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5  
6 **IN THE SUPERIOR COURT OF ARIZONA**  
7 **IN AND FOR THE COUNTY OF MARICOPA**

8  
9 MARICOPA COUNTY LIBERTARIAN )  
PARTY, )

) Case No.

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vs.

**PETITION FOR WRIT OF MANDAMUS  
AND WRIT OF INJUNCTION**

HELEN PURCELL, Maricopa County  
Recorder; and KAREN OSBORNE, Maricopa  
County Director of Elections; MARICOPA  
COUNTY BOARD OF SUPERVISORS, a  
body politic; FRAN MCCARROLL, Clerk,  
Maricopa County Board of Supervisors,  
FULTON BROCK, DON STAPLEY,  
ANDREW KUNASEK, MAX W. WILSON,  
MARY ROSE WILCOX, Supervisors,  
Maricopa County,

**CIVIL - ELECTION**

Respondents.

Petitioners allege:

1. Petitioner Maricopa County Libertarian Party is a county affiliate of a state political party organized and recognized pursuant to state law, represents all registered Libertarians in the affected election districts, and was one of the three recognized political parties whose candidates are eligible to appear on election ballots.

2. Respondent Helen Purcell is sued solely in her official capacity as Maricopa County Recorder. Respondent Karen Osborne is sued solely in her official capacity as Maricopa

1 County Director of Elections. Respondent Fran McCarroll is sued solely in her official  
2 capacity as Clerk of the Maricopa County Board of Supervisors ("Clerk"). Respondent  
3 Maricopa County Board of Supervisors is a body politic. Respondents Fulton Brock, Don  
4 Stapley, Andrew Kunasek, Max W. Wilson, and Mary Rose Wilcox are sued solely in their  
5 respective capacities as Maricopa County Supervisors.

6 3. Upon information and belief, on or about January 31, 2008, the Chairman of the  
7 Maricopa County Libertarian Party (MCLP), James Iannuzo, informed the Maricopa County  
8 Elections Department of the appointment of James March and John Brakey as its observers  
9 for proceedings at the counting center, as provided by A.R.S. § 16-621.

10 4. Upon information and belief, on or about January 31, 2008, Karen Osborne,  
11 Maricopa County Director of Elections, rejected the appointment and subsequently refused  
12 access to the observers designated by the MCLP.

13 5. Upon information and belief, on or about January 31, 2008, discussions between  
14 counsel for the county, Deputy County Attorney Colleen Connor, and counsel for the MCLP,  
15 Michael Kielsky, did not resolve the dispute. Additional security concerns regarding one of  
16 the appointed observers, John Brakey, were brought to the attention of the MCLP.

17 6. Upon information and belief, on or about February 1, 2008, Maricopa County  
18 Director of Elections Karen Osborne wrote a letter justifying her rejection of the MCLP's  
19 observers. (Exhibit 1).

20 7. Upon information and belief, on or about February 1, 2008, MCLP Chairman  
21 James Iannuzo requested a detailed written explanation of the decision, and offered to  
22 appoint more acceptable substitute observers.

23 8. Upon information and belief, on or about February 3, 2008, MCLP Chairman  
24 James Iannuzo again reiterated the desire to appoint observers as provided by statute, and  
25 requested reconsideration of the prior decision.

1           9. Upon information and belief, on or about February 4, 2008, Maricopa County  
2 Director of Elections Karen Osborne responded by citing related but inapplicable statutes,  
3 and again rejection the MCLP observers.

4           10. Upon information and belief, on or about February 4, 2008, MCLP Chairman  
5 James Iannuzo informed the Maricopa County Elections Department of the appointment of  
6 James March and Mike Shelby as its observers for proceedings at the counting center, as  
7 provided by A.R.S. § 16-621, thereby removing the individual who the County had asserted  
8 posed security concerns.

9           11. As a direct and proximate result of the actions and omissions of agents of Maricopa  
10 County, Petitioners and all voters will be irrevocably harmed, should Maricopa County be  
11 permitted to deny duly appointed election observers the ability to observe all proceedings at  
12 the counting center. Respondents' refusal to permit those observers as contemplated by  
13 statute impacts the credibility and credence of the processes and procedures conducted at  
14 the counting center hidden from independent observers, violates Arizona law, undermines  
15 the voting public's confidence in the electoral process, and no later remedy can adequately  
16 recompense for this unique and extraordinary harm.

17           12. This petition is timely filed. Given the urgency of the matter, it is respectfully  
18 requested that it be decided by the court as soon as possible.

19           WHEREFORE, Petitioners request this Court to issue its Order to Show Cause  
20 requiring the Respondents to appear and show cause, if any they have, why it should not  
21 enter preliminary or final orders:

22           1. Issuing an injunction ordering Maricopa County to accept those individuals so  
23 designated by the Maricopa County Libertarian Party as its observers.

24           2. Issuing an injunction ordering Maricopa County to permit all proceedings at the  
25 counting center to be observed by representatives appointed by the Maricopa County  
26 Libertarian Party.

1 3. Awarding Petitioners' reasonable costs and expenses pursuant to A.R.S. §12-  
2 2030.

3 4. Ordering such other relief, including permanent or temporary injunction, restraining  
4 order, or other order against Respondents, and awarding any other relief, as this Court  
5 deems appropriate.

6 Respectfully submitted this 4th day of February, 2008.

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8 BY: \_\_\_\_\_

Michael Kielsky  
Attorney for Plaintiff

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