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President Karen Fann and Senate
Judiciary Committee Chairman Warren
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**IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

MARICOPA COUNTY, *et al.*,

Plaintiffs,

v.

KAREN FANN, *et al.*,

Defendants.

MARICOPA COUNTY, *et al.*,

Plaintiffs,

v.

KAREN FANN, *et al.*,

Defendants.

No. CV2020-016840

No. CV 2021-002092

(Consolidated)

**ANSWER OF SENATE PRESIDENT
FANN AND SENATE JUDICIARY
COMMITTEE CHAIRMAN
PETERSEN**

(Assigned to the Hon. Timothy
Thomason)

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ANSWER

Pursuant to Ariz. R. Civ. P. 8, Defendants Karen Fann, in her capacity as the President of the Arizona Senate, and Warren Petersen, in his capacity as Chairman of the Senate Judiciary Committee, hereby answer the Amended Complaint as follows:

1. President Fann and Chairman Petersen admit that the Arizona Legislature has the power to issue subpoenas. President Fann and Chairman Petersen are without knowledge or information sufficient to form a belief as to the allegations in paragraph 1 of the Amended Complaint concerning whether the Plaintiffs “respect the Arizona Legislature” or “recognize their authority to issue subpoenas and to insist that all parties comply with lawful subpoenas” and therefore deny them. President Fann and Chairman Petersen deny any remaining allegations in paragraph 1 of the Amended Complaint.

2. President Fann and Chairman Petersen deny the allegations in paragraph 2 of the Amended Complaint and further answering state that the information and materials referenced in paragraph 2 of the Amended Complaint are subject to the constitutional and statutory subpoena power of President Fann and Chairman Petersen, and the Plaintiffs’ opinions concerning the qualifications of the Arizona Senate’s agents or contractors is not relevant to the validity or enforceability of the subpoenas in dispute.

3. President Fann and Chairman Petersen deny the allegations in paragraph 3 of the Amended Complaint.

4. President Fann and Chairman Petersen admit that they jointly issued the subpoenas attached to the Amended Complaint as Exhibit A (hereafter, the “Subpoenas”) and that the Subpoenas commanded the attendance of the Maricopa County Board of Supervisors, Maricopa County Recorder, and Maricopa County Treasurer at the Arizona Senate on January 13, 2021 at 9:00 a.m. President Fann and Chairman Petersen deny that the Subpoenas referenced “testimony before the Judiciary Committee,” and deny any remaining allegations in paragraph 4 of the Amended Complaint.

5. President Fann and Chairman Petersen admit that there has not been a “vote of the full Arizona Senate to establish an investigation related to the 2020 general election



1 in Arizona,” and further answering state that the existence or absence of any such vote is
2 not relevant to the validity or enforceability of the Subpoenas. President Fann and
3 Chairman Petersen admit that the Subpoenas “followed a prior legal dispute about similar
4 legislative subpoenas.” President Fann and Chairman Petersen deny any remaining
5 allegations in paragraph 5 of the Amended Complaint.

6 6. President Fann and Chairman Petersen admit that the Chairman of the
7 Maricopa County Board of Supervisors, the Maricopa County Recorder and the Maricopa
8 County Treasurer appeared at the Arizona Capitol but deny that such appearance was “a
9 show of good faith” and deny any remaining allegations in paragraph 6 of the Amended
10 Complaint.

11 7. President Fann and Chairman Petersen admit that no “hearing” was held
12 pursuant to the subpoenas on January 13, and further answering that the Subpoenas never
13 represented that any such “hearing” would occur and that the existence or absence of any
14 such “hearing” is not relevant to the validity or enforceability of the Subpoenas. President
15 Fann and Chairman Petersen admit that the Plaintiffs produced the documents and materials
16 set forth in the second sentence of paragraph 7 of the Amended Complaint. President Fann
17 and Chairman Petersen admit that the Plaintiffs purported to conduct “two additional
18 certified examinations of its elections equipment” and previously conducted a “hand count
19 audit completed on November 9, 2020,” and further answering state that any such
20 “examinations” or “audits” by the Plaintiffs were far more limited in scope than the audit
21 the Arizona Senate intends to undertake and are not relevant to the validity or enforceability
22 of the Subpoenas. President Fann and Chairman Petersen deny any remaining allegations
23 in paragraph 7 of the Amended Complaint.

24 8. President Fann and Chairman Petersen admit that a resolution of contempt
25 was introduced but failed to pass on 15-15 vote held on February 8, 2021, and admit that
26 future resolutions of contempt may be introduced at any time. President Fann and Chairman
27 Petersen deny any remaining allegations in paragraph 8 of the Amended Complaint.
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1 9. President Fann and Chairman Petersen deny the allegations in paragraph 9 of
2 the Amended Complaint and further answering that the Subpoenas never referenced any
3 “hearing” of any kind, there is no constitutional or statutory authority for the notion that
4 legislative investigations must occur with “the input or oversight of any committee,” and
5 far from “obey[ing],” the Subpoenas, the Plaintiffs stand in continuing defiance of them, as
6 the very existence of this action attests.

7 10. President Fann and Chairman Petersen deny the allegations in paragraph 10
8 of the Amended Complaint.

9 11. President Fann and Chairman Petersen deny the allegations in paragraph 11
10 of the Amended Complaint, and further answering state that not only are the Subpoenas not
11 “unlawful,” but there is no constitutional, statutory or precedential authority that excuses
12 the Plaintiffs’ continuing defiance of them.

13 12. Paragraph 12 of the Amended Complaint states a legal conclusion to which
14 no response is required. To the extent a response is deemed necessary, President Fann and
15 Chairman Petersen deny the allegations in paragraph 12 of the Amended Complaint.

16 13. President Fann and Chairman Petersen admit that the Court has jurisdiction
17 to adjudicate the validity and enforceability of the Subpoenas but deny any remaining
18 allegations in paragraph 13 of the Amended Complaint.

19 14. President Fann and Chairman Petersen admit that the Court generally has the
20 power to issue injunctive relief pursuant to A.R.S. § 12-1801, but deny that the Court has
21 the constitutional or statutory authority to enjoin the Defendants or the Arizona Senate from
22 finding a subpoena recipient in contempt of the Senate or from enforcing a resolution of
23 contempt, pursuant to A.R.S. § 41-1153.

24 15. President Fann and Chairman Petersen admit the allegations in paragraph 15
25 of the Amended Complaint.

26 16. President Fann and Chairman Petersen deny the allegations in paragraph 16
27 of the Amended Complaint.

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1 17. President Fann and Chairman Petersen admit the allegations in paragraph 17
2 of the Amended Complaint.

3 18. President Fann and Chairman Petersen admit the allegations in paragraph 18
4 of the Amended Complaint.

5 19. President Fann and Chairman Petersen admit the allegations in paragraph 19
6 of the Amended Complaint.

7 20. President Fann and Chairman Petersen deny that Clint Hickman is currently
8 the Chairman of the Maricopa County Board of Supervisors but admit the remaining
9 allegations in paragraph 20 of the Amended Complaint.

10 21. President Fann and Chairman Petersen admit the allegations in paragraph 21
11 of the Amended Complaint.

12 22. President Fann and Chairman Petersen admit the allegations in paragraph 22
13 of the Amended Complaint.

14 23. President Fann and Chairman Petersen admit the allegations in paragraph 23
15 of the Amended Complaint.

16 24. President Fann and Chairman Petersen admit the allegations in paragraph 24
17 of the Amended Complaint.

18 25. President Fann and Chairman Petersen admit the allegations in paragraph 25
19 of the Amended Complaint.

20 26. President Fann and Chairman Petersen admit the allegations in paragraph 26
21 of the Amended Complaint.

22 27. President Fann and Chairman Petersen admit the allegations in paragraph 27
23 of the Amended Complaint.

24 28. President Fann and Chairman Petersen admit the allegations in paragraph 28
25 of the Amended Complaint.

26 29. President Fann and Chairman Petersen admit the allegations in paragraph 29
27 of the Amended Complaint.

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1 30. President Fann and Chairman Petersen admit the allegations in paragraph 30
2 of the Amended Complaint.

3 31. President Fann and Chairman Petersen admit the allegations in paragraph 31
4 of the Amended Complaint.

5 32. President Fann and Chairman Petersen admit the allegations in paragraph 32
6 of the Amended Complaint.

7 33. President Fann and Chairman Petersen admit the allegations in paragraph 33
8 of the Amended Complaint.

9 34. President Fann and Chairman Petersen are without knowledge or information
10 sufficient to form a belief as to the truth of the allegations in paragraph 34 of the Amended
11 Complaint and therefore deny them.

12 35. President Fann and Chairman Petersen admit the allegations in paragraph 35
13 of the Amended Complaint.

14 36. President Fann and Chairman Petersen admit the allegations in paragraph 36
15 of the Amended Complaint.

16 37. President Fann and Chairman Petersen admit the allegations in paragraph 37
17 of the Amended Complaint. Further answering, President Fann and Chairman Petersen
18 state that the results of the logic and accuracy test are not relevant to the validity or
19 enforceability of the Subpoenas.

20 38. President Fann and Chairman Petersen admit the allegations in paragraph 38
21 of the Amended Complaint.

22 39. President Fann and Chairman Petersen admit the allegations in paragraph 39
23 of the Amended Complaint.

24 40. President Fann and Chairman Petersen admit the allegations in paragraph 40
25 of the Amended Complaint. Further answering, President Fann and Chairman Petersen
26 state that the results of the logic and accuracy test are not relevant to the validity or
27 enforceability of the Subpoenas.

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1 41. President Fann and Chairman Petersen admit the allegations in paragraph 41
2 of the Amended Complaint.

3 42. President Fann and Chairman Petersen admit the allegations in paragraph 42
4 of the Amended Complaint.

5 43. President Fann and Chairman Petersen admit the allegations in paragraph 43
6 of the Amended Complaint.

7 44. President Fann and Chairman Petersen admit the allegations in paragraph 44
8 of the Amended Complaint. Further answering, President Fann and Chairman Petersen
9 state that the results of the hand count audit are not relevant to the validity or enforceability
10 of the Subpoenas.

11 45. President Fann and Chairman Petersen deny that the “various audits
12 demonstrated that Maricopa County’s election was accurately tabulated” because such
13 “audits” reviewed only a small sample of all ballots cast and thus did not and could not
14 establish conclusively that all election results were “accurately tabulated.” President Fann
15 and Chairman Petersen admit the remaining allegations in paragraph 45 of the Amended
16 Complaint.

17 46. President Fann and Chairman Petersen admit that the proceedings enumerated
18 in paragraph 46 of the Amended Complaint existed, but are without knowledge or
19 information sufficient to form a belief as to the allegations in paragraph 46 of the Amended
20 Complaint concerning the Amended Complaint’s characterizations of the claims and
21 arguments raised or litigated in such proceedings (other than *Donald J. Trump v. Hobbs*,
22 No. CV2020-014248), and therefore deny them. Upon information and belief, certain of
23 the proceedings identified in paragraph 46 of the Amended Complaint did in fact feature
24 credible evidence of some vote tabulation or ballot transposition errors in Maricopa County.
25 Further answering, President Fann and Chairman Petersen state that the proceedings
26 identified in paragraph 46 the Amended Complaint are not relevant to the validity or
27 enforceability of the Subpoenas. President Fann and Chairman Petersen deny any
28 remaining allegations in paragraph 46 of the Amended Complaint.

1 47. President Fann and Chairman Petersen admit that the proceeding identified in
2 paragraph 47 of the Amended Complaint existed, but are without knowledge or information
3 sufficient to form a belief as to the allegations in paragraph 47 of the Amended Complaint
4 concerning the Plaintiffs’ characterizations of the claims and arguments raised or litigated
5 in such proceeding, and therefore deny them. Further answering, President Fann and
6 Chairman Petersen state that the proceedings identified in paragraph 47 of the Amended
7 Complaint are not relevant to the validity or enforceability of the Subpoenas. President
8 Fann and Chairman Petersen deny any remaining allegations in paragraph 47 of the
9 Amended Complaint.

10 48. President Fann and Chairman Petersen admit that the proceeding identified in
11 paragraph 48 of the Amended Complaint existed, but are without knowledge or information
12 sufficient to form a belief as to the allegations in paragraph 48 of the Amended Complaint
13 concerning the Plaintiffs’ characterizations of the claims and arguments raised or litigated
14 in such proceeding, and therefore deny them. Further answering, President Fann and
15 Chairman Petersen state that the proceeding identified in paragraph 48 of the Amended
16 Complaint is not relevant to the validity or enforceability of the Subpoenas.

17 49. President Fann and Chairman Petersen admit that there were seven lawsuits
18 relating to the conduct of the November 3, 2020 general election, and that those lawsuits
19 did not result in the decertification of the election, but are without knowledge or information
20 sufficient to form a belief as to the allegations in paragraph 49 of the Amended Complaint
21 concerning the Plaintiffs’ characterizations of the claims and arguments raised or litigated
22 in such proceedings (other than *Donald J. Trump v. Hobbs*, No. CV2020-014248), and
23 therefore deny them. Upon information and belief, certain of the proceedings identified in
24 the Amended Complaint did in fact feature credible evidence of some vote tabulation or
25 ballot transposition errors in Maricopa County. Further answering, President Fann and
26 Chairman Petersen state that the proceedings referenced in the Amended Complaint are not
27 relevant to the validity or enforceability of the Subpoenas. President Fann and Chairman
28 Petersen deny any remaining allegations in paragraph 49 of the Amended Complaint.

1 50. President Fann and Chairman Petersen admit that the Arizona Senate
2 Judiciary Committee held a special meeting on December 14, 2020 but deny any remaining
3 allegations in paragraph 50 of the Amended Complaint.

4 51. President Fann and Chairman Petersen admit the allegations in paragraph 51
5 of the Amended Complaint.

6 52. President Fann and Chairman Petersen admit the allegations in paragraph 52
7 of the Amended Complaint.

8 53. President Fann and Chairman Petersen admit the allegations in paragraph 53
9 of the Amended Complaint.

10 54. President Fann and Chairman Petersen admit that President Fann and Senator
11 Eddie Farnsworth, then the Chairman of the Senate Judiciary Committee, issued to, and
12 caused to be served on, the Maricopa County Board of Supervisors two subpoenas on
13 December 15, 2020. President Fann and Chairman Petersen deny any remaining allegations
14 in paragraph 54 of the Amended Complaint.

15 55. President Fann and Chairman Petersen admit the allegations in paragraph 55
16 of the Amended Complaint.

17 56. President Fann and Chairman Petersen admit the allegations in paragraph 56
18 of the Amended Complaint.

19 57. President Fann and Chairman Petersen deny the allegations in paragraph 57
20 of the Amended Complaint.

21 58. President Fann and Chairman Petersen deny the allegations in paragraph 58
22 of the Amended Complaint and further answering state that the Plaintiffs represented that
23 they would not comply with the December 15, 2020 subpoenas, irrespective of how much
24 time they were afforded in which to do so.

25 59. President Fann and Chairman Petersen admit that Maricopa County initiated
26 the proceeding captioned *Maricopa County v. Fann*, No. CV2020-016840 on December 18,
27 2020. President Fann and Chairman Petersen deny any remaining allegations in paragraph
28 59 of the Amended Complaint.

1 60. President Fann and Chairman Petersen admit that the Plaintiffs in the
2 CV2020-016840 proceeding raised the claims and arguments set forth in paragraph 60 of
3 the Amended Complaint but deny that such claims and arguments were valid as a matter of
4 law. President Fann and Chairman Petersen deny any remaining allegations in paragraph
5 60 of the Amended Complaint.

6 61. President Fann and Chairman Petersen admit that President Fann and then-
7 Chairman Farnsworth initiated the mandamus special action proceeding assigned the docket
8 number CV2020-016904 and sought an order to show cause, but deny that “the purpose of
9 the December 15, 2020 subpoenas was to overturn the vote of the People of Arizona in the
10 November 3, 2020 election for president of the United States,” and deny any remaining
11 allegations in paragraph 61 of the Amended Complaint.

12 62. President Fann and Chairman Petersen admit that the Court dismissed the
13 CV2020-016904 proceeding and further answering state that the Court granted President
14 Fann and then-Chairman Farnsworth leave to amend the complaint to plead additional
15 grounds for jurisdiction. President Fann and Chairman Petersen deny any remaining
16 allegations in paragraph 62 of the Amended Complaint.

17 63. President Fann and Chairman Petersen admit that President Fann and then-
18 Chairman Farnsworth filed an Answer and Counterclaim on December 29, 2020 in the
19 CV2020-016840 proceeding but deny that “the rest of the Senate Judiciary Committee”
20 were parties to the Counterclaim. President Fann and Chairman Petersen admit the
21 allegations in the final two sentences of paragraph 63 of the Amended Complaint. President
22 Fann and Chairman Petersen deny any remaining allegations in paragraph 63 of the
23 Amended Complaint.

24 64. President Fann and Chairman Petersen admit the allegations in paragraph 64
25 of the Amended Complaint.

26 65. President Fann and Chairman Petersen deny the allegations in paragraph 65
27 of the Amended Complaint.
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1 66. President Fann and Chairman Petersen admit that they issued new subpoenas
2 on January 12, 2021 but deny the remaining allegations in paragraph 66 of the Amended
3 Complaint.

4 67. President Fann and Chairman Petersen admit the allegations in paragraph 67
5 of the Amended Complaint.

6 68. President Fann and Chairman Petersen admit that the Subpoenas sought the
7 documents and materials set forth in paragraph 68 and in Exhibit A of the Amended
8 Complaint but deny any remaining allegations in paragraph 68 of the Amended Complaint.

9 69. President Fann and Chairman Petersen admit that the Subpoenas were served
10 at approximately 3:49 p.m. on January 12, 2021 and commanded that the recipients appear
11 at the Arizona Capitol on January 13, 2021 at 9:00 a.m. with the subpoenaed documents
12 and materials. President Fann and Chairman Petersen deny that the Subpoenas commanded
13 any testimony at any “Senate hearing,” and deny any remaining allegations in paragraph 69
14 of the Amended Complaint.

15 70. President Fann and Chairman Petersen admit that Supervisor Sellers,
16 Recorder Richer and Treasurer Allen appeared at the Arizona Capitol at 9:00 a.m. on
17 January 13, 2021 but deny the remaining allegations in paragraph 70 of the Amended
18 Complaint.

19 71. President Fann and Chairman Petersen admit that no “hearing” was scheduled
20 at which any of the Plaintiffs would appear as witnesses but deny that the existence or
21 absence of a “hearing” is relevant to the validity or enforceability of the Subpoenas, and
22 deny any remaining allegations in paragraph 71 of the Amended Complaint.

23 72. President Fann and Chairman Petersen admit the Maricopa County elected
24 officials were informed by Senate staff that they were not asked to provide “testimony” at
25 any “hearing,” but deny the remaining allegations in paragraph 72 of the Amended
26 Complaint. Further answering, President Fann and Chairman Petersen state that counsel
27 for the Arizona Senate had expressly informed counsel for the Maricopa County elected
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1 officials on January 12, 2021 that the Maricopa County elected officials were excused from
2 the Subpoenas’ command to appear at the Arizona Capitol on January 13, 2021.

3 73. President Fann and Chairman Petersen admit that on January 13, 2021 the
4 Court held a hearing on the pending motion for a preliminary injunction to enforce the
5 December 15, 2020 subpoenas. President Fann and Chairman Petersen deny any remaining
6 allegations in paragraph 73 of the Amended Complaint.

7 74. President Fann and Chairman Petersen are without knowledge or information
8 sufficient to form a belief as to the truth of the allegations in paragraph 74 of the Amended
9 Complaint concerning the physical whereabouts of Thomas P. Liddy or Chairman Sellers
10 during the Court’s hearing or the ostensible reasons they joined late, and therefore deny
11 them. Further answering, President Fann and Chairman Petersen state that counsel for the
12 Arizona Senate had expressly informed counsel for the Maricopa County elected officials
13 on January 12, 2021 that the Maricopa County elected officials were excused from the
14 Subpoenas’ command to appear at the Arizona Capitol on January 13, 2021. President Fann
15 and Chairman Petersen deny that the Subpoenas ever set any “time for a hearing,” and deny
16 the remaining allegations in paragraph 74 of the Amended Complaint.

17 75. President Fann and Chairman Petersen admit the allegations in paragraph 75
18 of the Amended Complaint.

19 76. President Fann and Chairman Petersen admit that the Court ruled that claims
20 concerning the enforcement of the subpoenas issued on December 15, 2020 became moot
21 when the Fifty-Fifth Legislature convened on January 12, 2021. Further answering,
22 President Fann and Chairman Petersen state that the Verified Counterclaim filed on
23 December 29, 2020 expressly averred that President Fann and incoming Chairman Petersen
24 intended to re-issue substantively identical subpoenas when the new Legislature convened,
25 and they in fact did so on January 12, 2021. President Fann and Chairman Petersen deny
26 any remaining allegations in paragraph 76 of the Amended Complaint.

27 77. President Fann and Chairman Petersen admit the allegations in paragraph 77
28 of the Amended Complaint.

1 78. President Fann and Chairman Petersen are without knowledge or information
2 sufficient to form a belief as to the truth of the allegations in paragraph 78 of the Amended
3 Complaint, and therefore deny them.

4 79. President Fann and Chairman Petersen are without knowledge or information
5 sufficient to form a belief as to the truth of the allegations in paragraph 79 of the Amended
6 Complaint, and therefore deny them.

7 80. President Fann and Chairman Petersen admit the allegations in paragraph 80
8 of the Amended Complaint.

9 81. President Fann and Chairman Petersen admit that Plaintiffs produced the data
10 set forth in paragraph 81 of the Amended Complaint but deny that any redactions made to
11 such data were “lawfully-required” or permissible, and deny any remaining allegations in
12 paragraph 81 of the Amended Complaint.

13 82. President Fann and Chairman Petersen admit the allegations in paragraph 82
14 of the Amended Complaint.

15 83. President Fann and Chairman Petersen admit the allegations in paragraph 83
16 of the Amended Complaint.

17 84. President Fann and Chairman Petersen admit the allegations in paragraph 84
18 of the Amended Complaint.

19 85. President Fann and Chairman Petersen admit the allegations in paragraph 85
20 of the Amended Complaint.

21 86. President Fann and Chairman Petersen admit the allegations in paragraph 86
22 of the Amended Complaint and further answering state that it is undisputed that Plaintiffs
23 are not required to produce documents and information that does not exist or that is not
24 within their possession, custody and control.

25 87. President Fann and Chairman Petersen are without knowledge or information
26 sufficient to form a belief as to the truth of the allegations in paragraph 87 of the Amended
27 Complaint and therefore deny them.

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1 88. President Fann and Chairman Petersen admit the allegations in paragraph 88
2 of the Amended Complaint.

3 89. President Fann and Chairman Petersen admit that no final settlement
4 agreement between the parties was reached, but deny that “Arizona law prohibits the
5 Maricopa County Plaintiffs from producing ballots or their images absent a court order”
6 and further answering state that the Plaintiffs and/or their counsel indicated unequivocally
7 that Plaintiffs could or would produce such ballot images in response to the Subpoenas.
8 President Fann and Chairman Petersen deny any remaining allegations in paragraph 89 of
9 the Amended Complaint.

10 90. President Fann and Chairman Petersen admit that Maricopa County retained
11 Pro V&V Laboratory and SLI Compliance to conduct a narrow and limited “audit of the
12 Maricopa County tabulation machines and software.” President Fann and Chairman
13 Petersen deny that the foregoing firms were “certified” by the U.S. Election Assistance
14 Commission and further answering state that the U.S. Election Assistance Commission only
15 accredits laboratories to test a discrete number of functions on voting and tabulation
16 devices. President Fann and Chairman Petersen deny any remaining allegations in
17 paragraph 90 of the Amended Complaint.

18 91. President Fann and Chairman Petersen deny the allegations in paragraph 91
19 of the Amended Complaint and further answering state that the county has cited no legal
20 authority for the notion that an audit conducted by a person other than “EAC-certified
21 laboratories” would “void the certification” or “de-certify” voting or tabulation devices.

22 92. President Fann and Chairman Petersen deny the allegations in paragraph 92
23 of the Amended Complaint.

24 93. President Fann and Chairman Petersen admit the allegations in the first
25 sentence of paragraph 93 of the Amended Complaint but are without knowledge or
26 information sufficient to form a belief as to the truth of the remaining allegations in
27 paragraph 93 of the Amended Complaint and therefore deny them.

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1 94. President Fann and Chairman Petersen admit that Maricopa County
2 developed the “scope of work” set forth in paragraph 94 of the Amended Complaint but
3 deny that the review was “comprehensive[]” or coterminous with the audit the Arizona
4 Senate intends to conduct, and further answering state that the existence or scope of any
5 audit purportedly conducted by Maricopa County is not relevant to the validity or
6 enforceability of the Subpoenas. President Fann and Chairman Petersen deny any
7 remaining allegations in paragraph 94 of the Amended Complaint.

8 95. President Fann and Chairman Petersen admit the allegations in paragraph 95
9 of the Amended Complaint.

10 96. President Fann and Chairman Petersen admit that President Fann issued the
11 referenced press release but deny that it was “inexplicabl[e]” and deny any remaining
12 allegations in paragraph 96 of the Amended Complaint.

13 97. President Fann and Chairman Petersen admit that the press release included
14 the sentence quoted in paragraph 97 of the Amended Complaint but deny that the sentence
15 was “incorrect[]” and further answering state, based on direct discussions with a sitting
16 member of the EAC, that the EAC in fact does not “certify” laboratories to conduct “audits.”
17 President Fann and Chairman Petersen deny any remaining allegations in paragraph 97 of
18 the Amended Complaint.

19 98. President Fann and Chairman Petersen admit the allegations in paragraph 98
20 of the Amended Complaint.

21 99. President Fann and Chairman Petersen deny the allegations in paragraph 99
22 of the Amended Complaint and further answering state that the EAC has not “certified” any
23 laboratory as universally “qualified to conduct analysis on election equipment.” President
24 Fann and Chairman Petersen further deny that third party certifications are relevant for
25 purposes of these proceedings.

26 100. President Fann and Chairman Petersen admit that the Arizona Senate has not
27 retained Pro V&V Laboratory or SLI Compliance but deny that either firm has been
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1 “certified” by the EAC to conduct post-election audits. President Fann and Chairman
2 Petersen deny any remaining allegations in paragraph 100 of the Amended Complaint.

3 101. President Fann and Chairman Petersen deny the allegations in paragraph 101
4 of the Amended Complaint and further answering state that the EAC does not “certif[y]”
5 firms to conduct post-election audits.

6 102. President Fann and Chairman Petersen deny the allegations in paragraph 102
7 of the Amended Complaint and further answering state that the Arizona Senate has not yet
8 finalized a decision concerning which firm(s) it will or will not retain to conduct its audit.

9 103. President Fann and Chairman Petersen admit the allegations in paragraph 103
10 of the Amended Complaint.

11 104. President Fann and Chairman Petersen deny the allegations in paragraph 104
12 of the Amended Complaint.

13 105. President Fann and Chairman Petersen admit that ASOG was founded by
14 Russell Ramsland but deny the remaining allegations in paragraph 105 of the Amended
15 Complaint and further answering state that the Arizona Senate has not yet finalized a
16 decision concerning which firm(s) it will or will not retain to conduct its audit.

17 106. President Fann and Chairman Petersen admit that the *Vice* magazine report
18 contains the statements quoted in paragraph 106 of the Amended Complaint. To the extent
19 the Amended Complaint alleges that the content of the *Vice* magazine report is true and
20 correct, President Fann and Chairman Petersen are without knowledge or information
21 sufficient to form a belief as to such allegations and therefore deny them. President Fann
22 and Chairman Petersen deny any remaining allegations in paragraph 106 of the Amended
23 Complaint.

24 107. President Fann and Chairman Petersen admit that the *Politifact* webpage
25 contains the statements quoted in paragraph 107 of the Amended Complaint. To the extent
26 the Amended Complaint alleges that the contents of the *Politifact* webpage are true and
27 correct, President Fann and Chairman Petersen are without knowledge or information
28 sufficient to form a belief as to such allegations and therefore deny them. President Fann

1 and Chairman Petersen deny any remaining allegations in paragraph 107 of the Amended
2 Complaint.

3 108. President Fann and Chairman Petersen are without knowledge or information
4 sufficient to form a belief as to the truth of the allegations in paragraph 108 of the Amended
5 Complaint and therefore deny them. Further answering, President Fann and Chairman
6 Petersen state that the cited Delaware Superior Court ruling appears to be unpublished and
7 not accessible through basic Internet searches.

8 109. President Fann and Chairman Petersen deny that the news reports cited in
9 paragraph 109 of the Amended Complaint state that “extensive public reporting since the
10 November 3, 2020 general election indicates that ASOG has peddled debunked conspiracy
11 theories and error-riddled analyses in its quixotic quest to prove that election fraud
12 occurred,” deny that any third party’s view of potential Senate vendors is relevant for
13 purposes of these proceedings, and deny any remaining allegations in paragraph 109 of the
14 Amended Complaint.

15 110. President Fann and Chairman Petersen admit that the cited news articles
16 contain the statements quoted in paragraph 110 of the Amended Complaint. To the extent
17 the Amended Complaint alleges that the contents of such news articles are true and correct,
18 President Fann and Chairman Petersen are without knowledge or information sufficient to
19 form a belief as to such allegations and therefore deny them. President Fann and Chairman
20 Petersen deny any remaining allegations in paragraph 110 of the Amended Complaint.

21 111. President Fann and Chairman Petersen deny the allegations in paragraph 111
22 of the Amended Complaint and further answering that the cited *Capitol Media Services*
23 article in fact does not state that Attorney Langhofer ever “indicat[ed] that the true purpose
24 of the January 12, 2021 subpoenas is to audit the November 3, 2020, general election for
25 president of the United States.”

26 112. President Fann and Chairman Petersen admit the allegations in paragraph 112
27 of the Amended Complaint.

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1 113. President Fann and Chairman Petersen admit the allegations in paragraph 113
2 of the Amended Complaint.

3 114. President Fann and Chairman Petersen admit that Allied’s proposed scope of
4 work includes performing a hand count of approximately 550,000 ballots but deny any
5 remaining allegations in paragraph 114 of the Amended Complaint.

6 115. President Fann and Chairman Petersen admit the allegations in the first
7 sentence of paragraph 115 of the Amended Complaint and further answering state that the
8 scope of work does not, and for purposes of these proceedings need not, address the
9 handling of ballot images following the completion of the Senate’s audit. President Fann
10 and Chairman Petersen deny any remaining allegations in paragraph 115 of the Amended
11 Complaint.

12 116. President Fann and Chairman Petersen deny the allegations in paragraph 116
13 of the Amended Complaint and further answering state that the EAC does not “certify” any
14 firm to “audit” election results and the county has cited no authority for the notion that a
15 post-election audit will cause any voting machines to be “decertified” or otherwise affect
16 the lawful conduct of future elections.

17 117. President Fann and Chairman Petersen are without knowledge or information
18 sufficient to form a belief as to the truth of the allegations in paragraph 117 of the Amended
19 Complaint and therefore deny them.

20 118. President Fann and Chairman Petersen admit the allegations in paragraph 118
21 of the Amended Complaint.

22 119. President Fann and Chairman Petersen incorporate by reference their answers
23 to the foregoing paragraphs of the Amended Complaint as if fully set forth herein.

24 120. President Fann and Chairman Petersen admit that Section 41-1151 of the
25 Arizona Revised Statutes states, in part, that “A subpoena may be issued by the presiding
26 officer of either house or the chairman of any committee before whom the attendance of a
27 witness is desired” but deny that the subpoena power is “limited” and deny any remaining
28 allegations in paragraph 120 of the Amended Complaint.

1 121. President Fann and Chairman Petersen admit that the January 12, 2021
2 subpoena required the attendance of the Maricopa County Board of Supervisors at the
3 Arizona Senate on January 13, 2021 at 9:00 a.m. but deny that the subpoena referenced any
4 “hearing,” and deny any remaining allegations in paragraph 121 of the Amended
5 Complaint.

6 122. President Fann and Chairman Petersen admit that Supervisor Sellers appeared
7 at the Arizona Senate as required by the subpoena but deny that the subpoena ever
8 referenced any “hearing” and deny that Supervisor Sellers or the other Plaintiffs otherwise
9 “complied” with the subpoenas issued to them. President Fann and Chairman Sellers deny
10 any remaining allegations in paragraph 122 of the Amended Complaint.

11 123. President Fann and Chairman Petersen admit that Supervisor Sellers was not
12 required to testify at a “hearing” and further answering state that the existence or absence
13 of a “hearing” is not relevant to the validity or enforceability of the Subpoenas. President
14 Fann and Chairman Petersen deny any remaining allegations in paragraph 123 of the
15 Amended Complaint.

16 124. President Fann and Chairman Petersen deny the allegations in paragraph 124
17 of the Amended Complaint and further answering state that the very statutory language
18 cited by the Plaintiffs provides that a witness may be required to “appear[]” **or** “testify.”

19 125. President Fann and Chairman Petersen deny the allegations in paragraph 125
20 of the Amended Complaint.

21 126. President Fann and Chairman Petersen admit that no “hearing” was held or
22 referenced by the January 12, 2021 subpoena but deny that the existence or absence of a
23 “hearing” is relevant to the validity or enforceability of the Subpoenas or that a witness has
24 a right to be “allowed to provide testimony” when no such testimony is actually sought.
25 President Fann and Chairman Petersen deny any remaining allegations in paragraph 126 of
26 the Amended Complaint.

1 127. Paragraph 127 of the Amended Complaint states a legal conclusion to which
2 no response is required. To the extent a response is deemed necessary, President Fann and
3 Chairman Petersen deny the allegations in paragraph 127 of the Amended Complaint.

4 128. President Fann and Chairman Petersen incorporate by reference their answers
5 to the foregoing paragraphs of the Amended Complaint as if fully set forth herein.

6 129. President Fann and Chairman Petersen deny the allegations in paragraph 129
7 of the Amended Complaint and further answering state that the Plaintiffs have inverted the
8 applicable principle of law; the Legislature possesses all powers not expressly denied to it
9 by the Constitution. *See Earhart v. Frohmler*, 65 Ariz. 221, 224 (1947); *Adams v. Bolin*,
10 74 Ariz. 269, 283 (1952).

11 130. President Fann and Chairman Petersen deny the allegations in paragraph 130
12 of the Amended Complaint and further answering state that the Constitution and laws of the
13 State of Arizona do not enumerate any substantive or temporal limitations on the scope of
14 the legislative subpoena power and that the jurisprudence of the courts of the State of
15 California are not determinative of questions of Arizona law.

16 131. President Fann and Chairman Petersen deny the allegations in paragraph 131
17 of the Amended Complaint.

18 132. President Fann and Chairman Petersen deny the allegations in paragraph 132
19 of the Amended Complaint and further answering state that the legislative subpoena power
20 derives from the Arizona Constitution, not “common law.”

21 133. President Fann and Chairman Petersen deny the allegations in paragraph 133
22 of the Amended Complaint and further answering state that the provisions of Title 41 of the
23 Arizona Revised Statutes do not and cannot abridge or limit the Legislature’s inherent
24 constitutional subpoena power.

25 134. President Fann and Chairman Petersen admit that paragraph 134 of the
26 Amended Complaint accurately reproduces the text of A.R.S. § 41-1151, as modified to
27 include the Plaintiffs’ selective emphases. President Fann and Chairman Petersen deny any
28 remaining allegations in paragraph 134 of the Amended Complaint.

1 135. President Fann and Chairman Petersen admit that paragraph 135 of the
2 Amended Complaint accurately reproduces excerpts of the text of A.R.S. § 41-1154, as
3 modified to include the Plaintiffs’ selective emphases. President Fann and Chairman
4 Petersen deny any remaining allegations in paragraph 135 of the Amended Complaint.

5 136. President Fann and Chairman Petersen deny the allegations in paragraph 136
6 of the Amended Complaint and further answering that A.R.S. § 41-1154 allows the
7 Legislature to command a subpoena recipient’s attendance at “a certain time and place”; it
8 does not reference, let alone require, a “hearing” of any kind or secure some right to offer
9 “testimony” when no testimony is sought.

10 137. President Fann and Chairman Petersen admit that the January 12, 2021
11 subpoena required the Maricopa County Board of Supervisors to “appear” at the Arizona
12 Senate on January 13, 2021 at 9:00 a.m. and that Supervisors Sellers complied with that
13 command. Further answering, President Fann and Chairman Petersen state that the
14 subpoena never referenced any “hearing” and the existence or absence of a “hearing” is not
15 relevant to the validity or enforceability of the Subpoenas. President Fann and Chairman
16 Petersen deny any remaining allegations in paragraph 137 of the Amended Complaint.

17 138. President Fann and Chairman Petersen deny the allegations in paragraph 138
18 of the Amended Complaint, and further answering state that no law requires the Legislature
19 to adduce testimony or provides a subpoena recipient with a right to provide testimony that
20 is not sought.

21 139. President Fann and Chairman Petersen deny the allegations in paragraph 139
22 of the Amended Complaint and further answering state that the existence or absence of a
23 “hearing” at which “testimony” is provided is not relevant to the validity or enforceability
24 of the Subpoenas.

25 140. President Fann and Chairman Petersen admit that the Subpoenas required the
26 recipients to produce the documents and materials itemized therein no later than January
27 13, 2021 at 9:00 a.m., and further answering state that the Plaintiffs have indicated that they
28 will refuse to comply with this command irrespective of how much time they are afforded

1 in which to do so. President Fann and Chairman Petersen deny any remaining allegations
2 in paragraph 140 of the Amended Complaint.

3 141. President Fann and Chairman Petersen admit that A.R.S. § 41-1154 does not
4 define what constitutes “reasonable notice” but deny the remaining allegations in paragraph
5 141 of the Amended Complaint and further answering state that whether the Subpoenas
6 afforded the Plaintiffs “reasonable notice” of the command to appear is moot because
7 Plaintiffs have complied with the appearance requirement (although they remain in non-
8 compliance with the Subpoenas’ document production commands).

9 142. President Fann and Chairman Petersen deny the allegations in paragraph 142
10 of the Amended Complaint and further answering state that the Plaintiffs have waived and
11 are estopped from asserting any argument that the Subpoenas lacked a valid legislative
12 purpose because they have publicly and repeatedly conceded that the Subpoenas do in fact
13 serve a valid legislative purpose.

14 143. President Fann and Chairman Petersen admit the allegations in paragraph 143
15 of the Amended Complaint.

16 144. President Fann and Chairman Petersen admit the allegations in paragraph 144
17 of the Amended Complaint, and note that another purpose of the subpoenas is to investigate
18 pending and potential legislation to reform the administration of elections in Arizona.

19 145. President Fann and Chairman Petersen deny the allegations in paragraph 145
20 of the Amended Complaint and further answering state that no source of law prohibits or
21 restricts the use of the legislative subpoena power to conduct an audit of an election.

22 146. President Fann and Chairman Petersen deny the allegations in paragraph 146
23 of the Amended Complaint and further answering state that no source of law prohibits or
24 restricts the use of the legislative subpoena power to conduct a forensic audit of election
25 tabulation machines, software and other equipment.

26 147. President Fann and Chairman Petersen deny the allegations in paragraph 147
27 of the Amended Complaint and further answering state that no source of law prohibits or
28 restricts the use of the legislative subpoena power to conduct an audit of an election and

1 that any powers purportedly possessed by Maricopa County are subordinate to, and derived
2 from, the authority of the Legislature and its houses.

3 148. President Fann and Chairman Petersen deny the allegations in paragraph 148
4 of the Amended Complaint.

5 149. President Fann and Chairman Petersen deny the allegations in the first
6 sentence of paragraph 149 of the Amended Complaint and further answering state that the
7 Subpoenas themselves encapsulate the pending investigation, of which the Plaintiffs are
8 subjects. President Fann and Chairman Petersen admit that there has been no “resolution”
9 of the full Senate “authorizing” any particular investigation and further answering state that
10 the existence or absence of any such resolution is not relevant to the validity or
11 enforceability of the Subpoenas because the subpoena power is vested in each house’s
12 presiding officer and committee chairmen individually. *See* A.R.S. § 41-1151. President
13 Fann and Chairman Petersen deny any remaining allegations in paragraph 149 of the
14 Amended Complaint.

15 150. President Fann and Chairman Petersen deny the allegations in paragraph 150
16 of the Amended Complaint.

17 151. President Fann and Chairman Petersen deny the allegations in paragraph 151
18 of the Amended Complaint.

19 152. Paragraph 152 of the Amended Complaint states a legal conclusion to which
20 no response is required. To the extent a response is deemed necessary, President Fann and
21 Chairman Petersen deny the allegations in paragraph 152 of the Amended Complaint.

22 153. President Fann and Chairman Petersen incorporate by reference their answers
23 to the foregoing paragraphs of the Amended Complaint as if fully set forth herein.

24 154. President Fann and Chairman Petersen admit that paragraph 154 of the
25 Amended Complaint accurately quotes selected excerpts of A.R.S. § 41-1154 but deny that
26 the legislative subpoena power is “limited” and deny any remaining allegations in paragraph
27 154 of the Amended Complaint.

28

1 155. President Fann and Chairman Petersen deny the allegations in paragraph 155
2 of the Amended Complaint and further answering state that the Legislature’s presiding
3 officers and committee chairmen are constitutionally and statutorily entitled to command
4 the production of “documents” in any form and in any medium. *See* A.R.S. § 41-1154.

5 156. Paragraph 156 of the Amended Complaint states a legal conclusion to which
6 no response is required. To the extent a response is deemed necessary, President Fann and
7 Chairman Petersen deny the allegations in paragraph 156 of the Amended Complaint.

8 157. President Fann and Chairman Petersen incorporate by reference their answers
9 to the foregoing paragraphs of the Amended Complaint as if fully set forth herein.

10 158. President Fann and Chairman Petersen admit the allegations in paragraph 158
11 of the Amended Complaint.

12 159. Paragraph 159 of the Amended Complaint states a legal conclusion to which
13 no response is required. To the extent a response is deemed necessary, President Fann and
14 Chairman Petersen deny the allegations in paragraph 159 of the Amended Complaint.

15 160. President Fann and Chairman Petersen admit that article VII, section 1 of the
16 Arizona Constitution protects the right to a secret ballot but deny that this provision requires
17 that ballots be “kept secret” from elected officials pursuant to valid legislative subpoena,
18 creates a privilege of non-disclosure assertable by the Plaintiffs against the Legislature (or
19 any of its officers or committee chairmen), requires or permits the Plaintiffs’ refusal to
20 comply with the Subpoenas, or is otherwise relevant to the validity or enforceability of the
21 Subpoenas. President Fann and Chairman Petersen deny any remaining allegations in
22 paragraph 160 of the Amended Complaint.

23 161. President Fann and Chairman Petersen are without knowledge or information
24 sufficient to form a belief as to the truth of the allegations in paragraph 161 of the Amended
25 Complaint and therefore deny them.

26 162. President Fann and Chairman Petersen deny the allegations in paragraph 162
27 of the Amended Complaint, and further answering state that certain voters’ choice to insert
28 identifying information onto their ballots does not create a privilege of non-disclosure

1 assertable by the Plaintiffs against the Legislature (or any of its officers or committee
2 chairmen), does not require or permit the Plaintiffs’ refusal to comply with the Subpoenas,
3 and otherwise is not relevant to the validity or enforceability of the Subpoenas.

4 163. President Fann and Chairman Petersen deny the allegations in paragraph 163
5 of the Amended Complaint, and further answering state that the unspecified “laws”
6 referenced in paragraph 163 of the Amended Complaint do not create a privilege of non-
7 disclosure assertable by the Plaintiffs against the Legislature (or any of its officers or
8 committee chairmen), do not require or permit the Plaintiffs’ refusal to comply with the
9 Subpoenas, and otherwise are not relevant to the validity or enforceability of the Subpoenas.

10 164. President Fann and Chairman Petersen admit that A.R.S. § 16-515(G)
11 generally prohibits the taking of photographs within 75 feet of a polling location, subject to
12 certain exceptions enumerated in that statute, but deny that the Subpoenas are inconsistent
13 with A.R.S. § 16-515(G) or that this statute or any other source of law creates a privilege
14 of non-disclosure assertable by the Plaintiffs against the Legislature (or any of its officers
15 or committee chairmen), requires or permits the Plaintiffs’ refusal to comply with the
16 Subpoenas, or is otherwise relevant to the validity or enforceability of the Subpoenas.
17 President Fann and Chairman Petersen deny any remaining allegations in paragraph 164 of
18 the Amended Complaint.

19 165. President Fann and Chairman Petersen admit that A.R.S. § 16-1005(H)-(I)
20 generally prohibits third parties from possessing another person’s voted early ballot, subject
21 to certain exceptions enumerated in that statute that may include possession by the Senate
22 and its agents, but deny that the Subpoenas are inconsistent with A.R.S. § 16-1005(H)-(I)
23 or that this statute or any other source of law creates a privilege of non-disclosure assertable
24 by the Plaintiffs against the Legislature (or any of its officers or committee chairmen),
25 requires or permits the Plaintiffs’ refusal to comply with the Subpoenas, or is otherwise
26 relevant to the validity or enforceability of the Subpoenas. President Fann and Chairman
27 Petersen deny any remaining allegations in paragraph 165 of the Amended Complaint, and
28

1 further note that it is not strictly necessary for the county to cede “possession” of the ballots
2 in order to comply with the subpoenas.

3 166. President Fann and Chairman Petersen admit that A.R.S. § 16-1018(4)
4 generally prohibits showing the contents of one’s voted ballot to a third party, subject to
5 certain exceptions enumerated in that statute, but deny that the Subpoenas are inconsistent
6 with A.R.S. § 16-1018(4) or that this statute or any other source of law creates a privilege
7 of non-disclosure assertable by the Plaintiffs against the Legislature (or any of its officers
8 or committee chairmen), requires or permits the Plaintiffs’ refusal to comply with the
9 Subpoenas, or is otherwise relevant to the validity or enforceability of the Subpoenas.
10 President Fann and Chairman Petersen deny any remaining allegations in paragraph 166 of
11 the Amended Complaint, and note that the county’s capacious interpretation of Section
12 1018(4) would have the effect of outlawing many of the county’s regular activities in
13 administering elections.

14 167. President Fann and Chairman Petersen deny the allegations in paragraph 167
15 of the Amended Complaint and further answering state that the Subpoenas do not and could
16 not “compromise[] the secrecy of ballots” because it is impossible to tie any given ballot to
17 the voter who cast it (unless the voter freely chose to waive his or her right to ballot secrecy),
18 or to otherwise determine from the requested documents or information how any given voter
19 completed his or her ballot; and the inter-governmental transfer of documents and records
20 pursuant to a subpoena does not render such documents or materials “public records.”

21 168. President Fann and Chairman Petersen are without knowledge or information
22 sufficient to form a belief as to the allegation in paragraph 168 of the Amended Complaint
23 that ballots cast in the November 3, 2020 general election are “currently under seal” and
24 therefore deny it. President Fann and Chairman Petersen deny that the production of
25 “sealed” ballots pursuant to the Subpoenas requires a court order or that A.R.S. § 16-624 or
26 any other source of law creates a privilege of non-disclosure assertable by the Plaintiffs
27 against the Legislature (or any of its officers or committee chairmen), requires or permits
28 the Plaintiffs’ refusal to comply with the Subpoenas, or is otherwise relevant to the validity

1 or enforceability of the Subpoenas. President Fann and Chairman Petersen deny any
2 remaining allegations in paragraph 168 of the Amended Complaint.

3 169. President Fann and Chairman Petersen admit that paragraph 169 of the
4 Amended Complaint accurately reproduces the text of A.R.S. § 16-624(A) but deny that
5 A.R.S. § 16-624(A) or any other source of law creates a privilege of non-disclosure
6 assertable by the Plaintiffs against the Legislature (or any of its officers or committee
7 chairmen), requires or permits the Plaintiffs’ refusal to comply with the Subpoenas, or is
8 otherwise relevant to the validity or enforceability of the Subpoenas. President Fann and
9 Chairman Petersen deny any remaining allegations in paragraph 169 of the Amended
10 Complaint.

11 170. President Fann and Chairman Petersen admit that paragraph 170 of the
12 Amended Complaint accurately reproduces the text of the cited provisions of the Arizona
13 Elections Procedures Manual but deny that the Subpoenas are inconsistent with the Arizona
14 Elections Procedures Manual, and deny that the Arizona Elections Procedures Manual or
15 any other source of law creates a privilege of non-disclosure assertable by the Plaintiffs
16 against the Legislature (or any of its officers or committee chairmen), requires or permits
17 the Plaintiffs’ refusal to comply with the Subpoenas, or is otherwise relevant to the validity
18 or enforceability of the Subpoenas. President Fann and Chairman Petersen deny any
19 remaining allegations in paragraph 170 of the Amended Complaint.

20 171. President Fann and Chairman Petersen deny the allegations in paragraph 171
21 of the Amended Complaint and further answering state that any “sealing” of ballots
22 pursuant to A.R.S. § 16-624 or any other source of law does not create a privilege of non-
23 disclosure assertable by the Plaintiffs against the Legislature (or any of its officers or
24 committee chairmen), require or permit the Plaintiffs’ refusal to comply with the
25 Subpoenas, and is not otherwise relevant to the validity or enforceability of the Subpoenas.

26 172. President Fann and Chairman Petersen admit the allegations in the first
27 sentence of paragraph 172 of the Amended Complaint but deny the remaining allegations
28 in paragraph 172 of the Amended Complaint, and further answering that the Subpoenas

1 themselves furnish any required “legal basis for the ballots to be unsealed” or otherwise
2 produced or made available to the Arizona Senate.

3 173. President Fann and Chairman Petersen admit that paragraph 173 of the
4 Amended Complaint accurately reproduces the text of A.R.S. § 16-625 but deny that the
5 Subpoenas are inconsistent with A.R.S. § 16-625, and deny that A.R.S. § 16-625 or any
6 other source of law creates a privilege of non-disclosure assertable by the Plaintiffs against
7 the Legislature (or any of its officers or committee chairmen), requires or permits the
8 Plaintiffs’ refusal to comply with the Subpoenas, or is otherwise relevant to the validity or
9 enforceability of the Subpoenas. President Fann and Chairman Petersen deny any
10 remaining allegations in paragraph 173 of the Amended Complaint.

11 174. Paragraph 174 of the Amended Complaint states a legal conclusion to which
12 no response is required. To the extent a response is deemed necessary, President Fann and
13 Chairman Petersen deny the allegations in paragraph 174 of the Amended Complaint.

14 175. Paragraph 175 of the Amended Complaint states a legal conclusion to which
15 no response is required. To the extent a response is deemed necessary, President Fann and
16 Chairman Petersen deny the allegations in paragraph 175 of the Amended Complaint.

17 176. President Fann and Chairman Petersen incorporate by reference their answers
18 to the foregoing paragraphs of the Amended Complaint as if fully set forth herein.

19 177. President Fann and Chairman Petersen admit that U.S. Constitution, Arizona
20 Constitution and Arizona Revised Statutes “define[]” and “grant[]” to the Arizona Senate
21 “authority with regard to elections” but deny the allegations in paragraph 177 of the
22 Amended Complaint to the extent they allege that the Subpoenas are in any respect
23 inconsistent with those sources of law. President Fann and Chairman Petersen deny any
24 remaining allegations in paragraph 177 of the Amended Complaint.

25 178. Paragraph 178 of the Amended Complaint states a legal conclusion to which
26 no response is required. To the extent a response is deemed necessary, President Fann and
27 Chairman Petersen deny the allegations in paragraph 178 of the Amended Complaint.

1 The Amended Complaint’s Demand for Relief states legal conclusions to which no response
2 is required. To the extent a response is deemed necessary, President Fann and Chairman
3 Petersen deny that Plaintiffs are entitled to the relief requested or to any other form of relief
4 with respect to the Subpoenas or against the Defendants.

5 **AFFIRMATIVE DEFENSE NO. 1: FAILURE TO STATE A CLAIM**

6 The Amended Complaint fails to state any valid legal claim for which relief may be
7 granted.

8 **AFFIRMATIVE DEFENSE NO. 2: WAIVER**

9 The Plaintiffs have waived any claim, defense or argument that (1) the Court lacks
10 jurisdiction to adjudicate the validity or enforceability of the Subpoenas in a civil
11 proceeding, and/or (2) the Subpoenas lack a “valid legislative purpose.”

12 **AFFIRMATIVE DEFENSE NO. 3: ESTOPPEL**

13 The Plaintiffs are estopped from asserting any claim, defense or argument that (1)
14 the Court lacks jurisdiction to adjudicate the validity or enforceability of the Subpoenas in
15 a civil proceeding, and/or (2) the Subpoenas lack a “valid legislative purpose.”

16
17 RESPECTFULLY SUBMITTED this 17th day of February, 2021.

18 STATECRAFT PLLC

19
20 By: /s/Thomas Basile
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25 *Attorneys for Defendants Arizona Senate*
26 *President Karen Fann and Senate*
27 *Judiciary Committee Chairman*
28 *Warren Petersen*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on February 17, 2021, I electronically transmitted the attached
3 document to the Clerk's Office using the TurboCourt System for filing and transmittal of
4 a Notice of Electronic Filing to the following TurboCourt registrants:
5

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