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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

ARIZONA LIBERTARIAN PARTY,	)	
ARIZONA GREEN PARTY,	)	
JAMES MARCH, KENT SOLBERG and	)	
STEVE LACKEY,	)	
	)	
Plaintiffs	)	No.
	)	
v.	)	
	)	COMPLAINT
KEN BENNETT, SECRETARY OF STATE	)	
	)	
Defendant.	)	
	)	

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**Parties**

1. The Arizona Libertarian Party and the Arizona Green Party are private associations with Statewide continuing ballot access, *i.e.*, their registrations or voter turnout are sufficiently large that they need not collect and file petitions to gain a place on the ballot.
2. James March and Steve Lackey are members of the Arizona Libertarian Party; Kent Solberg is a member of the Arizona Green Party. Marsh and Solberg

reside in Pima County; Lackey in Maricopa County.

3. Ken Bennett is Secretary of State of Arizona, a position that includes among its duties preparing and distributing voter registration forms. He is sued here in his official capacity.

### **Jurisdiction**

4. This case presents a challenge under the First and Fourteenth Amendments, and 42 U.S.C. §1983. This Court has jurisdiction pursuant to 28 U.S.C. §1331.

### **Allegations**

5. Four political parties have continuing statewide ballot access in Arizona: the Democratic, the Republican, the Green, and the Libertarian parties. The Republican and Democratic Parties are the two largest parties.

6. Arizonans who wish to register to vote do so by filing a written form, whose format is prescribed in A.R.S. §16-152. Historically, the form treated equally all parties with statewide continuing ballot access.

7. The Arizona legislature, however, amended the statute. The changes clearly benefited the two major parties, which control the legislature. It now provides for listing, on voter registration forms, only the two largest parties and a blank for “Other”:

The registrant's party preference. The two largest political parties that are entitled to continued representation on the ballot shall be listed on the form

in the order determined by calculating which party has the highest number of registered voters at the close of registration for the most recent general election for governor, then the second highest. The form shall allow the registrant to circle, check or otherwise mark the party preference and shall include a blank line for other party preference options.

8. Defendant has printed, and is issuing, voter registration forms that contain boxes to check off Democrat, Republican, and “Other.”
9. This change has the sole effect of benefiting the Republican and Democratic Parties, and disadvantaging the Libertarian and Green Parties. It suggests the first two options to the future voter, while omitting all mention of the latter parties.

10. Even if the thought of registering Green or Libertarian does come to the future voter’s mind, he or she may assume that those parties must not be real political parties or do not have ballot access, and thus there is no purpose to registering in them. When Plaintiff Steve Lackey attempted to register Libertarian at the Motor Vehicle Department, the personnel there refused to allow him to do so, in the belief that “Other” referred to Independent, and not any third party.

11. Further, a voter who checks “Other” is given a tiny box – 1/8” high by 3/4” long, in which to write his or her party of choice. Green and Libertarian registrants must abbreviate, and run the risk that their abbreviation is illegible or misread.

### **Count One**

12. The issuance of voter registration forms listing only two of Arizona's four parties with statewide continuing ballot access abridges the other two parties' First and Fourteenth Amendment rights to advocate and associate in a political context.

13. This conduct violates 42 U.S.C. §1983.

### **Count Two**

14. The issuance of voter registration forms listing only two of Arizona's four parties with statewide continuing ballot access deprives the other two parties of equal protection of the laws, guaranteed by the Fourteenth Amendment. Registration levels can be vital to a political party. Not only do they reflect membership, but they are one standard for keeping continued ballot access.

15. This conduct violates 42 U.S.C. §1983.

### **Request for Relief**

Plaintiffs request that this Court:

1. Grant preliminary and permanent injunctions, enjoining Defendant from issuing voter registration forms that do not treat equally the four parties with Statewide continuing ballot access.
2. Award them their costs and attorney's fees.

3. Award such other and further relief as may be just and equitable.

Respectfully submitted this 29th day of December, 2011,

s/\_\_\_\_\_  
David T. Hardy  
Attorney for Plaintiffs