34. Helen Purcell is the Recorder for Maricopa County and is named in her
17 official capacity as a defendant in this action as the officer in charge of printing ballots
18 for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to
19 enjoin the Recorder from printing the names of certain sham candidates on the general
20 election ballot.

21 35. Carol Meier is the Recorder for Mohave County and is named in her
22 official capacity as a defendant in this action as the officer in charge of printing ballots
23 for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to
24 enjoin the Recorder from printing the names of certain sham candidates on the general
25 election ballot.

26 36. Laurette Justman is the Recorder for Navajo County and is named in her
27 official capacity as a defendant in this action as the officer in charge of printing ballots
28 for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to

1 enjoin the Recorder from printing the names of certain sham candidates on the general
2 election ballot.

3 37. F. Ann Rodriguez is the Recorder for Pima County and is named in her
4 official capacity as a defendant in this action as the officer in charge of printing ballots
5 for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to
6 enjoin the Recorder from printing the names of certain sham candidates on the general
7 election ballot.

8 38. Laura Dean-Lytle is the Recorder for Pinal County and is named in her
9 official capacity as a defendant in this action as the officer in charge of printing ballots
10 for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to
11 enjoin the Recorder from printing the names of certain sham candidates on the general
12 election ballot.

13 39. Suzanne Sainz is the Recorder for Santa Cruz County and is named in her
14 official capacity as a defendant in this action as the officer in charge of printing ballots
15 for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs seek to
16 enjoin the Recorder from printing the names of certain sham candidates on the general
17 election ballot.

18 40. Ana Wayman-Trujillo is the Recorder for Yavapai County and is named in
19 her official capacity as a defendant in this action as the officer in charge of printing
20 ballots for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503. Plaintiffs
21 seek to enjoin the Recorder from printing the names of certain sham candidates on the
22 general election ballot.

23 41. Robyn Stallworth-Pouquette is the Recorder for Yuma County and is
24 named in her official capacity as a defendant in this action as the officer in charge of
25 printing ballots for the 2010 General Election pursuant to A.R.S. §§ 16-501 – 16-503.
26 Plaintiffs seek to enjoin the Recorder from printing the names of certain sham candidates
27 on the general election ballot.
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The Sham Candidates

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2 42. Defendant Ryan Blackman is a write-in candidate purporting to be
3 affiliated with the AGP. Blackman is a write-in candidate for the U.S. House of
4 Representatives in District 5. Blackman registered to vote for the first time on July 13,
5 2010. He registered as a Green. His voter registration is attached hereto as Ex. 1.
6 ***Blackman filed as a write-in candidate on that same day, on July 13, 2010.*** His filing
7 papers are attached hereto as Ex. 2.

8 43. Defendant Richard Grayson is a write-in candidate purporting to be
9 affiliated with the AGP. Grayson is a write-in candidate for the U.S. House of
10 Representatives in District 6. Upon information and belief, he switched his political
11 party from ***Republican*** to Green sometime in late 2009. Grayson filed as a write-in
12 candidate on May 28, 2010. His filing papers are attached hereto as Ex. 3.

13 44. Defendant Christopher Campbell is a write-in candidate purporting to be
14 affiliated with the AGP. Campbell is a write-in candidate for State Senator in District 10.
15 He switched his political party from ***Republican*** to Green on July 15, 2010. His voter
16 registration is attached hereto as Ex. 4. ***Campbell filed as a write-in candidate that same***
17 ***day, July 15, 2010.*** His filing papers are attached hereto as Ex. 5.

18 45. Defendant Anthony Goshorn is a write-in candidate purporting to be
19 affiliated with the AGP. Goshorn is a write-in candidate for State Senator in District 17.
20 He switched his political party from ***Libertarian*** to Green on May 17, 2010 when he
21 attempted to gather sufficient signatures to qualify for the ballot as an AGP candidate for
22 State Representative in District 17. His voter registration is attached hereto as Ex. 6.
23 Having failed to qualify, Goshorn filed as a write-in candidate for State Senator on July
24 15, 2010. His filing papers are attached hereto as Ex. 7.

25 46. Defendant Matthew Shusta is a write-in candidate purporting to be
26 affiliated with the AGP. Shusta is a write-in candidate for State Senator in District 23.
27 Upon information and belief, he changed his political party from ***Democrat*** to Green on
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1 or about July 1, 2010. *Shusta filed as a write-in candidate on July 15, 2010.* His filing
2 papers are attached hereto as Ex. 8.

3 47. Defendant Clint Clement is a write-in candidate purporting to be affiliated
4 with the AGP. Clement is a write-in candidate for State Representative in District 17.
5 He changed his political party from *Republican* to Green on July 13, 2010. His voter
6 registration is attached hereto as Ex. 9. *Clement filed as a write-in candidate that same*
7 *day, July 13, 2010.* His filing papers are attached hereto as Ex. 10.

8 48. Defendant Andrew (“Drew”) Blischak is a write-in candidate purporting to
9 be affiliated with the AGP. Blischak is a write-in candidate for State Representative in
10 District 20. He changed his political party from *Republican* to Green on July 13, 2010.
11 His voter registration is attached hereto as Ex. 11. *Blischak filed as a write-in candidate*
12 *that same day, July 13, 2010.* His filing papers are attached hereto as Ex. 12.

13 49. Defendant Michelle Lochmann is a write-in candidate purporting to be
14 affiliated with the AGP. Lochmann is a write-in candidate for Secretary of State. She
15 changed her political party from *Republican* to Green on July 15, 2010. Her voter
16 registration is attached hereto as Ex. 13. *Lochmann filed as a write-in candidate that*
17 *same day, July 15, 2010.* Her filing papers are attached hereto as Ex. 14.

18 50. Defendant Thomas Meadows is a write-in candidate purporting to be
19 affiliated with the AGP. Meadows is a write-in candidate for State Treasurer. He
20 registered to vote for the first time on July 15, 2010. He registered as a Green. His voter
21 registration is attached hereto as Ex. 15. *Meadows filed as a write-in candidate the same*
22 *day, July 15, 2010.* His filing papers are attached hereto as Ex. 16.

23 51. Defendant Theodore Gomez is a write-in candidate purporting to be
24 affiliated with the AGP. Gomez is a write-in candidate for Corporation Commissioner.
25 He registered to vote for the first time on July 14, 2010. He registered as a Green. His
26 voter registration is attached hereto as Ex. 17. *Gomez filed as a write-in candidate the*
27 *very next day, July 15, 2010.* His filing papers are attached hereto as Ex. 18.

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1 52. Defendant Benjamin Percy is a write-in candidate purporting to be
2 affiliated with the AGP. Percy is a write-in candidate for Corporation Commissioner.
3 He changed his political party from *Republican* to Green on July 14, 2010. His voter
4 registration is attached hereto as Ex. 19. *Percy filed as a write-in candidate the very*
5 *next day, July 15, 2010.* His filing papers are attached hereto as Ex. 20.

6 GENERAL ALLEGATIONS

7 53. Upon information and belief, members of the Arizona Republican Party
8 have conspired to place fraudulent AGP candidates on the official general election ballot
9 by encouraging members of their party, and others, to switch party affiliation and run as
10 write-in candidates in the August 24, 2010 primary election. [*See e.g.* Facebook message
11 from Matt Salmon attached hereto as Ex. 21.]

12 54. Ryan Blackman, Richard Grayson, Christopher Campbell, Anthony
13 Goshorn, Matthew Shusta, Clint Clement, Drew Blischak, Michelle Lochmann, Thomas
14 Meadows, Theodore Gomez, and Benjamin Percy (collectively, the “Sham Candidates”)
15 are all running as write-in AGP candidates without the endorsement of the AGP. Two
16 other individuals, Gail Ginger and Tim Hensley filed paperwork to run as Green write-in
17 candidates, and ran in the primary election, but did not qualify to advance to the general
18 election as the AGP nominee for the office that they sought.

19 55. Of the eleven Sham Candidates, none were members of the AGP for more
20 than a few days before becoming AGP candidates.

21 56. Pursuant to A.R.S. § 16-312(A), the last day to file as a write-in candidate
22 for the August 24, 2010 primary election was July 15, 2010.

23 57. Upon information and belief, the Sham Candidates do not share in the
24 AGP’s values and ideologies and are seeking office to confuse the electorate and siphon
25 votes, in violation of the Plaintiffs’ constitutional rights:

26 a. Campbell admits that he was approached by the Republican Party to
27 run as a sham AGP candidate in District 10 with the specific intent to take votes away
28 from the Democratic nominee. [*See* Transcript of phone conversation with Campbell

1 attached hereto as Ex. 22; Declaration of Shawn Nelson attached hereto as Ex. 23; *see*
2 *also* Mary Jo Pitzl, *Arizona Democratic Party Alleges Fraud*, The Arizona Republic,
3 Aug. 31, 2010, attached hereto as Ex. 24.]

4 b. Campbell has numerous ties to the Republican Party. Campbell
5 lives with the daughter of the Republican former speaker of the house, Jim Weiers, and is
6 an acquaintance of Senator Linda Gray, the Republican incumbent in District 10. As
7 noted above, Campbell was a registered Republican until the day he filed as a Green
8 write-in candidate, which was on July 15, 2010, the last day to file as a write-in
9 candidate.

10 c. Campbell admits he supports Senate Bill (“SB”) 1070, a position in
11 direct conflict with the official position of the AGP, which strongly opposes SB 1070 and
12 would not endorse a candidate who supported SB 1070, regardless of that candidate’s
13 positions on other issues. [*See* Ex. 22.]

14 d. Gail Ginger was approached by members of the Republican Party to
15 become a member of the AGP and to file as a write-in candidate in order to deceive
16 voters into voting for her rather than the Democratic Party’s nominee. The purpose of
17 this scheme was to ensure the re-election of Republican Senator Gray. However, by
18 mistake, Ginger filed as a write-in candidate for State Senator in the same district as
19 Campbell and, therefore, dropped out of the race. In a phone conversation, Ginger
20 implicated Republicans as individuals with knowledge of the sham candidate scheme.
21 [*See* Transcript of phone conversation with Ginger attached hereto as Ex. 25; *see also*
22 Transcript of phone conversation with John Mills attached hereto as Ex. 26; *see also*
23 Exs. 23-24.]

24 e. Lochmann admitted that she was recruited by Derrick Lee, owner of
25 Campaign Finance Company, LLC and Lee Petition Management, who is linked to the
26 campaigns of various Republican candidates, to obtain Clean Elections money. [*See*
27 Declaration of Luisa Valdez attached hereto as Ex. 27.]

28

1 f. Matt Salmon, President of the Log Cabin Republicans sent a
2 Facebook message seeking to recruit AGP members to run in certain election races. In
3 his message, Salmon stated that a Green candidate “would only need one write-in vote
4 (themselves).” [See Ex. 21; see also Ex. 27.]

5 g. Goshorn was approached by members of the Republican Party to
6 become a member of the AGP and to first attempt to gain access to the official general
7 election ballot by gathering signatures to appear on the ballot for State Representative in
8 Legislative District 17. After failing to gather a sufficient number of signatures, Goshorn
9 filed to run as a write-in candidate.

10 h. Steve May, a former two-term Republican State legislator, is the
11 driving force behind Goshorn’s nomination as an AGP nominee. [See Ex. 24; see also
12 attached screenshot of May’s Facebook page showing a picture of Goshorn and May
13 when Goshorn filed as a candidate attached hereto as Ex. 28.] May is a Republican
14 candidate for the same office that Goshorn is running for in Legislative District 17. His
15 filing papers are attached hereto as Ex. 29.

16 i. The nomination papers of Goshorn, Meadows, Gomez, and Percy
17 are written in the same handwriting, which matches that of May, a Republican candidate
18 for Legislative District 17. [See Exs. 7, 16, 18, 20 and 29.]

19 j. Goshorn, Percy, Meadows and Gomez all use the same post office
20 box address for their campaign mailing addresses.

21 k. Percy, Meadows, and Gomez all list a Starbucks coffee
22 establishment located at 420 S. Mill Avenue in downtown Tempe, Arizona as their
23 campaign filing addresses.

24 l. Goshorn, May, Percy, and Gomez filed their write-in nomination
25 papers at the exact same minute: 11:43 on July 15, 2010, the last day to file as a write-in
26 candidate.

27 m. Goshorn, May, Percy, and Gomez used the same notary for their
28 nomination papers.

1 n. Goshorn and perhaps several other Sham Candidates were recruited
2 by May to get on the ballot as Green candidates. [See Ex. 24; see also Ex. 28.]

3 o. Members of the Republican Party have provided financial and in-
4 kind support to at least some, perhaps all, the Sham Candidates named in this Verified
5 Complaint.

6 p. The Sham Candidates switched their party affiliation to the AGP
7 despite the fact that the Sham Candidates do not subscribe to the AGP's principles and
8 ideologies. Further, they did not undergo the process to become an endorsed AGP
9 candidate. [See Ex. 27.]

10 58. Voters rely on political party designations in deciding for whom to vote.

11 59. Upon information and belief, the scheme to place the Sham Candidates on
12 the ballot is intended to confuse voters and draw votes away from candidates affiliated
13 with the Arizona Democratic Party:

14 a. Campbell admitted that he is running as a Green candidate to take
15 votes away from the Democratic nominee in District 10. [Exs. 22-23.]

16 b. In 2008, a sham Green candidate ran against Democrat Jackie
17 Thrasher for the same office and in the same district that Campbell is running. The sham
18 Green candidate obtained over 2,000 votes, which caused Thrasher to lose the election to
19 Jim Weiers by 553 votes. [See Declaration of Jackie Thrasher attached hereto as Ex. 30.]

20 c. Republicans have used Sham candidates in prior elections to divert
21 votes away from Democratic candidates. [See, e.g. Mary Jo Pitzl, *Dems see red as*
22 *Republicans run as Greens*, The Arizona Republic, Oct. 11, 2008, attached hereto as
23 Ex. 31.]

24 d. Angel Reyes, an East Coast political operative who frequently works
25 for the Republican Party or its members, has called registered members of the AGP and
26 introduced himself as "Angel," a representative calling on behalf of the AGP, to garner
27 votes for the Sham Candidates. [See Ex. 27; Declaration of Jerry Joslyn attached hereto
28 as Ex. 32).] The Co-Chair of the AGP is Angel Torres.

1 e. The Sham Candidates switched their party affiliation to the AGP for
2 the purpose of directing votes from Democratic Party candidates.

3 60. A.R.S. § 16-645(D), Arizona's statutory framework for AGP write-in
4 candidates, (i) forces the AGP to associate with sham candidates in violation of their
5 constitutional right to exclude individuals; and (ii) treats the AGP differently than the
6 Republican, Democratic, and Libertarian Parties in violation of the Plaintiffs'
7 constitutional right to equal protection:

8 a. Blackman secured the AGP nomination and will advance to the
9 general election as the Green candidate for the U.S. House of Representatives in District
10 5 with only *four* votes. [See 2010 Primary Election Official Write-In Results Summary
11 attached hereto as Ex. 33.] A Republican write-in candidate would have had to obtain
12 739 votes, a Democratic write-in candidate would have had to obtain 559 votes, and a
13 Libertarian write-in candidate would have had to obtain 17 votes. If the AGP was subject
14 to the same statutory requirement for write-in candidates as the other parties, Blackman
15 would have had to obtain *154* votes. [See Arizona Secretary of State minimum signature
16 requirements for each party attached hereto as Ex. 34.]

17 b. Grayson secured the AGP nomination and will advance to the
18 general election as the Green candidate for the U.S. House of Representatives in District
19 6 with only *3* votes. [See Ex. 33.] A Republican write-in candidate would have had to
20 obtain 1,055 votes, a Democratic write-in candidate would have had to obtain 610 votes,
21 and a Libertarian write-in candidate would have had to obtain 17 votes. If the AGP was
22 subject to the same statutory requirement for write-in candidates as the other parties,
23 Grayson would have had to obtain *154* votes. [See Ex. 34.]

24 c. Campbell secured the AGP nomination and will advance to the
25 general election as the Green candidate for State Senator in District 10 with only *one*
26 vote, presumably his own. [See Ex. 33.] A Republican write-in candidate would have
27 had to obtain 262 votes, a Democratic write-in candidate would have had to obtain 251
28 votes, and a Libertarian write-in candidate would have had to obtain 9 votes. If the AGP

1 was subject to the same statutory requirement for write-in candidates as the other parties,
2 Campbell would have had to obtain **29** votes. [See Ex. 34.]

3 d. Goshorn secured the AGP nomination and will advance to the
4 general election as the Green candidate for State Senator in District 17 with only **four**
5 votes. [See Ex. 33.] A Republican write-in candidate would have had to obtain 264
6 votes, a Democratic write-in candidate would have had to obtain 312 votes, and a
7 Libertarian write-in candidate would have had to obtain 12 votes. If the AGP was subject
8 to the same statutory requirement for write-in candidates as the other parties, Goshorn
9 would have had to obtain **37** votes. [See Ex. 34.]

10 e. Shusta secured the AGP nomination and will advance to the general
11 election as the Green candidate for State Senator in District 23 with only **five** votes. [See
12 Ex. 33.] A Republican write-in candidate would have had to obtain 441 votes, a
13 Democratic write-in candidate would have had to obtain 522 votes, and a Libertarian
14 write-in candidate would have had to obtain 10 votes. If the AGP was subject to the
15 same statutory requirement for write-in candidates as the other parties, Shusta would
16 have had to obtain **50** votes. [See Ex. 34.]

17 f. Clement secured the AGP nomination and will advance to the
18 general election as the Green candidate for State Representative in District 17 with only
19 **two** votes. [See Ex. 33.] A Republican write-in candidate would have had to obtain 264
20 votes, a Democratic write-in candidate would have had to obtain 312 votes, and a
21 Libertarian write-in candidate would have had to obtain 12 votes. If the AGP was subject
22 to the same statutory requirement for write-in candidates as the other parties, Clement
23 would have had to obtain **37** votes. [See Ex. 34.]

24 g. Blischak secured the AGP nomination and will advance to the
25 general election as the Green candidate for State Representative in District 20 with only
26 **one** vote, presumably his own. [See Ex. 33.] A Republican write-in candidate would
27 have had to obtain 409 votes, a Democratic write-in candidate would have had to obtain
28 324 votes, and a Libertarian write-in candidate would have had to obtain 9 votes. If the

1 AGP was subject to the same statutory requirement for write-in candidates as the other
2 parties, Blischak would have had to obtain **44** votes. [See Ex. 34.]

3 h. Lochmann secured the AGP nomination and will advance to the
4 general election as the Green candidate for Secretary of State with only **17** votes. [See
5 Ex. 33.] A Republican write-in candidate would have had to obtain 5,609 votes, a
6 Democratic write-in candidate would have had to obtain 5,124 votes, and a Libertarian
7 write-in candidate would have had to obtain 124 votes. If the AGP was subject to the
8 same statutory requirement for write-in candidates as the other parties, Lochmann would
9 have had to obtain **1231** votes. [See Ex. 34.]

10 i. Meadows secured the AGP nomination and will advance to the
11 general election as the Green candidate for State Treasurer with only **21** votes. [See
12 Ex. 33.] A Republican write-in candidate would have had to obtain 5,609 votes, a
13 Democratic write-in candidate would have had to obtain 5,124 votes, and a Libertarian
14 write-in candidate would have had to obtain 124 votes. If the AGP was subject to the
15 same statutory requirement for write-in candidates as the other parties, Meadows would
16 have had to obtain **1231** votes. [See Ex. 34.]

17 j. Gomez secured the AGP nomination and will advance to the general
18 election as the Green candidate for Corporation Commissioner with only **13** votes. [See
19 Ex. 33.] A Republican write-in candidate would have had to obtain 5,609 votes, a
20 Democratic write-in candidate would have had to obtain 5,124 votes, and a Libertarian
21 write-in candidate would have had to obtain 124 votes. If the AGP was subject to the
22 same statutory requirement for write-in candidates as the other parties, Gomez would
23 have had to obtain **1231** votes. [See Ex. 34.]

24 k. Percy secured the AGP nomination and will advance to the general
25 election as the Green candidate for Corporation Commissioner with only **11** votes. [See
26 Ex. 33.] A Republican write-in candidate would have had to obtain 5,609 votes, a
27 Democratic write-in candidate would have had to obtain 5,124 votes, and a Libertarian
28 write-in candidate would have had to obtain 124 votes. If the AGP was subject to the

1 same statutory requirement for write-in candidates as the other parties, Percy would
2 have had to obtain *1231* votes. [See Ex. 34.]

3 **ARIZONA’S STATUTORY FRAMEWORK RELATING TO POLITICAL**
4 **PARTIES AND WRITE-IN CANDIDATES**

5 61. In Arizona, a political party with continued representation is entitled to
6 representation as a political party on the official ballot for state and local officers.

7 62. Pursuant to A.R.S. § 16-804(A), a political party is qualified for continued
8 representation to appear on the official general election ballot if “[a] political
9 organization that at the last preceding general election cast for governor or presidential
10 electors[,] . . . whichever applies, not less than five per cent of the total votes cast for
11 governor or presidential electors, in the state.”

12 63. Alternatively, under A.R.S. § 16-804(B), “a political organization is
13 entitled to continued representation as a political party on the official ballot . . . if . . .
14 such party has registered electors in the party equal to at least two-thirds of one per cent
15 of the total registered electors in such jurisdiction.”

16 64. The Arizona Democratic Party, the Arizona Republican Party, and the
17 Arizona Libertarian Party are entitled to continued representation.

18 65. The AGP failed to obtain the requisite number of votes in the 2008 general
19 election to be entitled to continued representation as a political party in Arizona.

20 66. Pursuant to A.R.S. § 16-803(A), a political party that is not entitled to
21 continued representation may become a recognized political party that can be represented
22 by an official party ballot and have access to the statewide ballot if the political party files
23 a petition for recognition not less than 140 days before the primary election.

24 67. The AGP is a recognized political party with ballot access in Arizona.

25 68. Under A.R.S. § 16-645(D), the State of Arizona permits a write-in
26 candidate for a party not qualified for continued representation to become the party’s
27 nominee and to appear on the general election ballot by obtaining a plurality of the votes
28 of the party for the office for which he or she is a candidate.

1 69. However, under A.R.S. § 16-645(E), a write-in candidate for a party
2 qualified for continued representation may become the party's nominee and appear on the
3 general election ballot only if he receives a number of votes equivalent to at least the
4 same number of signatures required for nominating petitions for the same office.

5 70. Thus, A.R.S. § 16-645 permits an uncontested AGP write-in candidate to
6 qualify for the general election by virtue of a single vote, whereas Democrat, Republican,
7 and Libertarian write-in candidates are required to obtain significantly more votes to
8 qualify for the general election.

9 71. Accordingly, it is very difficult to qualify for the general election as a
10 Democrat, Republican, and Libertarian write-in candidate; however, unopposed Green
11 write-in candidates are able to qualify for the general election if they simply vote for
12 themselves.

13 72. This discrepancy makes it easy for other political parties or non-AGP
14 members to hijack the AGP.

15 73. Qualified electors can change their political party affiliation up to twenty-
16 nine days preceding a primary or general election.

17 74. The defendants named in their official capacities administered the partisan
18 primary elections on August 24, 2010 and will administer the general election on
19 November 2, 2010.

20 75. Upon information and belief, the County Recorder Defendants are currently
21 preparing the ballot for the November 2, 2010 general election, which will include the
22 names of the Sham Candidates.

23 76. Within a matter of days, the County Recorder Defendants will send the
24 ballots to the printer and then begin mailing ballots to military personnel, out-of-state
25 voters, and early ballot voters.

26 **THE AGP IS A MINOR POLITICAL PARTY**

27 77. In a democracy, the political ideologies of the major political parties,
28 representing the majority of the constituents, are likely to prevail in an election.

1 However, the majority is expressly limited when its actions jeopardize or violate the
2 constitutional rights of minor parties and their constituents.

3 78. Minor parties face a greater danger that their constitutional rights will be
4 violated simply because they operate against the ideology of the majority. Even one
5 election in which the AGP is forced to associate with unwanted and possibly antithetical
6 candidates is sufficient to irreparably damage the party.

7 79. The very fact that the AGP has not qualified for continued representation
8 on the ballot illustrates that the AGP is a minor political party with a small constituency,
9 as does its registration of only approximately 4,000 members.

10 **THE STATE OF ARIZONA HAS FORCED THE AGP TO ASSOCIATE WITH**
11 **INDIVIDUALS WHO DO NOT SHARE ITS POLITICAL IDEALS**

12 80. Although states have broad power to regulate elections, they may not
13 exercise that power in a manner that violates the constitutional rights of their citizens and
14 may not force political parties to associate with individuals who do not share their
15 ideologies.

16 81. Arizona election laws severely burden the First Amendment rights of the
17 AGP and its constituents by forcing them to associate with candidates who have not been
18 selected by the AGP and who do not represent the AGP's values and platform.

19 82. Because state law permits any individual to represent the AGP by simply
20 filing as a write-in candidate and voting for himself or herself, Arizona has permitted the
21 AGP to be infiltrated by sham candidates who do not share the same beliefs as the party
22 platform and who are running under the AGP name to steal votes away from non-
23 Republican candidates.

24 83. By forcing the AGP to associate with unwanted nominees, Arizona has
25 deprived the AGP of its First Amendment freedom to choose its own nominees and to
26 limit its association to those nominees.

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1 84. The State has no compelling interest in severely burdening the right of its
2 citizens to freely associate in the selection of their own political party nominees in a
3 manner that prevents the political party from being hijacked.

4 85. A.R.S. § 16-645(D) sweeps too broadly in trying to achieve the State's
5 ends. This statute is not narrowly tailored to meet the State's alleged interests because it
6 has allowed ill-intentioned, non-endorsed candidates to infiltrate the AGP and become
7 the AGP's nominees on the general election ballot.

8 **THE STATE DENIES EQUAL PROTECTION TO MINOR PARTIES**

9 86. All political parties, whether large or small, are associations of individuals
10 that seek to advance some form of political ideology. In this way, they are similarly
11 situated under the United States Constitution.

12 87. Minor political parties that do not qualify for continued representation on
13 the Arizona ballot are subject to the plurality requirement in A.R.S. § 16-645(D), whereas
14 major political parties are not.

15 88. A candidate for a political party qualified for continued representation on
16 the official ballot gains write-in candidate status pursuant to A.R.S. § 16-645(E), and that
17 candidate must receive the required number of votes as calculated by the nomination
18 petition requirements set forth in A.R.S. § 16-322.

19 89. Because Arizona allows certain write-in candidates to appear on the general
20 election ballot by obtaining only a plurality of the votes cast for that party and for that
21 office in the primary, and because this rule does not apply to major political parties,
22 Arizona is protecting major parties' First Amendment right to associate while denying
23 that same right to minor political parties. This state action invidiously discriminates
24 against minor parties in violation of the Equal Protection Clause of the Fourteenth
25 Amendment to the United States Constitution.

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FIRST CAUSE OF ACTION

(Violation of 42 U.S.C. § 1983 – First Amendment)

90. Plaintiffs re-allege and incorporate all of the allegations contained in the preceding paragraphs of this verified complaint as though fully set forth herein.

91. A.R.S. § 16-645(D) is unconstitutional under the First Amendment on its face and as applied to the AGP.

92. A.R.S. § 16-645(D) is facially unconstitutional because it compels political parties that have not qualified for continued representation to put forward in the general election, and thereby associate with, candidates who receive only a plurality of the votes, as opposed to a number of votes equivalent to at least the same number of signatures required by A.R.S. § 16-322, which is what is required of Republican, Democrat, and Libertarian write-in candidates. Thus, A.R.S. § 16-645(D) compels minor political parties to associate with candidates that did not garner any modicum of support from the party.

93. A.R.S. § 16-645(D) is unconstitutional as applied to the AGP because it compels the AGP, following a primary election, to publicly associate with candidates other than those with whom the AGP has freely associated, including candidates whose views are diametrically opposed to those of the AGP. When, as with these Sham Candidates, a write-in prevails in obtaining the AGP nomination despite holding views antithetical to those of the AGP, the State has impermissibly forced the AGP to publicly associate with those whom it would otherwise have chosen to exclude.

94. This statutory scheme enables an unwanted and possibly antithetical candidate to be placed on the official general election ballot through a voting system that deprives the AGP of its ability to control its association and the identity of its nominees. This statutory scheme violates the AGP’s First Amendment right to free association.

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SECOND CAUSE OF ACTION

(Violation of 42 U.S.C. § 1983 – Fourteenth Amendment, Equal Protection Clause)

95. Plaintiffs re-allege and incorporate all of the allegations contained in the preceding paragraphs of this verified complaint as though fully set forth herein.

96. The Equal Protection Clause of the Fourteenth Amendment prohibits state actors from discriminating against similarly situated individuals or groups unless the state can demonstrate that its interest can withstand the appropriate level of scrutiny.

97. The State discriminates among political parties by subjecting minor parties to a statutory mechanism that forces them to associate with unwanted nominees while simultaneously shielding major parties from this same mechanism. In doing so, the State invidiously discriminates between two similarly situated, constitutionally protected organizations, and thus violates the Equal Protection Clause of the Fourteenth Amendment.

THIRD CAUSE OF ACTION

(Violation of 42 U.S.C. § 1983 – Fourteenth Amendment, Substantive Due Process)

98. Plaintiffs re-allege and incorporate all of the allegations contained in the preceding paragraphs of this verified complaint as though fully set forth herein.

99. The Fourteenth Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983, provides that no state shall deprive any person of life, liberty, or property without due process of law. The above-described conduct by Defendants infringes upon Plaintiffs’ fundamental rights and protected liberty interests, and in so doing violates Plaintiffs’ right not to be deprived of substantive due process.

100. The Fourteenth Amendment’s Due Process Clause has a substantive component that protects against government interference with fundamental rights and protected liberty interests. Plaintiffs have a protected, fundamental right and liberty interest in being able to meaningfully exercise their right to vote. In fact, there are few rights more fundamental to a functioning democracy than the right to participate in the election of government officials.

1 101. Arizona law interferes with and deprives Plaintiffs of their fundamental
2 right to meaningfully vote because those individuals wishing to support a nominee of the
3 AGP will be unable to distinguish between those candidates who are legitimate AGP
4 nominees and those who have nominated themselves to the ballot in pursuit of ulterior
5 motives. These individuals are forced under A.R.S. § 16-645(D) to cast a meaningless,
6 possibly antithetical vote.

7 **FOURTH CAUSE OF ACTION**

8 (Violation of Ariz. Const. Art. 7, Section 12 – Purity of Elections)

9 102. Plaintiffs re-allege and incorporate all of the allegations contained in the
10 preceding paragraphs of this verified complaint as though fully set forth herein.

11 103. A.R.S. § 16-645(D) does not “secure the purity of elections and guard
12 against abuses of the elective franchise” and, therefore, it violates Article 7, Section 12 of
13 the Arizona Constitution.

14 104. The State of Arizona, by subjecting minority political parties to the
15 plurality requirement contained in A.R.S. § 16-645(D) to select party nominees, has
16 failed to preserve the purity of elections in violation of the Arizona Constitution.

17 **FIFTH CAUSE OF ACTION**

18 (Violation of A.R.S. §§ 16-1006, 16-1013)

19 105. Plaintiffs re-allege and incorporate all of the allegations contained in the
20 preceding paragraphs of this verified complaint as though fully set forth herein.

21 106. Defendants acted in violation of A.R.S. § 16-1006 because they
22 “knowingly by ... corrupt means, either directly or indirectly ... attempt[ed] to influence
23 an elector in casting his vote or to deter him from casting his vote ... attempt[ed] to awe,
24 restrain, hinder or disturb an elector in the free exercise of the right of suffrage ... [or]
25 defraud[ed] an elector by deceiving and causing him to vote for a different person for an
26 office or for a different measure than he intended or desired to vote for.”

27 107. Defendants acted in violation of A.R.S. § 16-1013 because they
28 “knowingly ... [b]y ... fraudulent device or contrivance [], [] impede[d], prevent[ed] or

1 otherwise interfere[d] with the free exercise of the elective franchise of any voter, or to
2 compel, induce or to prevail upon a voter either to cast or refrain from casting his vote at
3 an election, or to cast or refrain from casting his vote for any particular person or measure
4 at an election.”

5 **SIXTH CAUSE OF ACTION**
6 (Injunctive Relief)

7 108. Plaintiffs re-allege and incorporate all of the allegations contained in the
8 preceding paragraphs of this verified complaint as though fully set forth herein.

9 109. As alleged herein, A.R.S. § 16-645(D) is unconstitutional on its face and as
10 applied to the AGP. Plaintiffs thus have a strong likelihood of success on the merits.

11 110. Given the nature of Plaintiffs’ claim that A.R.S. § 16-645(D) is
12 unconstitutional as applied to them, Plaintiffs lack an adequate remedy at law.

13 111. There exists an imminent and ongoing threat to the AGP by the Defendants
14 to deprive Plaintiffs of their constitutional rights by permitting unwanted and possibly
15 antithetical nominees to appear on the general election ballot such that Plaintiffs are
16 forced to associate with these sham candidates in violation of their constitutional rights.

17 112. The AGP faces irreparable injury if the party’s candidates and nominees are
18 selected in a process in which the AGP is deprived of its right to define its association.
19 Even if the political party has a chance to disavow any unwanted or antithetical
20 candidates following the primary election, the mere association with these candidates
21 could forever alter the message and positions taken by those associated with the AGP,
22 and could permanently alter the public’s perception of the AGP.

23 113. Moreover, granting the requested injunctive relief will promote the public
24 interest by protecting the electoral process and safeguarding the fundamental right to
25 vote.

26 114. Plaintiffs are entitled to preliminary and permanent injunctive relief
27 prohibiting the Secretary of State, County Boards of Supervisors, and County Recorders
28 from including the Defendant Sham Candidates on the general election ballot.

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115. In addition, Plaintiffs are entitled to preliminary and permanent injunctive relief restraining Defendants from implementing A.R.S. § 16-645(D).

PRAYER FOR RELIEF

Plaintiffs respectfully request the Court enter judgment:

- 1. Declaring A.R.S. § 16-645(D) unconstitutional both on its face and as applied to the Arizona Green Party;
- 2. Applying the same requirements relating to write-in candidates of parties with continued representation, as set forth in A.R.S. § 16-645(E), to minority political parties, or at least to the Arizona Green Party;
- 3. Preliminarily and permanently restraining the governmental defendants named in their official capacities and all those acting in active concert and participation with them from placing the names of the Defendant Sham Candidates on the official general election ballot;
- 4. Awarding Plaintiffs’ their reasonable attorneys’ fees and costs pursuant to 42 U.S.C. § 1988; and
- 5. Granting such further relief as this Court deems appropriate.

RESPECTFULLY SUBMITTED this 6th day of September, 2010.

COPPERSMITH SCHERMER & BROCKELMAN PLC

By s/ Roopali H. Desai
 Keith Beauchamp
 James J. Belanger
 Roopali H. Desai

Attorneys for Plaintiffs
Arizona Green Party and Claudia Ellquist

VERIFICATION

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Claudia Ellquist hereby states:

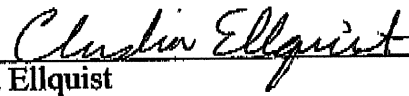
- 1. I am the Plaintiff in this matter.
- 2. I have read the foregoing Verified Complaint and know the contents

thereof.

3. The statements made therein are true based on my own knowledge, except as to matters alleged upon information and belief, and as to those matters, I believe them to be true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 6th day of September, 2010.



 Claudia Ellquist

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VERIFICATION

Angel Torres hereby states:

1. I am the Co-Chair of the Arizona Green Party, a Plaintiff in this matter.

2. I have read the foregoing Verified Complaint and know the contents thereof.

3. The statements made therein are true based on my own knowledge, except as to matters alleged upon information and belief, and as to those matters, I believe them to be true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 6th day of September, 2010.



Angel Torres