

1 ALLISTER ADEL  
2 MARICOPA COUNTY ATTORNEY

3 By: Thomas P. Liddy (019384)  
4 Emily Craiger (021728)  
5 Joseph I. Vigil (018677)  
6 Joseph J. Branco (031474)  
7 Joseph E. LaRue (031348)  
8 Deputy County Attorneys  
9 [liddytm@caoc.maricopa.gov](mailto:liddytm@caoc.maricopa.gov)  
10 [craigere@caoc.maricopa.gov](mailto:craigere@caoc.maricopa.gov)  
11 [vigilji@caoc.maricopa.gov](mailto:vigilji@caoc.maricopa.gov)  
12 [brancojj@caoc.maricopa.gov](mailto:brancojj@caoc.maricopa.gov)  
13 [larueje@caoc.maricopa.gov](mailto:larueje@caoc.maricopa.gov)

14 CIVIL SERVICES DIVISION  
15 225 West Madison Street  
16 Phoenix, Arizona 85003  
17 Telephone (602) 506-8541  
18 Facsimile (602) 506-4317  
19 [ca-civilmailbox@caoc.maricopa.gov](mailto:ca-civilmailbox@caoc.maricopa.gov)

20 *Attorneys for the Maricopa County Defendants*

21 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

22 **IN AND FOR THE COUNTY OF MARICOPA**

23 DONALD J. TRUMP FOR PRESIDENT,  
24 INC., a federal political committee;  
25 REPUBLICAN NATIONAL COMMITTEE,  
26 a federal political party committee; and the  
27 ARIZONA REPUBLICAN PARTY, a  
28 political party committee,

Plaintiffs,

v.

29 KATIE HOBBS, in her official capacity as  
30 the Secretary of State of Arizona; ADRIAN  
31 FONTES, in his official capacity as the  
32 Maricopa County Recorder; and JACK  
33 SELLERS, STEVE CHUCRI, BILL  
34 GATES, CLINT HICKMAN, AND STEVE  
35 GALLARDO, in their respective official  
36 capacities as members of the Maricopa  
37 County Board of Supervisors,

Defendants.

NO. CV2020-014248

**MARICOPA COUNTY  
DEFENDANTS' RESPONSE IN  
OPPOSITION TO PLAINTIFFS'  
MOTION TO SEAL**

(Honorable Daniel Kiley)

1 Plaintiffs have moved this Court to seal certain evidence that they would like to offer.  
2 Ordinarily in standard election-law cases, challenging election law or candidate signature  
3 counts, the parties collaboratively agree on a protective seal because large quantities of  
4 documents from the Voter Registration Database must be offered into evidence, often with  
5 personally-identifying, protected information, such as mother's maiden name or social  
6 security number. *See* A.R.S. § 16-168(F) (identifying the personally-identifying information  
7 which elections officials cannot make public). In this instance, those good faith collaborative  
8 efforts have failed. Here the Maricopa County Defendants are agreeable to allowing  
9 Plaintiffs to redact the personally-identifying information protected by A.R.S. § 16-168(F),  
10 but Plaintiffs are requesting significantly more than what is protected by statute with no legal  
11 or factual basis.

12 ***Moreover, this case is substantively different from your typical election challenge.***  
13 Plaintiffs, through their lawsuit and public comments, have sought to undermine the public's  
14 confidence in Arizona's election in general and Maricopa County's election in particular.  
15 This is not a standard, run-of-the-mill election law challenge, and should ***not*** be treated as  
16 such. This case goes to the heart of election integrity, and alleges widespread, systemic  
17 failure by the Maricopa County Defendants, their employees, and their processes.

18 The public has a right to know that the Maricopa County Defendants conducted the  
19 election fairly, and that there was no systemic breakdown as Plaintiffs allege. With no factual  
20 basis, Plaintiffs assert that poll workers, "regularly and consistently instructed or advised"  
21 voters to "push the green button" without adequate explanation and "up to thousands of  
22 qualified electors in Maricopa County attempted to cast ballots at voting centers but had their  
23 ballots rejected by the electronic tabulation device." Complaint ¶¶ 35, 39, 46. And it is not  
24 just that they alleged these baseless claims, it is the manner in which they alleged it so widely  
25 spread and volitionally to the press, on the internet and on Plaintiffs' fundraising letters.  
26 Because of that it is not in the interest of justice to do this in secret. The public has a right to  
27 know how flimsy Plaintiffs' evidence actually is. The government actors who conduct  
28 elections "indisputably ha[ve] a compelling interest in preserving the integrity of its election

1 process.” *Arizona Libertarian Party v. Schmerl*, 200 Ariz. 486, 491, ¶ 17 (Ct. App. 2001),  
2 as amended (Sept. 12, 2001) (quoting *Eu v. San Francisco Cty. Democratic Cent. Comm.*,  
3 489 U.S. 214, 231 (1989). Public confidence in the integrity of the election is likewise an  
4 important government interest. See, e.g., *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (noting  
5 that the “State indisputably has a compelling interest in preserving the integrity of its election  
6 process[.]” and, “Confidence in the integrity of our electoral processes is essential to the  
7 functioning of our participatory democracy.”); *Democratic Nat’l Comm. v. Wisconsin State*  
8 *Legislature*, No. 20A66, 2020 WL 6275871, at \*2 (U.S. Supreme Court Oct. 26, 2020)  
9 (recognizing the danger of actions that would “erod[e] public confidence in electoral  
10 outcomes”). Those interests are implicated here because of Plaintiffs’ erroneous and  
11 baseless allegations that they continue to circulate to the public.

12 Additionally, Plaintiffs assert that they have video footage taken within vote centers on  
13 election day. If so, it appears the videographers violated Arizona law: it is a class 2  
14 misdemeanor to take photographs or videos within the seventy-five foot limit around polling  
15 locations while voters are present. A.R.S. § 16-515(G), (H). Accordingly, these videos  
16 cannot be sealed, because they may be needed by the Attorney General or County Attorney  
17 should they choose to prosecute this unlawful behavior. A.R.S. § 16-1021 (giving both  
18 elected officers enforcement power). It would counterintuitive to have individuals invade  
19 the privacy of voters and violate their right to vote in secret and then use the fruit of that  
20 potentially illegal activity to advance a civil case. Moreover, it would be borderline obscene  
21 to allow them to do it, then present it to a court in secret.

22 Generally, any party from whom discovery is sought may move for a protective order  
23 and the court may, for good cause, enter the protective order. Ariz. R. Civ. P. (“Rule”)  
24 26(c)(1). But, before the court may enter the order, the party seeking to keep this evidence  
25 from the public has the burden of showing good cause—that is, the burden of showing why  
26 the order should be entered. Rule 26(c)(4)(A). “A party asserting good cause bears the  
27 burden, for each document it seeks to protect, of showing that specific prejudice or harm will  
28 result if no protective order is granted. Broad allegations of harm will not suffice.” *Ctr. for*

1 *Auto Safety v. Goodyear Tire & Rubber Co.*, 247 Ariz. 567, 571-572, ¶ 20 (Ct. App. 2019)  
2 (internal citations omitted). Because the Maricopa County Defendants are agreeable to  
3 allowing Plaintiffs to redact the personally-identifying information protected by A.R.S. §  
4 16-168(F), such as social security number and driver license number, Plaintiffs cannot make  
5 that showing.

6 Plaintiffs chose to bring this lawsuit, calling into question the integrity of the electoral  
7 process. The public deserves to see all the evidence so that it can have confidence in this  
8 election. Allowing Plaintiffs to seal evidence will erode public confidence, leading to  
9 questions of “what is the Court trying to hide?” That result will be bad for the judiciary,  
10 harmful to our democracy, and long-term grave damage to the public’s trust in elections.  
11 Accordingly, the Maricopa County Defendants urge this Court to deny Plaintiffs motion to  
12 seal.

13 RESPECTFULLY submitted this 10th day of November 2020.

14 ALLISTER ADEL  
15 MARICOPA COUNTY ATTORNEY

16 BY: /s/Thomas P. Liddy  
17 Thomas P. Liddy  
18 Emily Craiger  
19 Joseph E. La Rue  
20 Deputy County Attorneys  
21 *Attorneys for the Maricopa County*  
22 *Defendants*  
23  
24  
25  
26  
27  
28

ORIGINAL of the foregoing e-filed with  
AZTurboCourt this 10th day of November 2020  
with electronic copies e-served to:

Honorable Daniel Kiley  
Rolena Gomez, Judicial Assistant  
[rolena.gomez@jbazmc.maricopa.gov](mailto:rolena.gomez@jbazmc.maricopa.gov)  
Alexander Mercer, Bailiff  
[alexander.mercer@jbazmc.maricopa.gov](mailto:alexander.mercer@jbazmc.maricopa.gov)  
East Court Building  
101 W. Jefferson Street, Courtroom 411  
Phoenix, Arizona 85003-2202

Kory Langhofer  
Tom Basille  
STATECRAFT  
649 North Fourth Avenue, First Floor  
Phoenix, Arizona 85003  
[kory@statecraftlaw.com](mailto:kory@statecraftlaw.com)  
[tom@statecraftlaw.com](mailto:tom@statecraftlaw.com)  
*Attorneys for Plaintiffs*

Roopali H. Desai  
D. Andrew Gaona  
Kristen Yost  
COPPERSMITH BROCKELMAN PLC  
2800 North Central Avenue, Suite 1900  
Phoenix, Arizona 85004  
[rdesai@cblawyers.com](mailto:rdesai@cblawyers.com)  
[agaona@cblawyers.com](mailto:agaona@cblawyers.com)  
[kyost@cblawyers.com](mailto:kyost@cblawyers.com)  
*Attorneys for Defendant*  
*Secretary of State*

Sarah R. Gonski  
PERKINS COIE LLP  
2901 North Central Avenue, Suite 2000  
Phoenix, Arizona 85012-2788  
[SGonski@perkinscoie.com](mailto:SGonski@perkinscoie.com)

Roy Herrera  
Daniel A. Arellano  
BALLARD SPAHR LLP  
1 East Washington Street, Suite 2300  
Phoenix, Arizona 85004-2555  
[HerreraR@ballardspahr.com](mailto:HerreraR@ballardspahr.com)  
[ArellanoD@ballardspahr.com](mailto:ArellanoD@ballardspahr.com)  
*Attorneys for Intervenor*  
*Arizona Democratic Party*

/s/ J. Barksdale