

**IN THE SUPREME COURT
STATE OF ARIZONA**

JUSTIN HEAP,

Petitioner,

v.

THOMAS GALVIN, *et al.*,

Respondents.

No. CV-26-0189-SA

Court of Appeals
No. 1 CA-CV 26-0446

Maricopa County Superior Court
No. CV2025-020621
No. CV2025-022266
(Consolidated)

**REPORT OF THE MARICOPA COUNTY
BOARD OF SUPERVISORS MAJORITY**

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The Maricopa County Board of Supervisors majority, through Kate Brophy McGee, Thomas Galvin, Debbie Lesko, and Steve Gallardo, in their respective official capacities (the “Board”), respectfully submits this report pursuant to the Court’s Order of June 23, 2026.

A. Primary Election Deadlines

Early voting in the July 21, 2026 Primary Election began on June 24, 2026, both by mail and in person. Military and overseas voting began on June 6, 2026.

1. Poll Worker Recruitment and Training

- As of June 23, 2026, over 95% (*i.e.*, 574 out of 604) of the poll worker positions for early voting locations have been filled, including 48 of the 49 voter registration clerks. It is not feasible to hire additional voter registration clerks, as the Recorder has demanded.
- The deadline for finalizing the poll worker training manual was May 1, 2026; revisions are infeasible.
- Poll worker training began on June 8, 2026, and nearly one-third of poll workers already have completed the training. Changes to the curriculum are infeasible.

2. Equipment Procurement and Deployment

- It is largely too late to purchase additional equipment for the 2026 Primary Election or General Election.

- Accessible voting devices must be ordered at least four months in advance, and then must undergo programming and internal testing in advance of the statutorily required logic and accuracy testing in mid-September.
- SiteBook check-in stations for in-person voting must be ordered at least two months in advance and then require approximately 30 days of programming and testing before they can be deployed.¹
- A small number of additional ballot-on-demand printers likely could be obtained in time for the General Election (to provide separate equipment for the Recorder, for example), if they are ordered no later than the first week of July.
- Election equipment for in-person early voting during the Primary Election has already been programmed, tested, and deployed, and is currently in use.

3. On-Site Tabulation of Early Ballots

The deadline for making operational, training, and programmatic changes for on-site tabulation in the Primary Election was May 1, 2026. While minor revisions

¹ Because vendors no longer sell the current model of the County's SiteBooks, procuring and testing the new generation of SiteBooks—and updating poll worker training materials—would require additional time.

to training materials for the General Election are still possible, it is infeasible to make significant operational or programmatic changes in advance of the General Election; any such changes would require significant testing and mock elections to ensure viability.

4. Chain of Custody Procedures and Forms

The deadline to change the chain of custody forms for the Primary Election was May 1, 2026. Significant substantive revisions to chain of custody forms in advance of the General Election are infeasible; any such changes would have to be thoroughly tested, and would require the re-training of temporary workers, many of whom serve in both the Primary Election and the General Election.

5. Voting Locations and Drop Boxes

It is too late to add or change voting locations for the Primary Election; sample ballots, which indicate the voting location that is geographically closest to the voter, will be mailed out on July 3. The Elections Department has signed or is negotiating contracts for 260 locations; adding more early voting locations would risk shortages of equipment for Election Day voting.

The deadline for adding or changing drop box locations has passed. Drop boxes opened on June 24, 2026, staffing plans were finalized in April, courier teams have been hired, and daily pick-up routes have been implemented.

6. Modifying Procedures Between the Primary and General Elections

The Board generally agrees with the Recorder's assertion that "whatever operational structures are cemented into place for the 2026 Primary will be difficult and disruptive to undo for the 2026 General Election," *see* Spec. Action Pet. at 38, although, to be fair, it is possible to implement limited procedural changes between the two elections.

B. Undisputed Statutory Functions

1. IT Infrastructure and Personnel

Maricopa County maintains an elections management suite of applications known as VRAS/ERO. Both the Recorder and the Elections Department (which reports to the Board) use VRAS/ERO functions and modules to carry out their respective election administration duties.

The Board does not dispute and agrees that (a) the Recorder is entitled to access and use those components of VRAS/ERO that correspond to his statutory duties; (b) any changes to VRAS/ERO affecting either side requires the joint approval of the Board and the Recorder's Office; (c) the CIO of the Recorder's Office may have VRAS/ERO administrative privileges that are equal to those of the Deputy CIO for Maricopa County; and (d) the Board will authorize and fund eight IT personnel positions for the Recorder to fill, subject to the County's pre-existing

and generally applicable hiring and employment policies. *See generally* A.R.S. § 11-601(2).

The Board disagrees and objects to those provisions of the trial court’s April 16 order that require the Board to either transfer full “custody and control” of VRAS/ERO to the Recorder or to immediately fund the development of a redundant and parallel IT infrastructure for the Recorder. The Board also disagrees with the Recorder’s position that the Board is required to reassign existing Maricopa County personnel to fill some or all of the eight new IT positions that the Board has allocated to the Recorder.²

2. Voter Registration

The Board does not dispute that the Recorder is statutorily responsible for all or virtually all aspects of the voter registration process (*i.e.*, accepting, processing, and updating voter registrations and performing statutorily required voter list maintenance), and that the Recorder is entitled to access and use those functions within VRAS/ERO that pertain to the foregoing activities. *See* A.R.S. §§ 16-121.01, 16-131, 16-134, 16-139, 16-151, 16-161, 16-162, 16-165, 16-166, 16-168.

² The Board is prepared to adduce evidence that some or all of the eight employees whose reassignment the Recorder is demanding do not wish to work for the Recorder and intend to search for new employment if the reassignment is made.

3. Early Voting by Mail

The Board does not dispute that the Recorder is statutorily responsible for all or substantially all aspects of mail-in early voting, to include distributing early ballots by mail, scanning early ballots received by mail, and conducting signature verification and signature curing in connection with early ballot affidavits (*see* A.R.S. §§ 16-542, 16-544, 16-550, 16-550.01)—except that (a) the “early election boards” that canvass and tally received early ballots are appointed and overseen by the Board (*see* A.R.S. §§ 16-551(A), 16-552), and (b) the Board prepares the form of all ballots, (*see id.* §§ 16-503, 16-510, 16-545).

4. In-Person Early Voting

The Board does not dispute that, as a general matter, the selection and operation of in-person early voting locations is the Recorder’s responsibility. *See* A.R.S. § 16-542(A). But the Board’s position is that this authority is subject to and conditioned by the Board’s authority to (a) limit the number of sites, consistent with what the trial court recognized is the Board’s fiscal and budgetary discretion, *see id.* §§ 11-201(A)(6), 42-17101, *et seq.*; *Maricopa County v. Dann*, 157 Ariz. 396, 399 (1988) (“The power and responsibility for producing a balanced county budget rests with the board of supervisors.”); (b) ensure that the Recorder’s proposed sites can be procured consistent with the County’s generally applicable contracting and real estate management policies and procedures, *see* A.R.S. § 11-201(A)(2)-(4), 11-

251(54); (c) require the Recorder to use at early voting locations equipment purchased by the Board for use at Election Day voting locations, to avoid wasteful and duplicative expenditures; and (d) promulgate and enforce hiring and personnel policies applicable to temporary election workers, many of whom participate in both early voting and Election Day operations, in the interest of conserving resources and ensuring the County's election workers gain useful experience in the weeks leading up to Election Day. *See generally* A.R.S. §§ 11-201(A)(6) (Board has budgeting authority for all county offices); 11-409 (Board must consent to appointment of deputies, assistants, clerks, etc.).

The Board believed that the Recorder and Board had agreed in principle to jointly hire and train the temporary workers who will serve during both the early voting and Election Day periods. But, as discussed in Part C below, the Recorder apparently is now demanding two separate training protocols (one for early voting and one for Election Day operations). The Board has not budgeted funds for independent training programs. Further, it would be impracticable to re-train over 600 poll workers during the fleeting interval separating the end of early voting (*i.e.*, 7:00p.m. on the Friday prior to the election) and the first day of emergency voting (*i.e.*, the Saturday prior to the election).

The Recorder and Board disagree on whether (a) the Recorder can exclusively control during the early voting period equipment (*e.g.*, e-pollbooks) that the Board

has purchased for both early voting and Election Day uses; and (b) the Recorder can unilaterally terminate during the early voting period temporary workers whom the Board plans to deploy to Election Day voting locations.

5. Ballot Drop Boxes

The parties disagree on whether the Board has any role in determining the physical locations of ballot drop boxes. The parties also disagree on which office is responsible for administering drop boxes (*i.e.*, retrieving and transporting ballots from drop box locations). The Board and Recorder have agreed upon an arrangement whereby two couriers (one appointed by each office) jointly collect and transport ballots deposited at drop boxes, but continue to disagree over which office possesses ultimate authority to direct the courier team in the event of a dispute. *See* 2025 ELECTIONS PROCEDURES MANUAL ch. 2 § 1(H), p. 77.

6. Emergency Voting

The Board believes it is undisputed that the Board is exclusively responsible for administering emergency voting, which is available during the three-day period prior to the election. *See* A.R.S. § 16-542(H).

7. Election Day Voting

The Board believes it is undisputed that the Board has sole authority to (a) determine Election Day voting locations, *see* A.R.S. § 16-411(A), (B)); (b) prepare ballots and procure, deploy, and control the equipment and supplies that are used by

Board staff at Election Day voting locations, *id.* §§ 11-201(A), 16-447, 16-450, 16-503, 16-509, 16-510, 16-511; and (c) appoint, manage, and oversee the election boards that administer Election Day voting location operations, *see id.* §§ 16-531, 16-532.

As discussed in more detail below, the parties disagree concerning which office is responsible for on-site tabulation of early ballots, to include tallying and canvassing functions associated with the same. And the Recorder appears to take the position that he is entitled to manage any equipment that his staff uses for on-site tabulation.

8. Ballot Tabulation

The Board believes it is undisputed that the Board has sole authority to conduct and oversee all tabulation activities at the Central Counting Center, including the tabulation of early ballots that have cleared signature verification by the Recorder's Office. *See* A.R.S. 16-621(A) ("All proceedings at the counting center shall be under the direction of the board of supervisors or other officer in charge of elections.").

The parties disagree on whether the Recorder or the Board is entitled to control video surveillance operations at the Central Counting Center. *See* A.R.S. § 16-621(A), (D).

9. Provisional Ballots

It is undisputed that the Recorder's Office is responsible for overseeing the processing and curing of conditional provisional ballots and provisional ballots. *See* A.R.S. § 16-584. The Board believes it is undisputed that the Board is responsible for preparing and printing provisional ballots, issuing provisional ballots during emergency voting and Election Day voting, and tabulating and canvassing cured provisional ballots. *See id.* §§ 16-503, 16-509, 16-510(A), 16-542(H), 16-621(A), 16-642, 16-646.

10. Chain of Custody

The Board's position is that it is responsible for maintaining and documenting the chain of custody for materials under its statutory control, including (a) all early ballots that have cleared signature verification by the Recorder's Office, or that are received at in-person voting locations on Election Day until they are transferred to the Recorder for signature verification; (b) all Election Day ballots; (c) all provisional ballots and conditional provisional ballots that have been timely cured; and (d) all supplies and equipment deployed to Election Day voting locations. A.R.S. §§ 16-621(A) ("All proceedings at the counting center shall be under the direction of the board of supervisors or other officer in charge of elections."); 16-608 (Election Day ballots must be delivered to Board-designated location); 16-617 (Election Day precinct registers and "other election supplies" must be delivered to

the Board); 2025 ELECTIONS PROCEDURES MANUAL at 227–28 (outlining chain of custody protocols for the Receiving Boards that take possession of Election Day ballots and supplies).

The Recorder’s position is unclear and appears to be mutating. The Petition indicates that the Recorder believes he is responsible merely for maintaining the Board’s chain of custody documentation. *See* A.R.S. § 16-621(E). But his proposed “tailored” interim relief purports to dictate the substantive content of chain of custody forms that must be used by Board staff when handling early ballots, and possibly to permit the Recorder to document chain of custody for early ballots even after they are transferred to the Board’s possession. *See, e.g.*, [Proposed] Contempt Order ¶¶ 17, 31 (June 15, 2026).

11. Canvassing

The Board believes it is undisputed that, as a general matter, the Board is responsible for preparing and conducting the county-wide canvass of all election results. *See* A.R.S. §§ 16-624(C), 16-642(A), 16-645(A), (B), 16-646(C).

As discussed below, the parties disagree on certain tallying and canvassing responsibilities arising out of on-site early ballot tabulation.

12. Command Center

It is undisputed that the Recorder and his senior staff will have badge access to the County’s Command Center during the early voting period.

13. Procurement and Spending

The Board believes it is responsible for all county-level procurement. *See* A.R.S. § 11-201(A)(3). The Recorder’s proposal shifts independent spending and procurement authority to his office. *See, e.g.*, [Proposed] Contempt Order ¶¶ 14.1(a), 17 (June 15, 2026).

14. Equipment and Maintenance

The Board believes it is required to provide election equipment and support to the Recorder’s Office in a manner than empowers him to perform his statutory duties. *See* A.R.S. §§ 11-601(2), 16-447, 16-449, 16-450 (Board purchases, tests, and determines the location of voting devices and equipment). The Recorder appears to accept that his office may be required to use the election equipment owned by the Board, but maintains that the Recorder must have a budget and authority to hire his own staff to maintain the election equipment that he uses (*i.e.*, that if the Recorder is using election equipment, it cannot be serviced by the Board’s maintenance staff). *See* [Proposed] Contempt Order ¶¶ 22, 24 (June 15, 2026).

C. “Tailored Interim Relief”

The Recorder’s petition points the Court to 12 pages of proposed operational directives that, the Recorder assures the Court, “eliminate[] any legitimate operational concern.” Pet. at 46.

Before turning to the specifics of the Recorder’s proposal and the disruptions that would follow, several observations are necessary:

1. The Recorder’s proposal was never litigated in the lower courts. The Recorder filed his 12-page proposal for the first time in the trial court (as a proposed contempt order) only *after* the stay motion was fully briefed in the Court of Appeals. *See* Notice of Filing Proposed Contempt Order (June 15, 2026). Because it was not urged in the Court of Appeals as an alternative to a denial of the stay, the Recorder has seemingly waived the argument. *See City Of Phoenix v. Fields*, 219 Ariz. 568, 573 (2009).
2. There is a limited factual record regarding the degree of disruption that would follow from the Recorder’s proposal. Before the Board responded to the Recorder’s 12-page proposal, the stay order mooted the proposal. The parties therefore never presented evidence regarding the significant operational difficulties that would inevitably follow from the Recorder’s proposal.
3. The Recorder suggests that the Court should now consider “targeted, statute-specific interim relief that preserves existing voter-facing procedures”—but that phrase has no discernible meaning. Is canvassing a “voter-facing procedure”? Drop box site selection? Is the maintenance of elections equipment used by voters and poll workers a “voter-facing

procedure”? Many functions that might superficially seem internal and not “voter facing” (like a reorganization of IT personnel) can foreseeably have a profound effect on the voter experience (for example, if the County’s IT personnel leave their employment in significant numbers to avoid working for a hostile boss).³ The proposal invites an intractable line-drawing problem, and is not an operational principle.

Turning to the contents of the Recorder’s 12-page proposal, operational problems abound. Take, for example, the demand that the Recorder exercise exclusive control over early voting site selection. *See* [Proposed] Contempt Order ¶¶ 17, 19 (June 15, 2026). The operational problems here are several:

- Early voting sites for the primary election have already been finalized and published. *See supra* Section A.
- The Board, not the Recorder, is statutorily responsible for negotiating and securing the County’s interests in real property. *See* A.R.S. § 11-251(45)-(46).
- The Board must manage the County’s budget, and may be unable to fund as many sites as the Recorder would like. *See id.* §§ 42-17101, 11-201(A)(6).
- The policy reflected in the Unanimous Resolution, which remains in effect under the stay order, already gives the Recorder the power to

³ The *Purcell* principle protects election workers (not just voters) from disruptive and confusing last-minute changes. *See Lake v. Hobbs*, 623 F. Supp. 3d 1015, 1031-32 (D. Ariz. 2022) (“In applying *Purcell*, Courts have made clear that it stands for more than just the proposition that federal courts should avoid changes in law that may cause voter confusion. The County Defendants are correct to assert that courts applying *Purcell* also ‘caution federal courts to refrain from enjoining election law too close in time to an election if the changes will create administrative burdens for election officials.’”).

“accept or modify the list of sites” for early voting, *see* SUPP.APP029, and that policy seems to be working well—so the practical effect of the Recorder’s demand for absolute control may be academic.

It doesn’t end there. Consider next the Recorder’s demand to hire an independent team of election equipment technicians at every early voting site to “supervise and direct” the technicians whom the Board employs. *See* [Proposed] Contempt Order ¶¶ 22, 24. Again, the problems are numerous:

- The County budget does not have funding for a second, redundant set of equipment technicians.
- It is too late to hire and train technicians for the primary election, and it would be difficult to hire and train enough technicians for the general election.
- There is not enough time to inspect, repair, and perform maintenance on equipment during the very brief interval between the end of early voting (at 7:00p.m. on the Friday before the election) and the beginning of emergency voting (the Saturday before the election).
- The policy reflected in the Unanimous Resolution, which remains in effect under the stay order, already ensures that “[t]he Board’s staff, experienced in equipment maintenance and troubleshooting, will provide technical support for the Recorder’s in-person early voting functions.” *See* SUPP.APP029.
- There is no evidence that the Board’s technicians are not performing well or are somehow undermining the Recorder’s ability to perform his statutory functions—so again, the Recorder is litigating an issue in the absence of any discernible injury.

The operational problems in the Recorder’s 12-page proposal are too many to discuss in narrative format. Instead, point-by-point response is attached as Appendix A.

Respectfully, courts are ill equipped to determine “on the fly” such complicated, budget-intensive, and high stakes policies that affect elections administration—particularly without a lower court record. Last-minute experimentation has no place in statewide elections. That kernel of truth gave rise to the judicial restraint of the *Purcell* doctrine.

D. Operational Risks

The Board believes that the trial court’s April 16 order and any dissolution or abrogation of the stay granted by the Court of Appeals present significant operational risks to the following election administration activities:

1. Authorization of Drop Box Locations

As documented in the Board’s Emergency Motion for a Stay Pending Appeal and accompanying Appendix, the Recorder publicly stated that, by unanimously approving a resolution that designated various ballot drop box locations, *see generally* 2025 ELECTIONS PROCEDURES MANUAL at 78, the Board violated the April 16 order and committed a felony offense. Both the purported constriction of the Board’s authority to select drop box locations and threats of felony prosecution (which has deterred former election workers from returning to serve in the 2026 elections) impede core election administration functions.

2. Ballot Replacement Site Operations

The Board contracts with municipalities and other political subdivisions to implement their jurisdictional elections. *See* A.R.S. § 16-205(C). These jurisdictional elections typically are conducted almost entirely by mail, but the County maintains ballot replacement sites at which eligible voters may obtain (and, if they wish, cast) ballots. Voting operations conducted at ballot replacement sites are overseen by election boards that are appointed and trained by the Board, *see id.* §§ 16-531, 16-532. The Recorder’s position is that A.R.S. § 16-558.02, as interpreted in light of the April 16 order, entitles him or his “designee” to exercise exclusive control over ballot replacement site activities.

The resulting operational risks were actualized in recent jurisdictional elections conducted in the City of Tempe and the Town of Guadalupe, with whom the Board maintains decades-old intergovernmental agreements. The Recorder’s “designee” in Tempe (but not in Guadalupe) instructed election board workers (who report to the Board) at a ballot replacement site to issue voter-facing communications that were inconsistent with the Election Department’s directive and not required by the workers’ training. Consequently, these workers were subjected to conflicting orders from two sources of purported authority, and voters received inconsistent guidance depending on which ballot replacement site they visited.

The next jurisdictional election will occur in March 2027.

3. On-Site Tabulation Program

Maricopa County will for the first time offer voters in the 2026 primary and general elections the opportunity to have their early ballots tabulated on-site at Election Day voting locations. Voters who select this option must sign the e-pollbook and present legally sufficient proof of identity before placing their previously issued early ballot into the tabulation device.

The Recorder's position is that A.R.S. §§ 16-579.01 and 16-579.02, as interpreted through the lens of the trial court's order, vest the Recorder or his "designee" with sole and exclusive control over such on-site tabulation activities. The Recorder has publicly stated that he intends to mandate a separate line for voters who wish to utilize the on-site tabulation option—essentially seizing control of the site plan without regard for the Board's preferences and experience. This bifurcation of authority creates multiple operational risks. First, some sites lack sufficient space for a second line and additional poll workers. Second, some voters likely will be confused or frustrated by the multiple queues. Third, and perhaps more significantly, the April 16 order engenders ambiguity—if not outright contradictions—regarding the critical question of which office oversees and controls the poll workers who implement on-site tabulation. The Recorder, relying on the April 16 order, arrogates this authority to himself. But A.R.S. §§ 16-531 and 16-

532 provide that the Board alone selects, trains, and manages Election Day personnel.

The Petition elides this incoherence by assuring the Court that “Board personnel may continue performing logistical functions under a coordinated protocol.” Pet. at 23. But this obscures that there is not, in fact, any “coordinated protocol;” as the discord afflicting ballot replacement sites (discussed above) illustrates, the Board and the Recorder are not always aligned on how poll workers should be managed and instructed. There is a significant and palpable possibility that poll workers will receive divergent instructions concerning the administration of on-site tabulation operations, and even seemingly minor disagreements have given rise to sharp accusations and cries for judicial retribution. Absent a clearly demarcated and unitary chain of authority governing all proceedings at Election Day voting locations, operational risks—including the danger of delays and voter frustration induced by poll workers’ uncertainty, and election worker attrition—will ensue.

4. Chain of Custody

Longstanding Arizona statutes charge the Board with maintaining an unbroken chain of custody for (a) all emergency voting and Election Day ballots, (b) all early ballots that clear signature verification by the Recorder’s Office or that are dropped-off on Election Day (prior to their transfer to the Recorder for signature

verification), and (c) all provisional ballots that are timely cured. *See* A.R.S. §§ 16-621(A) (“All proceedings at the counting center shall be under the direction of the board of supervisors or other officer in charge of elections.”); 16-608 (Election Day ballots must be delivered to Board-designated location); 16-617 (Election Day precinct registers and “other election supplies” must be delivered to the Board); 2025 ELECTIONS PROCEDURES MANUAL at 227–28 (outlining chain of custody protocols for the Receiving Boards that take possession of Election Day ballots and supplies).

Relying on the April 16 order, the Recorder contends that A.R.S. § 16-621(E) enables him or his “designee” to exercise exclusive control over “records that record the chain of custody for all election equipment and ballots during early voting through the completing of provisional voting tabulation.” The Petition attempts to rationalize this position by severing the chain of custody itself from documentation of it.⁴ The Board respectfully submits that however theoretically plausible it might be, that distinction is practically unworkable. Maricopa County elections entail millions of ballots, thousands of ballot receptacles and containers, and hundreds of items of equipment—all of which pass through the hands of multiple individuals. Chain of custody records total in the thousands of pages for each election.

⁴ The Recorder’s actual position is a moving target. Although the Petition suggests only that the Recorder maintain the Board’s documentation of chain of custody, his proposed “tailored” interim relief purports to dictate to the Board the substantive content and parameters of the chain of custody documentation itself.

The Recorder’s proposed disassociation of the custodian (*i.e.*, the Board) from documentation of the custody arrangements has never before been attempted, and the Board believes that serious operational risks attend its experimental execution in the imminent 2026 elections.⁵

5. Multiple Tabulations and Canvasses

The April 16 order vests in the Recorder or his “designee” the sole authority to “[c]ategorize and tally separately in the official canvass and other reports electors whose voted early ballots are tabulated at the precinct or voting center.” A.R.S. § 16-579.01(B)(3). This conjoins an operational impossibility with a legal contradiction. The tabulator functionality needed to tally these ballots must be programmed at the Central Counting Center as part of the Board’s election preparation process. *See id.* §§ 16-447, 16-449, 16-621(B) (Board is responsible for procuring, testing, and maintaining equipment). And the election management server (“EMS”) in the Central Counting Center that is used to aggregate all election results (*see id.* § 16-621(B)) must be the same server for all ballot styles; it is not possible to have two separate EMS systems. In other words, it is effectively impossible for the Recorder to unilaterally control the tallying of on-site early

⁵ More generally, as discussed above in Part C, the Recorder’s proposed “tailored” interim relief test-drives numerous novel ideas for slicing-and-dicing various election administration tasks that were never previously briefed, argued, or analyzed in the lower courts.

ballots. And Arizona law is clear that the Board—and the Board alone—must prepare a full and complete canvass. *See* A.R.S. §§ 16-642, 16-645, 16-646.

The Recorder posits that “[o]ne office supplies a statutorily required component; the other completes and transmits the canvass,” and so the canvass is not “bifurcated.” Pet. at 24. But this reasoning contains its own refutation. Segmenting a component of the canvass to the Recorder is—by its very nature—bifurcating the canvass. The Board believes that the anomalous and often internally incoherent fracturing of election administration duties produced by the April 16 order underscore the unsoundness of the trial court’s interpretive conclusions. But for present purposes, it suffices to emphasize that the April 16 order injects operational uncertainty and risk into what had been for decades an undisputedly unitary canvassing function.

RESPECTFULLY SUBMITTED this 25th day of June, 2026.

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Appendix A

<u>Paragraph from Proposed Order</u>	<u>Heap Proposal</u>	<u>Board Response</u>
14(b)	The Recorder's staff has "full administrative access to, and operational and physical control over" the IT systems.	Under the Unanimous Resolution (which remains in effect under the Court of Appeals's stay order), the Recorder's staff already has equal administrative access and no changes can be made to the IT system without joint approval by the Board and the Recorder. <i>See</i> SUPP.APP028-29. The apparent purpose of the Recorder's proposal is therefore not to ensure the Recorder's access, but to prevent the Board from having equal access.
14(c)	Immediate transfer of all IT personnel to the Recorder	Based on conversations with relevant IT personnel, the Board believes many and potentially all of the relevant IT personnel would quit their employment rather than work for the Recorder and his CIO. <i>See generally</i> APP271. It would be impossible to administer the 2026 election without a functioning IT staff. The Board was prepared to develop this fact more fully in response to the Recorder's contempt motion, and is prepared to present its evidence at the appropriate juncture--but it is misguided to suggest that IT personnel on whom Maricopa County elections rely can be lightly "transferred" to a hostile supervisor who has publicly and unfairly maligned their work product. <i>See generally</i> APP238-39 (1/26 Tr. 217:21-218:6) (blaming the Board's IT staff for an issue caused by the Recorder's IT staff); APP244-45 (1/26 Tr. 223:25-225:22 (Young)); APP072, 85 (1/26 Tr. 51:13-15, 64:7-64:18 (Colby)); APP178 (1/26 Tr. 157:22-25 (Heap)). Even if such a reorganization is not "voter facing," it would imperil employment relationships that are critical to Maricopa County elections. <i>See generally Lake v. Hobbs</i>, 623 F. Supp. 3d 1015, 1031-32 (D. Ariz. 2022) (applying <i>Purcell</i> to administrative burdens, not just burdens directly on the franchise).

<u>Paragraph from Proposed Order</u>	<u>Heap Proposal</u>	<u>Board Response</u>
14.1(a)	The Board must appropriate funds for “the Recorder’s exclusive spending authority, [in] an amount to be determined by the Recorder’s Office” to allow the Recorder to “contract for, procure, and deploy its own independent IT systems and personnel capable of supporting voter registration, early voting administration, early ballot processing, and signature verification operations in time for the June 24, 2026 early ballot mailing deadline.”	Legally, this proposal confers on the Recorder the county’s procurement and taxing-and-spending authority, which are indisputably Board functions and powers that the voters have never entrusted to the Recorder. <i>See generally</i> APP015 ¶¶ 4-5. Factually, the Recorder’s proposal is facile and fanciful; it would cost \$10,000,000 to \$50,000,000 (funds the county has not budgeted for this purpose) and would require at least a year (not two weeks) to build a new IT system. <i>See</i> APP305–07.
14.1(d)	“Ancillary electronic equipment purchased by MCRO and not transferred via formal County procedures shall be immediately returned to the Recorder”	This was not litigated below. Additionally, this seemingly innocuous line appears to be an attempt to immunize the Recorder’s CIO from liability in an unrelated matter that is currently under criminal investigation by a third party. <i>See generally</i> Notice of Factual Development and Emergency Motion for Status Conference (June 7, 2026) (describing, albeit with a series of significant factual misrepresentations, an investigation into the potential misappropriation of critical election infrastructure and mishandling of ballots by the Recorder’s CIO).
17	“The MCRO shall have final decision-making authority and operational direction over all Recorder-administered functions for the 2026 Primary Election”	The discretion claimed by the Recorder is unavoidably limited by budgetary constraints, legal liabilities, etc. County officers simply cannot have open-ended “final decision-making authority and operational direction” over issues affecting the county budget. Consider, for example, the Recorder’s demand for separate training sessions for early voting poll workers and a T-Tech deployed to every early voting location. Those items are not within the county’s ELE1 budget; rather, they are whimsical “wish list” items that simply cannot be operationalized in times of scarcity-and certainly not this fiscal year.

<u>Paragraph from Proposed Order</u>	<u>Heap Proposal</u>	<u>Board Response</u>
17, 19	The Recorder will have unfettered discretion and total control of “all early voting locations” and site selection.	The policy set forth in the Unanimous Resolution (which remains in effect under the Court of Appeals’s stay) appropriately balances (a) the Recorder’s interest in managing early voting with (b) the Board’s responsibility for managing budgetary and real property interests. <i>See</i> APP015 ¶¶ 4-5, SUPP.APP029. Working under the principles adopted in the Unanimous Resolution, the Board has worked with the Recorder’s Office and determined early voting sites for the 2026 primary election, and will do the same for future elections. That is how the process should work; the Board need not blindly approve proposed voting sites and instead can (and should) review such proposals for budgetary issues (some sites would be prohibitively expensive, for example), site accessibility, and constitutional concerns (<i>e.g.</i> , partisan favoritism in site locations, etc.).
17	The Recorder will have total control of “early ballot custody procedures.”	All parties agree that the Board is responsible for processing and tabulating early ballots. Even with an optimal working relationship between offices, it would be operationally difficult for someone who is not in possession of ballots to document their handling and chain of custody. <i>See</i> APP271-73; Purcel Decl. ¶¶ 23-24, 26 (a chain of custody “requires that the office responsible for chain-of-custody recordkeeping at each stage be the same office that actually has physical custody of the ballots and equipment at that stage. That is how chain of custody has always worked in practice — and the trial court’s interpretation makes no sense against this operational reality.”).

<u>Paragraph from Proposed Order</u>	<u>Heap Proposal</u>	<u>Board Response</u>
17	“The Board of Supervisors Elections Department . . . shall retain responsibility for emergency and election day voting operations, tabulation, and canvassing.”	This is an important acknowledgement from the Recorder, but it contradicts the Recorder’s simultaneous claim to tabulation and canvassing authority. <i>See</i> Pet. at 22-25. Operationally, the Recorder's demand for tabulation and canvassing authority (in the Petition) raises serious problems. Tabulation and canvassing are technologically complex processes that require a sophisticated (and secure) election management server. With current technology, the same server must be used for all ballot styles in an election--and the server used in Maricopa County is located in the central counting facility under the Board's authority. <i>See</i> A.R.S. § 16-621. Indeed, the Board is responsible for programming the tabulation equipment, <i>id.</i> §§ 16-447(B), -621; testing the equipment, <i>id.</i> § 16-449(A); delivering the equipment, <i>id.</i> §§ 16-447(C), -450; and maintaining the centralized vote count, <i>id.</i> § 16-621. The Recorder’s proposal ignores all these logistical problems; he suggests no thoughtful, field tested process for subdividing the tabulation and canvassing functions under these limitations.
18	The Board shall “provide sufficient personnel, resources, and equipment to support Recorder-administered functions, and all such personnel provided by BOS Elections or County departments shall perform those tasks under MCRO direction for the duration of the assigned function.”	If the Board makes available to the Recorder sufficient resources to fulfill the Recorder’s statutory functions, the Board has discharged its duty. The BoS has never disputed its duty to provide this baseline of resources, and the Recorder has no right to demand more than that. The Recorder’s proposed order on this topic is tantamount to a circular “follow the law” injunction. The Recorder invokes it as an <i>ipso facto</i> entitlement to resources and powers that the Board maintains either are not, in fact, necessary for the performance of his duties or that infringe on the Board’s statutory responsibilities--and seeks a finding of contempt (and \$100,00 per day) based on his non-obvious construction of such language.

<u>Paragraph from Proposed Order</u>	<u>Heap Proposal</u>	<u>Board Response</u>
20	“For all personnel assigned to Recorder-administered EV or voter-registration functions, the MCRO shall have operational direction authority, training authority, assignment authority, and the authority to remove or reassign any such personnel during the period of their as-signment.”	The policy set forth in the Unanimous Resolution (which remains in effect under the Court of Appeals’s stay order) appropriately balances (a) the Recorder’s interest in training and managing early voting and voter registration with (b) the Board’s responsibility for managing costs and having a workforce ready to manage the high-volume workload and demands of Election Day. <i>See</i> SUPP.APP029. As the Board found when adopting the Unanimous Resolution, <i>see id.</i>, there are substantial cost savings in jointly hiring and jointly training only one pool (rather than two separate pools) of election workers for early voting and Election Day. Shared hiring, training, and deployment results in better trained and more experienced poll workers, and a smoother voter experience. And the county’s ELE1 budget does not have enough funds to implement the Recorder’s demand for a separate, autonomously trained and managed workforce for just the early voting period. In the near term, this proposal is operationally infeasible; in the long term, it may require a reduction in the number of voting sites, with a higher cost-per-site.
22, 24	“The MCRO shall hire one Technology Technician (‘T-Tech’) Auditor for each EV location. The T-Tech Auditor shall serve as the senior T-Tech at the site, shall supervise site setup and equipment, and shall supervise and direct [the Board’s] T-Techs at the site during the EV period.”	This was not litigated below. Additionally, the County’s ELE1 budget does not have enough funds to implement the Recorder’s demand for a T-Tech at every location, the equipment maintained by T-Techs cannot be transferred from the Recorder’s T-Techs back to the Board’s T-Techs (and tested, etc.) in the roughly 14 hours between the end of early voting and the beginning of emergency voting, and in any event it is too late to hire new T-Techs for the Recorder’s Office. Meanwhile, the policy set forth in the Unanimous Resolution (which remains in effect under the Court of Appeals’s stay order) appropriately balances (a) the Recorder’s right to use critical election equipment during the early voting period with (b) the Board’s responsibility for managing costs through shared equipment and services. <i>See</i> SUPP.APP029. Importantly, there is no evidence that the performance of the Board’s T-Techs has been unsatisfactory or limits the Recorder’s ability to discharge his statutory duties.

<u>Paragraph from Proposed Order</u>	<u>Heap Proposal</u>	<u>Board Response</u>
25-26	“All BOS Elections personnel [providing support services to the Recorder] shall act under the full supervision and management of the MCRO for the duration of their performance of such functions.”	Based on conversations with county personnel, the Board believes a significant number of its staff would quit their employment rather than work under the “full supervision and management” of the Recorder. Any such development would obviously endanger operations for the 2026 election. The policy adopted in the Unanimous Resolution, which remains in effect under the Court of Appeals’s stay order, contemplates that Board-managed personnel will support the Recorder and appropriately balances the competing policy concerns here. <i>See</i> SUPP.APP029; Purcell Decl. ¶ 22. There is no evidence that the efforts of Board-managed personnel are unsatisfactory, or that the Board-manager personnel are not empowering the Recorder to perform his statutory duties.
26(b), 27-28	The Recorder shall direct that poll workers “report to MCRO via the MCRO Chief Inspectors,” and “[a]ll communications from EV sites, or from personnel assigned to Recorder-administered functions at EV sites—including questions, concerns, or troubleshooting requests—shall be routed to the MCRO.”	This was not litigated below. Additionally, the Recorder’s proposal seeks to exclude the Board from communications that concern the Board. Troubleshooting reports from the field should uniformly be routed to the County’s Elections Command Center, where leadership from all the relevant offices are present and can ensure a thoughtful and speedy response. Excluding the Board from such communications, especially while the Board statutorily oversees elections equipment, tabulation, canvassing, real property interests, lawsuits, etc., is required by neither the underlying statutes nor the April 16 order.
26(c)	The Recorder shall “[h]ave the authority to remove, reassign, or require BOS Elections to replace any EV poll worker, including Inspectors, immediately upon request and without stated cause.”	This was not litigated below. The correction and termination of election workers should follow County personnel policies. This is necessary for both liability reasons--an issue within the Board’s statutory authority--and for the practical reason that there must be a sufficient number of election workers remaining on staff (<i>i.e.</i> , not fired by the Recorder) to perform the Board’s functions during the emergency voting period and on Election Day. The policy adopted in the Unanimous Resolution, which remains in effect under the Court of Appeals stay order, appropriately balances these concerns. <i>See</i> SUPP.APP029.

<u>Paragraph from Proposed Order</u>	<u>Heap Proposal</u>	<u>Board Response</u>
26(d)-(e)	The Recorder shall “[r]equire Inspectors hired by BOS Elections to attend an MCRO-conducted, EV-specific training session of no more than two hours’ duration” and shall “[p]rovide poll workers with an MCRO-issued addendum to the official training manual addressing EV-specific processes.”	This was not litigated below. Poll worker training is centralized (and jointly managed between the Board and the Recorder) to control costs, minimize confusion about proper protocols, and to ensure that poll workers can substitute for each other in the event of illness, family emergencies, etc. <i>See generally</i> SUPP.APP029. Although early voting-specific procedures can be incorporated into the jointly managed training, a separate, mandatory training session for a subset of poll workers will impair recruitment, increase attrition, and likely confuse inexperienced seasonal workers. Additionally, the county’s ELE1 budget does not include a line item for a separate training program and materials.
29	“The MCRO shall designate all locations for EV drop boxes. . . . The MCRO shall have final decision-making authority over all aspects of drop box placement, operation, and any deviation or incident arising from drop box operations. The MCRO shall establish chain-of-custody protocols for drop box setup, takedown, and ballot retrieval, and BOS Elections shall comply with those protocols.”	This was not litigated below. It was one of the subjects addressed in the Recorder’s contempt motion, but that motion was mooted before the Board responded. On the merits, the EPM requires the Board to approve dropbox locations. <i>See</i> 2025 EPM, Ch. 2, § I(H) (page 78). Although the Recorder’s threats of felony liability on this issue are unlikely to be followed by indictments (because they are unsupported by statutory text), Board staff is prepared to testify that the threats have nevertheless deterred experienced election workers from returning for the 2026 cycle. In that sense, the issue presents a serious operational threat. In another sense, the issue presents no operational issue at all. Despite inquires from the Board, the Recorder has not identified a single dropbox site that the Recorder believes is unsuitable, or that he believes should be added to the list of approved sites.

<u>Paragraph from Proposed Order</u>	<u>Heap Proposal</u>	<u>Board Response</u>
30	“BOS Elections and County IT and GIS personnel shall make existing systems, data, staff support, administrative access, reports, and technical assistance available to the MCRO as necessary for voter registration processing, EV administration, deadline-week support, reporting, and election-integrity functions. This obligation applies immediately and includes, without limitation, the week of June 22, 2026 (voter registration deadline week). No access required by this paragraph shall be withheld, conditioned, or delayed.”	This proposal was not the subject of litigation below, suffers from sweeping definitional issues, and in any event is untimely because the deadline cited by the Recorder has passed.
31	“The MCRO shall approve all chain-of-custody procedures for early ballots, drop boxes, and other Recorder-administered EV materials. BOS Elections shall comply with MCRO-approved procedures when providing logistical support for those materials.”	When the Board has custody of ballots (<i>e.g.</i> , during processing and tabulation), it can oversee its own chain of custody documentation. If the Recorder is given an open-ended license to micromanage ballot movements inside an office that is not his own, efficiency, employee morale and retention, and ultimately operational smoothness will suffer. <i>See</i> APP271-73; Purcel Decl. ¶¶ 23-24, 26 (a chain of custody “requires that the office responsible for chain-of-custody recordkeeping at each stage be the same office that actually has physical custody of the ballots and equipment at that stage. That is how chain of custody has always worked in practice — and the trial court’s interpretation makes no sense against this operational reality.”).

<u>Paragraph from Proposed Order</u>	<u>Heap Proposal</u>	<u>Board Response</u>
31	“Chain-of-custody documentation shall include, at minimum: exact ballot count, location, date, time, seal number, container number, the identity and office affiliation of each custodian, transferor, and transferee, route, destination, and any exception or incident.”	This was not the subject of litigation below. The contents of chain of custody documentation can generally track the points listed in the proposal, but in certain situations some of the information (<i>e.g.</i> , the exact number of ballots) is not knowable when the form is completed (<i>e.g.</i> , when retrieving ballots from a drop box). The contents of the chain of custody documentation should be developed in light of operational realities.
32	“Designated MCRO personnel shall be included in all security meetings related to operations at MCTEC and any EV location.”	This was not litigated below and, as far as the Board can tell, there is no genuine case or controversy here.
33	“MCRO Communications Team members shall be present in the MCTEC Media Communications Room during the EV period and through the canvass. No official public statement concerning voter registration, early voting, provisional ballots, signature verification, or any other topic within the Recorder’s statutory purview shall be issued by BOS Elections, the Board, or any County department without prior written approval from the MCRO. Media inquiries related to Recorder-administered functions received by the Board shall be forwarded to the MCRO. The Board shall not respond to any such inquiry without MCRO approval.”	This was not litigated below. The Recorder’s statutory duties do not require access to the MCTEC Media Communications Room after the early voting period. And if there is to be a court-ordered prohibition on public comments (<i>i.e.</i> , a prior restraint on speech), it must go both ways; either both the Board and the Recorder can both speak their minds, or neither the Board nor the Recorder can comment on the other’s job performance.

<u>Paragraph from Proposed Order</u>	<u>Heap Proposal</u>	<u>Board Response</u>
14(a)	Immediate transfer of all “IT systems necessary for the Recorder to perform his statutory functions.”	The Recorder is already performing his statutory functions, notwithstanding miscellaneous complaints about the County IT system. <i>See</i> APP179–82 (1/26 Tr. 158:18–161:4 (Heap) (discussion of BeBallotReady.com)); APP177–78, 156:4–157:25 (Heap)); APP243–44, 222:5–223:17 (Young) (availability of online recording services for title agencies during a weekend outage); APP073, 52:6–52:25 (Colby) (marginally slower internet speeds for Recorder’s staff working remotely, and after normal working hours, for a total of 66 minutes); APP153, 162 (1/26 Tr. 132:9–18, 141:17–19 (Petty)); <i>see generally</i> Purcell Decl. ¶¶ 18-21 (“The Recorder’s Office also routinely shared infrastructure, systems, and personnel with other county departments without any understanding that this compromised anyone’s statutory authority or independence. The relevant question was always functional: could all offices access and use the systems necessary to carry out their responsibilities? It was not: did each have ‘custody and control’ over those systems?”).