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**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)

**SUPPLEMENTAL APPENDIX IN
SUPPORT OF RESPONSE TO
PETITION FOR SPECIAL
ACTION**

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May 18, 2026
VIA EMAIL

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Re: Response to Letters of May 7 and May 18, 2026

Dear Mr. Langhofer:

I write on behalf of Maricopa County Recorder Justin Heap in response to your letters of May 7 and May 18, 2026. Your letters reflect a troubling and persistent unwillingness to accept the Superior Court's clear ruling in *Heap v. Galvin* or to acknowledge the unlawfulness of the Board's continuing attempts to usurp the Recorder's statutory authority.

The Board's Bad Faith Approach to Implementation

Your May 7 letter complains about what you characterize as “constantly changing positions” and a lack of “agreement or authorized statement from the Recorder's Office on a host of important questions.” This complaint rings entirely hollow given the conduct of the Board's Elections Director, Scott Jarrett.

Far from making “good faith efforts” to “resolve day-to-day operational issues in implementing the court's order,” Mr. Jarrett has been acting in a manner that is the exact opposite of what a reasonable person would characterize as “good faith.” Mr. Jarrett has been approaching individual senior members of the Recorder's staff, seeking agreement on various issues, apparently shopping for answers until he manages to secure one he likes. It appears he is trying to create facts on the ground to alter the status quo in an attempt at locking the Recorder's Office into arrangements that cede the Recorder's statutory authority to the Board. For precisely this reason, it was necessary to establish a clear line of communication and to clarify that Mr. Jarrett's one-on-one attempts at securing agreements with individual Recorder's staff

members—particularly when those staff members lack authority to bind the Recorder on matters directly implicating the court’s order—are not binding on the Recorder.

The Board cannot complain about a lack of certainty when its Elections Director has deliberately adopted a piecemeal, staff-shopping approach that seems targeted at ensuring no clear agreement can be reached while simultaneously attempting to manufacture purported commitments that the Recorder never authorized. Your lament about the absence of operational clarity is a problem entirely of your client’s making.

Service Level Agreement for IT Transition

Your assertion that “a Service Level Agreement will be necessary to effectuate any transfer of IT resources between the parties” is puzzling. No service level agreement was signed when the Board usurped those IT resources from the Recorder in late 2024, nor does the court’s decision permit the Board to impose such a requirement as a precondition to returning what the court has ordered returned. The court’s ruling is mandatory, not an invitation to negotiate terms and conditions for compliance. The IT systems, servers, databases, and personnel in question belonged to the Recorder’s Office for decades. The Board unilaterally seized them. The court has now ordered their return. The Board does not get to impose bureaucratic obstacles or extract concessions as the price of obeying a court order.

Authority Over Ballot Replacement Sites

Your May 7 and May 18 letters both attempt to deny the Recorder’s authority to manage ballot replacement sites for the May jurisdictional elections. You have offered no legal authority to support your contention that Recorder’s Office personnel are “not authorized to manage” staff at ballot replacement sites. You offer none, because Arizona law requires exactly the opposite.

Under Arizona law and a binding decision of the Maricopa County Superior Court, only “[t]he county recorder” has the authority to “provide for a ballot replacement center” during jurisdictional elections. A.R.S. § 16-558.02(A); *see also* A.R.S. § 16-409(A). The statute does not say that the Recorder may “observe” a ballot replacement center operated by someone else. It does not say that the Recorder’s role is limited to selecting a location while the Board runs the operation. It says the Recorder “shall provide for” the ballot replacement center, which means the Recorder is responsible for its operation and administration. Any ballot replacement site that is not under the direct management and control of the Recorder is operating unlawfully.

Your suggestion that the Board’s statutory duties regarding election boards, poll worker appointment, and training somehow override or cabin the Recorder’s plenary authority under § 16-558.02 is without merit. The Legislature knows how to allocate authority between the Recorder and the Board, and it has done so repeatedly and with precision throughout Title 16. When the Legislature assigns a function to

“the county recorder or other officer in charge of elections,” the Superior Court has held—and you are well aware—that the authority vests exclusively in the Recorder unless the Recorder delegates it. The Recorder has not delegated his authority over ballot replacement sites to the Board. A ballot replacement site staffed with personnel being ordered by the Board to ignore the Recorder’s directives is operating under the control of the Board. It is not being “provide[d]” by the Recorder. And any ballot replacement site that operates under the control and supervision of the Board rather than the Recorder is operating unlawfully.

The ID Verification Process Under A.R.S. § 16-579

Your May 18 letter complains that Recorder's Office staff directed poll workers to advise voters of the statutory option to present identification when delivering an early ballot and receive an “ID Verified” designation, thereby bypassing signature verification. You characterize this as a “disruption” and claim it is “inconsistent with poll worker training.”

Poll worker training does not supersede statute. The Arizona Legislature enacted A.R.S. § 16-579(A)(4), effective in 2026, which expressly provides that “at any voting location the voter may choose to provide identification when presenting the voter’s mailed early ballot,” and if the voter does so, the election official must verify the identification, stamp the affidavit envelope “ID verified,” and place it in a secured ballot box without requiring signature verification. The statute further provides that such ballots are “deemed ready for tabulating and additional signature verification of the completed affidavit envelope as prescribed by § 16-550 is not required.”

This is not an “optional” procedure that election workers may choose whether or not to inform voters about. It is a legislatively created right that voters are entitled to exercise. The fact that the Elections Department’s poll worker training failed to adequately instruct workers to inform voters of this statutory option does not render the Recorder’s directive improper—it demonstrates that the Board’s training was deficient and inconsistent with state law. Recorder Heap’s staff took necessary corrective action to ensure that voters were informed of their rights under Arizona law. That is not a “disruption.” It is the lawful exercise of the Recorder’s authority over ballot replacement sites.

The Board’s attempt to subvert this new procedure is puzzling, particularly for an entity that has consistently complained about the costs and delays associated with signature verification. The ID verification option enacted by the Legislature leads to significantly quicker election results by allowing ballots to bypass the signature verification process entirely, eliminating days of processing time that have historically delayed the publication of final results in Maricopa County. It also saves substantial taxpayer money by reducing the manpower needed to conduct signature verification—a labor-intensive process that requires trained staff to review each affidavit

envelope and often necessitates additional cure procedures when signatures are rejected. Moreover, this procedure enhances voter confidence in elections by providing voters with immediate certainty that their ballot has been accepted and will be counted, rather than leaving them uncertain about whether their signature will pass muster days or weeks later. The Legislature recognized that voters who present valid identification in person have demonstrated their eligibility in the most reliable manner possible—far more reliable, in fact, than comparing signatures on file that may be years or decades old. By instructing poll workers to conceal this option from voters, the Board is not only violating state law, but actively working to deprive voters of a more secure, more efficient, and more confidence-inspiring method of casting their ballots.

One can only conclude that the Board's resistance to this procedure has nothing to do with election administration and everything to do with its determination to prevent the Recorder from successfully implementing any reform that might demonstrate the value of restoring his office to its full statutory authority.

Communications Between Elected Officials and Staff

Your complaint that it is “inappropriate for Mr. Heap to email a reprimand and directives to Scott Jarrett” because “[e]lected officers customarily communicate with their own staff and other elected officials—not the staff of other elected officials” is remarkable in its lack of self-awareness. Mr. Jarrett is not merely “staff.” He is the Elections Director—a senior appointed official responsible for administering elections in Maricopa County. Recorder Heap, as the elected official with statutory authority over ballot replacement sites and early voting, has every right to communicate directly with Mr. Jarrett regarding the administration of those functions, particularly when Mr. Jarrett and his staff are countermanding lawful instructions issued by Recorder personnel in the field.

What is inappropriate is Mr. Jarrett’s unlawful attempt to usurp the Recorder’s statutory authority over ballot replacement sites in direct violation of a binding court order. What is inappropriate is Mr. Jarrett instructing poll workers to disregard directions from Recorder management staff who are lawfully supervising those sites. What is inappropriate is the Board’s persistent refusal to acknowledge the court’s ruling and to comply with its terms.

The Board's Continuing Defiance

Your May 18 letter states that the Board “remain[s] open to Mr. Heap’s input and ideas” and suggests that “if Mr. Heap wishes to change the policies and practices within polling places, he should raise the issue in the first instance with the Board of Supervisors.” This framing inverts the legal reality established by the court’s April 16 ruling.

It is astounding that you claim Mr. Heap must seek the Board's permission to "change the policies and practices within polling places" when, as you very well know, the Superior Court's recent order makes crystal clear that Recorder Heap has authority over early voting and ballot replacement sites. The court did not rule that the Recorder may make suggestions to the Board for its consideration. The court ruled that the Recorder holds the statutory authority, and that the Board may not exercise that authority without the Recorder's consent. The legal posture is the reverse of what your letter suggests: it is the Board that must contact Recorder Heap if it has concerns about the Recorder's decisions regarding the administration of early voting and ballot replacement sites.

The Events of May 15, 2026

Your characterization of events at the Tempe ballot replacement site requires correction. As was made clear in the email thread from Recorder Heap on May 15 email to Mr. Jarrett (which you reference in your May 18 letter), Recorder staff discovered that poll workers had not been instructed regarding the statutory option under A.R.S. § 16-579(A)(4) allowing voters delivering an early ballot to present identification and receive an "ID Verified" designation on their ballot affidavit envelope, nor had signage been posted informing voters of this option. At Recorder Heap's direction, Recorder management staff therefore directed that signage be posted and instructed poll workers to advise voters of the option. Voters remain free to decline and instead proceed through the standard signature verification process.

Recorder Heap is deeply concerned by Elections Department personnel instructing poll workers to disregard direction from Recorder management staff and characterizing Recorder employees as merely "observers." As stated above, under Arizona law and a binding court decision, only "[t]he county recorder" has the authority to "provide for a ballot replacement center" during jurisdictional elections. A.R.S. § 16-558.02(A); *see also* A.R.S. § 16-409(A). Any ballot replacement site that is not under the direct management and control of the Recorder is operating unlawfully.

Your client must immediately cease its attempts to circumvent Arizona election law. Decisions regarding implementation of Arizona election statutes within ballot replacement sites are vested in the Recorder, not the Elections Department. The Elections Department does not have statutory authority to issue instructions to staff at ballot replacement sites that override or countermand the Recorder's directives. Interference with Recorder operations by countermanding instructions given by Recorder management staff is unacceptable and unlawful.

Election Department personnel and poll workers assigned to ballot replacement sites must follow operational direction provided by Recorder management staff. Additionally, all communications between Elections Department personnel and workers assigned to ballot replacement sites must include the Recorder's Chief of

Staff, Sam Stone, and Deputy Recorder, Jeff Mason, to ensure transparency and proper coordination.

If this interference continues, the Recorder's Office will be forced to consider additional responsive action, including advising the court and seeking appropriate relief, including sanctions and contempt.

Conclusion

The court's ruling is clear, it is binding, and it is not subject to the Board's approval. Your letters reflect a sustained effort to resist, delay, and undermine implementation of the court's order through procedural gamesmanship, mischaracterization of the legal framework, and baseless accusations against Recorder personnel who are simply doing their jobs in accordance with Arizona law.

I trust that going forward, your client will comply with the court's order and cease its unlawful interference with the Recorder's statutory duties.

Respectfully,
/s/ James K. Rogers
James K. Rogers
Senior Counsel
America First Legal Foundation



May 20, 2026

VIA EMAIL

Kory Langhofer

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Re: Unlawful Provision in Board of Supervisors Resolution Regarding Drop Boxes for 2026 Primary Election

Dear Kory and Steve:

I write to alert you to a serious legal deficiency in a resolution that the Maricopa County Board of Supervisors has placed on its agenda for this morning's formal meeting as item number 97. The second portion of the proposed resolution, which purports to authorize the Board to establish and maintain drop boxes for the deposit of early ballots during the early voting period, is unlawful under Arizona statutes. Only the Recorder possesses the statutory authority to designate the locations for drop boxes and to establish them. The Board's attempt to arrogate this authority to itself not only violates the separation of powers between the Board and the Recorder, but also exposes the Board and its employees to serious criminal liability.

I. Only the Recorder Has Statutory Authority to Establish Drop Boxes During Early Voting

Arizona's election statutes vest the county recorder—and only the county recorder—with the power to establish early voting locations. Specifically, A.R.S. § 16-

542(A) provides that “[t]he county recorder may establish on-site early voting locations” at the recorder’s office, and that “[t]he county recorder may also establish any other early voting locations in the county the recorder deems necessary.” This grant of authority is exclusive to the Recorder. A ballot drop box is, under any reasonable interpretation of the plain meaning of the statutory text, an “early voting location,” as it is a physical site where voters may deliver their voted early ballots during the early voting period. Because the statute assigns this authority exclusively to the Recorder, the Board has no independent power to establish such locations.

The statutory scheme confirms this allocation of authority. The only provisions in Arizona law that authorize the Board to maintain drop boxes are expressly limited to election day operations. Section 16-579.02(A)(1) provides that on “election day,” “at a voting center,” if an elector does not present ID, “the elector shall ... deposit the elector’s voted early ballot in its affidavit envelope in an official drop box.” This provision contemplates drop boxes maintained only on election day itself, and only at voting centers, which are under the Board’s control.

The same holds true for jurisdictional elections: A.R.S. § 16-411(D) authorizes the Board in jurisdictional elections, on election day, to “designate one or more sites for voters to deposit marked ballots until 7:00 p.m. *on the day of the election.*” (emphasis added). These statutory provisions carefully circumscribe the Board’s authority to maintain drop boxes: only on election day and only at voting centers and polling places. No statute grants the Board authority to establish drop boxes during the early voting period.

This allocation of authority is not accidental. The Legislature has expressly chosen to vest early voting administration in the Recorder, and election day operations in the Board. The absence of any grant of authority to the Board to establish drop boxes during early voting is dispositive under the well-established canon of statutory interpretation known as *expressio unius est exclusio alterius*. As our Supreme Court has held, where the Legislature “has specifically included a term in some places ... and excluded it in other places, courts will not read that term into the sections from which it was excluded.” *Am. C.L. Union of Arizona v. Arizona Dep’t of Child Safety*, 251 Ariz. 458, 463 ¶ 20 (2021). Because the Legislature specifically granted the Board authority to maintain drop boxes on election day but made no such grant for the early voting period, no such authority exists. The Board cannot simply assume powers that the Legislature has withheld.

II. Early Ballots May Only be Delivered to the Recorder.

The unlawfulness of the Board’s proposed action is further confirmed by the statutory requirements for early ballot delivery. Section 16-548(A) provides that early ballots must be “delivered or mailed *to the county recorder* or other officer in charge of elections of the political subdivision in which the elector is registered or deposited by the voter or the voter’s agent at any polling place in the county.” (emphasis added.)

Under this provision, early ballots deposited in drop boxes established and maintained by the Board—independent of the Recorder’s authority—have not been “delivered ... to the county recorder” and have not been “received by the county recorder.” The only exception in the statute is for ballots “deposited ... at any polling place,” *id.*, but that exception applies only to election day operations, when polling places are open, and voters may deposit ballots at those locations. During the early voting period, there are no “polling places” in operation, and thus, this exception does not apply.

The statutory text makes clear that the Recorder is the designated recipient of early ballots during the early voting period. Only the Recorder has the authority to establish the locations where such ballots may be deposited, and only ballots delivered to the Recorder or deposited at locations designated by the Recorder satisfy the statutory requirements.

III. The EPM Cannot Authorize Conduct That Violates Statute

The Board may seek to justify its proposed resolution by pointing to language in the 2025 Elections Procedures Manual stating that “[a]ll ballot drop-off locations and drop-boxes shall be approved by the Board of Supervisors.” 2025 EPM at 78. This reliance is misplaced. The Arizona Supreme Court has repeatedly held that the EPM cannot legalize conduct that Arizona statutes prohibit. As the Court explained in *Leibsohn v. Hobbs*, 254 Ariz. 1, 7 ¶ 22 (2022), “an EPM regulation that contradicts statutory requirements does not have the force of law.” *See also Leach v. Hobbs*, 250 Ariz. 572, 576 ¶ 21 (2021) (same).

Because Arizona statutes vest the authority to establish early voting locations—including drop boxes—exclusively in the Recorder, the EPM’s language about Board “approval” cannot override this statutory allocation of authority. The EPM cannot grant the Board powers that the Legislature has withheld. At most, the EPM’s language could be construed to mean that the Board must approve the specific drop box locations chosen by the Recorder—that is, the Board might have a consultative or approval role with respect to locations proposed by the Recorder. But the EPM cannot be read to authorize the Board to unilaterally establish drop boxes without the Recorder’s designation and consent, in direct contradiction of A.R.S. § 16-542(A).

Moreover, even if the EPM’s provisions were controlling (which they are not), the EPM makes abundantly clear that drop boxes cannot be lawfully established or operated without the Recorder’s active participation and consent. The EPM further mandates that “[t]he *County Recorder* or officer in charge of elections shall develop and implement secure ballot retrieval and chain of custody procedures.” 2025 EPM at 79 (emphasis added). Furthermore, the EPM requires that ballot drop boxes contain fire suppression devices, and specifies that “[t]he *County Recorder* or officer in charge of elections shall install and utilize” those devices. 2025 EPM at 78-79 (emphasis added). These are not ministerial tasks that can be delegated or ignored. The

development and implementation of secure ballot retrieval and chain of custody procedures necessarily requires that the drop box be designated, established, set up, and maintained in accordance with the Recorder's standards and under the Recorder's supervision from the outset.

Accordingly, any designation of drop box locations made by the Board through this resolution would be invalid and ineffectual. None of those drop box locations could be lawfully set up or operated in accordance with the EPM's own requirements, because the Recorder would not have participated in their designation, would not have approved their installation, and would not have developed the required security and chain of custody procedures. The Board cannot unilaterally establish drop boxes and then expect the Recorder to retrofit them with fire suppression devices and chain of custody procedures after the fact. The statutory and regulatory scheme requires that the Recorder be involved from the beginning—because only the Recorder has the statutory authority to establish early voting locations in the first place.

Any procedures for secure ballot retrieval and chain of custody procedures for drop boxes established by the Recorder will require that the drop box was designated, established, set up, and maintained ahead of time in accordance with the Recorder's standards and approval. Therefore, any designations made by the Board through its resolution would be invalid and irrelevant, as none of those drop box locations could be set up in accordance with the requirements of the EPM.

IV. Criminal Liability Under A.R.S. § 16-1005

Most troubling is the criminal exposure that the Board's proposed resolution creates for the Board itself and for any employees who participate in establishing or staffing unauthorized drop boxes. Section § 16-1005(E) provides that “[a] person or entity that knowingly solicits the collection of voted or unvoted ballots by misrepresenting itself as an election official or as an official ballot repository or is found to be serving as a ballot drop off site, other than those established and staffed by election officials, is guilty of a class 5 felony.”

If the Board establishes drop boxes during early voting without statutory authority to do so—that is, without the Recorder's designation and approval under A.R.S. § 16-542(A)—then those drop boxes are being misrepresented “as an official ballot repository” and are “serving as a ballot drop off site, other than those established and staffed by election officials” within the meaning of subsection (E). The Recorder is the election official with statutory authority to establish early voting locations. Drop boxes established by the Board, in contravention of the Recorder's exclusive authority, are not “established ... by election officials”—they are established by a body that lacks legal authority to do so. Any person or entity involved in establishing or operating such unauthorized drop boxes is committing a class 5 felony.

Additionally, A.R.S. § 16-1005(H) makes it a class 6 felony for “[a] person who knowingly collects voted or unvoted early ballots from another person,” with an exception for “an election official” when “engaged in official duties.” Board employees who collect ballots at drop boxes established without the Recorder’s legal authority are not acting within the scope of lawful “official duties,” because the drop boxes themselves have not been lawfully established. Such employees, therefore, do not fall within the statutory exception, and they are committing criminal ballot harvesting under subsection (H).

These are serious felonies. The Board should not proceed with a resolution that exposes its members and employees to criminal prosecution simply because it wishes to assert control over a function that the Legislature has assigned to the Recorder.

Conclusion

The proposed resolution’s authorization of drop boxes during the early voting period is unsupported by any grant of statutory authority to the Board. Arizona law vests the power to establish early voting locations—including drop boxes—exclusively in the County Recorder. The Board’s only authority with respect to drop boxes is limited to election-day operations at voting centers and polling places. The Board cannot rely on the EPM to override this statutory allocation of powers, and the EPM itself makes clear that drop boxes cannot be lawfully operated without the Recorder’s active approval and involvement in their designation, installation, and security procedures.

Most importantly, the Board’s proposed usurpation of the Recorder’s authority exposes the Board and its staff to serious criminal liability under A.R.S. § 16-1005(E) and (H). I strongly urge you to advise the Board to remove the drop box provision from this morning’s resolution. Only the Recorder has the power to designate these locations, and only drop boxes established under the Recorder’s authority can satisfy the statutory and regulatory requirements for lawful operation.

Sincerely,

/s/ James Rogers

James K. Rogers

Senior Counsel

America First Legal Foundation

cc: Recorder Justin Heap

Subject: Re: County Attorney Representation Issues
Date: Thursday, May 21, 2026 at 8:35:11 PM Mountain Standard Time
From: James Rogers
To: Johnson, Brett W. (PHX)
CC: Hogan, Ryan, Kory Langhofer, Steve Tully, McKernan, Kayla, Thomas Basile
Attachments: image003.png, image004.png, image005.png

Brett--

The claims you make in your email are directly contradicted by the facts.

You claim that the County Attorney has merely been offering "neutral advice" on issues unrelated to *Heap v. Galvin / Mitchell v. Heap*, yet that "neutral advice" was offered in a meeting in which counsel for the Board members in *Heap v. Galvin* were present and counsel for the Recorder was not. No reasonable person would conclude that the county attorney and her subordinates were acting in a "neutral" manner.

You claim that the administration of drop boxes is unrelated to the litigation between the parties in *Heap v. Galvin*, and yet the court's order in that case goes into quite a bit of detail on the meaning of the phrase "recorder or other officer in charge of elections" and the Recorder's authority over early voting. Indeed, the court made a specific conclusion of law that "whenever a statute in Title 16 of the Arizona Revised Statutes delegates authority to or imposes a responsibility on a county recorder or an 'other officer in charge of elections,' the statute is delegating that authority or responsibility to a county's recorder, unless the county's recorder agrees that an 'other officer in charge of elections' may be designated to carry it out. The recorder may subsequently withdraw his or her consent and reclaim his or her statutory authority or responsibility." The Recorder has not delegated any authority over early voting to the Board, including any authority to establish or administer ballot drop boxes.

My May 20 letter regarding drop boxes to counsel for the Board members cited multiple statutes that confer authority over early voting on the Recorder, including statutes that refer to the "recorder or other officer in charge of elections." *E.g.* A.R.S. § 16-548(A) (providing that early ballots must be "delivered or mailed to the county recorder or other officer in charge of elections of the political subdivision in which the elector is registered or deposited by the voter or the voter's agent at any polling place in the county" (emphasis added.)) The subject matter of my letter of May 20 was the Board's decision to ignore the binding decision from the court in *Heap v. Galvin* and attempt to take control of key aspects of the Recorder's responsibility for early voting. The Board's meeting with MCAO personnel on Monday and its subsequent decision to adopt a resolution usurping for itself authority over a key aspect of early voting--ballot drop boxes--raises the troubling implication that your client has been advising the Board to disobey the court's order.

Your email further confirmed that the County Attorney has *not* been offering "neutral" advice unrelated to the *Heap v. Galvin / Mitchell v. Heap*, but has instead directly inserted herself into the dispute and taken the Board's side: you admitted that the advice given by the MCAO on

Monday covered a "subject matter [that] would eventually impact the separate litigation" of *Heap v. Galvin / Mitchell v. Heap*. It is thus especially puzzling that you claimed in your email today that "no conflict that would make the County Attorney unavailable has been declared", even though you acknowledged on Monday that your client has been offering advice to the Board on matters that will impact *Heap v. Galvin* and that she did so in the presence of counsel for the Board while excluding the Recorder and counsel. Lest there be any doubt: the Recorder hereby declares that a conflict exists between himself and the Board on any matter covering the administration of early voting or any election statute that contains the phrase "recorder or other officer in charge of elections." Therefore, a conflict *has* now been declared and the County Attorney is unavailable.

Indeed, even if the County Attorney's advice to the Board on Monday were *not* related to *Heap v. Galvin*, and even if there weren't a conflict between the Board and Recorder Heap, until *Mitchell v. Galvin* has been concluded, County Attorney Mitchell has an unwaivable conflict of interest on *all* matters on which she might represent Recorder Heap, as Comment 10 to ER1.7 makes clear: "A government lawyer owes a duty of loyalty to a government organization and fulfills that duty by providing advice to the organization's client representatives. Therefore, a government lawyer cannot provide advice to, or represent, the client representative in one matter, and act as an advocate against the client representative in another matter, even when the matters are unrelated."

County Attorney Mitchell decided to sue her own client. She lost. Then she appealed. While that appeal remains active, County Attorney Mitchell is violating her "duty of loyalty" to Recorder Heap, as required by Comment 10. At least until the appeal is resolved (and perhaps longer, given the tremendous injury she has inflicted on the attorney-client relationship), she has an unwaivable conflict regarding *all* matters of representation of Recorder Heap, whether or not related to *Heap v. Galvin / Mitchell v. Heap*. Before we engage with you in any further discussion, we require a response from you on this serious issue and that you state clearly your position on whether you acknowledge that Comment 10 to ER 1.7 applies here and if you acknowledge that, because County Attorney Mitchell has sued her own client, she has created an unwaivable conflict with Recorder Heap on *all* matters.

Furthermore, if there were any doubt about whether my actions on behalf of the Recorder were related to the litigation between the parties, your email from Monday settles the matter conclusively. You complained that my direct communication with the county attorney (which *was* permissible under ER 4.2(b)) was inappropriate because she is a represented party--in other words, you confirmed your belief that the matters at issue were related to *Heap v. Galvin / Mitchell v. Heap* and requested that I, therefore, only communicate with the County Attorney through you. It is my understanding that you only represent County Attorney Mitchell with respect to *Heap v. Galvin / Mitchell v. Heap*. We therefore understand your request that I communicate with her only through you as an admission that the relevant communications between Board members and her and her subordinates are related to *Heap v. Galvin / Mitchell v. Heap*. I will therefore ensure that I direct all my future communications to the MCAO through you. However, we also interpret your request as an admission that the matters in dispute in *Heap v. Galvin / Mitchell v. Heap* remain very much live issues and that you acknowledge that I have the authority to continue to represent Recorder Heap regarding *any* "subject matter [that] would eventually impact the separate litigation" (which is how you put it in your email on Monday)--in other words, we understand your emails from this week to acknowledge that I have the authority

to continue to represent the Recorder, among other things, on any matter of election administration that involves early voting or any reference to a statute that refers to the "recorder or other officer in charge of elections."

You conclude your letter requesting a meet and confer to discuss "communications between the Board and the Recorder." Can you please provide a detailed list of issues that you would like to address at such a meet and confer? I am at a loss to understand how the Recorder's communications with the Board pertain in any way to County Attorney Mitchell or her lawsuit against Recorder Heap, especially given her protestations of neutrality and repeated claims of having been walled off from *Heap v. Galvin*.

Regards,
James

--

James Rogers
Senior Counsel
America First Legal Foundation
(623) 335-7771

On 5/21/26 12:19 PM, Johnson, Brett W. (PHX) wrote:

James -

Notwithstanding our attached email from Monday (which you have not responded to), we have become aware of additional communications from you and Recorder Heap variously demanding that the Board of Supervisors cease seeking neutral legal advice from the County Attorney's office concerning election administration and threatening "criminal prosecution" to the Board and its staff related to election drop boxes.

To start, it is flatly improper for either you or Recorder Heap to in any way demand that the Board of Supervisors or its staff—the County Attorney's clients—cease seeking neutral legal advice from the County Attorney concerning their duties and responsibilities in election administration. As her office always has, the County Attorney will continue to provide neutral legal advice to her clients as she is required by law to do. A.R.S. § 11-532(A)(7), (9).

On the contrary, in as much as no conflict that would make the County Attorney unavailable has been declared, you are unauthorized to represent Recorder Heap as it relates to election drop boxes even under Judge Blaney's Under Advisement Ruling in *Mitchell v. Heap*. To the extent that Recorder Heap believes a conflict exists, he is required to undergo the procedures outlined in *Romley v. Daughton*. Since that has not occurred, you are not authorized to represent Recorder Heap in connection with this matter. To the extent Recorder Heap would like outside counsel appointed for him in connection with his new dispute regarding election drop boxes, he must go through the County Attorney's office to obtain that counsel.

In light of this week's developments, we have serious concerns about the tenor of the communications between the Board and the Recorder and, with the election on the horizon, the workability of Maricopa County elections. We would like to hold a meet and confer with you to discuss these issues promptly. Please advise of some dates and times that work for you so that we can discuss these issues and try to achieve a viable path moving forward.

Thanks,

Brett W. Johnson, P.C.

O: [602.382.6312](tel:602.382.6312) | M: [480.567.6425](tel:480.567.6425)
bwjohnson@swlaw.com

**SNELL
& WILMER**

swlaw.com | [LinkedIn](#)

From: Justin Heap (REC) <Justin.Heap@maricopa.gov>
Sent: Tuesday, May 19, 2026 3:51 PM
To: Jen Pokorski (COA) <Jen.Pokorski@maricopa.gov>; Scott Jarrett (ELE) <Scott.Jarrett@maricopa.gov>
Cc: Samuel Stone (REC) <Sam.Stone@maricopa.gov>; Jeff Mason (REC) <Jeff.Mason@maricopa.gov>; James Rogers <james.rogers@aflegal.org>; Kory Langhofer <kory@statecraftlaw.com>; Zach Schira (COA) <ZACH.SCHIRA@maricopa.gov>; Rachel Mitchell (MCAO) <rachel.mitchell@mcao.maricopa.gov>; Thomas Liddy (MCAO) <liddyt@mcao.maricopa.gov>; Joseph LaRue (MCAO) <laruej@mcao.maricopa.gov>
Subject: RE: Ballot Replacement Center Guidelines

Dear Jen,

As Mr. Rogers explained in his letter from last night, the court's recent ruling and Arizona statute establish that the Recorder is in charge of ballot replacement sites. We have received no advice from the County Attorney about ID verification procedures at ballot replacement sites. There is no reason the County Attorney should be advising you about procedures at sites under the administration of the Recorder's office, and there is no

valid basis for the Elections Department to be seeking legal advice from the County Attorney about matters under the Recorder's Office's purview.

I appreciate your promise to "cease providing any additional direction to the poll workers at the Tempe Replacement Ballot Center on this matter," however, this falls well short of what is required by the law and the court's order. The Elections Department must cease giving any direction to poll workers at ballot replacement sites unless such directions have been cleared with the Recorder's Office first and only if any such communications between Elections Department personnel and workers assigned to ballot replacement site include the my Chief of Staff, Sam Stone, and the Deputy Recorder, Jeff Mason, to ensure transparency and proper coordination.

Furthermore, you are not authorized to seek legal advice on my behalf about any operations under the Recorder's purview and you must cease any ex parte communications with the County Attorney on such matters. I am copying County Attorney Mitchell and her relevant staff members to make clear that I believe any communications between the Board and its employees with the County Attorney's Office on matters of election administration assigned by statute to the Recorder or the "recorder or other officer in charge of elections" must include me as well. I view any violation of this request as a serious breach of the County Attorney's (and her subordinates') ethical obligations of loyalty to me as their client.

Finally, I wish to note that the Equal Protection Clause does not forbid poll workers from providing helpful information to voters, since this does not "burden a fundamental right" but rather, gives voters greater choice as to how they would like to exercise those rights. *See Short v. Brown*, 893 F.3d 671, 679 (9th Cir. 2018).

Yours,
Recorder Heap



Justin Heap

County Recorder

Recorder's Office

301 W Jefferson St

2nd Floor, Suite 200

Phoenix, Arizona 85003

O: 480-526-2434

E: justin.heap@maricopa.gov

[v](#)

Recorder.Maricopa.Gov

[Facebook](#) | [Instagram](#) | [X](#) |

[YouTube](#)

From: Jen Pokorski (COA) <Jen.Pokorski@Maricopa.Gov>

Sent: Tuesday, May 19, 2026 10:34 AM

To: Justin Heap (REC) <Justin.Heap@maricopa.gov>; Scott Jarrett (ELE) <scott.jarrett@maricopa.gov>

Cc: Samuel Stone (REC) <Sam.Stone@maricopa.gov>; Jeff Mason (REC) <Jeff.Mason@maricopa.gov>; James Rogers <james.rogers@aflegal.org>; Kory Langhofer <kory@statecraftlaw.com>; Zach Schira (COA) <Zach.Schira@Maricopa.Gov>

Subject: RE: Ballot Replacement Center Guidelines

Importance: High

Recorder Heap,

We are in receipt of James Rogers' letter regarding the May Jurisdictional Election.

To clarify our previous position, MCAO had advised that poll workers should not verbally engage voters individually on the ID verification option as an equal protection issue. In order to adhere to advice provided by

MCAO, the Elections Department printed and placed signs at the Ballot Replacement Sites informing voters of this option.

Based on your letter, we will cease providing any additional direction to the poll workers at the Tempe Replacement Ballot Center on this matter.

To ensure the best voter experience, it is necessary to send additional staff to support this site given your direction to have individual conversations with voters as they arrive at the location. Under previous circumstances, the Elections Department would send additional staff to the impacted site but will not do so based on the nature of your letter. However, we strongly recommend you deploy additional team members who have received poll worker training to the Tempe Replacement Ballot Center as soon as possible.

This site will become busier as the day continues and I know you would agree that it is critical that voters are not impacted by this change in practice.

Please confirm receipt of this email.

Thanks,
Jen



Jen Pokorski
COUNTY MANAGER
O: 602-372-0688
MARICOPA.GOV
[Facebook](#) | [Instagram](#) | [Twitter](#) |
[YouTube](#)

From: Justin Heap (REC) <Justin.Heap@maricopa.gov>
Sent: Friday, May 15, 2026 3:45 PM
To: Scott Jarrett (ELE) <scott.jarrett@maricopa.gov>
Cc: Samuel Stone (REC) <Sam.Stone@maricopa.gov>; Jeff Mason (REC) <Jeff.Mason@maricopa.gov>; Jen Pokorski (COA) <Jen.Pokorski@Maricopa.Gov>; James Rogers <james.rogers@aflegal.org>
Subject: FW: Ballot Replacement Center Guidelines

Scott,

As was made clear to you in the Court's ruling and in the letter from our attorney, only the Recorder has the statutory authority to open, maintain, and close ballot replacement sites.

Our senior FTE's are there as the site managers and they have every right to direct the operations. This includes giving instruction and correction to the poll workers.

Please instruct your staff to immediately discontinue giving unauthorized instructions to poll workers.

Any and all further communications or instructions between the elections department and the poll workers at the Recorder's ballot replacement sites must be cc'd to Sam Stone and Jeff Mason.

Justin Heap, Recorder



Justin Heap

County Recorder

Recorder's Office

301 W Jefferson St

2nd Floor, Suite 200

Phoenix, Arizona 85003

O: 480-526-2434

E: justin.heap@maricopa.gov

Recorder.Maricopa.Gov

[Facebook](#) | [Instagram](#) | [X](#) |

[YouTube](#)

From: Jeff Mason (REC) <Jeff.Mason@maricopa.gov>

Sent: Friday, May 15, 2026 3:31 PM

To: Justin Heap (REC) <Justin.Heap@maricopa.gov>

Subject: FW: Ballot Replacement Center Guidelines



Jeff Mason

Chief Deputy Recorder

Recorder's Office

301 W. Jefferson Ave Suite 705 Phoenix, Arizona 85003

O: 480-526-3936

E: Jeff.Mason@maricopa.gov

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From: Aaron Flannery (REC) <Aaron.Flannery@maricopa.gov>

Sent: Friday, May 15, 2026 2:31 PM

To: Jeff Mason (REC) <Jeff.Mason@maricopa.gov>

Subject: Ballot Replacement Center Guidelines

Hello Jeff,

I have instructed poll workers that we are going to be informing voters about the affidavit ID option to those bringing in their ballot to drop off. I was just made aware that Brittney Johnson has contacted the poll workers here at the Tempe location and informed them that this should be discontinued. I have informed our poll workers to disregard the communication and to continue offering the information.



**Aaron Flannery, MPA,
CERA**

Special Projects Director

Recorder's Office

301 W Jefferson St

Phoenix, Arizona 85003

C: 602-575-3046

E: aaron.flannery@maricopa.gov



May 26, 2026

VIA EMAIL

Kory Langhofer

Counsel for Chair Kate Brophy McGee, Vice Chair Debbie Lesko, Supervisor Thomas Galvin, and Supervisor Steve Gallardo
Maricopa County Board of Supervisors
kory@statecraftlaw.com

Stephen W. Tully

Counsel for Supervisor Mark Stewart
Maricopa County Board of Supervisors
STully@TullyBailey.com

Re: *Heap v. Galvin*, No. CV2025-020621 – Litigation Hold – Unauthorized Disclosure of Communications

Dear Kory and Steve:

I write on behalf of Maricopa County Recorder Justin Heap regarding a matter of serious and urgent concern: the apparent unauthorized acquisition and public disclosure of communication originating from the Recorder's Office, published today in connection with a news article by KTAR News dated May 26, 2026.¹

The email in question was released publicly in a manner that raises deeply troubling questions that your clients are in the best position to answer. We write now to place you on formal notice that the circumstances surrounding the obtaining and disclosure of this document will be the subject of legal proceedings, whether through a motion in the present action or through separate litigation, and to demand that all potentially relevant evidence be immediately identified and preserved.

¹ Serena O'Sullivan, *Maricopa County supervisor calls on Recorder Heap to offer solution in drop box dispute*, KTAR NEWS, (May 26, 2026), <https://perma.cc/PX2J-D624> and https://www.scribd.com/embeds/1043628443/content?start_page=1

I. The Document Appears to Have Been Obtained Without Authorization.

The email disclosed to KTAR News bears several features that are inconsistent with routine public records production and suggest it was not obtained through a lawful channel.

First, the document's metadata: the subject line begins with the identifier "[Draft]," and the document itself reflects a timestamp of "Draft saved Tue 5/26/2026 1:07 PM." These fields suggest that the version of the email reproduced in the story was a draft in progress, saved to a drafts folder within Mr. Stone's email account. A document in draft form is not a public record subject to disclosure under A.R.S. § 39-121. It would be a privileged internal work product that has not yet left the author's control.

Second, the manner of disclosure is itself telling. The email was published in unredacted form, including Mr. Stone's personal contact information. This is not consistent with the standard public records process, which—when followed—involves review, redaction of exempt material, and production through the county's official records custodian. The absence of any redaction, the speed of production, and the nature of the document (an apparent draft) collectively suggest that this document was not produced in response to a public records request at all. Indeed, the circumstances would be consistent with unauthorized access to Mr. Stone's email account or drafts folder.

Third, the unauthorized publication of Mr. Stone's personal contact information without redaction—information that a proper public records process would have screened and, if appropriate, redacted—exposes him to potential harassment and raises serious concerns about the intentions behind the disclosure. This is not an incidental oversight; it is the predictable consequence of bypassing the procedural safeguards that the public records process exists to provide.

II. The Disclosure Raises Potential Legal Violations.

The circumstances described above potentially implicate multiple legal provisions. Unauthorized access to electronic communications is a violation of the Stored Communications Act, 18 U.S.C. § 2701, et seq. Under Arizona law, A.R.S. § 13-2316 also prohibits unauthorized computer and data access.

We note that this disclosure occurred in the context of a live, contested election-related dispute in which the Recorder's Office is a party. The timing—less than an hour between the document's draft-save timestamp and the publication of a news article featuring that document—suggests coordination. We reserve all rights with respect to the potential use of this disclosure as evidence of bad faith conduct in the pending litigation.

III. Litigation Hold — Mandatory Preservation of All Potentially Relevant Evidence.

In light of the foregoing, this letter constitutes formal notice of a litigation hold directed to the Maricopa County Board of Supervisors, its members in their individual and official capacities, the Maricopa County Elections Department, County Manager Jennifer Pokorski, Elections Director Scott Jarrett, and all employees, agents, contractors, and consultants who may have had access to or involvement in the matters described herein.

You are hereby instructed to immediately take all steps necessary to identify, locate, and preserve—without alteration, deletion, overwriting, or destruction—all documents and communications potentially relevant to the following subjects:

1. The creation, acquisition, receipt, forwarding, or disclosure of any email or draft email authored by Sam Stone or any employee of the Recorder's Office disclosed to KTAR News on or about May 26, 2026 or in connection with the KTAR News article cited above in footnote 1.
2. Any access, whether authorized or unauthorized, to the email account, drafts folder, sent folder, or any other mailbox component associated with Sam Stone or any other employee of the Recorder's Office whose emails were disclosed to KTAR News.
3. Any communications—by email, text message, messaging application (including but not limited to Signal, WhatsApp, iMessage, or any similar platform), telephone call, voicemail, or in-person meeting, whether stored on county-owned devices or personal devices—between any Board member, Board employee, Board agent, Board contractor, or counsel for the Board, on the one hand, and any member of the media, on the other hand—relating to the Recorder's Office, the *Heap v. Galvin litigation*, drop boxes, or Sam Stone.
4. Any communications between Board members and Board counsel relating to the email at issue, its acquisition, its disclosure to the media, or any strategy related thereto.
5. All phone logs, call records, and text message logs—whether stored on county-owned devices or personal devices—for all Board members, their staff, Elections Department staff, and County Manager Pokorski, for the period of May 22 through May 26, 2026.
6. Any documents relating to any public records request that purportedly authorized the disclosure of the email in question, including the original request, any responsive communications, any review or redaction determinations, and any production records.
7. All IT access logs, system logs, audit trails, or other records showing who accessed Sam Stone's email account, any email account in the Recorder's

Office, or any shared email platform, during the period of May 22 through May 26, 2026.

This preservation obligation applies to all potentially relevant evidence in whatever form it may exist—electronic or physical—and regardless of whether it is stored on county-owned servers, personal computers, personal email accounts, personal mobile devices, or third-party cloud services. The obligation to preserve extends to all persons identified above and to any other person who may have responsive information. You are further instructed that no routine or automatic deletion, overwriting, or purging of records that would otherwise destroy potentially relevant material should proceed until this matter is resolved.

IV. Public Records Request

Pursuant to Arizona’s Public Records Laws, A.R.S. § 39-121 et seq., Recorder Heap also submits a public records request to your clients and to Maricopa County for all of the numbered categories and custodians listed above in Section III, except for the documents listed in number 4.

This public records request is for non-commercial purposes, as that phrase is defined in Arizona public records laws. Reasonable, statutorily entitled reproduction costs will be paid; however, if the costs are expected to exceed \$100, please provide advance notification.

Failure to furnish copies of public records “promptly”, “quick[ly]”, and “without delay” is considered a denial of access. *See e.g., Phx. New Times, L.L.C. v. Arpaio*, 217 Ariz. 533, 538 (App. 2008); *see also West Valley View Inc., v. Maricopa Co. Sheriff’s Office*, 216 Ariz. 255, 230 ¶ 21 (App. 2007). Promptness is determined “within the context of the particular facts and circumstances surrounding each request.” *McKee v. Peoria Unified School Dist.*, 236 Ariz. 254, 258 ¶ 15 (App. 2014).

Please provide the requested materials electronically via email to james.rogers@aflegal.org on a rolling basis as they become available, and, where possible, in their original format. If there are documents that are not conducive to electronic production, please notify me so I can make arrangements for delivery. If any documents are withheld, please furnish an index of records or categories of records that have been withheld and the reasons for withholding.

V. This Matter Will Be the Subject of Legal Proceedings.

The unauthorized acquisition and disclosure of an unredacted and apparently draft internal communication from the Recorder’s Office—in the midst of an active, high-stakes litigation—is a serious matter that will not be overlooked. We are currently evaluating all available remedies, including but not limited to a motion for sanctions in the pending case before the superior court, and the filing of a separate civil action. We are also evaluating whether referral to appropriate law enforcement or prosecutorial authorities is warranted.

We expect your prompt confirmation, in writing, that you have received this letter, that you have communicated its contents and the litigation hold instructions to your clients and all relevant personnel, that all responsive preservation steps are being taken immediately, and that the requested documents will be promptly produced as public records, in accordance with your clients' obligations under Arizona's Public Records Law.

Please respond no later than 5:00 p.m. on May 27, 2026.

Sincerely,

/s/ James Rogers

James K. Rogers

Senior Counsel

America First Legal Foundation

cc: Recorder Justin Heap

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

JUSTIN HEAP,

Plaintiff,

v.

THOMAS GALVIN, ET AL.,

Defendants.

No. CV2025-020621

Phoenix, Arizona
November 3, 2025
1:31 p.m.

BEFORE THE HONORABLE SCOTT A. BLANEY

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

Proceedings recorded by electronic sound recording; transcript
produced by TheRecordXchange, an authorized transcriber.

Dorothy Gravelle
Transcriptionist

1 A BidNet is an internal system for Maricopa County to
2 solicit bids under an amount of \$500,000.

3 Q Are procurements in BidNet made public?

4 A They are searchable. They are made public through a
5 searchable database.

6 Q But they're not subject to notice on Board agendas.
7 Correct?

8 A On the Board agenda, no.

9 Q So you'd be searching through literally thousands of
10 procurements to find this?

11 A Correct.

12 Q Okay. Thank you. That's all.

13 THE COURT: Hold on one second, sir. It is kind of a
14 new area. Is there anything you wanted to follow up on that?

15 MR. LANGHOFER: I'm fine, Your Honor. Thank you.

16 THE COURT: All right. You can step down. Thank
17 you.

18 MR. ROGERS: I have no further witnesses, Your Honor.
19 I just reserve time for cross-examination and argument at the
20 end.

21 PLAINTIFF RESTS

22 THE COURT: Okay. Mr. Langhofer?

23 MR. LANGHOFER: Thank you, Your Honor. The Board
24 calls Mr. Scott Jarrett.

25 THE COURT: Okay. Mr. Jarrett? And you've seen the

1 process. If you can just hang out at the end of the counter
2 there, we'll have you sworn in.

3 THE CLERK: Could you please spell your last name?

4 MR. JARRETT: J-A-R-R-E-T-T.

5 THE CLERK: Thank you.

6 SCOTT JARRETT, DEFENDANT'S WITNESS, SWORN

7 THE COURT: Thank you, sir. If you could have a seat
8 right there and just make sure the microphone's close enough to
9 your mouth.

10 THE WITNESS: Okay. Can you hear me?

11 THE COURT: Yeah, I can. Thank you.

12 DIRECT EXAMINATION

13 BY MR. LANGHOFER:

14 Q Welcome, Mr. Jarrett. Why don't you take a moment,
15 introduce yourself to the Court, please.

16 A Yes. I am Scott Jarrett. I'm the Maricopa County
17 Elections Director. I've been -- of the Elections Department.
18 I've been this role since 2019, reporting up directly to the
19 Board of Supervisors, currently reporting up through the
20 assistant County manager, the County manager, to the Board.
21 Prior to this, I was an internal auditor with the County for
22 over 13 years, where I was a certified internal auditor,
23 certified fraud examiner.

24 In my role as the Elections Director, I oversee all in-
25 person voting operations, including the hiring and training of

1 all of our temporary workers. I oversee our warehouse
2 functions, all of the counting of ballots at Maricopa County.
3 I oversee the candidate filing and campaign finance functions
4 for Maricopa County, amongst other things and ancillary duties
5 that involve directing a department.

6 Q So just so we're very clear, you're under the Board's
7 umbrella and not the Recorder's umbrella. Correct?

8 A That's correct.

9 Q Okay. Sir, are you familiar with VRAS?

10 A Yes, I am.

11 Q Okay. And we've heard the other side's description
12 of it. Can you just give us, in your own words, what is VRAS?

13 A Well, VRAS, and a lot of times when I'm explaining
14 it, I have to say it's sort of a misnomer because it's the
15 voter registration automation system. But really it's an
16 enterprise system that's used by both the Recorder's Office and
17 the Elections Department. And it has many different
18 applications within it. Some of those are specific to
19 supporting the voter registration system.

20 The Recorder's Office has tended to move many of those
21 actually into the ERO system. And so the voter registration
22 applications are a little bit more of a legacy component, but
23 the majority then of the voter registration, VRAS system then,
24 is for applications that the Elections Department uses.

25 Q How often do you and your staff use the VRAS system

1 in its subparts? How frequently?

2 A Many times every day.

3 Q And does the Board need access to the VRAS system?
4 When I say VRAS system, hopefully you'll catch that I mean the
5 VRAS system and all of its subcomponents that we'll be
6 discussing here in a bit. But when the Board needs access to
7 the VRAS system, is that only in connection with site books?

8 A No, it's not.

9 Q Okay. Can you give us an example of some other parts
10 of the VRAS system that the Board needs access to?

11 A So I think the best way to describe -- so right now
12 the spatial data -- so this is data that the GIS team currently
13 goes out. So the Board is statutorily responsible for re-
14 precincting, redistricting, taking in district information from
15 other jurisdictions. And they currently use this spatial
16 database to then supply the voter registration VRAS system with
17 information that the Recorder's Office would need for voter
18 registration purposes, but then also the Elections Department
19 for ballot building, for voting locations, for recruiting poll
20 workers, all of those.

21 So there's a core foundational piece of information that's
22 supported throughout the entire VRAS system. So that's just
23 one example. I can go through many, many others, but it's a
24 very intertwined system that is dependent on these. It was
25 built really as one system, and there's these sub applications

1 that are used within it, but they're all intertwined, and it'd
2 be, in my understanding, very difficult to un-intertwine them.

3 Q Yeah. That's very slightly confusing. Hopefully
4 not -- less so for other people, but let's give a couple of
5 examples to explain what you might mean by that. So let's say
6 someone shows up to a polling place and they don't know whether
7 they're registered, but they've got their driver's license,
8 they know where they live. What part of the VRAS system are
9 they interacting with there at the polling place? Which
10 application?

11 A So currently that would be our site book application.
12 Right. But that actually touches many different components of
13 the system. So a perfect example actually is, so the vast
14 majority of voters in Maricopa County receive a mail-in ballot
15 automatically or an early ballot automatically. That site book
16 database is then pinging the voter registration database, but
17 also then early voting components of that to confirm that that
18 voter hasn't already returned that mail-in ballot.

19 So then it could then issue then a standard ballot, or on
20 election day, a ballot that does not need to be a provisional.
21 So that site book application is accessing multiple
22 applications within the VRAS system, so that -- and for an
23 example, if we didn't have that functionality working prior to
24 2016, as recently as 2012, we had in Maricopa County over
25 100,000 provisional voters. And we've been able to whittle

1 that down to just a few thousand. And some of that is through
2 the interconnectivity and inner working of how the site book
3 function works with the other applications.

4 Q Okay. So let's think about that. Let's say it's
5 election day. So voting is controlled by the Board. Someone
6 shows up, they want to vote, but the system has to ping the
7 voter registration database, which is customarily the
8 Recorder's job. Is that the way it works in practice?

9 A That's correct.

10 Q Okay. It also then has to ping, you said, the early
11 voting database, which is also the Recorder's job?

12 A Yep, that's correct.

13 Q Let's say the person hasn't vote -- they are
14 registered, but they haven't voted yet, and they want to then
15 print off a ballot to vote that day. Does it have to ping any
16 other system to figure out which ballot the person should get?

17 A Yeah, so currently it's our ballot order that we
18 create, and that's part of this election setup piece that goes
19 through. That's a query that we have to run before every
20 election that will then allow these other batch jobs to happen,
21 some of those supporting the Recorder's Office voter
22 registration, some of those supporting the Elections
23 Department. So in a primary election, we could have over
24 30,000 different ballot styles that we have to ready for an
25 election.

1 And it's all based off of, again, that spatial data. So
2 precinct level data. And sometimes those precincts get split
3 by a school district, a fire district, and all of those will
4 have a specific ballot style. So it's going to access that
5 information when a voter checks in to make sure that we're
6 giving the correct ballot style to that voter.

7 Q I want to walk through a couple of particular topics
8 with you here and ask whether they're part of the VRAS system,
9 like whether it's one of the subcomponents. First of all, is
10 there an application for election board workers, like the
11 assignment system for them?

12 A There is.

13 Q Okay. And what about the polling location system?

14 A Yes, there is.

15 Q Okay. Candidate filing system?

16 A Yes.

17 Q Campaign finance system?

18 A Yes.

19 Q Warehouse labels and tags?

20 A Yes.

21 Q What does that mean?

22 A So currently when we're readying all of our items to
23 go out to the voting locations and specifically a report called
24 a precinct ballot report, we're scanning in all these tamper
25 evidence seal numbers that get affixed to these pieces of

1 equipment, and the poll workers have to sign off. All of
2 that's being entered into the warehouse tag system, which is a
3 component of VRAS. And we're able to then pull these reports
4 rather than have it to assist or go individually one by one and
5 write all these tag numbers. It's through a systematic
6 process.

7 Q What about an elections setup function?

8 A Yes, that's correct.

9 Q Okay. And voting location command center?

10 A Yes, that's correct.

11 Q Does the sort of Board's umbrella, like its side of
12 the election operations, need access to each of these
13 applications within the VRAS system?

14 A It does.

15 Q Okay. And how many of those actually require just
16 site books as opposed to more than site books?

17 A Most of those don't.

18 Q Okay. So fair to say then that whatever happens with
19 this VRAS system, the Board needs to have access to a lot more
20 than just site book functionality. Right?

21 A That's correct.

22 Q Okay. So if VRAS were modified poorly, let's say we
23 undertook a sort of dissection process, it was kind of bungled
24 and it just stopped working, the pinging back and forth doesn't
25 work, the databases aren't talking to each other, how would

1 that affect your ability to do your job and your subordinates'
2 ability to do their jobs?

3 A Depending on the specific application, it could
4 result in candidates not being able to file, ballots not being
5 designed correctly, incorrect information being printed on
6 ballots that the Board is responsible for printing but
7 providing to the Recorder's Office, and the Recorder's Office
8 then mailing those ballots out to voters. It could result in
9 voting locations not being able to open on time and serve
10 voters. Like the full gamut of everything that you would think
11 of in an election and being able to serve voters, for them to
12 be able to perform their constitutional right to cast a ballot,
13 would be disrupted if it was done poorly.

14 Q Let's make it slightly less dire. The assumption.
15 Let's say it was done, but it was like a B plus job. It's sort
16 of done, but it's buggy. There's some data glitches that you
17 discover over time. How would that sort of thing affect your
18 ability to do your job?

19 A So at a voting -- we have -- so on election day, you
20 have from 6:00 a.m. to 7:00 p.m. to be open. And if one of
21 those B plus things is impactful to in-person voting operations
22 and could impact being able to serve a voter, that could -- I
23 know we're trying not to be dire, but that could impact the
24 ability for a voter to be able to perform their constitutional
25 right. It just really depends on what specific items.

1 And the other thing within elections, we have to hire
2 thousands of our community members to come out and serve
3 voters. And they're temporary workers. You provide them
4 training on how a process should work. Right? And all of
5 that's going to be based off a system that you've programmed.
6 And if that doesn't work as according to the plan, then we're
7 going to have to implement our backup plans and our
8 redundancies and all of those different things.

9 And if those aren't programmed correctly, even if they're
10 only done B plus, that could result in some voting locations
11 not being available for voters.

12 MR. LANGHOFER: No more questions on direct, Your
13 Honor. Thank you.

14 THE COURT: All right. Thank you. Any cross?

15 MR. ROGERS: Yes, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. ROGERS:

18 Q Okay. And you said you've been at the Elections
19 Department since 2019. Is that correct?

20 A That's correct.

21 Q Isn't it true that the Elections Department used to
22 be jointly managed by the Board and the Recorder?

23 A That's correct.

24 Q And when did that change?

25 A So in 2020 -- well, 2023 we had a shared services

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

JUSTIN HEAP,

Plaintiff,

v.

THOMAS GALVIN, ET AL.,

Defendants.

No. CV2025-020621

Phoenix, Arizona
January 26, 2026
10:03 a.m.

BEFORE THE HONORABLE SCOTT A. BLANEY

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

Proceedings recorded by electronic sound recording; transcript
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I N D E XJanuary 26, 2026

<u>PLAINTIFF'S WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VD</u>
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Samuel Stone	70	96	115		
Janine Petty	118	130	143		
<u>DEFENDANTS' WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VD</u>
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1 correct?

2 A There are -- there are actions that could have been
3 taken to better and more quickly respond to the outage.
4 Whether or not the outage could have been prevented is
5 questionable, but they -- had they been mitigated quicker,
6 there would have been less impact.

7 Q So for example, let's talk about Exhibit 7, the VPN
8 issue.

9 A Yes.

10 Q We hear testimony -- you testified, or there was an
11 exchange where it was talked about how it was fixed within an
12 hour, an hour and a half. Was that hour, hour and a half
13 during work time when -- when employees were actively to clip
14 signatures.

15 A So we had, excuse me, we had employees actively
16 working at that time. After about 30 minutes we notified them
17 to just no longer attempt and stay on the clock for the
18 evening.

19 Q And you testified, I believe, that if you had been in
20 charge, you would've run this system patch after hours so no
21 one would've been affected. Correct?

22 A And no one from ETI asked, "Hey, you know, we're
23 running this patch, do you have anyone working?" Nothing,
24 right?

25 A Not That I remember, no.

1 So are there other counties in Arizona that have
2 their own homegrown voter databases?

3 A Yes.

4 Q Which county is that? Which counties?

5 A Pima County.

6 Q And what do all the other counties do for -- use for
7 their voter database?

8 A They use the statewide voter registration system
9 called AVID.

10 Q Is that maintained by the Secretary of State's
11 Office?

12 A The system's maintained by the Secretary of State's
13 Office, but the voter rolls are maintained by each county
14 recorder.

15 Q So the other counties wouldn't have the same
16 capability of making direct changes to the voter registration
17 database that Maricopa does because it has its own homegrown
18 database; is that right?

19 A The functionality, to my knowledge, is not created
20 for the statewide system to be able to have live access to
21 other county's poll books.

22 Q So in other counties the poll book is -- it's just a
23 copy of the data base, that doesn't directly link back to the
24 actual live database, correct?

25 A Correct.

1 A Yes.

2 Q Okay. When the IT department moved from the
3 Recorder's Office to the Board, the user experience stayed the
4 same, right?

5 A Somewhat.

6 Q The -- you came to your desk the next day, have your
7 computer turned on, there's the same app, right?

8 A Sure. Yes.

9 Q Okay. For the last year, since the year and change,
10 since the IT moved from the Recorder's Office to the Board,
11 have you been able to perform your statutory duties?

12 A Yes.

13 Q Okay. Are you also doing less maintenance?

14 A Of course.

15 Q Okay. Do you do NCOA list maintenance still?

16 A Yes.

17 Q National Change of Address?

18 A Yes.

19 Q Let's talk about this Agilis issue, and I want to
20 understand this because it sounds consequential and it's the
21 first I've heard of it. Who exactly has been disenfranchised
22 because of the absence of an Agilis machine? But please
23 explain that as -- like I'm a child.

24 A Mostly federal-only voters, so the new law that went
25 into effect in 2024 allowed these voters to provide proof of

1 A Projects related to aero-development. Right now we
2 have several modules that have been put on a back burner on the
3 backlog and has not been developed, that is necessary to the
4 voter registration processes.

5 Q Well, you're saying -- necessary's a strong word,
6 ma'am. You testified earlier that over the last year, even
7 though it's been at the Board of Supervisors, you have been
8 able to meet your statutory duties, so when you say necessary
9 you mean it would make it more convenient, correct?

10 A What I'm saying is that we are operating out of a
11 Legacy System that's 20-plus years old and it's failing, and so
12 while we can meet our statutory compliance in a Legacy System,
13 it's opening up the door for the system to break. We need to
14 get into the new system call ERO.

15 Q Okay.

16 A We need to have all of our modules in that system.

17 Q Okay. You're not changing your testimony then, you
18 are, in fact, meeting your statutory obligations right now?

19 A We are, yes.

20 Q Okay. And the deprioritization process happens after
21 the discussion by the Change Advisory Board and the input from
22 the programmers, right?

23 A Right.

24 Q Okay. And so the -- what you're calling
25 deprioritization isn't done by the Board unilaterally, it's

1 Q Okay.

2 A Would you like -- if I can add more for the list, if
3 you'd like.

4 Q Let's -- I want -- the question that the Court needs
5 to decide is whether the Board is keeping you from discharging
6 your statutory obligations. I would like to know which
7 obligations we're talking about, so yes.

8 A I would say that yes, for like, they have allowed us
9 to continue the minimum function that we had when we took
10 office. For example, in terms of the recordation of documents,
11 we have a lot of projects that need to be managed, changed, or
12 addressed. We want to rebuild that software and make it
13 usable. The Board has consistently refused --

14 Q Let me -- let's --

15 A -- to allow us to hire staff that would help us to
16 facilitate that building out those --

17 Q Let me --

18 A -- those processes.

19 Q Could we pause you there?

20 A Uh-huh.

21 Q If someone wants to record a document in Maricopa
22 County, they can do that through your office right now,
23 correct?

24 A That's correct.

25 Q Okay. And title companies can do it online, other

1 people can do it in person, right?

2 A That's correct.

3 Q The recording kiosk's not just a -- the MCTEC like
4 your -- or the admin building, but all throughout the county,
5 right?

6 A That's correct.

7 Q Okay. And if someone goes and requests copies of the
8 documents, they'll get them, right?

9 A At this point, yes.

10 Q Okay. So your concerns with the recordation process
11 isn't that you can't discharge your statutory duties, it's that
12 you want it to be so it is better, smoother, upgraded, but it's
13 not a question of discharging statutory duties, right?

14 A It -- we -- we may continue to do what we have done
15 in the past. We can't make changes or operations, and also, we
16 no longer have control of the systems or databases that manage
17 any of those things, so all of those changes and efforts, even
18 my staff that does recordation needs to go through the Board in
19 order to be able to access or make changes to any -- any
20 document. So yes, we can continue to function, we just can't
21 make improvements or fix the systems.

22 Q You are not currently violating any of your statutory
23 obligations with respect to the recordation of documents, are
24 you?

25 A No.

1 Q Okay. Are there -- so one of -- let me -- or I'm
2 still making the list here in my mind, right? Are there any
3 other issues that you believe the Board is keeping you from
4 discharging your statutory obligations?

5 A I think for this time that's --

6 Q Okay.

7 A -- that's a sufficient list. I'm sure if you gave me
8 a few, would like to take a little more time, I can make an
9 even more detailed list of various issues.

10 Q Yup. Got it. If -- your lawyers had six months or
11 so to prepare the briefs, right? They should be in there if
12 you've -- if you're forgetting them, they're in the briefs, I
13 assume, right?

14 A Right.

15 Q Okay. Let's talk about the physical -- we'll do the
16 badge because I think that's relatively easy.

17 A Sure.

18 Q Is it your position that you do not have access to
19 the warehouse?

20 A To be honest, I don't know that my badge -- I do have
21 access but my badge, I do not believe, works on the actual door
22 to enter the warehouse. I have addressed this with Jen
23 Pokorski and Scott Jarrett. The response that I've gotten is
24 well, we leave those doors open so you don't need to -- you
25 don't need badge access, but I don't believe if the doors were

1 locked that my badge would unlock them.

2 Q Okay. Have you ever tried to get in and then not
3 able to get in?

4 A I don't know that the doors have ever been closed
5 since I've been there.

6 Q Okay. So no?

7 A No, not to my -- not to my recollection.

8 Q The command center?

9 A Uh-huh.

10 Q You said your badge doesn't work for that, but on
11 Election Day you go into the command center and watch and
12 participate like everyone else, right?

13 A Well, it did work in the initial two elections. At
14 some point that badge access was revoked by the Board. I'm not
15 certain why, so I do need someone from the -- from the Board
16 side to open the door for me to let me in.

17 Q And when you needed to get in, you've been able to
18 get in?

19 A Yes.

20 Q Okay. The mailroom, Rey Valenzuela and his team has
21 access to that, don't they?

22 A I believe that Rey Valenzuela still has access to the
23 mailroom, but my understanding is that that was revoked for
24 other employees after the 2024.

25 Q If Rey's able to get in there, we can clean up with

1 other people whether other -- other witnesses whether other
2 people have access to it. Do you have any statutory obligation
3 that you can't discharge because of physical access to the
4 mailroom? Mailroom, yes.

5 A I could think of reasons why our staff might -- why
6 it might be -- why it would be better to have certain members
7 of my staff have access to the mailroom, but no, we can work
8 with the Board to discharge our duties.

9 Q You mentioned in your declaration the training room.
10 Do you mean that, like, multipurpose room at MCTEC?

11 A Yes, it's what we call the big room there.

12 Q Uh-huh. Yup.

13 A A very imaginative answer, but yeah.

14 Q And sometimes that room is used not for trainings but
15 for storing ballots, right?

16 A During an election there are locked, there are cages
17 in those facilities --

18 Q Uh-huh.

19 A -- where ballots can be stored and locked.

20 Q Yeah. And so during an election when it's used for
21 ballot storage, in locked cages or not, do you have a statutory
22 duty to perform in that room that you can't perform?

23 A No.

24 Q Okay. You said in your second declaration that the
25 Board could restrict or cut off your access to the IT at any

1 time, this --

2 A True.

3 Q -- causes concern. Have they done that?

4 A No.

5 Q Okay. You said in your declaration when you were
6 talking about the Agilis machine, I think this is your first
7 declaration, you said that it would reduce costs, right?

8 A I think in the long run it would.

9 Q Okay. Certainly not in the short run?

10 A No.

11 Q And while you were talking about the Agilis machine
12 and why it was a good idea in your declaration, you never said
13 that you were failing to count valid votes, did you?

14 A No, I think that's only -- but that's really only one
15 issue, and that's where we've -- we focused. The purpose of
16 the Agilis machine, there's multiple purposes, but there's
17 reasons why we want to have an Agilis machine and not rely on
18 the BlueCrest machines alone at MCTEC.

19 For example, the biggest thing is as we're going
20 through doing provisional ballots, we may have a small batch,
21 say 20 ballots that we're going to run, we do not want to put
22 those in a van, courier them over to Runbeck, have them
23 delivered, have Runbeck power on a massive BlueCrest machine to
24 do ten ballots in under -- in under a second, is which is how
25 fast it would be, and then transmit that data.

1 DIRECT EXAMINATION

2 BY MR. LANGHOFER:

3 Q Mr. Jarrett, welcome back. With apologies, I have
4 mercilessly cut your direct examination way down for want of
5 time, so let's get through this as quickly as we can.

6 Are you a certified elections officer in the State of
7 Arizona?

8 A I am.

9 Q And you have certain responsibilities for overseeing
10 Maricopa County elections, right?

11 A That's correct.

12 Q Do you have -- who prepares the election plan for the
13 Board of Supervisors every year?

14 A I do.

15 Q Do you have any fulltime employees who work on
16 elections issues?

17 A Yes, I do.

18 Q How many?

19 A I have 65.

20 Q And do you have seasonal workers who work for you on
21 elections issues?

22 A Yes, in excess of about 4,000 if you count just over
23 3,000 poll workers and about 850 MCTEC workers. Those are made
24 up of election boards and also just temporary workers such as
25 warehouse workers.

1 Q Who is responsible for designing the ballots in
2 Maricopa County?

3 A So I am and my team, and we identify or design in an
4 election cycle that includes a primary general election,
5 probably around 50,000 different ballot styles, 30,000 for the
6 primary election, 20,000 for a general election.

7 Q Who manages the equipment for tabulation and printing
8 ballots?

9 A I do, and the team that reports to me.

10 Q About how many pieces is that?

11 A So up to 10,000 pieces that we send out to voting
12 locations.

13 Q Who's ultimately responsible for training those 4,000
14 or so workers you described earlier?

15 A I am.

16 Q Who's responsible for printing the ballots in
17 Maricopa County?

18 A I am.

19 Q Is that just the election day ballots?

20 A No, that's every single ballot that goes out to every
21 single voter in Maricopa County, so statute requires that the
22 Board and officer in charge of elections, which in this area is
23 me, to provide the printed ballots for the recorder's office to
24 mail out to voters receiving a mail-in ballot.

25 Q Who's responsible for counting those ballots when

1 they're returned?

2 A I am and my team, so every single ballot that comes
3 in and is counted in Maricopa County, it's under my purview.

4 Q And who's responsible for presenting the canvass to
5 the Board of Supervisors?

6 A I'm responsible.

7 Q You've testified before about the interplay, what the
8 Board needs in the VRAS ERO system. For want of time we're not
9 going to repeat that, and Your Honor's already -- His Honor's
10 already heard it.

11 Has the functionality of the VRAS and ERO system
12 changed significantly since the IT department was moved from
13 the Recorder to the Board?

14 A No.

15 Q Today in court with Mr. Stone and then with Mr. Heap,
16 we talked about the possibility of sharing election equipment,
17 and as I understand it, the election equipment is the most
18 expensive part of this whole feud; and I getting that right?

19 A Yeah, I'd say that's a fair assessment.

20 Q Yeah. Would it be possible to come to terms on how
21 early voting, emergency voting, and Election Day voting is
22 conducted in a way where you can use the same equipment for all
23 three of those phases?

24 A Yeah, I think there's a way to do that. It's
25 important to make sure that the equipment is available and

1 ready to use for Election Day. That's when the most voters are
2 served, the highest amount of variability and highest amount of
3 risk, but I believe that there's probably a way to get there.

4 Q Let's tease that out just so the Court understands
5 the problem. You said the highest amount of risk on Election
6 Day; why is that?

7 A Well, that's -- so once you get to Election Day,
8 there's no more opportunity for a voter to show up and vote,
9 right? So all days during early voting, there's usually
10 another day. That's also the day that has the highest volume
11 of voters showing up to vote. Could be anywhere from 250 to
12 300,000. If we look at 2024, 2022 elections to receive a
13 ballot and have that ballot counted, but also the number of
14 voters that then show up on Election Day to drop off their
15 ballots, well into the five to 600,000 voters that are being
16 served. So if operations aren't running smooth and available
17 to those voters on Election Day, it would be a significant
18 challenge and harm to Maricopa County voters.

19 Q But why is that? Sure, that's, of course, true, but
20 why does that, the idea of sharing equipment then worry you?
21 Like how does sharing equipment concern or interface with your
22 worry about Election Day going well?

23 A Well, so if the equipment is deployed out to an early
24 voting location, some of those voting locations open 27 days
25 before election, others, 11 days before an election, at least

1 under the current framework of how early voting is offered. If
2 that equipment is under use that entire time, and the Elections
3 Department doesn't have the ability or the chain of custody of
4 that equipment during that period of time, such as being able
5 to affix the tamper-evident seals, respond to any issues that
6 equipment would have during the early voting period, we
7 couldn't be confident that it would be ready for use and
8 available on Election Day.

9 Q If you design -- let's say you sat in a room, you
10 design some new procedures, everyone knocks it out, hammers it
11 out, and you come to arrangements on who has custody, who has
12 tamper-evident seals, and so on; do you believe it would be
13 possible to share equipment and avoid the capital expense that
14 we're fighting about?

15 A I do.

16 Q Okay. I want to -- one last point, and that's this
17 idea of other officer in charge of election. There's a couple
18 of examples that you've -- that worry you, that you think if
19 the Recorder is correct about what that means, that phrase
20 means, you think this sort of administration of elections would
21 get particularly messy. I'd like to have you explain, maybe
22 explain that in the context of chain of custody for ballots and
23 equipment in like 621; are you familiar with those provisions?

24 A Yeah, 16, 621.

25 Q Yeah.

1 A I think it's the last provision, might be E.

2 Q That's right.

3 A In there, and so that talks about and it identifies,
4 is the Recorder or officer in charge of elections should
5 provide records for the chain of custody of ballots and
6 equipment from early voting, all the way through the
7 provisional ballot processing. So when I read that statute, I
8 see, okay, well, there's some functions under the Recorder's
9 Office that the Recorder is responsible for with early
10 balloting.

11 Ms. Petty testified to some responsibilities that the
12 Recorder's Office is responsible for provisional balloting, but
13 there's a whole lot of things within that time period that I'm
14 responsible for as part of the officer in charge of elections
15 and Election Day. So I don't read that statute as saying no,
16 the Recorder is responsible for all chain of custody for
17 ballots, and equipment, it is depending on the phase of the
18 election, it depends on who is responsible. So if it is an
19 early voting statute that the Recorder's responsible for, he
20 has to maintain chain of custody over that.

21 By the way, we just discussed, and I'm responsible
22 for printing all ballots related to the entire election, so
23 I've got to maintain chain of custody in getting those ballots
24 to the Recorder for that early voting period. So office in
25 charge of elections, and that meaning is not the Recorder's

1 A Yes, my name is Zach Schira, I'm the assistant county
2 manager for Elections and External Affairs at Maricopa County.
3 I oversee the Elections Department, as well as government
4 relations, communications, the industrial development
5 authority, information governance, and the Workforce
6 Development Board.

7 Q Do you work with the Board on budgeting issues?

8 A Whenever it pertains to my departments.

9 Q Are you familiar with the background for why the IT
10 Department was moved from the Recorder's Office to the Board of
11 Supervisors?

12 A I am. In the spring of 2023, I want to say it was
13 March, then Recorder Richer directed Nate Young, his IT
14 director, to remove IT connectivity and services to the
15 Elections Department, that reported up to the Board of
16 Supervisors at the time. I shortly came on board, on the
17 County Management Team to oversee elections, and this quickly
18 became one of the issues that I worked on and the top priority
19 for me, which was to find a sustainable, you know, IT service
20 for the -- for the Boards Elections Department, and so we began
21 having conversations with Nate Young. At that time it was
22 called OET, but ETI to figure out how to split out the
23 elections IT department because both of these departments who
24 report up to statutorily, you know, individual offices,
25 individual elected offices, deserve to have -- deserve to have

1 their own IT services.

2 And so throughout 2023 and into 2024, until we
3 reached the statutory or until we reached the blackout period
4 for making IT changes, we explored options to split out the IT
5 systems from each other, which is the same exact work that we
6 are continuing to do today, and ultimately, that led to an
7 agreement between the then-Board and the then-Recorder Richer
8 to move IT under the Board of Supervisors, and that agreement
9 was codified in October of 2024.

10 THE COURT: Let me interrupt for a second. I believe
11 your question, correct me if I'm wrong, was why it was moved?
12 We got a brief history on how the move took place. I would
13 like to know, the Court would like to know why it was moved and
14 not just -- I mean the answer not just being because director
15 or Recorder Richer wanted it to, but to the extent you know,
16 why was this movement?

17 THE WITNESS: So when the Board took back its
18 statutory authority to oversee elections starting in 2019,
19 after a 2018 audit with Mr. Fontes, the Board and the then-
20 Recorder worked on an assessment of staffing for the Board, you
21 know, in its endeavor to take back its authority, and part of
22 that conversation, Your Honor, was the IT department that has
23 historically served all the functions under Ms. Purcell, that
24 were now splitting into two different functions into two
25 different departments.

1 THE COURT: So it's your understanding it was part of
2 a process that had already started?

3 THE WITNESS: Your Honor, we've been discussing this
4 since 2019.

5 THE COURT: Okay. Thank you.

6 I did stop your time while I jumped in. Go ahead.

7 MR. LANGHOFER: Thank you, Your Honor.

8 BY MR. LANGHOFER:

9 Q The -- this instruction that Recorder Richer gave to
10 cut off IT services for the Board's side of the equation, how
11 would that have affected the Board's ability to satisfy its
12 statutory duties?

13 A It would have been catastrophic just simply the
14 inability to communicate as staff with, you know, cutoff to
15 email and communications. They would not have been able to
16 perform their statutory duties.

17 Q When the conversation began in 2019 and then ramped
18 up in 2023 as you've described, was it apparent at that time
19 that Mr. Heap would become the County Recorder?

20 A It was not.

21 Q And when did the move to the Board of Supervisors
22 actually happen?

23 A The SSA was codified in a board meeting, open meeting
24 on -- in October of 2024. The effective date of that document
25 was in December because we didn't believe that it was fair to

1 actually make the move during an important election, but we
2 made the decision prior to that election.

3 Q Okay. When that decision was made in October, was it
4 clear who's going to win the Recorder's office?

5 A It was not.

6 Q Just not put too fine a point on it then, was a
7 decision made because of some hostility or animosity towards
8 Mr. Heap?

9 A It was not.

10 Q Is the County already at its expenditure limit?

11 A The County annually is close to its expenditure
12 limit.

13 Q Okay. Is there 20 million dollars of sort of wiggle
14 room in the budget to where they're at and the expenditure
15 limit?

16 A Not that I'm aware of.

17 Q Okay. And what does that mean, practically? If they
18 had to spend another 20 million, what else has to happen?

19 A You would have to cut from other departments or other
20 services to constituents.

21 Q We've heard a bit of testimony from Mr. Stone about
22 the Recorder's Office requesting HAVA funds. Has the Board
23 ever received a request for HAVA funds from the Recorder's
24 Office?

25 A The --

1 A It depends on the situation. Sometimes staff can
2 make mistakes. The final word always rests with management and
3 the Board.

4 Q So the Office of Budget Finance has made a mistake
5 for every position the Recorder's tried to hire during his
6 tenure?

7 A Not that I know of.

8 Q But they've denied -- they've approved every single
9 position he's asked to only then be denied by Ms. Pokorski and
10 your office, correct?

11 A I'm not aware of what approval conversations have
12 happened. I have not seen approvals in writing. And in my
13 conversations with budget staff, it has never been described to
14 me that they have approved any positions.

15 Q Now, you said that consideration of separating the IT
16 functions has been going on since 2019. Is that correct?

17 A Yes.

18 Q So it's been seven years now?

19 A Yes.

20 Q And there's been no split?

21 A Correct.

22 Q So what's the timeline to effectuate the split?

23 A Well, I think that there are different circumstances
24 that have delayed that. Recorders who preferred to not split.
25 Different circumstances that have shown why a split would be

1 beneficial. As of now, and per our SSA negotiations with the
2 Recorder, we committed to an assessment that would help us
3 understand how to split out the architecture. My understanding
4 is that that report will be due to the Board in the next couple
5 weeks. And so that we have progressed to the closest point
6 we've ever have on this question.

7 Q How do we know it's not going to take another three
8 or four years? How do we know you're not going to wait out
9 this Recorder's entire term with no access to his databases?

10 A I don't. My goal in moving IT under ETI was to make
11 this split happen. We would not -- if we wanted to continue on
12 forever, we wouldn't have, you know, made the calculation to do
13 what we did. It is fundamentally the Board and the Recorder
14 both deserve to have their own IT departments. We have been
15 clear about that publicly.

16 I've been clear about that privately in our negotiations
17 with the Recorder. I have no intention of dragging this out.

18 Q Why is it necessary for the Board to control the
19 databases and servers until the split?

20 A It made sense, given the enterprise nature of ETI.
21 Given the fact that ETI has accomplished big projects like this
22 before, that they would steward this project through, of
23 course, with the input and collaboration of the Recorder's
24 Office.

25 Q But ETI's actually contracted that with a third party

1 Q Is it based on like who you're friends with or who
2 you like more?

3 A No.

4 Q Do the folks from the Recorder's Office who
5 participate in the CAB have input in that process?

6 A Yes.

7 Q Okay. Do you have -- you were here before when Mr.
8 Colby was testifying about like alerting tools to let you know
9 if a system's going down.

10 A Yes.

11 Q Do you do that?

12 A We do. Yep. We have several alerting tools.

13 Q Okay. And did those work with respect to the outages
14 we were talking about earlier?

15 A They did.

16 Q Okay. How did you find out about the outages?

17 A It depended on what system it was. We have some
18 systems that will email us saying we can't ping the server. We
19 have some instances where if a website is throwing an error,
20 we'll receive that, typically in email to a distribution list.

21 Q Okay. Mr. Colby said that it was, you know, reckless
22 or irresponsible to implement that change to the signature --
23 that results in the signature verification server, the one that
24 was redundant, one of them going down before an election. Why
25 was that change made at that point in time?

1 A At that time, the Recorder's Department requested
2 several changes to the voter register -- or the signature
3 verification system in order to presumably increase
4 efficiencies.

5 Q You mean -- so this change is instigated not by the
6 Board, but by the Recorder?

7 A Correct.

8 Q Exhibit 10. Plaintiff's Exhibit 10. Mr. Stone
9 testified that this was you asking to spend, essentially, the
10 Recorder's HAVA funds on a position in your office. Do you
11 remember that email?

12 A I remember the email, yes.

13 Q Okay. Did that email concern HAVA funds?

14 A No.

15 Q And how did that come about? Like, what's the
16 background on that email?

17 A Every single year, we produce a submission to the
18 Arizona Department of Homeland Security. They have the ability
19 to distribute funds using a grant called SHSP. Can't tell you
20 exactly what that means at this point, but every year, the
21 Recorder's Department, myself included, would present a request
22 for funding.

23 And those requests need to be used for some sort of
24 security function, whether it be cybersecurity or physical
25 security.

1 service ticket from recorder admin staff. So you did get
2 notification from staff about this problem discovered by the
3 Recorder, right?

4 A Along with Claude Flagis.

5 Q Let's talk about the backup that caused the crash of
6 the Recorder server for a weekend. When did you receive
7 notification? Did you have automated services that let you
8 know that that was down?

9 A We were alerted that it was down at 7:13 a.m. on
10 Monday, January 12.

11 Q And it was down the whole weekend though, right?

12 A No.

13 Q When was it down?

14 A It was started being hard down -- that's the term we
15 use at 7:13 a.m., on Monday, January 12th.

16 Q And how long was it down for?

17 A Approximately -- well, the functions to make the
18 website work properly and to record documents at the lobby and
19 at the kiosks were restored at 8:33 a.m.

20 Q So I believe there was testimony that two vendors and
21 one or two hundred documents were affected. So you're saying
22 for that period of a 30 minute, how long was it you said it was
23 down for? It was 45 minutes, something like that.

24 A Let's see. 13. My math. It's slightly over an
25 hour. Hour, 10 minutes-ish.

1 Q So it's your testimony it's only an hour down -- an
2 hour outage, that the prior testimony from multiple witnesses
3 about it being down for the weekend is not correct?

4 A Down for the weekend is not correct. But I stated
5 that the function for the website and the record -- recordation
6 in the lobby was restored at 8:33. Digital recording for the
7 title companies, for instance, was not fully restored until
8 9.33 a.m., but the functions to allow them to restore or to use
9 those standard APIs were restored around 9:00 a.m.

10 Q So for the whole weekend, recording worked. Title
11 companies could upload documents over the weekend.

12 A Yes.

13 Q Okay. So when people showed up to work on Monday
14 morning and said, hey, none of the documents are here, they
15 were just mistaken.

16 A They couldn't see any of the documents because that
17 system had not been -- had not processed those.

18 Q Okay. Let's talk about the timing of the patch that
19 caused the problem with the VPN. You said that that was
20 requested by the Recorder's Office. Is that right?

21 A No.

22 Q Your testimony was that one of the things that caused
23 the outage was as a result of a request by the Recorder's. Is
24 that right? Am I getting the details mixed up?

25 A If you're talking about Exhibit 7, regarding Exhibit

1 7, regarding the VPN outage that was not requested by the
2 Recorder.

3 Q Did you not testify that there was some update or
4 installation that needed to be -- that the Recorder had
5 actually been -- that the Recorder's Office had requested that
6 caused an outage?

7 A Are you referring to the signature verification issue
8 that was brought up?

9 Q I'm sorry, that's the one. Is that the one you're
10 talking about?

11 A Yes.

12 Q I'm sorry I got your testimony mixed up. So thanks
13 for clarifying. Was that -- did you consult with the
14 Recorder's Office and tell them the timing of when you were
15 installing that or making the changes so they would be aware
16 that these changes were being made?

17 A Those changes were in production for several days. I
18 don't know offhand exactly when they were put in production.
19 But it was not a change that immediately caused an issue. The
20 issue was related to latency within an API.

21 Q So they requested the change, but they had no input
22 in how that change is carried out. Right?

23 A It's an API that was developed for the Arrow system
24 by staff that is now under the Recorder's Department. The
25 Recorder's IT Department. But those APIs were -- or continue

1 to be used in the Arrow system. There was a flaw in that API
2 which caused an over latency issue. Since then it has been
3 rectified.

4 Q So your staff carried out that patch, right? They
5 didn't do it.

6 A My staff carried out the fix. Correct.

7 Q They -- they did the configuration changes that
8 caused the problem. Right?

9 A No.

10 Q Who made the configuration changes?

11 A To my knowledge, it was Dustin Bryant, who is under
12 the Recorder's IT Department, who created the API that has been
13 used in the Arrow system and in the signature verification
14 system.

15 Q And he installed that API?

16 A He created the API and then it was installed based on
17 our normal practices of deployment.

18 Q So it was deployed by you and your staff?

19 A Through our normal practices of deployment.

20 Q So the Recorder's Office had no ability to install it
21 or test or do anything once it was in your hands. Right?

22 A They had to approve it.

23 Q Okay, no further questions.

24 THE COURT: All right, thank you.

25 Redirect.



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*Attorneys for Maricopa County Board of
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**IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

JUSTIN HEAP, in his official capacity as
Maricopa County Recorder,

Plaintiff/Defendant-in-
Counterclaim,

v.

THOMAS GALVIN, in his official capacity as
a member of the Maricopa County Board of
Supervisors; *et al.*,

Defendants/Plaintiffs-in
Counterclaim.

RACHEL MITCHELL, in her official capacity
as the Maricopa County Attorney,

Plaintiff,

v.

JUSTIN HEAP, in his official capacity as the
Maricopa County Recorder,

Defendant.

No. CV2025-020621
No. CV2025-022266
(Consolidated)

**SECOND DECLARATION OF ZACH
SCHIRA**

1 I, Zach Schira, declare as follows:

2 1. I am over 18 years of age, and am competent to testify in this matter.

3 2. I make this declaration based upon my own personal knowledge.

4 3. I am currently the Assistant County Manager for Elections and External
5 Affairs for Maricopa County.

6 4. My employment with Maricopa County began in January 2017, when I was
7 hired as the Deputy Chief of Staff for then-Supervisor Bill Gates. I then served as an
8 Advisor to the Maricopa County Attorney's External Affairs Office from November 2019
9 until July 2020, when I became Supervisor Gates' Chief of Staff. In July 2023, I was
10 appointed Executive Director of Maricopa County, and transitioned to my current role of
11 Assistant County Manager for Elections and External Affairs in July 2024.

12 5. I oversee several major departments of Maricopa County government,
13 including the Elections Department.

14 6. I possess extensive and direct personal knowledge of the operational, staffing,
15 budgeting, and IT facets of election administration in Maricopa County and I regularly brief
16 the Maricopa County Board of Supervisors on such issues.

17 7. I understand the Court's injunction issued on April 16, 2026 to provide that,
18 in lieu of transferring custody and control of IT systems and staff to the Recorder's Office,
19 the Board of Supervisors may instead "immediately fund the replacement of these personnel
20 and items."

21 8. The creation of a full replacement IT system for the Recorder's sole custody
22 and control would be a major, slow, and expensive undertaking—likely costing at least \$10
23 million and potentially as much as \$50 million, and requiring at least 12 months and
24 potentially several years of planning and development.

25 9. This assessment is based on my experience working for Maricopa County,
26 discussions with the County's IT professionals, Rich McHattie (Chief Information Officer
27 – ETI) and Nate Young (Deputy Chief Information Officer – E-ITD), and my familiarity
28 with previous IT-related restructurings within the County government.

1 10. As a comparative reference point, the County incurred approximately \$51.9
2 million in costs to overhaul the IT system used by the Maricopa County Treasurer's Office.
3 That project started in Fiscal Year 2014 and is still ongoing. Additionally, the County
4 incurred approximately \$29.1 million to overhaul the IT system used by the Maricopa
5 County Assessor's Office. That project started in Fiscal Year 2014 and ended in Fiscal Year
6 2024.

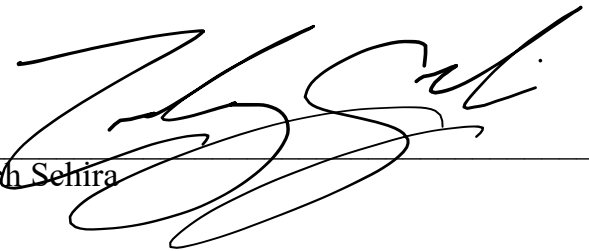
7 11. The multifaceted nature of the Recorder's Office's statutory duties and the
8 corresponding complexity of the associated IT resources likely will make a similar
9 rebuilding of IT functionalities for the Recorder's Office substantially more expensive.

10 12. The immediate reallocation of tens of millions of dollars to the Recorder's
11 Office would carry significant negative operational risks and financial repercussions.
12 Operationally, there is risk in making any changes affecting the IT system now, as we are
13 already in the Period of Caution (started April 4) phase of our election cycle systems
14 blackout calendar. Beginning May 13, we will enter the Network Freeze period through
15 May 22 and again resume a Period of Caution from May 23 to May 27. The County then
16 almost immediately institutes the same blackout methodology for the July Primary Election
17 from June 5 to July 30. Financially, the Board is set to adopt the Tentative Budget on May
18 18. As set forth in ARS 42-17105(C), the Board may not adopt a Final Budget at a higher
19 amount than estimated in the Tentative Budget. This provides the County little to no
20 turnaround time to effectively assess and estimate the cost of complying with the order by
21 funding a duplicate IT system.

22 13. I testified in the January 26 trial that the County was in the process of
23 completing an assessment of the ERO system in order to effectuate the appropriate
24 separation of IT assets based on statutory function. As ratified in the County's Unanimous
25 Resolution to resolve the claims of the Recorder's Office in this case, the County continues
26 to assess and plan for a future IT split of pre-existing IT systems. Requiring the immediate
27 funding of a parallel IT system would render moot the \$300,000 worth of work performed
28 on the IT assessment to date.

1 14. Because the Recorder's Office does not generate revenue in excess of its
2 operating expenses, and instead operates at a loss that is funded by the Board of Supervisors,
3 the Board of Supervisors cannot in the future recover from the Recorder's Office funds that
4 unnecessarily are expended on these IT issues.

5
6 I declare under penalty of perjury under the laws of the United States of America and of the
7 State of Arizona that the foregoing is true and correct. Executed on this 29th day of April,
8 2026.

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10
11 
12 _____
13 Zach Selira
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**IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

JUSTIN HEAP, in his official capacity as
Maricopa County Recorder,

Plaintiff/Defendant-in-
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v.

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Maricopa County Recorder,

Defendant.

No. CV2025-020621
No. CV2025-022266
(Consolidated)

**FOURTH DECLARATION OF
SCOTT JARRETT**

1 I, Scott Jarrett, declare as follows:

2 1. I am over 18 years of age, and am competent to testify in this matter.

3 2. I make this declaration based upon my own personal knowledge.

4 3. Since July 2019, I have served as the Elections Director for Maricopa County
5 and the Elections Department. The Elections Department reports directly to the Maricopa
6 County Board of Supervisors (the “Board”).

7 4. In this role, I am the designated officer in charge of the County’s candidate
8 filings, campaign finance filings, Election Day operations, ballot preparation & tabulation,
9 and warehouse operations, among other responsibilities. I report to the Maricopa County
10 Board of Supervisors through the County Manager.

11 5. I have been certified as an elections officer pursuant to A.R.S. § 16-407.

12 6. Based on my past experience and my extensive personal knowledge of
13 election administration in Maricopa County, I do not believe I can successfully administer
14 elections in Maricopa County if the Court’s interpretation of the “other officer in charge of
15 elections” phrase is immediately effective. I believe there are significant risks that the
16 immediate implementation of the injunction issued by the Court on April 16, 2026, as I
17 understand the injunction’s terms, would greatly disrupt elections administration in
18 Maricopa County, cause confusion for Maricopa County elections staff, poll workers, and
19 voters, and severely damage the morale, engagement, and retention of critical elections
20 staff.

21 7. The Court’s interpretation of the “other officer in charge of elections” phrase
22 disrupts and confuses elections administration in numerous important ways, but this
23 declaration focuses on only the three most urgent issues: chain of custody, on-site tabulation
24 of early ballots, and jurisdictional elections.

25 **Chain of Custody**

26 8. In every election during my tenure as the Elections Director, the Board
27 maintained custody of (a) all Election Day ballots and equipment, from the time of their
28 delivery to the central counting facility on election night through the completion of the

canvass, and (b) all early ballots, from the time the Recorder's Office completed the signature verification process through the completion of the canvass. These continuous and unbroken chains of custody comport with what I understand to be the provisions of A.R.S. §§ 16-404, 16-447, 16-509, 16-511, 16-532, 16-608, 16-617, and 16-621(A).

9. The Board of Supervisors is customarily responsible for the delivery, tracking, security, and chain of custody of hundreds of thousands of items that are provided to and returned from polling locations. This responsibility is a product of both history and practice, as well as the traditional interpretation and implementation of the statutes cited in the preceding paragraph.

10. Additionally, once the Recorder's Office confirms the validity of a signature on an early ballot affidavit, that early ballot envelope is transferred to the early election boards appointed by the Board pursuant to A.R.S. § 16-551(A), and the ballot is then tabulated by the Board pursuant to A.R.S. § 16-621. A substantial majority of early ballots—typically between 1.6 million and 2.1 million ballots for a statewide general election—are processed and tabulated for each election, with approximately 80 percent being tabulated prior to Election Day.

11. As I understand it, the Court's order disrupts both of the foregoing practices. My understanding of the Court's injunction is that henceforth only the Recorder or the Recorder's designee is permitted to "maintain records that record the chain of custody for all election equipment and ballots during early voting through the completion of provisional voting tabulation," pursuant to A.R.S. § 16-621(E).

12. The processing and tabulation of provisional ballots generally is not completed until several days after Election Day. *See* A.R.S. § 16-584.

13. The resultant ambiguity concerning which office—the Board or the Recorder—is responsible for maintaining the chain of custody for ballots and equipment during which intervals of time is causing uncertainty and confusion for Elections Department staff. If this issue is resolved in favor of the Recorder, then the Board will not be able to control access to its secure facilities and sensitive items (e.g., voting equipment

and completed ballots) consistent with its historical practices and its own statutory obligations. Meanwhile, if Board staff perform their traditional functions, the Recorder will presumably accuse them of violating the Court's injunction and seek civil or even criminal enforcement actions against them.

14. Indeed, even before the Court issued its ruling in this case, the Recorder threatened to pursue criminal enforcement against any Board staff performing functions that the Recorder believed should be performed by the Recorder's staff, *see* Exhibit 1, and in the few days since the Court's order has already threatened to pursue civil enforcement against any Board staff that does not interpret and implement the Court's order to the Recorder's liking (even when the Recorder's interpretation is novel and, as discussed below, upends 30 years of practice), *see* Exhibit 2.

15. When routine operational issues such as chain of custody become unduly complicated with personally catastrophic stakes, and when a third party claims oversight authority and issues threats of civil and criminal enforcement action, it simply is not possible to recruit, manage, and retain qualified elections staff—or, by extension, to successfully administer elections—in Maricopa County.

On-Site Tabulation of Early Ballots

16. During the entirety of my tenure as the Elections Director, the Board has always been understood to be exclusively responsible for ballot tabulation. *See generally* A.R.S. § 16-621. Indeed, even the Court's order acknowledged this reality. *See* Apr. 16, 2026 Order, Factual Findings ¶ 4 and Legal Conclusions ¶ 3.

17. During the entirety of my tenure as the Elections Director, the Board has also operated and overseen Election Day voting activities. Specifically, the Board selects and procures contracts for polling locations, deploys ballots and equipment, appoints and trains the poll workers who comprise the election boards, and takes custody of voted ballots and equipment after the closing of the polls on Election Day.

18. Traditionally, if a voter drops off an early ballot at an Election Day polling location, the ballot is not tabulated on-site. Instead, the early ballot (which is cast in a sealed

and signed envelope) is delivered to the Recorder for signature verification and, if the signature is confirmed, tabulated by Board staff at the central counting facility.

19. Beginning with the July 21, 2026 primary election, Maricopa County will for the first time offer voters the option of having a previously issued early ballot tabulated on-site at an Election Day polling location. Voters who choose this option must present a legally sufficient form of identification and sign the e-pollbook. Assuming the poll workers verify the voter's eligibility and identity, the voter may then remove the early ballot from the envelope and place it into the tabulator.

20. As noted above, Election Day polling sites are selected and operated by the Board. In addition, the Board hires, trains, and supervises the workers who staff these locations and who presumably would assist voters in checking-in and navigating the on-site tabulation process.

21. The Court's injunction upends these practices. As I understand the injunction, only the Recorder or the Recorder's designee is authorized to oversee and implement on-site tabulation activities of early ballots, pursuant to A.R.S. § 16-579.01(A)—meaning that the Board will no longer control all activities within polling places on Election Day, and that tabulation will be conducted by two separate offices (and, presumably, merged subsequently by processes that are as yet unknown and untested).

22. This bifurcation of authority within each Election Day polling location is likely to leave poll workers confused and uncertain concerning proper chains of authority and demarcations of responsibilities. For example, can the Board-appointed election boards assist with on-site tabulation operations of these ballots and, if so, to which officer are they accountable? This uncertainty and confusion among poll workers is likely to beget delays and disruptions for voters.

23. Moreover, the Recorder's Office is already claiming publicly that the Court's order confers on it broad authority to override even the most fundamental operational decisions of the Board within voting locations on Election Day—creating needless confusion and damaging public confidence in the administration of Maricopa County

elections. For example, Recorder Heap announced on KTAR-FM after the Court issued its injunction that he intends to establish “a second line” at every Election Day polling location in Maricopa County for voters who desire on-site tabulation of their previously issued early ballots.¹ Based on my experience planning and managing polling locations in Maricopa County, I believe that this arrangement carries high risk of voter and poll worker error and causing confusion that will make Election Day voting operations more inefficient, more expensive, and time-consuming and frustrating for many voters. Some sites lack sufficient space for a second line and additional poll workers, some voters will likely be confused by the new queueing options, and other voters will be frustrated if they enter the incorrect line or perceive the other line as moving faster than the other. There are, of course, operational inefficiencies as well; additional workers inside a polling location require additional funding, which so far has not been budgeted. These are precisely the reasons I have rejected the “two lines” model and decided to consolidate all voters into a single line on Election Day. Customarily the Board makes all operational decisions for Election Day voting, and that practice has historically worked very well. But the Recorder’s public position that this Court has conferred on him the unilateral authority to override these operational decisions for Election Day significantly disrupts planning and administration of Election Day. And Election Day is, of course, the last chance to vote—so problems in Election Day operations carry a higher cost of error than problems in early voting.

24. The legal and operational uncertainty also extends to canvassing. A.R.S. § 16-579.01(B)(3) states that the “county recorder or other officer in charge of elections” must “[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. The tally shall be reported by precinct in the official canvass and other voting reports.”

25. If only the Recorder or the Recorder’s designee is permitted to handle the canvassing of early ballots that are tabulated on-site, it is unclear to the Elections

¹ Available at <https://x.com/KTAR923/status/2046663622563356712/video/1?s=42>.

Department how the Board can conduct a complete and plenary canvass pursuant to A.R.S. §§ 16-642 and 16-645. Relatedly, the functionality needed to tally the early ballots tabulated on-site would be programmed at the central counting facility as part of the Board's election preparation processes.

26. The Elections Department is projecting an Election Day turnout of approximately 118,000 for the July 21, 2026 primary election and approximately 260,000 for the November 3, 2026 general election.

27. In the 2024 primary and general elections, approximately 95,000 and 225,000 voters, respectively, dropped off early ballots at polling locations on Election Day. It is unknown what proportion of these voters will choose on-site tabulation in the 2026 elections.

28. The Elections Department's deadline for finalizing the manual used to train Election Day poll workers for the primary election is May 1, 2026. The manual is prepared to train poll workers for one line and e-poll books that are programed to accommodate a single line. Adjustments to the programming would take months to reprogram and test.

29. It already is too late to feasibly order new or additional equipment (*e.g.*, e-pollbooks or ballot printers) in time for the 2026 primary and general elections and, even if there were time, the County has not budgeted for new equipment. As a consequence, the County must use its existing Election Day equipment—which are owned and maintained by the Board—for all tabulation functions.

Jurisdictional Elections

30. During the entirety of my tenure as Elections Director, the Board has entered into intergovernmental agreements with numerous cities, towns, and political subdivisions in Maricopa County to administer their local jurisdictional elections. These contractual arrangements are consistent with my understanding of A.R.S. § 16-205(C), and they have been the custom and practice in Maricopa County for approximately 30 years. *See, e.g.*, Exhibits 3-4.

31. Jurisdictional elections typically are held on an all-mail basis, without any in-person voting operations on Election Day beyond the replacement ballot sites that the jurisdictions contract with the County Board of Supervisors to provide their voters.

32. These intergovernmental agreements generally provide that the Board is responsible for running the jurisdictional election, including the operation of replacement ballot sites. *See, e.g.,* Exhibits 3-4 ¶ I(2) (contemplating services provided through the “Elections Department,” which reports to the Board rather than the Recorder).

33. The County has contracted with three separate jurisdictions to administer the May jurisdictional election. The three jurisdictions are the City of Tempe, the Town of Guadalupe, and the Fire District of Goldfield Ranch. Their respective elections are already in-process, with mail-in ballots having been sent to voters on April 22, 2026.

34. Since the 1990s, the Board has maintained intergovernmental agreements with all the jurisdictions to administer their local elections.

35. Pursuant to these intergovernmental agreements, the Board has already opened drop boxes (A.R.S. § 16-411.D) and is scheduled to open three separate replacement ballot sites beginning on May 11. Poll workers for these sites are scheduled to be trained on May 6 and 7.

36. The Recorder, however, now insists in writing that his employees (and nobody else) have authority to oversee ballot replacement sites for municipal and local districts like Tempe, Guadalupe, and Goldfield Ranch. *See* Exhibit 2. This interpretation transfers authority to the Recorder’s Office not only from the Board, but also from municipalities and local districts that have never consented to the Recorder running their elections.

37. Again, the Recorder is threatening civil contempt proceedings against anyone who does not immediately adopt his reading of the Court’s injunction, *see* Exhibit 2 at 2 (“Should the Board or any of its employees take any action to interfere with or disregard the Recorder’s exercise of his lawfully designated authority over these [ballot replacement] sites, the Recorder will have no choice but to seek appropriate relief from the court.”)—

even though the Board, not the Recorder, is customarily regarded as the printer of ballots for all elections, and the presumptive service provider for jurisdictional elections. *See generally* A.R.S. §§ 16-205(C), -503.

38. This bifurcation of authority is not consistent with the intergovernmental agreements, which make the Board responsible for conducting the jurisdictional elections, and is causing uncertainty and confusion concerning the scope and limits of the Election Department's permissible activities in connection with the jurisdictional election—again, with civil and criminal enforcement proceedings incessantly threatened over quotidian disagreements concerning the interpretation of statutes and even the high level interpretation adopted in the Court's order.

39. On Tuesday, April 21, the Elections Department sent an email to Sam Stone, the Chief of Staff for the Recorder's Office, asking if the Recorder had any objections to the Elections Department proceeding with providing contracted services to the local jurisdictions holding May elections. Although the deadlines for administering such elections were imminent, Mr. Stone did not respond for six days. And when he finally responded on April 27, 2026, he contested the legality of the jurisdictional election agreements that the Board has been executing for the last approximately three decades. *See* Exhibits 5 and 6.

Conclusion

40. For the foregoing reasons, the immediate implementation of the injunction issued by the Court on April 16, 2026, as I understand the injunction's terms, presents significant risks of greatly disrupting elections administration in Maricopa County, causing confusion for Maricopa County elections staff, poll workers, and voters, and severely damaging the morale, engagement, and retention of critical elections staff.

41. I do not believe it would be possible to successfully administer elections in Maricopa County if the Court's injunction is given immediate effect.

1 I declare under penalty of perjury under the laws of the United States of America and of the
2 State of Arizona that the foregoing is true and correct. Executed on this 30 day of April,
3 2026.

4
5
6 Scott Jarrett

Exhibit 1



February 14, 2026

Via email

Maricopa County Board of Supervisors
c/o Kory Langhofer
kory@statecraftlaw.com

Re: 2026 Early Voting Election Administration and
Public Records Request

Dear Mr. Langhofer:

I write on behalf of Maricopa County Recorder Justin Heap regarding the Recorder's statutory authority over early voting and to request production of documents and information related to early voting operations.

I. Recorder's Statutory Authority Over Early Voting

As you are aware, Arizona law vests exclusive authority in the county recorder to establish early voting locations. Specifically, A.R.S. § 16-542(A) provides that only "[t]he county recorder may ... establish ... early voting locations" and the locations for those sites must be ones that "the county recorder deems necessary." This statutory delegation is clear and unambiguous: the county recorder alone possesses the authority to establish early voting locations.

Any actions taken by the Elections Department or any other county entity to independently establish early in-person voting locations without the Recorder's authorization are *ultra vires* and unlawful. Individuals engaging in such unauthorized actions may be subject to criminal liability under Arizona law, including but not limited to A.R.S. §§ 16-1005(E) and (H), 13-1802, 13-2310, and 13-2311.

Moreover, because any early in-person voting site established without the Recorder's authority would be unlawful, votes cast at such sites would

risk invalidity, potentially disenfranchising voters and creating chaos in election administration.

II. Document Production Request

The Recorder understands that early voting deadlines for the jurisdictional elections in May are approaching, and that the Elections Department has begun preparations for the July Primary election.

To ensure compliance with Arizona law and the proper exercise of the Recorder's statutory authority, please provide the following documents and information to the Recorder's Office **no later than February 18, 2026, at 12:00 p.m.:**

1. Copies of any Jurisdictional Agreement(s) related to early voting operations;
2. Lists of all proposed ballot replacement sites and early in-person voting locations, including days and hours of operation for each site;
3. Lists of all equipment detailed or designated to each ballot replacement site and early in-person voting location;
4. Lists of all employees and/or temporary workers assigned to each ballot replacement site and early in-person voting location for setup, operational maintenance, and breakdown;
5. Details of ballot replacement site worker and early in-person voting locations procedures, instructions, and training materials;
6. Proposed agreement with the Maricopa County Recorder's Office on provision of access for Board of Supervisors workers to assist qualified electors with voter registration changes at ballot replacement sites and early in-person voting locations, including clarification of whether the Recorder's Office will have voter registration temporary workers stationed at each location.

The request for documents is made pursuant to A.R.S. § 39-121, *et seq.* Failure to furnish copies of public records “promptly”, “quick[ly]”, and “without delay” is considered a denial of access. *See e.g., Phx. New Times, L.L.C. v. Arpaio*, 217 Ariz. 533, 538 (App. 2008); *see also West Valley View Inc., v. Maricopa Co. Sheriff's Office*, 216 Ariz. 255, 230 ¶ 21 (App. 2007).

Promptness is determined “within the context of the particular facts and circumstances surrounding each request.” *McKee v. Peoria Unified School Dist.*, 236 Ariz. 254, 258 ¶ 15 (App. 2014).

Given that the Board of Supervisors recently demanded documents from the Recorder, providing just days to respond, the requested timeline to respond is reasonable under these particular facts and circumstances. This is especially true given that the documents relate to election preparation activities that are undoubtedly underway.

Please provide the requested documents electronically via email to james.rogers@aflegal.org on a rolling basis as they become available, and, where possible, in their original format. If there are documents that are not conducive to electronic production, please notify me so I can make arrangements for delivery. If any documents are withheld, please furnish an index of records or categories of records that have been withheld and the reasons for withholding. I aver that this public records request is for non-commercial purposes, as that phrase is defined in Arizona public records laws.

III. Immediate Cessation of Unauthorized Activities Required

Based on the Recorder’s exclusive statutory authority over early voting locations, any work currently being undertaken by Elections Department personnel to independently establish early in-person voting sites without the Recorder’s authorization is unlawful and must cease immediately until you have obtained the Recorder’s consent for such activities.

Furthermore, any such activities may continue only if all personnel involved report directly to the Recorder and obtain his prior consent for their activities. This is not merely a matter of administrative coordination—it is a requirement of Arizona law that recognizes the Recorder’s exclusive authority in this area.

IV. Conclusion

The Recorder takes his statutory duties seriously and is committed to ensuring that all early voting operations in Maricopa County comply fully with Arizona law. We expect your client’s immediate cooperation in pro-

ducing the requested documents by the February 18 deadline and in ensuring that all early voting location establishment activities are conducted under the Recorder's authority and with his express consent.

To avoid the need for legal action, please confirm receipt of this letter and the Board of Supervisors' intention to comply with these requests **by 5:00 pm on February 16, 2026.**

Sincerely,

/s/ James Rogers

James Rogers
Senior counsel
America First Legal Foundation
James.Rogers@aflegal.org

*Attorney for Maricopa County Recorder
Justin Heap*

Exhibit 2



April 28, 2026

VIA EMAIL

Kory Langhofer

Counsel for Maricopa County Board Chair Kate Brophy McGee, Vice Chair Debbie Lesko, Supervisor Thomas Galvin, and Supervisor Steve Gallardo
kory@statecraftlaw.com

Stephen W. Tully

Counsel for Maricopa County Board Supervisor Mark Stewart
STully@TullyBailey.com

**Re: Recorder Heap's Designation of Ballot Replacement Sites for
May 2026 Jurisdictional Elections**

Dear Messrs. Langhofer and Tully:

I write on behalf of our client, Maricopa County Recorder Justin Heap, regarding the administration of ballot replacement sites for the upcoming May 2026 jurisdictional elections for the City of Tempe, the Town of Guadalupe, and the Goldfield Ranch Fire District.

As you are aware, on April 17, 2026, the Maricopa County Superior Court issued its Under Advisement Ruling in *Heap v. Galvin*, CV2025-020621, holding that whenever a statute in Title 16 delegates authority to the "county recorder or other officer in charge of elections," that authority vests in the Recorder unless the Recorder affirmatively consents to its exercise by another officer. The court further enjoined the Board from exercising any election functions delegated by the Legislature to the Recorder without the Recorder's consent.

The Recorder's authority over ballot replacement sites for jurisdictional mail elections follows directly from that ruling. Under A.R.S. § 16-558.02(A), "[t]he county recorder or other officer in charge of elections shall determine a central location in the district and shall provide for a ballot replacement center that is as near to that location as is practicable." Section 16-558.02 is part of Article 8.1 of Chapter 4 of Title 16. Under A.R.S. § 16-409(A), cities, towns, and school districts that conduct mail ballot elections must do so "as otherwise prescribed by article 8.1 of this chapter [4]," expressly incorporating § 16-558.02 and its assignment of ballot replacement author-

ity to the Recorder. Because Recorder Heap has not delegated his authority over ballot replacement sites to any other officer, he is the sole officer statutorily empowered to designate ballot replacement sites for the May 2026 jurisdictional elections.

Accordingly, Recorder Heap hereby designates the following locations as ballot replacement sites for the May 2026 jurisdictional elections, consistent with A.R.S. §§ 16-409(A) and -558.02(A):

Town of Guadalupe election:

EL TIANGUIS MERCADO
9201 S. Avenida del Yaqui
Guadalupe, AZ 85283

City of Tempe election:

TEMPE HISTORY MUSEUM
809 E. Southern Ave.
Tempe, AZ 85282

Goldfield Ranch Fire District election:

FORT MCDOWELL INDIAN COMMUNITY RECREATION CENTER
16402 N. Fort McDowell Rd.
Scottsdale, AZ 85264

It is the Recorder's understanding that, prior to the court's order, the Board had engaged sufficient personnel to staff these sites and has the necessary equipment available to operate them. Pursuant to page 11 of the court's order, the Recorder agrees that for these elections, these individuals will be permitted to staff this election under the supervision of Recorder's Office staff designated by the Recorder. Recorder Heap will assign a senior member of his staff to each site to oversee and supervise operations, consistent with his statutory responsibilities under A.R.S. §§ 16-409(A) and -558.02(A). The Recorder is entering into this arrangement because of the special circumstances created by the court's order having been issued so close to this election. This should not be construed as an agreement that the Recorder will consent to any such arrangement in future elections.

Please confirm promptly that the Board will cooperate in the implementation of these designations and that the staffing and equipment commitments referenced above will be honored. The Recorder has a statutory obligation to ensure that voters in these jurisdictions have meaningful access to ballot replacement services, and the proximity of the election leaves no margin for delay. Should the Board or any of its employees take any action to interfere with or disregard the Recorder's exercise of his lawfully designated authority over these sites, the Recorder will have no choice but

to seek appropriate relief from the court. We trust that will not be necessary, and we look forward to your prompt response.

Sincerely,

/s/ James Rogers

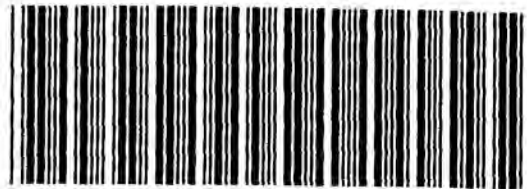
James K. Rogers

Senior Counsel

America First Legal Foundation

cc: Recorder Justin Heap

Exhibit 3



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

C97-59

97-0290665 05/01/97 11:13

AGREEMENT

CATHY 1 OF 1

Whereas, the County of Maricopa has a comprehensive voting system and certified Elections Officials; and

Whereas, the City of Tempe seeks Maricopa County assistance in the conduct of elections; and

Whereas, it is good public policy and benefits the citizens of Maricopa County and is the purpose of this Agreement to make available to any City, Town, or Special Election Jurisdiction within the corporate limits of Maricopa County the services already in being;

Now, Therefore, IT IS AGREED by and between the County of Maricopa, hereinafter called the "County", through the agency of the Maricopa County Department of Elections, and the City of Tempe hereinafter called the "Jurisdiction", pursuant to ARS §11-951 et seq., an agreement as follows:

I. The County shall:

1. Make available support services, ballots, voting equipment, vote tallying equipment, precinct supplies, and such other election materials as may be required for proper conduct of elections;
2. To the extent the County Elections Department determines it is able, provide Elections Department personnel necessary to effectively administer an election;
3. Furnish such election administrative materials, which have been prepared for earlier County elections, to the Jurisdiction at current cost;
4. Shall handle all early balloting (absentee) for Jurisdiction if Jurisdiction is having County conduct entire election.

II. The Jurisdiction shall:

1. Reimburse the County for costs, as set forth in the attached Jurisdictional Election Cost and Services Information, for election materials, supplies and equipment and personnel required in direct support of the Jurisdiction Election;
2. Notify the County to arrange for verification of signatures on Early Voting

C21970122

(formerly Absentee Voting) Requests;

3. Be responsible for the security of all ballot cards tabulated by vendors other than County Elections Department;
4. Not use or allow others to use voter registration information except for "...purposes relating to a political or political party activity, a political campaign, an election or for any other purpose specifically authorized by law." (Arizona Revised Statutes, Title 16, Section 168.E);
5. Provide, under Section 5 of the Voting Rights Act, translation for those Native Americans whose reservation boundaries affect any precincts within the Jurisdiction's election, according to the guidelines of the County as pre-cleared by the Justice Department; and be responsible for payment to County for providing said service;
6. Following a jurisdictional election, for the purpose of re-establishing the inactive voter to active status, provide a list of inactive voters who voted or allow County to scan Jurisdiction's rosters for inactive voters who voted;
7. Be responsible for the creation, translation, printing, and mailing of all publicity pamphlets.

III. The County and the Jurisdiction mutually covenant and agree:

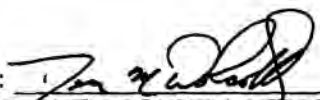
1. That at its discretion, County may provide services for pre-clearance submission to the Department of Justice, and the Jurisdiction will cooperate with the submission by furnishing any and all pertinent information to complete the submission. The Jurisdiction will be responsible for signing the submission and forwarding it to the Department of Justice;
2. Charges for printing of ballot pages, sample ballots, ballot labels, or any other items by commercial means will be billed directly to the Jurisdiction by the commercial vendor providing such services, unless alternate arrangements are agreed to by the County Director of Elections or designated deputy;
3. In the event conflict arises between the County and the Jurisdiction over the use of voting equipment, vote tallying equipment, or County Elections personnel, the County will have priority usage. The County further agrees to make every effort to reconcile conflicts and make reasonable provisions with the Jurisdiction so neither party will suffer as a consequence of conflict;
4. This contract will continue in full force and effect from year-to-year,

4. This contract will continue in full force and effect from year-to-year, without renewal, subject to cancellation for the immediate calendar year by either party not later than January 31 of any year;
5. This contract shall become effective from and after the date of its execution by the governing bodies of both the County and the Jurisdiction, recordation, and publication, if any, as required by law.
6. In the event of termination, any real or personal property belonging to either party and furnished pursuant to this Agreement shall be returned to the furnishing party. Any funds of the Jurisdiction paid to the County in accordance with this Agreement and not encumbered at the time of termination shall be refunded to the Jurisdiction.
7. This Agreement may be canceled pursuant to the provisions of ARS §38-511.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 12th day of February, 19 97.

THE ABOVE AGREEMENT HAS BEEN REVIEWED AND DETERMINED TO BE IN PROPER FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED UNDER THE LAWS OF THIS STATE TO THE COUNTY.

MARICOPA COUNTY ATTORNEY

By: 
DEPUTY COUNTY ATTORNEY

MARICOPA COUNTY BOARD OF SUPERVISORS

By: 
CHAIRMAN

ATTEST:


CLERK, MARICOPA COUNTY BOARD OF SUPERVISORS

THE ABOVE AGREEMENT HAS BEEN REVIEWED AND DETERMINED TO BE IN PROPER FORM AND
WITHIN THE POWERS AND AUTHORITY GRANTED UNDER THE LAWS OF THIS STATE TO THE
JURISDICTION.

FOR THE City of Tempe
MARICOPA COUNTY, ARIZONA

SIGNATURE: Gary Brown

PRINTED NAME: Gary Brown

TITLE: City Manager

DATE: 4/15/97

ATTEST:

Helen R. Fowler
Helen R. Fowler, CMC
City Clerk

OR

C. Paul Woodford
ATTORNEY FOR JURISDICTION

Exhibit 4



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

97-0143073 03/05/97 01:59

KATHERINE 2 OF 12

AGREEMENT

Whereas, the County of Maricopa has a comprehensive voting system and certified Elections Officials; and

Whereas, the Town of Guadalupe seeks Maricopa County assistance in the conduct of elections; and

Whereas, it is good public policy and benefits the citizens of Maricopa County and is the purpose of this Agreement to make available to any City, Town, or Special Election Jurisdiction within the corporate limits of Maricopa County the services already in being;

Now, Therefore, IT IS AGREED by and between the County of Maricopa, hereinafter called the "County", through the agency of the Maricopa County Department of Elections, and the Town of Guadalupe hereinafter called the "Jurisdiction", pursuant to ARS §11-951 et seq., an agreement as follows:

I. The County shall:

1. Make available support services, ballots, voting equipment, vote tallying equipment, precinct supplies, and such other election materials as may be required for proper conduct of elections;
2. To the extent the County Elections Department determines it is able, provide Elections Department personnel necessary to effectively administer an election;
3. Furnish such election administrative materials, which have been prepared for earlier County elections, to the Jurisdiction at current cost;
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1. Reimburse the County for costs, as set forth in the attached Jurisdictional Election Cost and Services Information, for election materials, supplies and equipment and personnel required in direct support of the Jurisdiction Election;
2. Notify the County to arrange for verification of signatures on Early Voting

C21970122

(formerly Absentee Voting) Requests;

3. Be responsible for the security of all ballot cards tabulated by vendors other than County Elections Department;
4. Not use or allow others to use voter registration information except for "...purposes relating to a political or political party activity, a political campaign, an election or for any other purpose specifically authorized by law." (Arizona Revised Statutes, Title 16, Section 168.E);
5. Provide, under Section 5 of the Voting Rights Act, translation for those Native Americans whose reservation boundaries affect any precincts within the Jurisdiction's election, according to the guidelines of the County as pre-cleared by the Justice Department; and be responsible for payment to County for providing said service;
6. Following a jurisdictional election, for the purpose of re-establishing the inactive voter to active status, provide a list of inactive voters who voted or allow County to scan Jurisdiction's rosters for inactive voters who voted;
7. Be responsible for the creation, translation, printing, and mailing of all publicity pamphlets.

III. The County and the Jurisdiction mutually covenant and agree:

1. That at its discretion, County may provide services for pre-clearance submission to the Department of Justice, and the Jurisdiction will cooperate with the submission by furnishing any and all pertinent information to complete the submission. The Jurisdiction will be responsible for signing the submission and forwarding it to the Department of Justice;
2. Charges for printing of ballot pages, sample ballots, ballot labels, or any other items by commercial means will be billed directly to the Jurisdiction by the commercial vendor providing such services, unless alternate arrangements are agreed to by the County Director of Elections or designated deputy;
3. In the event conflict arises between the County and the Jurisdiction over the use of voting equipment, vote tallying equipment, or County Elections personnel, the County will have priority usage. The County further agrees to make every effort to reconcile conflicts and make reasonable provisions with the Jurisdiction so neither party will suffer as a consequence of conflict;
4. This contract will continue in full force and effect from year-to-year,

4. This contract will continue in full force and effect from year-to-year, without renewal, subject to cancellation for the immediate calendar year by either party not later than January 31 of any year;
5. This contract shall become effective from and after the date of its execution by the governing bodies of both the County and the Jurisdiction, recordation, and publication, if any, as required by law.
6. In the event of termination, any real or personal property belonging to either party and furnished pursuant to this Agreement shall be returned to the furnishing party. Any funds of the Jurisdiction paid to the County in accordance with this Agreement and not encumbered at the time of termination shall be refunded to the Jurisdiction.
7. This Agreement may be canceled pursuant to the provisions of ARS §38-511.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 12th day of February, 19 97.

THE ABOVE AGREEMENT HAS BEEN REVIEWED AND DETERMINED TO BE IN PROPER FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED UNDER THE LAWS OF THIS STATE TO THE COUNTY.

MARICOPA COUNTY ATTORNEY

By: 
DEPUTY COUNTY ATTORNEY

MARICOPA COUNTY BOARD OF SUPERVISORS

By: 
CHAIRMAN

ATTEST:


CLERK, MARICOPA COUNTY BOARD OF SUPERVISORS

THE ABOVE AGREEMENT HAS BEEN REVIEWED AND DETERMINED TO BE IN PROPER FORM AND
WITHIN THE POWERS AND AUTHORITY GRANTED UNDER THE LAWS OF THIS STATE TO THE
JURISDICTION.

FOR THE Town of Guadalupe
MARICOPA COUNTY, ARIZONA

SIGNATURE: Frances Osuna

PRINTED NAME: Frances Osuna

TITLE: Mayor

DATE: February 27, 1997

ATTEST:

Rosemary Osuna

OR

Stan C. Dargatzis
ATTORNEY FOR JURISDICTION

Exhibit 5

Subject: Ballot Replacement Sites and Drop Boxes
Date: Monday, April 27, 2026 at 6:03:00 PM Central Daylight Time
From: Samuel Stone (REC)
To: Scott Jarrett (ELE)
CC: Jeff Mason (REC)
Attachments: image001.png

Scott,

We have reviewed your previous email regarding the Ballot Replacement Sites for the May Jurisdictional. First, we much reject your assertion that the BOS may sign a contract with a jurisdiction empowering you to manage duties statutorily assigned to the Recorder. This is position is not supported under Arizona Law, and flies directly in the face of the Court's Ruling that the intergovernmental agreements cannot override state laws. The Board can no more contract to run early voting without the Recorder's permission than they can sign a contract allowing you to manage voter registration or recordation of property deed.

It is the Recorder's intention to return these duties to the control of the MCRO in future elections. However, we recognize that given that shortened time frame for this May election we will need to cooperate as we transition management of these functions.

In exchange for the Recorder's approval of Elections opening and running the Replacement Ballot Sites (BRS) and Drop Boxes for the May Jurisdictional Elections, MCRO requests the following:

1. Command Center – access for MCRO employees throughout the election
2. VR Clerk for each BRS reports to MCRO
3. Problems reported to Command Center are directed to MCRO staff to respond to. MCRO staff will coordinate with Elections staff as necessary to address issues.
4. One of the t-tech auditors(or equivalent) will assist in setup of the sites and Report to the MCRO (Mirroring our agreement for the Early Voting).

Please note that this offer applies ONLY to the May Jurisdictional and not to any other future election.

Thanks,

Sam

Samuel Stone
Chief of Staff
Recorder's Office



O: 405-795-6145

E: sam.stone@maricopa.gov

[Maricopa.Gov]

[Facebook](#) | [Instagram](#) | [X](#) | [YouTube](#) | [LinkedIn](#)

Exhibit 6

Subject: Urgent: May Jurisdictional Drop Boxes / Replacement Ballot Locations
Date: Tuesday, April 21, 2026 at 10:43:54 AM Mountain Standard Time
From: Scott Jarrett (ELE)
To: Samuel Stone (REC)
Priority: High
Attachments: image001.png, 2026 May 19 - Menu of Service - Tempe.pdf, IGA_TEMPE_1997.pdf, 2026 May 19 - Menu of Service - Goldfield Ranch Fire District.pdf, IGA_GUADALUPE_1997.pdf, 2026 May 19 - Menu of Service - Guadalupe.pdf, 2026 May Drop-box Agreement - City of Tempe.pdf

Hello Sam,

Based on the following state statutes, the Elections Department will be opening three drop boxes tomorrow for Jurisdictional Voters. We are scheduled to deliver Tempe's drop box this afternoon.

- ARS 16-411.D - D. The board is not required to designate a polling place for special district mail ballot elections held pursuant to article 8.1 of this chapter, but the board may designate one or more sites for voters to deposit marked ballots until 7:00 p.m. on the day of the election.
- ARS 16-205 C. - The secretary of state shall coordinate the consolidated elections with the board of supervisors. The board of supervisors may enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3 with each political subdivision that participates in a consolidated election in that county in order to administer those elections. After consultation with the political subdivisions that are participating in a consolidated election, the officer in charge of elections shall administer the appointment of election boards.

Additionally, we are scheduled to begin opening replacement ballot sites on May 11, which requires us conduct poll worker recruiting (ARS 16-531), poll worker training (ARS 16-532), and equipment preparations (ARS 16-404, 16-511, 16-447, 16-503, 16-531).

Based on the attached agreements, the jurisdictions (i.e., the officers in charge of elections), have contracted with the BOS and the Elections Department to administer their in-person voting options and drop boxes for the May Jurisdictional Elections.

All the statutory references above and attached agreements point to the Elections Department providing these services. However, state statute ARS 16-558.02 states the following regarding title 48 special district elections (e.g., Goldfield Ranch Fire District).

- 16-558.02 - A. The county recorder or other officer in charge of elections shall determine a central location in the district and shall provide for a ballot replacement center that is as near to that location as is practicable for electors to obtain a replacement ballot or for an elector who is listed as inactive to confirm or revise the elector's voter registration information and receive a ballot. The location shall be open from 6:00 a.m. until 7:00 p.m. of the day of the election. An elector may obtain a replacement ballot until 7:00 p.m. on the day of the election on presenting a signed, sworn statement that the ballot was lost, spoiled, destroyed or not received.

Does the Recorder have any objections to the Elections Department proceeding with providing these services to the local jurisdictions for their May elections?

Thank you,

Scott Jarrett
Elections Director
Elections Department
510 S 2nd Avenue Phoenix, AZ 85003





510 S 510 AVENUE PHOENIX, AZ 85005

E: scott.jarrett@maricopa.gov

[[Elections.Maricopa.Gov](https://elections.maricopa.gov)]

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