

To: Clint Hickman as Chairman of the Maricopa County Board of Supervisors and all Board Members

From: _____

Affidavit to Cease and Desist

Notice to Agent is Notice to Principal and Notice to Principal is Notice to Agent

Comes now Affiant, _____, one of the People of Arizona (Article 2 Section 2), Sui Juris, in this court of record, to establish truth, and proper function of government agencies;

Arizona Constitution Article 2 Section 2: Political Power; Purpose of Government

“All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.”

A.R.S. 16-821(B)-The board of supervisors upon the recommendation of the county chairman, or the recommendation of a committee designated in the bylaws of the county committee for that purpose, shall determine when a vacancy exists in the office of precinct committeeman. If a vacancy exists, **the vacancy shall be filled by the board of supervisors from a list of names submitted by the county chairman of the appropriate political party.** Only a precinct committeeman elected at the primary election prior to the date of a state or county committee organizing meeting shall be permitted to vote at such meeting. The criteria used to establish when a vacancy exists in the office of precinct committeeman shall be as established in section 38-291. [Emphasis added by highlight and bolding]

Affiant states: According to A.R.S. 16-821(B), a political party county chairman, in order to fill vacancies, will supply names of precinct committeeman candidates, to the county board of supervisors, **who shall then appoint** precinct committeeman from that list. There is to be no further interference from the board of supervisors. They have no authority beyond appointing from the supplied list;

Affiant states: A.R.S. 16-821 (B) neither grants authority, oversight or operational power to the Maricopa County Board of Supervisors over any private political organization nor supports the ability to create rules, procedures or actions that would require any compliance of any such factors to that private political organization. Furthermore, A.R.S. 11-251 (Powers of the board) has limitations and restrictions as prescribed by law, prohibiting any additional authority from the board of supervisors that would compel the county chairman to submit the list of candidates in a particular format;

Affiant states: The board of supervisors is required to cease and desist from continuing to exceeded their statutory, administrative authority by intervening in a private political organization, illegally rejecting county precinct committeeman appointment vacancies and preventing these appointments, thereby harming the work of this organization and all private political organizations. The board of supervisors must immediately confirm all previously submitted precinct committeemen applications for vacancy and return to the long-established precedent of immediate appointments for all political parties and refrain from making further unlawful rules regarding vacancies and forms, as they do not have such authority to do so;

Affiant states: Recent judicial decisions indicate the courts disinclination to impose rulings that the legislature did not include in the design of the statute.

In a recent ruling of Maricopa County Superior Court of Arizona, case CV 2023-004799, Docket Code 012, Judge Moskowitz stated numerous times that, **“A.R.S. does not give court jurisdiction to hear nor prohibit a political party from internally resolving such contests (or matters).” “If the Legislature intended for the court to resolve such election contests, it could have said so.” “The Legislature knows how to give court jurisdiction to hear and resolve (election contests) and has expressly done so in other contexts.”**

Several U.S. Supreme Court rulings indicate a similar conclusion-

United States Supreme Court: California Democratic Party v. Jones, 530 U.S. 567 (2000)

"States play a major role in structuring and monitoring the primary election process, but the processes by which political parties select their nominees are not wholly public affairs that States may regulate freely. **To the contrary, States must act within limits imposed by the Constitution when regulating parties' internal processes.** [Emphasis added by bolding]

United States Supreme Court: Newberry v. United States, 256 U.S. 232 (1921) Primaries are in no sense elections for office, but merely methods by which party adherents agree upon candidates whom they intend to offer and support for ultimate choice by all qualified electors. ... In the exercise of the power conferred, prior to the legislation now under consideration, Congress always dealt with the election and the conduct of the election, and never with the nominating process. ... The so-called "nominating primary" was unknown at the time of the adoption of the Constitution; it is a

development of comparatively recent years. **The nominating primary, like the nominating convention and its predecessor, the caucus, is not the "election." The nominating process is distinct from the election, and it was so regarded at the time of the adoption of the Constitution.** [Emphasis added by bolding]

Affiant states: At such time as the legislature indicates a particular system for supplying the lists of available precinct committeeman candidates, MCRC and the E.C.G. will fully comply as they always have in the past.

Until that time, the board of supervisors must cease and desist from further violation of A.R.S. statutes and the rights of private organizations to determine for themselves how they will operate their internal business.

MCRC and the E.C.G. will fully comply, as they always have in the past, when the board of supervisors demonstrates where they have the authority, in the statutes, to arbitrarily make rules that impinge upon the internal functioning of private organizations.

If that authority is not received, in writing, from the board of supervisors, within 5 days of receipt of this Cease and Desist affidavit, the board of supervisors will have acquiesced that their ill-advised decision is rescinded and no further action is required.

MCRC and the E.C.G. express their appreciation to the board of supervisors for their serious consideration and correction of a misapplication of authority.

Verification

I hereby declare, certify and state, pursuant to the penalties of perjury under the laws of the United States of America, and by the provisions of 28 USC § 1746 that all of the above and foregoing representations are true and correct to the best of my knowledge, information and belief.

Executed in _____, Arizona on this _____ day of _____ in the Year of Our Lord Two Thousand Twenty-three.

Autograph of Affiant

Notary as JURANT CERTIFICATE

JURAT

_____ State }
_____ County }

Subscribed and sworn to (or affirmed) before me

On this _____ day of _____ 2023(date) before me, _____ (Name of Affiant), who a Notary Public, personally appeared _____ proved to me on the basis of satisfactory evidence to be the man/woman whose name is subscribed to the within instruments and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her autograph(s) on the instrument the man/woman executed the instrument.

I certify under PENALTY OF PERJURY under the lawful laws of Arizona State and that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary /Jurat

Seal