

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA, ex rel. WILLIAM)	Court of Appeals Division One
G. MONTGOMERY, Maricopa County)	No. 1 CA-CV 12-0068
Attorney,)	
)	
Petitioner - Appellant,)	
)	Maricopa County Superior Court
vs.)	No. CV2011-016442
)	No. CV2011-017914
)	(Consolidated)
COMMISSIONER COLLEEN MATHIS,)	
COMMISSIONER LINDA McNULTY,)	
COMMISSIONER JOSE HERRERA,)	
)	
)	
Respondents - Appellees,)	
)	
)	
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ARIZONA INDEPENDENT)	
REDISTRICTING COMMISSION, an)	
Independent Constitutional Body,)	
)	
)	
Plaintiff/Petitioner - Appellee,)	
)	
vs.)	
)	
THOMAS C. HORNE, in his official)	
capacity as Attorney General of the State of)	
Arizona,)	
)	
)	
Defendant/Respondent - Appellant.)	

**SEPARATE APPENDIX TO ANSWERING BRIEF OF APPELLEE ARIZONA
INDEPENDENT REDISTRICTING COMMISSION**

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PROPOSITION 106
OFFICIAL TITLE

AN INITIATIVE MEASURE

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV, PART 2, SECTION 1, CONSTITUTION OF ARIZONA; RELATING TO ENDING THE PRACTICE OF GERRYMANDERING AND IMPROVING VOTER AND CANDIDATE PARTICIPATION IN ELECTIONS BY CREATING AN INDEPENDENT COMMISSION OF BALANCED APPOINTMENTS TO OVERSEE THE MAPPING OF FAIR AND COMPETITIVE CONGRESSIONAL AND LEGISLATIVE DISTRICTS.

TEXT OF PROPOSED AMENDMENT

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARIZONA:

ARTICLE IV, PART 2, SECTION 1, CONSTITUTION OF ARIZONA, IS AMENDED AS FOLLOWS IF APPROVED BY THE VOTERS AND UPON PROCLAMATION BY THE GOVERNOR:

1. Senate; house of representatives; members; special session upon petition of members; CONGRESSIONAL AND LEGISLATIVE BOUNDARIES; CITIZEN COMMISSIONS

Section 1. (1) The senate shall be composed of one member elected from each of the thirty legislative districts established by the legislature PURSUANT TO THIS SECTION.

The house of representatives shall be composed of two members elected from each of the thirty legislative districts established by the legislature PURSUANT TO THIS SECTION.

(2) Upon the presentation to the governor of a petition bearing the signatures of not less than two-thirds of the members of each house, requesting that he call a special session of the legislature and designating the date of convening, the governor shall forthwith PROMPTLY call a special session to assemble on the date specified. At a special session so called the subjects which may be considered by the legislature shall not be limited.

(3) BY FEBRUARY 28 OF EACH YEAR THAT ENDS IN ONE, AN INDEPENDENT REDISTRICTING COMMISSION SHALL BE ESTABLISHED TO PROVIDE FOR THE REDISTRICTING OF CONGRESSIONAL AND STATE LEGISLATIVE DISTRICTS. THE INDEPENDENT REDISTRICTING COMMISSION SHALL CONSIST OF FIVE MEMBERS. NO MORE THAN TWO MEMBERS OF THE INDEPENDENT REDISTRICTING COMMISSION SHALL BE MEMBERS OF THE SAME POLITICAL PARTY. OF THE FIRST FOUR MEMBERS APPOINTED, NO MORE THAN TWO SHALL RESIDE IN THE SAME COUNTY. EACH MEMBER SHALL BE A REGISTERED ARIZONA VOTER WHO HAS BEEN CONTINUOUSLY REGISTERED WITH THE SAME POLITICAL PARTY OR REGISTERED AS UNAFFILIATED WITH A POLITICAL PARTY FOR THREE OR MORE YEARS IMMEDIATELY PRECEDING APPOINTMENT, WHO IS COMMITTED TO APPLYING THE PROVISIONS OF THIS SECTION IN AN HONEST, INDEPENDENT AND IMPARTIAL FASHION AND TO UPHOLDING PUBLIC CONFIDENCE IN THE INTEGRITY OF THE REDISTRICTING PROCESS. WITHIN THE THREE YEARS PREVIOUS TO APPOINTMENT, MEMBERS SHALL NOT HAVE BEEN APPOINTED TO, ELECTED TO, OR A CANDIDATE FOR ANY OTHER PUBLIC OFFICE, INCLUDING PRECINCT COMMITTEEMAN OR COMMITTEEWOMAN BUT NOT INCLUDING SCHOOL BOARD MEMBER OR OFFICER, AND SHALL NOT HAVE SERVED AS AN OFFICER OF A POLITICAL PARTY, OR SERVED AS A REGISTERED PAID LOBBYIST OR AS AN OFFICER OF A CANDIDATE'S CAMPAIGN COMMITTEE.

(4) THE COMMISSION ON APPELLATE COURT APPOINTMENTS SHALL NOMINATE CANDIDATES FOR APPOINTMENT TO THE INDEPENDENT REDISTRICTING COMMISSION, EXCEPT THAT, IF A POLITICALLY BALANCED COMMISSION EXISTS WHOSE MEMBERS ARE NOMINATED BY THE COMMISSION ON APPELLATE COURT APPOINTMENTS AND WHOSE REGULAR DUTIES RELATE TO THE ELECTIVE PROCESS, THE COMMISSION ON APPELLATE COURT APPOINTMENTS MAY DELEGATE TO SUCH EXISTING COMMISSION (HEREINAFTER CALLED THE COMMISSION ON APPELLATE COURT APPOINTMENTS' DESIGNEE) THE DUTY OF NOMINATING MEMBERS FOR THE INDEPENDENT REDISTRICTING COMMISSION, AND ALL OTHER

DUTIES ASSIGNED TO THE COMMISSION ON APPELLATE COURT APPOINTMENTS IN THIS SECTION.

(5) BY JANUARY 8 OF YEARS ENDING IN ONE, THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE SHALL ESTABLISH A POOL OF PERSONS WHO ARE WILLING TO SERVE ON AND ARE QUALIFIED FOR APPOINTMENT TO THE INDEPENDENT REDISTRICTING COMMISSION. THE POOL OF CANDIDATES SHALL CONSIST OF TWENTY-FIVE NOMINEES, WITH TEN NOMINEES FROM EACH OF THE TWO LARGEST POLITICAL PARTIES IN ARIZONA BASED ON PARTY REGISTRATION, AND FIVE WHO ARE NOT REGISTERED WITH EITHER OF THE TWO LARGEST POLITICAL PARTIES IN ARIZONA.

(6) APPOINTMENTS TO THE INDEPENDENT REDISTRICTING COMMISSION SHALL BE MADE IN THE ORDER SET FORTH BELOW. NO LATER THAN JANUARY 31 OF YEARS ENDING IN ONE, THE HIGHEST RANKING OFFICER ELECTED BY THE ARIZONA HOUSE OF REPRESENTATIVES SHALL MAKE ONE APPOINTMENT TO THE INDEPENDENT REDISTRICTING COMMISSION FROM THE POOL OF NOMINEES, FOLLOWED BY ONE APPOINTMENT FROM THE POOL MADE IN TURN BY EACH OF THE FOLLOWING: THE MINORITY PARTY LEADER OF THE ARIZONA HOUSE OF REPRESENTATIVES, THE HIGHEST RANKING OFFICER ELECTED BY THE ARIZONA SENATE, AND THE MINORITY PARTY LEADER OF THE ARIZONA SENATE. EACH SUCH OFFICIAL SHALL HAVE A SEVEN-DAY PERIOD IN WHICH TO MAKE AN APPOINTMENT. ANY OFFICIAL WHO FAILS TO MAKE AN APPOINTMENT WITHIN THE SPECIFIED TIME PERIOD WILL FORFEIT THE APPOINTMENT PRIVILEGE. IN THE EVENT THAT THERE ARE TWO OR MORE MINORITY PARTIES WITHIN THE HOUSE OR THE SENATE, THE LEADER OF THE LARGEST MINORITY PARTY BY STATEWIDE PARTY REGISTRATION SHALL MAKE THE APPOINTMENT.

(7) ANY VACANCY IN THE ABOVE FOUR INDEPENDENT REDISTRICTING COMMISSION POSITIONS REMAINING AS OF MARCH 1 OF A YEAR ENDING IN ONE SHALL BE FILLED FROM THE POOL OF NOMINEES BY THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE. THE APPOINTING BODY SHALL STRIVE FOR POLITICAL BALANCE AND FAIRNESS.

(8) AT A MEETING CALLED BY THE SECRETARY OF STATE, THE FOUR INDEPENDENT REDISTRICTING COMMISSION MEMBERS SHALL SELECT BY MAJORITY VOTE FROM THE NOMINATION POOL A FIFTH MEMBER WHO SHALL NOT BE REGISTERED WITH ANY PARTY ALREADY REPRESENTED ON THE INDEPENDENT REDISTRICTING COMMISSION AND WHO SHALL SERVE AS CHAIR. IF THE FOUR COMMISSIONERS FAIL TO APPOINT A FIFTH MEMBER WITHIN FIFTEEN DAYS, THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE, STRIVING FOR POLITICAL BALANCE AND FAIRNESS, SHALL APPOINT A FIFTH MEMBER FROM THE NOMINATION POOL, WHO SHALL SERVE AS CHAIR.

(9) THE FIVE COMMISSIONERS SHALL THEN SELECT BY MAJORITY VOTE ONE OF THEIR MEMBERS TO SERVE AS VICE-CHAIR.

(10) AFTER HAVING BEEN SERVED WRITTEN NOTICE AND PROVIDED WITH AN OPPORTUNITY FOR A RESPONSE, A MEMBER OF THE INDEPENDENT REDISTRICTING COMMISSION

Spelling, grammar, and punctuation were reproduced as submitted in the "for" and "against" arguments.

MAY BE REMOVED BY THE GOVERNOR, WITH THE CONCURRENCE OF TWO-THIRDS OF THE SENATE, FOR SUBSTANTIAL NEGLIGENCE OF DUTY, GROSS MISCONDUCT IN OFFICE, OR INABILITY TO DISCHARGE THE DUTIES OF OFFICE.

(11) IF A COMMISSIONER OR CHAIR DOES NOT COMPLETE THE TERM OF OFFICE FOR ANY REASON, THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE SHALL NOMINATE A POOL OF THREE CANDIDATES WITHIN THE FIRST THIRTY DAYS AFTER THE VACANCY OCCURS. THE NOMINEES SHALL BE OF THE SAME POLITICAL PARTY OR STATUS AS WAS THE MEMBER WHO VACATED THE OFFICE AT THE TIME OF HIS OR HER APPOINTMENT, AND THE APPOINTMENT OTHER THAN THE CHAIR SHALL BE MADE BY THE CURRENT HOLDER OF THE OFFICE DESIGNATED TO MAKE THE ORIGINAL APPOINTMENT. THE APPOINTMENT OF A NEW CHAIR SHALL BE MADE BY THE REMAINING COMMISSIONERS. IF THE APPOINTMENT OF A REPLACEMENT COMMISSIONER OR CHAIR IS NOT MADE WITHIN FOURTEEN DAYS FOLLOWING THE PRESENTATION OF THE NOMINEES, THE COMMISSION ON APPELLATE COURT APPOINTMENTS OR ITS DESIGNEE SHALL MAKE THE APPOINTMENT, STRIVING FOR POLITICAL BALANCE AND FAIRNESS. THE NEWLY APPOINTED COMMISSIONER SHALL SERVE OUT THE REMAINDER OF THE ORIGINAL TERM.

(12) THREE COMMISSIONERS, INCLUDING THE CHAIR OR VICE-CHAIR, CONSTITUTE A QUORUM. THREE OR MORE AFFIRMATIVE VOTES ARE REQUIRED FOR ANY OFFICIAL ACTION. WHERE A QUORUM IS PRESENT, THE INDEPENDENT REDISTRICTING COMMISSION SHALL CONDUCT BUSINESS IN MEETINGS OPEN TO THE PUBLIC, WITH 48 OR MORE HOURS PUBLIC NOTICE PROVIDED.

(13) A COMMISSIONER, DURING THE COMMISSIONER'S TERM OF OFFICE AND FOR THREE YEARS THEREAFTER, SHALL BE INELIGIBLE FOR ARIZONA PUBLIC OFFICE OR FOR REGISTRATION AS A PAID LOBBYIST.

(14) THE INDEPENDENT REDISTRICTING COMMISSION SHALL ESTABLISH CONGRESSIONAL AND LEGISLATIVE DISTRICTS. THE COMMENCEMENT OF THE MAPPING PROCESS FOR BOTH THE CONGRESSIONAL AND LEGISLATIVE DISTRICTS SHALL BE THE CREATION OF DISTRICTS OF EQUAL POPULATION IN A GRID-LIKE PATTERN ACROSS THE STATE. ADJUSTMENTS TO THE GRID SHALL THEN BE MADE AS NECESSARY TO ACCOMMODATE THE GOALS AS SET FORTH BELOW:

A. DISTRICTS SHALL COMPLY WITH THE UNITED STATES CONSTITUTION AND THE UNITED STATES VOTING RIGHTS ACT;

B. CONGRESSIONAL DISTRICTS SHALL HAVE EQUAL POPULATION TO THE EXTENT PRACTICABLE, AND STATE LEGISLATIVE DISTRICTS SHALL HAVE EQUAL POPULATION TO THE EXTENT PRACTICABLE;

C. DISTRICTS SHALL BE GEOGRAPHICALLY COMPACT AND CONTIGUOUS TO THE EXTENT PRACTICABLE;

D. DISTRICT BOUNDARIES SHALL RESPECT COMMUNITIES OF INTEREST TO THE EXTENT PRACTICABLE;

E. TO THE EXTENT PRACTICABLE, DISTRICT LINES SHALL USE VISIBLE GEOGRAPHIC FEATURES, CITY, TOWN AND COUNTY BOUNDARIES, AND UNDIVIDED CENSUS TRACTS;

F. TO THE EXTENT PRACTICABLE, COMPETITIVE DISTRICTS SHOULD BE FAVORED WHERE TO DO SO WOULD CREATE NO SIGNIFICANT DETRIMENT TO THE OTHER GOALS.

(15) PARTY REGISTRATION AND VOTING HISTORY DATA SHALL BE EXCLUDED FROM THE INITIAL PHASE OF THE MAPPING PROCESS BUT MAY BE USED TO TEST MAPS FOR COMPLIANCE WITH THE ABOVE GOALS. THE PLACES OF RESIDENCE OF INCUMBENTS OR CANDIDATES SHALL NOT BE IDENTIFIED OR CONSIDERED.

(16) THE INDEPENDENT REDISTRICTING COMMISSION SHALL ADVERTISE A DRAFT MAP OF CONGRESSIONAL DISTRICTS AND A DRAFT MAP OF LEGISLATIVE DISTRICTS TO THE PUBLIC FOR COMMENT, WHICH COMMENT SHALL BE TAKEN FOR AT LEAST THIRTY DAYS. EITHER OR BOTH BODIES OF THE LEGISLATURE MAY ACT WITHIN THIS PERIOD TO MAKE RECOMMENDATIONS TO THE INDEPENDENT REDISTRICTING COMMISSION BY MEMORIAL OR BY MINORITY REPORT, WHICH RECOMMENDATIONS SHALL BE CONSIDERED BY THE INDEPENDENT REDISTRICTING COMMISSION. THE INDEPENDENT REDISTRICTING COMMISSION SHALL THEN ESTABLISH FINAL DISTRICT BOUNDARIES.

(17) THE PROVISIONS REGARDING THIS SECTION ARE SELF-EXECUTING. THE INDEPENDENT REDISTRICTING COMMISSION SHALL CERTIFY TO THE SECRETARY OF STATE THE ESTABLISHMENT OF CONGRESSIONAL AND LEGISLATIVE DISTRICTS.

(18) UPON APPROVAL OF THIS AMENDMENT, THE DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR SHALL MAKE ADEQUATE OFFICE SPACE AVAILABLE FOR THE INDEPENDENT REDISTRICTING COMMISSION. THE TREASURER OF THE STATE SHALL MAKE \$6,000,000 AVAILABLE FOR THE WORK OF THE INDEPENDENT REDISTRICTING COMMISSION PURSUANT TO THE YEAR 2000 CENSUS. UNUSED MONIES SHALL BE RETURNED TO THE STATE'S GENERAL FUND. IN YEARS ENDING IN EIGHT OR NINE AFTER THE YEAR 2001, THE DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR SHALL SUBMIT TO THE LEGISLATURE A RECOMMENDATION FOR AN APPROPRIATION FOR ADEQUATE REDISTRICTING EXPENSES AND SHALL MAKE AVAILABLE ADEQUATE OFFICE SPACE FOR THE OPERATION OF THE INDEPENDENT REDISTRICTING COMMISSION. THE LEGISLATURE SHALL MAKE THE NECESSARY APPROPRIATIONS BY A MAJORITY VOTE.

(19) THE INDEPENDENT REDISTRICTING COMMISSION, WITH FISCAL OVERSIGHT FROM THE DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR, SHALL HAVE PROCUREMENT AND CONTRACTING AUTHORITY AND MAY HIRE STAFF AND CONSULTANTS FOR THE PURPOSES OF THIS SECTION, INCLUDING LEGAL REPRESENTATION.

(20) THE INDEPENDENT REDISTRICTING COMMISSION SHALL HAVE STANDING IN LEGAL ACTIONS REGARDING THE REDISTRICTING PLAN AND THE ADEQUACY OF RESOURCES PROVIDED FOR THE OPERATION OF THE INDEPENDENT REDISTRICTING COMMISSION. THE INDEPENDENT REDISTRICTING COMMISSION SHALL HAVE SOLE AUTHORITY TO DETERMINE WHETHER THE ARIZONA ATTORNEY GENERAL OR COUNSEL HIRED OR SELECTED BY THE INDEPENDENT REDISTRICTING COMMISSION SHALL REPRESENT THE PEOPLE OF ARIZONA IN THE LEGAL DEFENSE OF A REDISTRICTING PLAN.

(21) MEMBERS OF THE INDEPENDENT REDISTRICTING COMMISSION ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO LAW, AND A MEMBER'S RESIDENCE IS DEEMED TO BE THE MEMBER'S POST OF DUTY FOR PURPOSES OF REIMBURSEMENT OF EXPENSES.

(22) EMPLOYEES OF THE DEPARTMENT OF ADMINISTRATION OR ITS SUCCESSOR SHALL NOT INFLUENCE OR ATTEMPT TO INFLUENCE THE DISTRICT-MAPPING DECISIONS OF THE INDEPENDENT REDISTRICTING COMMISSION.

(23) EACH COMMISSIONER'S DUTIES ESTABLISHED BY THIS SECTION EXPIRE UPON THE APPOINTMENT OF THE FIRST MEMBER OF THE NEXT REDISTRICTING COMMISSION. THE INDEPENDENT REDISTRICTING COMMISSION SHALL NOT MEET OR INCUR EXPENSES AFTER THE REDISTRICTING PLAN IS COMPLETED, EXCEPT IF LITIGATION OR ANY GOVERNMENT APPROVAL OF THE PLAN IS PENDING, OR TO REVISE DISTRICTS IF REQUIRED BY COURT DECISIONS OR IF THE NUM-

BER OF CONGRESSIONAL OR LEGISLATIVE DISTRICTS IS
CHANGED.

THE SECRETARY OF STATE SHALL SUBMIT THIS PROPO-
SITION TO THE VOTERS AT THE NEXT GENERAL ELECTION.

ANALYSIS BY LEGISLATIVE COUNCIL

Proposition 106 would amend the Arizona Constitution to establish an appointed Redistricting Commission to redraw the boundaries for Arizona's legislative districts (for the members of the Arizona Legislature) and to redraw the boundaries for the Congressional Districts (for Arizona's members of the United States Congress). Currently, state law provides that the Arizona Legislature draws the legislative and congressional district lines. These lines are usually redrawn every ten years, after the state receives the results of the U.S. Census.

This proposition provides that the appointed Redistricting Commission shall first draw districts that are equal in population in a gridlike pattern across the state, with adjustments to meet the following goals:

1. Districts shall comply with the United States Constitution and the federal Voting Rights Act.
2. Both legislative and congressional districts shall be equal in population, to the extent practicable. This establishes a new strict population equality standard for legislative districts.
3. Districts shall be geographically compact and contiguous, as much as practical.
4. District boundaries shall respect "communities of interest," as much as practical.
5. District lines shall follow visible geographic features, and city, town and county boundaries and undivided "census tracts" as much as practical.
6. Political party registration, voting history data and residences of incumbents and other candidates may not be used to create district maps.
7. "Competitive districts" are favored if competitive districts do not significantly harm the other goals listed.

The Redistricting Commission would consist of five members, no more than two of whom can be from the same political party or the same county. Persons would be eligible for membership on the commission if they meet certain voter registration requirements, and if during the last three years, they have not been candidates for public office or appointed to public office, except for school board members or officers, have not served as an officer of a political party or as an officer of a candidate's election committee and if they have not been a paid lobbyist. The Speaker of the Arizona House of Representatives, the Minority Party Leader of the Arizona House of Representatives, the President of the Arizona State Senate and the Minority Party Leader of the Arizona State Senate would each appoint one person to the Redistricting Commission. These four members of the Redistricting Commission would then meet and vote to appoint a fifth member to chair the commission. The commission would provide at least 30 days for the public to review the preliminary lines drawn by the commission, and then the commission would make the lines final, subject to approval by the United States Department of Justice.

Proposition 106 allocates \$6 million to the Redistricting Commission for use in the redistricting process that begins in 2001 and allows additional money for later redistricting.

Proposition 106 Fiscal Impact Summary

Proposition 106 allocates \$6,000,000 from general state revenue to the redistricting commission for use in the redistricting process that begins in 2001. Redistricting expenses are incurred once every ten years after the completion of the decennial census. If the Proposition is not approved, the current method of redistricting will continue to require funding. The sum of \$3,000,000 has already been enacted into law for the current process.

ARGUMENTS "FOR" PROPOSITION 106

Every once in a while, an issue comes along that makes so much sense and so clearly embodies the basic principles of democracy, people put aside their partisan differences and take action to protect the collective interest of citizen self-government.

The Citizen's Redistricting Commission Initiative is such an issue. A simple idea about giving citizens a central role in creating more representative democracy with so much common sense appeal that it enjoys the support of Arizonans statewide.

Amending the state constitution is no small matter and this is no minor issue.

Every 10 years, state legislators redraw the lines of Arizona's legislative and congressional districts. It's a once-a-decade political power struggle that has grown more important as the state has grown.

When legislators draw their own lines the result is predictable. Self-interest is served first and the public interest comes in a distant second. Incumbent legislators protect their seats for today and carve out new congressional opportunities for their political future.

The legislature has created a system that distorts representative democracy. There is only a four-percent difference between the number of registered Republicans and registered Democrats in this state -- yet out of 30 legislative districts, there is only one where the difference in party registration is within 5 percent.

Allowing legislators draw the lines is the ultimate conflict of interest.

I am lifelong Arizonan. I was born in Casa Grande. I attended the University of Arizona. I've built a business here and I've raised a family. There are thousands of Arizonans who share a similar background -- and more who have chosen to move to Arizona and call it home.

Our voices cannot be heard in a system that distorts our representation. We share a responsibility to step forward and correct this systemic flaw.

Jim Pederson, Phoenix, Chairman, Fair Districts, Fair Elections

Paid for by Fair Districts, Fair Elections

We need a simpler and fairer way to draw voting districts. Currently districts are drawn to promote single party dominance and protect incumbents resulting in reduced voter confidence. While the Legislature could create a simpler and less partisan way, it would require the members to voluntarily give up the power to control their own political fate. That has never happened in the past and is unlikely in the future. The public will continue to be barred from meaningful participation in the process until we create an independent redistricting commission. Your YES vote can make that happen.

Two years ago Arizona had a record low number of legislative candidates. Nearly half of the districts had no choice of candidates and in most of the rest, the preponderance of a single party effectively pre-determined the election outcome.

Current district maps are contorted boundaries lacing together isolated pockets of special interests to form bulletproof districts for incumbents. Decisions, if any, are made in the primary elections. It recalls the political cartoon of the evil "Gerrymander" reptile that lent its name to such maps.

Opponents argue a redistricting commission would eliminate public accountability. To the contrary, there is no public accountability now.

Spelling, grammar, and punctuation were reproduced as submitted in the "for" and "against" arguments.

2000 Ballot Propositions

Arguments "For" Proposition 106

District maps are secretly drawn by powerful party leaders, hidden from the public. Even other members of the legislature are barred from viewing the maps until they are essentially complete.

Voting districts are redrawn every ten years to ensure full representation of all voters. The issue is too important for petty partisan concerns. If a party's issues only have merit because they are able to manipulate and contort the process then their basic political philosophy is suspect. Healthy and competitive districts are far more likely to foster strong political debate.

We urge all Arizonans to VOTE YES on Proposition 106.

Lisa Graham Keegan, Peoria, Superintendent of Public Instruction John C. Keegan, Peoria, Mayor of Peoria

The Citizens' Independent Redistricting Commission has put forth an initiative which is long overdue.

It allows you, the citizen, to have a voice in drawing the boundaries for your legislative and congressional districts. Through open meetings throughout the State -- not backroom dealing -- we will have a process run by the public.

This initiative takes redistricting out of the hands of incumbents who too often draw district lines to protect their seats rather than to create fair, competitive legislative and congressional districts.

This initiative is fair to all Arizonans because it opens up the system to public scrutiny; it eliminates conflicts of interest by taking the process of redistricting out of incumbents' hands; and, it just might encourage more people to run for public office.

We need a politically neutral commission to handle redistricting.

Join me in voting "Yes" on Proposition 106.

Janet Napolitano, Phoenix, Arizona Attorney General

Common Cause urges Yes on Proposition 106, Fair Districts, Fair Elections, The Citizens Independent Redistricting Commission Initiative.

The present system of allowing incumbent politicians to redraw their own district boundaries is "the ultimate conflict of interest," according to Grant Woods, former Arizona Attorney General.

He is joined in his opinion, and in his endorsement of this initiative, by leaders from both parties, including Janet Napolitano, Sue Gerard, Rose Mofford, John and Lisa Keegan, Skip Rimsza, Polly Rosenbaum and many others, including the League of Women Voters. Why? Because, when incumbents remove areas from their district where competitors live, or where people from opposing parties live, districts become politically imbalanced and voters no longer have real choices. This citizen initiative will create fair districts and fair elections in Arizona. We will see better candidates and better government as a result. Real competition is as good for government as it is for business.

Arizona Common Cause is a nonpartisan group of over 3,000 Arizona families with a long history of working for open, clean, and sensible self-government.

Miriam Neiman, Treasurer, Arizona Common Cause, Sun City
Paid for by Arizona Common Cause

Dennis Burke, Executive Officer, Arizona Common Cause, Phoenix

The Arizona School Boards Association supports Proposition 106 because it would remove the redrawing of legislative and congressional district boundaries from those with the greatest conflict of interest, incumbent legislators. This conflict of interest could be compared to the parable of the "fox guarding the hen house." Instead, this "once every ten years" exercise under Proposition 106 would be in the hands of an independent redistricting commission made up of ordinary citizens.

The Commission would have five members, one each selected by the House Speaker and minority leader and one each selected by the Senate President and minority leader, and these four appointees have to agree on the fifth member that is not from either major party. No two members can be from the same county and no more than two can be from the same political party. All members of the Commission must be selected from a pool of 25 candidates selected by a non-partisan commission. No current elected officials, lobbyists or officers of a political party or precinct committeemen are eligible to serve as candidates.

This method would remove the temptation to determine boundaries based upon the numbers of political party registrants living within an area allowing the commission to concentrate on its mandate of create districts that: 1) comply with the U.S. Voting Rights Act; 2) have equal population; 3) are geographically compact and contiguous; 4) reflect communities of interest 5) to the extent possible, use visible boundary lines. Compare this process with the current method whereby legislators can create safe districts for themselves ensuring little competition.

This is an unparalleled opportunity to create a legislature more responsive to the priorities and concerns of Arizona's citizens. The Arizona School Boards Association, comprised of locally elected school board members, urges you to vote YES on Proposition 106.

Myrna Sheppard, President, Arizona School Boards Association, Harry Garewal, Vice President, Arizona School Boards Association,
Phoenix
Paid for by Arizona School Boards Association, Inc.

Dear Arizona Voters:

No quotas for Democrats, no welfare for Republicans. That's the simple philosophy behind the Fair Districts Fair Elections citizen's initiative.

For too long, both parties have created legislative and congressional districts to protect their incumbents. Such "gerrymandering" eliminates real political competition and shortchanges all of us. Why?

Because good people don't run for office because they don't think they can win. Incumbents don't stay in touch with voters because no one challenges them.

Just think back to the lively Republican nomination fight between John McCain and George Bush. It resulted in a great debate between two capable people that excited voters all across the country. While Fair Districts Fair Elections can't promise you McCain vs. Bush, it can promise more balanced legislative and congressional districts that don't give such huge advantages to incumbents and to one party over another.

By transferring redistricting responsibility from self-interested politicians to an independent citizen's panel, Fair Districts Fair Elections will generate more competition, more accountability and better government for all Arizonans.

As long-time Republicans and public servants, we're proud to support this kind of reform for Arizona along with the Honorable Lisa Keegan, Superintendent of Public Instruction; Honorable Jack Jewett, former Tucson legislator; Senator Sue Grace, District 24 and Honorable Jim Bruner, former Maricopa County Supervisor.

Grant Woods, Phoenix, Former Arizona Attorney General
William A. Mundell, Phoenix, Arizona Corporation Commissioner

Susan Gerard, Phoenix, Representative, District 18

Spelling, grammar, and punctuation were reproduced as submitted in the "for" and "against" arguments.

The League of Women Voters works to encourage the informed and active participation of citizens in government. Looking for reasons why the number of people participating in the voting process has declined, we found the boundaries of legislative districts are drawn so that only one party's candidates have a realistic chance of winning. Also, many legislative candidates faced no opposition in their bid for office. We found citizens who saw no reason to vote when the outcome of an election seemed predetermined. And, we found legislators who, when they know they had no opposition, had no incentive to listen to their constituents.

We need competitive districts to encourage citizens to vote, people to run for office, and representatives to respond to constituents' concerns. Every election cycle the ballot is filled with initiatives because a "disconnect" exists between many legislators and their constituents. The Legislature consistently fails to adequately address issues that citizens care about, issues such as education and health care.

We believe that moving the power to draw congressional and legislative districts from the legislature to a citizens commission will change the system. We urge a "yes" vote on Proposition 106, the Citizens Independent Redistricting Commission Initiative.

Ann Eschinger, President, League of Women Voters of Arizona,
Phoenix
Paid for by League of Women Voters of Arizona

Willi Waltrip, 2nd Vice President, League of Women Voters of Arizona,
Phoenix

Dear Arizona Voters:

We are fortunate and honored to serve, and have served, as mayors in some of Arizona's great cities. As a result, we know how important it is to stay in touch with you - the people who make our communities the outstanding places they are.

Being in touch, staying responsive - these are just two of the reasons we encourage you to vote "Yes" on Proposition 106, the Fair Districts Fair Elections Initiative.

Right now, legislative and congressional districts are drawn in a way that protects incumbents. The current system does not encourage candidate competition. Consequently, many legislators never face competition. When this happens, they get farther and farther away from the pulse of the community - farther away from your concerns.

Fair Districts Fair Elections responsibly reforms our redistricting system in a way that will create more competition for our elected officials, which in turn, will create better government for all of us.

Furthermore, Fair Districts will keep cities together within legislative and congressional districts. Right now, cities may have two, three or more districts running through their boundaries. This isn't right. To the fullest extent possible, cities should have more coherent representation so their concerns and issues can be more clearly expressed at the State Capitol and in Washington, D.C.

Whether you are the mayor of a city or simply a resident that wants more responsive government, Proposition 106 is one that clearly makes common sense.

Join us along with mayors: John Keegan, Peoria; Joan H. Shafer, Surprise; Robert Mitchell, Casa Grande; Edward Lowry, Paradise Valley; Skip Rimsza, Phoenix; Larry "Roadie" Roberts, Wickenburg; George Miller, former Mayor of Tucson; Paul Johnson, former Mayor of Phoenix; and Daniel Schweiker, Vice Mayor of Paradise Valley - VOTE YES ON 106.

Neil G. Giuliano, Mayor of Tempe, Tempe
Terry Goddard, former Mayor of Phoenix, Phoenix

Sam Campana, former Mayor of Scottsdale, Scottsdale
Paid for by Fair Districts, Fair Elections

A fair and impartial system of redistricting the state and federal election districts is the right thing to do for Arizona's future.

Rebecca Rios, State Representative, District 7, Phoenix

I support the Citizens Independent Redistricting Commission initiative because I think it will be good for rural Arizona. Under the current system many small towns across the state get divided between two different legislative districts. When this happens our voice is diluted. This has been done not only to Sierra Vista but to towns all across the state -- Casa Grande, Kingman, Gila Bend, Nogales, and even tiny towns like Tubac and Patagonia. Bullhead City is the worst example -- split into three legislative districts!

Then, when legislators draw congressional district boundaries, rural voices are again diluted in districts which draw most of their voters from metropolitan Maricopa County (primarily) and Pima County. The attention of our Representatives is concentrated on the metropolitan area where the bulk of their constituents reside. This just doesn't seem fair; rural Arizona deserves at least some representation in Congress.

Carolyn Edwards, Sierra Vista

Why can't our legislators reach compromise on issues most important to mainstream Arizona?

Better legislative decisions are possible when the Legislature represents all citizens of Arizona in approximate proportion to their political beliefs. Most Arizonans are centrists -- they generally support middle-of-the-road policies rather than those more extreme. In fact, there is only a 4% difference between the number of registered Democrats and registered Republicans in Arizona.

How is it then that we have been saddled with our current, ideologically polarized Legislature?

In Arizona, incumbent legislators redraw boundaries for legislative and congressional districts every ten years. Theoretically, this is done to maintain a balance in population among the various districts. Unfortunately, our legislators have a history of manipulating the redistricting process by stacking "their" district with members of their own party and by drawing lines which move political opponents out of "their" districts. Often times in stacked districts, the minority party in that district doesn't even field candidates for the General Election. When the General Election doesn't count, 1) Parties are more likely to promote candidates farther to the right or left of center because they don't need to worry about losing moderate and independent votes in the General Election, and 2) Voter turnout is lower leaving choices to the most heavily partisan voters in that district. In Arizona, only six of our thirty legislative districts are even remotely balanced in party registration.

Independent citizen's commissions are a better way to draw political boundaries. Incumbent legislators, who always have a vested interest, can't control the process. Currently, fourteen states have independent commissions draw their legislative district boundaries.

Arizona would have a better, more representative Legislature if more members were centrists and fewer were on either extreme.

Proposition 106 will surely be a giant step toward moderation and should be approved.

Joel Harnett, President, Valley Citizens League, Phoenix
Paid for by Valley Citizens League

Bart Turner, Executive Director, Valley Citizens League, Phoenix

Spelling, grammar, and punctuation were reproduced as submitted in the "for" and "against" arguments.

ARGUMENTS "AGAINST" PROPOSITION 106

The redistricting commission amendment is a flawed proposition which will reduce the input of the will of the people of Arizona and vest disproportionate influence in the hands of bureaucratic Washington D.C. lawyers of the federal Justice Department. The people of Arizona have traditionally, through their elected representatives, drawn the lines from which the peoples' elected officials will represent them. Yes, these plans have to be submitted to the federal Justice Department for approval. But it has been our plan they have had to review – our plan drawn by our representatives – our representatives who serve with the consent of the governed. Under a commission, as experience in other states suggests, the procedure will undoubtedly be to ask the bureaucratic Washington D.C. lawyers of the federal Justice Department to design and approve the parameters under which Arizona's representatives will be elected. The Commission will be a conduit and a rubber stamp.

Arizona's must not give up our right to determine the lines from which our officials should be elected. Do not let the bureaucratic Washington D.C. lawyers of the federal Justice Department gain disproportionate influence over our election process. Maintain the right to oversee the electoral process of redistricting and reapportionment here in Arizona with the elected representatives of the people not an appointed inexperienced elite who will be the handmaidens of the government in Washington's lawyers. Vote no on this proposition.

Barry M. Aarons, Senior Fellow – Americans for Tax Reform, Phoenix

The Arizona Chamber of Commerce recommends that voters oppose Proposition 106 that **WILL TURN OVER THE DRAFTING OF ARIZONA'S POLITICAL DISTRICTS TO A SMALL GROUP OF FIVE INDIVIDUALS WHO ARE NOT ACCOUNTABLE TO VOTERS.**

The proponents claim Proposition 106 makes the redistricting process fair and less political by creating a commission of five non-elected individuals to draw the district maps for the entire state.

We disagree. Proposition 106 empowers a commission of political appointees who are selected from at least two counties in Arizona to draw the legislative and congressional district lines. That means 10 to 12 of Arizona's 15 separate and unique counties won't have representation. The Arizona Chamber believes that fair representation would not deny a majority of voters a voice.

This initiative further proposes to mold Arizona's political districts into a grid-like pattern. Drawing such a grid across Arizona threatens rural representation. It denies a logical opportunity to ensure broad, legislative membership.

In the end, any redistricting plan must be approved by the U.S. Justice Department. If they do not approve, they will require changes to the plan that will result in a redesign. Federal law thus denies the process of fair districts.

Rather than turning over the reshaping of Arizona's political boundaries to an uninformed group of five individuals or even worse to the Justice Department, leave the future of our boundaries with the 90 individuals of the State Legislature elected by you. **We urge you to vote NO on Proposition 106.**

Greg Denk, Chairman of the Board, Arizona Chamber of Commerce, Phoenix
Paid for by Arizona Chamber of Commerce

Samantha A. Fearn, VP of Public Affairs, Arizona Chamber of Commerce, Phoenix

Accountability. It is what you expect from your elected officials at all levels of government. And, it is the standard to which we hold ourselves – to be accountable to you.

Unfortunately, Prop. 106, the "Citizens Independent Redistricting Commission" lacks any accountability. It is an attempt by special interest groups who want to change the redistricting process because they do not like who you have elected to represent you. They want to change the process in their favor rather than participate in the democratic process of elections.

This measure is seriously flawed. Contrary to the arguments its proponents make, this initiative will make the redistricting process more secretive, more "backroom" and more political. Those who serve on the commission will have been selected for appointment by a small, powerful group of activist lawyers. That group, the Commission on Appellate Court Appointments will nominate members of the redistricting commission. While lawyers make up less than one-half of one percent of Arizona's population, they make up more than 50% of this commission.

In short, unelected, unaccountable lawyers will have more power than anyone else in the redistricting process. That will not empower the people of Arizona. It will empower lawyers and the Bar Association.

The Legislature is elected by you and represents every county in the state. The appointed Commission in the initiative is required to have representation from only two counties. No one will represent the people in the other thirteen counties.

This new Commission's price tag is \$6 million. We already have elected representatives to make decisions – why do we need a new \$6 million bureaucracy to do the same thing?

We urge you to reject this attempt to take power out of the people's hands. Vote No on Proposition 106.

Bob Stump, United States Congressman, Tolleson
J.D. Hayworth, United States Congressman, Cave Creek
John Shadegg, United States Congressman, Phoenix
Paid for by Bob Stump Election Committee

Jim Kolbe, United States Congressman, Tucson
Matt Salmon, United States Congressman, Mesa

BALLOT FORMAT

PROPOSITION 106

**PROPOSED AMENDMENT TO THE CONSTITUTION
BY THE INITIATIVE**

<p>OFFICIAL TITLE</p> <p>PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV, PART 2, SECTION 1, CONSTITUTION OF ARIZONA; RELATING TO ENDING THE PRACTICE OF GERRYMANDERING AND IMPROVING VOTER AND CANDIDATE PARTICIPATION IN ELECTIONS BY CREATING AN INDEPENDENT COMMISSION OF BALANCED APPOINTMENTS TO OVERSEE THE MAPPING OF FAIR AND COMPETITIVE CONGRESSIONAL AND LEGISLATIVE DISTRICTS.</p>
<p>DESCRIPTIVE TITLE</p> <p>AMENDING ARIZONA CONSTITUTION TO CREATE A 5-MEMBER "CITIZENS' INDEPENDENT REDISTRICTING COMMISSION", WITH NO MORE THAN 2 MEMBERS FROM EACH POLITICAL PARTY AND NO MORE THAN 3 MEMBERS FROM EACH COUNTY, TO DRAW LEGISLATIVE AND CONGRESSIONAL DISTRICT BOUNDARIES AFTER EACH U.S. CENSUS; REMOVES REDISTRICTING AUTHORITY FROM THE ARIZONA LEGISLATURE.</p>

PROPOSITION 106

<p>A "yes" vote shall have the effect of creating a 5-member "Citizens' Independent Redistricting Commission" with no more than 2 members from each political party and no more than 3 members from each county, to draw legislative and congressional district boundaries and removing redistricting authority from the Arizona Legislature.</p>	<p>YES <input type="checkbox"/></p>
<p>A "no" vote shall have the effect that the Arizona Legislature shall continue to have the authority to redraw legislative and congressional district boundaries.</p>	<p>NO <input type="checkbox"/></p>

Spelling, grammar, and punctuation were reproduced as submitted in the "for" and "against" arguments.

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Thursday, July 21, 2011

Press Release
For immediate Release
Contact: Amy Rezzonico (602) 542-8019
www.AZAG.gov | [Facebook](#) | [Twitter](#)

HORNE AUTHORIZES PROBE INTO INDEPENDENT REDISTRICTING COMMISSION

PHOENIX (Thursday, July 21, 2011) -- Attorney General Tom Horne has authorized his office to conduct an initial investigation of the Arizona Independent Redistricting Commission based on reports that raise questions about the Commission's compliance with Arizona's Open Meeting Law and procurement laws when it recently entered into a contract with Strategic Telemetry to provide mapping consultant services.

"I need to emphasize very clearly that this is an initial investigation that will attempt to determine if any violations actually occurred," Horne said. "I am concerned about reports that have raised questions about some of the procedural actions taken by the commission, and I am committed to finding out whether those concerns warrant any further investigation. If this initial investigation finds that laws have been violated, we will proceed accordingly."

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OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TOM HORNE
ATTORNEY GENERAL

PUBLIC ADVOCACY DIVISION
CONSUMER PROTECTION & ADVOCACY SECTION

REC'D OSBORN MALEDON PA.
AUG - 9 2011

MARK D. WILSON
SENIOR LITIGATION COUNSEL
DIRECT: (602) 542-8327
MARK.WILSON@AZAG.GOV

August 9, 2011

Mary O'Grady, Esq.
Osborn Maledon
2929 North Central Ave.
Phoenix, Arizona 85012

Re: Independent Redistricting Commission Documents
Received by the Attorney General's Office

Dear Mary:

As mentioned in my email of August 5th, attached are various documents that the Attorney General's Office has received concerning the Independent Redistricting Commission. Once again, the Attorney General's Office is undertaking its open meeting law investigation on its own initiative as allowed by A.R.S. § 38-431.06.

If you have any questions, please contact me.

Very truly yours,

Mark D. Wilson
Senior Litigation Counsel

MDW/rh
Enclosures



IN THE DARK UNTIL IT'S TOO LATE



With the vast majority of the pro-business lobby either backing Pearce or sitting on the sidelines for the recall, it is unknown whether Jerry Lewis will be able to raise the money needed to mount a viable campaign. But it will be nearly impossible to determine with any certainty how much money any candidate or independent expenditure committee has raised until less than two weeks before Election Day and long after early ballots go out.

According to the secretary of state's office, the first campaign finance reports in the race aren't due until Oct. 27, only 12 days before the Nov. 8 election and two weeks after early ballots are sent to voters. That pre-election report, which will cover all financial activity from a committee's inception through Oct. 19, is the only

report due before the recall. A post-election report covering Oct. 20 through Nov. 28 must be filed by Dec. 8. The reason for the lack of reporting is because state law mandates that special elections and recalls follow the typical reporting schedule laid out in ARS 16-913(B), which calls for reports filed at specific times before and after elections. While normal legislative campaigns must report both before and after the primary and general elections – allowing observers to get a better sense of fundraising progress – there is no primary for the recall, and thus only one pair of reports are required. Another quirk of the recall process is the deadline for candidates to qualify for Clean Elections funding. (So far, only GOP candidate Olivia Cortes has registered to run with public funding.) Under ARS 16-961(B)(6), the qualifying period for a recall begins the day the election is called and lasts for 30 days. In this case, that means the qualifying period began July 13 and ends Aug. 11 – the second day candidates are allowed to file their nominating petitions. All \$5 qualifying contributions must be submitted to the secretary of state's office by Aug. 18.

THINGS THAT MAKE YOU GO HMMMMMMM...

Dept of Administration records shed some light on the working relationship between the IRC and the State Procurement Office, which cut its ties with the redistricting panel just before the IRC selected its mapping consultant in June. A host of emails obtained through a public records request with DOA raises the strong possibility that the department feared the IRC mapping consultant contract would be protested by a losing bidder and that the state could be vulnerable to the challenge. Just prior to the commission's June 29 meeting at which Strategic Telemetry was awarded the contract, State Procurement Administrator Jean Clark asked whether DOA Director Scott Smith would like his name on the official document handing procurement authority to the IRC. Smith replied, via email, that he didn't care either way, which brought the following response from Clark: "OK. I'll handle [it] and leave you with the appeal, if there is one." Clark ultimately signed the letter. The records also show that, the following day, IRC Director Ray Bladine asked SPO officials to issue a second letter, as he objected to a phrase from the letter that said the IRC "frequently pursued direction other than that offered by SPO" and he provided a suggestion of his own. "I am afraid that will be the press story, and if I am right it won't benefit anyone. I think that one sentence will be the focus. Clearly you are helping to expedite the process by delegating authority to the commission to complete the process and contract. Just a



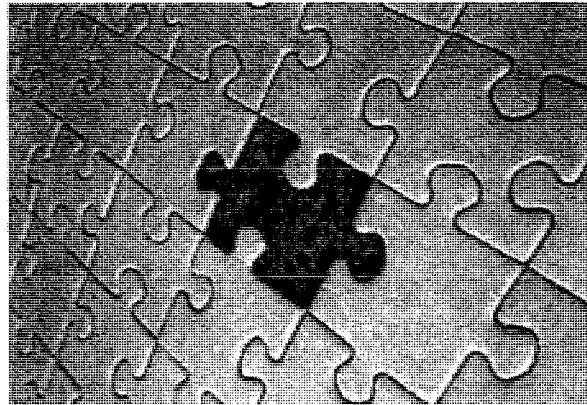
thought,” read Bladine’s June 30 email to Clark. Bladine’s plea was considered by Clark, Smith and DOA lobbyist Alan Ecker, and Smith even advised he’d be willing to see the sentence removed if IRC members and staff committed to “stop throwing ADOA under the bus in their comments to the press.” That reference may have alluded to some commission griping about how slow the state procurement process is. However, DOA did not return multiple calls made earlier this week until late yesterday afternoon, and then cited Home’s investigation as reason to not comment on the matter. Ultimately, the original letter stood. In a July 1 email to Clark, Bladine acknowledged a second letter may not have changed anything: “I am not sure that changing anything now buys us much since it is all public record, and if this is the biggest issue we will have to deal with we will all be lucky!” Despite the fact that DOA’s procurement office split from the IRC in late June, their interest in the contract remained constant. Procurement officer Christine Fruitman checked with Bladine in mid-June to see if any losing bidders had filed a protest. None had.

NO FINE PRINT NEEDED

Prop 106 grants the IRC the ability to conduct its own procurement, but DOA Director Smith was pleased to announce by email that DOA and IRC decided to skip one remaining legal question: Whether the IRC could contract without abiding by the state procurement code. In mid-April, Smith told procurement officials (and cc’d Mathis, Assistant AG Jim Barton and then-DOA Chief Counsel Joe Sciarotta) that Mathis and Barton “made it very clear that the IRC intends to follow state procurement code” even though it “may not be entirely clear” whether the panel was subject to state procurement code. “Thus, the dialogue about whether or not they have to use the Code or can develop an alternative is irrelevant at this time. So I think everyone is on the same page,” Smith wrote.

AND A LITTLE ABOUT THOSE EVALUATIONS

The DOA records, which consist of dozens upon dozens of emails between procurement officials and IRC members and staff, makes multiple references to scoring sheets presumably used to evaluate all proposals on the IRC mapping consultant contract. SPO officials and the IRC spent months working on the request for proposal and work on the evaluation forms began in May. A June 3 document laid out the evaluation process, which began with commissioners receiving the proposals and the evaluation score sheet. Other steps called for discussing evaluation scores and comments on a SPO-created summary evaluation. Additionally, the commission’s June 6 meeting agenda included examining “confidential documents” associated with evaluating the bids for the mapping consultant RFP, which was done in executive session. The agenda for the commission’s June 15 meeting in southern Arizona also included a time for commissioners to evaluate the offers of seven firms that bid on the contract. The commission spent roughly four hours in executive session doing that and named four mapping consultant finalists. Only two IRC members – Republicans Scott Freeman and Richard Stertz – acknowledge that they conducted initial evaluations that trimmed the list of seven applicants down to the finalists. Mathis this week told our reporter that she couldn’t remember whether a first round of scoring was conducted, while Herrera said he made his own notes about the original list of applicants but was never asked by procurement officials to hand them over for the public record. On the question of whether each commissioner conducted evaluations and whether the evaluations were shown to other commissioners, Herrera said he couldn’t answer comfortably, as he could not recall what did and what did not transpire in executive session. McNulty refused to answer any questions.

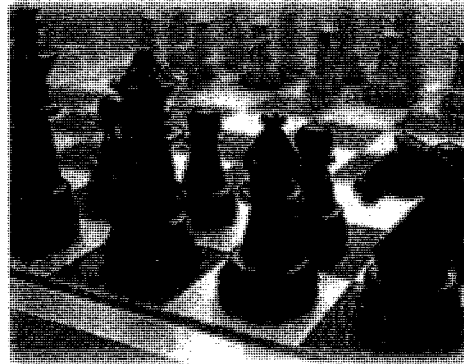


YELLOW SHEET REPORT

NEWS NOTES AND GOSSIP

IRC MOVE GETS GOP'S WAR NERVES FIRED UP

Republicans remain on high alert after the IRC last week hired a Democrat firm as a mapping consultant, but they are still lacking actionable intelligence that would warrant an attempt to remove IRC Chair Colleen Mathis. Tobin, who has already sounded the alarm bells about Mathis, was scheduled to meet with Brewer today, but a Republican source with knowledge of the situation said the discussion likely wouldn't involve the commission's mapping consultant decision, as a move against Mathis would be a bit premature and unwarranted. Although the Constitution allows for the removal of an IRC member, the reasons for doing so are specific: "substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office." The source, who has knowledge of a Republican leadership meeting yesterday to address the topic, said that, while Mathis' leadership is causing many Republicans to question her political leanings, it's doubtful anything she's done yet warrants her removal. "I'm not sure that anything that's happened really meets those definitions. I don't think anything so far meets that threshold and is grounds for removal," the source said. Noting that the panel hasn't even begun drawing lines, the source added: "For right now, I just think we have to play out the hand we're dealt." Still, getting the governor's ears perked up would at this point is an important step, as Prop 106 dictates that a governor can remove an IRC commissioner with the approval of two-thirds of the Senate. While the GOP source downplayed the meeting as routine, other Republicans are becoming quite nervous that the latest Dem/Mathis vote could be proof of a fixed game. Pierce offered a "where there's smoke there is fire" hunch, but said Senate Republicans haven't started to count supporting votes or look for Brewer to initiate the Prop 106 removal process. "I personally am concerned. I am getting a lot of emails from people asking that something be done," he said, explaining that he has received about 15-20 emails from people in his district and county. Still, he allowed that moving to replace Mathis could bring its own problems, as a replacement would still have to come from a list of three independents screened by the Commission on Appellate Court Appointments. "Do you go from good to bad or bad to worse? I don't know if it would be any better," he said. Pierce's caution isn't shared by Antenori, who told our reporter he believes the IRC selected Strategic Telemetry to comply with orders from the DNC, which he said has also already drawn lines for all 50 states that will be quickly approved by Obama's Department of Justice. He told our reporter he would like to see a special session called to put a measure on the November ballot to abolish independent redistricting so the Legislature could draw lines in November and December. If the stated deadlines from the Pearce recall hold true for a statewide November election, lawmakers would be required to approve a referendum by Aug. 10.



OFF WITH THEIR HEADS

Brewer told our reporter this afternoon she has not heard of complaints being directed against any IRC commissioners, but she gave every indication that she wasn't enamored with the current process. "This is my third redistricting, and I've always thought that the Legislature did a fine job. There are only so many ways that you can cut [districts] up," she said, adding that she has kept up with IRC affairs only through media reports. "That sounds like a beheading," she said, speaking of the prospect of calling for the removal of a commission chairman.

(Note: No IRC news in
7/13 or 7/14 45.)

WE'LL DO IT LATER

The IRC has put out an agenda for its Friday meeting, and it has one noticeable difference from previous agendas: The time allotted for public comment is at the end of the meeting. The move appears to be a direct response to the flood of public comments that were given at the beginning of the June 30 meeting in Tucson – more than two hours' worth, primarily from Republicans complaining about the choice of mapping consultant – and in anticipation of another deluge of commenters. Republicans have already been circulating requests to the party faithful to get them to attend the meeting and voice their displeasure at the hiring of Strategic Telemetry. And the Democratic Party has reportedly sent an email to supporters to marshal a counterforce to praise the commission for its work thus far. One GOP consultant derided the IRC's decision to delay public comment until the end of the meeting and said the panel will likely limit the amount of time for each speaker: "Who do they think they are, the Quartzsite City Council? What they are doing is pretty lame. This whole process is supposed to be about taking comment from the public and putting an end to backroom deal-making."

SIGNED, SEALED AND DELIVERED

The IRC and Strategic Telemetry finalized a contract today. IRC Executive Director Ray Bladine said the mapping consultant will be paid a \$600,000 base fee – a reduction from the \$985,000 the firm quoted on its bid. However, the total cost for the commission will be higher than the base fee, as the IRC will take on additional expenses. While Strategic Telemetry had originally proposed purchasing multiple types of mapping software and being reimbursed for it, the commission will instead be purchasing the software on its own. Bladine said commissioners will decide Friday between two main programs, plus two additional applications that can be added to the agency's website. "I would not see a reason for the commission to buy more than one," Bladine said. Additionally, the IRC will provide its consultant with free office space and will pick up travel expenses. Bladine said the commission also has the option of purchasing additional census data for \$25,000. One GOP observer was not impressed with the steps the IRC took to negotiate a lower fee with its consultant: "It's really just a smoke-and-mirrors way to make it look like they talked Strategic Telemetry down to a fee that's more in line with the other bidders," the source said.



ONE OR THE OTHER

Douglas Johnson, head of National Demographics Corporation, took to an election law blog to gripe about his firm being passed over by the IRC. The firm wasn't selected to do the commission's mapping work, despite the urging of both the commission's Republicans, Scott Freeman and Richard Stertz. On an election law blog operated by the University of California at Irvine, Johnson said the commission went with Strategic Telemetry because of "unspecified allegations that [NDC] is too Republican." That is likely a reference to previous statements made by Dem Commissioner José Herrera, who voiced his concerns with NDC's ties to the conservative Rose Institute at Claremont McKenna College. Johnson shrugged off the partisan allegation, noting that Bruce Cain, NDC's expert on competitive district drawing, has now effectively been castigated as both a right- and a left-winger. "Yes, you read that correctly, Dr. Cain's now been treated as a Democratic boogeyman in California and as part of a Republican boogeyman team in AZ," wrote Johnson, referencing an earlier contracting dust-up in California. According to the *Sacramento Bee*, California's redistricting commission this year offered a no-bid contract to Q2 Data and Research, which Cain is also tied to. However, the no-bid deal drew heavy criticism due to Cain's role as the chief Democratic advisor in what the paper described as a gerrymandering effort in 1981. The contract was opened to competitors, although Q2 was ultimately hired after the commission disqualified the only other

YELLOW SHEET REPORT

NEWS NOTES AND GOSSIP

LOOKING TO DRAW THE WILD CARD

Senate GOP leaders spoke with Brewer's staff yesterday to discuss their problems with IRC Chair Colleen Mathis, and a Senate source said the Ninth Floor was receptive to the request that she be removed. "I think they're open to the idea," the source said. The response from Eileen Klein and Michael Hunter, the source said, was that the senators should compile a list of offenses they believe Mathis has committed that warrant her removal. "We're doing that now, so it's looking good. I think you're going to see the ball star to move," the source said. Already, there are reports that GOP leaders in the Senate have begun polling members to see if they would vote to remove Mathis. Were Brewer to elect to begin the removal process – Prop 106 dictates the removal of a commissioner to be initiated by the governor, then approved by two-thirds of the Senate – the source said it would open the door to a compromise with Mathis. One such deal could be an agreement from Mathis to hire a Republican mapping consultant – presumably National Demographics Corporation – that would work alongside Strategic Telemetry, said the source. "I think that's a reasonable thing to consider. It would show that the chair is trying to be impartial," the source said. Of course, the wild card from the Senate's perspective is Brewer, who must be convinced to insert herself into the process. One railbird didn't think that was likely: "For any governor to do that, they'd be thrusting themselves out in front of the issue. This governor doesn't like to do that." Brewer this morning told our reporter she wasn't yet prepared to take action against Mathis. "I don't have a lot of information about that situation. I did speak to Mr. Tobin yesterday. He briefed me a little bit [on] it. Other than that, [I have] no basic, strong information other than what I have briefly read in the newspaper and in the media. I have no idea," she said. Tobin did not ask her to initiate Mathis' removal, and she said she needs more information before deciding whether she's open to the possibility. "I'm open to information," she said. Yesterday, Pierce told our reporter that the Senate was considering filing a lawsuit, on what he loosely described as a constitutional claim to remove Mathis. "If she's carrying water for the Democrats, she needs to go. The Senate is pissed," he said.



PUTTING THE SHOE ON THE OTHER FOOT



One Dem political consultant said the reaction from Republicans to the IRC's actions thus far is tantamount to a child throwing a temper tantrum. "You mean to tell me the fix is in because you didn't get your way?" the source said. Rather than the commission being tilted heavily to the Dems, as the Republicans have complained, the consultant said it is merely a more moderate panel than 10 years ago. "What you're getting is a fairer shake. Ten years ago, the Dems got screwed. This time, they're not. That's not rigged, it's just more fair," the source said. All of the wailing from Republican circles, the consultant said, is merely misdirected frustration at not being prepared for redistricting: "They got caught not paying attention.

They've been out-manuevered every step of the way. That's what they're really upset about." On top of that, it remains to be seen just how much damage the IRC can do to Republicans, both the Dem consultant and a GOP railbird said. "It seems a little too early to take the approach that Republicans are doomed," the

Republican source said, adding: “The Voting Rights Act is what it is, and the voter registration numbers are what they are. The only way for the Democrats to screw Republicans is to also screw the Hispanics – and I don’t think the Hispanics are going to let that happen. There just isn’t any way to draw a Democrat map.” The issue, the GOP railbird continued, boils down to one of perspective: While competitive districts aren’t in the best interest of Republicans, a push to create them isn’t a sign that the fix is in and there’s a conspiracy to rig the map to help Democrats.

ANYBODY FEEL LIKE WE’RE GETTING AHEAD OF OURSELVES?

While the Senate is champing at the bit to remove Mathis from the IRC equation, the House is taking a wait-and-see approach to the situation. One House GOP source told our reporter it was too early to begin seriously looking at removing Mathis – especially since no one is quite clear on how an appointment would be named. The Constitution requires the Commission on Appellate Court Appointments to “nominate a pool of three candidates within the first thirty days after the vacancy occurs,” but says nothing about where those candidates come from. The House source noted that it could be as simple as the commission nominating three of the independents who were passed over earlier this year – assuming any of them would still want the job – or it could entail a whole new round of applicants and interviews. “Without having any idea on what that process would be, I just don’t see why we would go down that road,” the source said.

ASBA GEARING UP FOR STUDENT ‘EMPOWERMENT’ ACCOUNTS

The Arizona School Boards Association hasn’t filed suit against S1553 (Laws 2011, Chapter 75), which creates “education empowerment accounts” for disabled students, but an attorney representing the group is asking Horne to take legal action to stop the law from going into effect.

Attorney Don Peters sent Horne a letter on June 28 asking him to “enjoin the illegal payment of public monies pursuant to Senate Bill 1553.” Peters argued that the law violates sections in the Arizona Constitution that prohibit state fiscal aid to private schools or religious causes – arguments that Peters successfully used to sink a previous voucher system for disabled students. He also said in the letter that the law is unconstitutional because it requires parents to “waive their children’s fundamental right to attend a public school” in order to get an empowerment scholarship, which equals 90 percent of the money that the student’s school would have received. “Because Senate Bill 1553 is unconstitutional, any disbursement or funds pursuant to its authority would be illegal,” Peters wrote. Horne told our reporter that he wasn’t familiar with the law in question, but he vowed to defend it as part of the duties of his position. If push comes to shove, it wouldn’t be the first time Horne and Peters have litigated against each other. Horne defended the old voucher program that Peters sued over in 2009 (*Cain v. Horne*). And the Institute for Justice, which also defended the voucher program in 2009, vowed to defend S1553 in court. IJ attorney Tim Keller told our reporter ASBA asked the AG to enjoin the law instead of filing a suit outright because, under ARS 35-213, any Arizona taxpayer can ask the AG to “enjoin the illegal payment of public monies,” and if the AG refuses to do so after 60 days, the state must award attorney fees to the plaintiffs if they prevail. “I would not in any shape or form expect the AG’s Office to take any action on this,” Keller said. “The letter is a precursor to the lawsuit (by ASBA).”



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Meanwhile, Department of Education spokesman Andrew LeFevre said the agency has received between 25 and 30 applications for empowerment accounts, and another 50 people attended a standing-room-only information session at ADE yesterday afternoon. LeFevre said ADE will begin awarding the scholarships on July 20, the day the law goes into effect. And it doesn’t look like ASBA’s potential lawsuit will be filed

in time to put a halt to the disbursement. Peters' letter was dated June 28, which means ASBA can't sue until Aug. 28 if it wants to get automatic attorney fees if it wins the case.

GOP CAN'T CLOSE EYES AND MAKE IT GO AWAY

One of the big fights among Republicans in next year's session will likely be about "Obamacare." More specifically, the battle will be about whether to set up a health insurance exchange, which will ultimately be a web portal through which individuals and small businesses can purchase health plans. While no Republicans like the federal health care overhaul, some believe that having Arizona run the insurance exchange is better than letting the federal government run it. Folks like McLain, whose H2666 (health insurance; exchange) failed to get heard on the floor, argue that Arizona can't afford to wait for the results of the pending lawsuits against the federal law. By then, it will be too late to set up the exchange, paving the way for the feds to run it. On the flip side, Biggs said the best approach is to continue the resistance. "We haven't lost yet. The fight is on and we need to fight the fight," he said. Absent a clear indication from the courts about the constitutionality of the reforms, the view in some corners is that it's more likely that lawmakers will ultimately decide to swallow hard, establish the exchange and operate it – a point Biggs concedes. "For me, Option A is to explore every way possible to opt out and get out of Obamacare. Option B – and this is a guiding principle – is you never let the feds do anything, if at all possible, because they will find a way to screw it up," he told our reporter.

DID I FORGET TO GIVE YOU THAT MESSAGE?

Brewer chided the feds for not notifying her ahead of time about Napolitano's trip today to the Arizona-Mexico border, saying it's the most recent example of a long-running trend. "I am a little bit further frustrated by the fact that, every time I find out anything about our border, I read about in the paper or I hear it on television or I hear about it on the radio," the governor told reporters following a tour of an Amazon.com facility in Phoenix. Brewer said she learned of Napolitano's visit this morning when her husband showed her a newspaper article over breakfast. "I thought, 'Well isn't this interesting. I had no idea that she was going to the border. I had no idea she was going to move forward or make an announcement,'" the governor said. When a reporter asked Brewer for her thoughts on the "gun-walking" scandal, Brewer described the incident as "absolutely outrageous," but said she didn't know whether U.S. Attorney Dennis Burke was to blame. "I don't have enough information to know who should be held responsible, but certainly something has gone awry and it's wrong and it's outrageous," she said after a reporter asked whether Burke should lose his job over the scandal.



SOME OF US HAVE A DAY JOB, YA KNOW?

Republican IRC Commissioner Rick Stertz told our reporter he wasn't thrilled that the commission scheduled time for public comment at the end of tomorrow's meeting. He said that, by calling for comments at the end – and not at the beginning, as has been the norm up to this point – the public endures an added hardship by not being able to effectively plan for when they can address the commission. "People don't have all day to sit around. They want to put their point on the record," he said. IRC Executive Director Ray Bladine told our reporter today that the commission agenda order was requested by Chairwoman Colleen Mathis, but was also suggested by Dem Commissioner Linda McNulty to ensure that the "work that needs to be done gets done." That sentiment was no doubt influenced by the two-plus hours of angry comments delivered to the commission last week by people upset about the IRC's 3-2 vote to award its mapping consultant contract to Strategic Telemetry. However, the purpose of tomorrow's IRC meeting is different, said Bladine, who characterized it as informative. "It makes sense to have it at the end

of the meeting, so people can talk about what they heard,” he said, adding general public comments can also be delivered via email or letters. Tomorrow’s agenda includes one item sought by Stertz: A review of state open meeting and public records laws. He requested the item be placed on the agenda during last week’s meeting. Mathis did not return calls for comment.

GET IT STRAIGHT NEXT TIME, WILL YA?

One Dem reader griped about an item in yesterday’s report that referred to Strategic Telemetry, the mapping consultant hired by the IRC, as a “Democrat firm,” noting both that the syntax was incorrect and the assessment of the company was not accurate. “Perhaps there’s a Democrat Party that I’m unaware of, and this firm works for them,” the source quipped yesterday, rapping our reporter’s knuckles for failing to use the proper nomenclature of “Democratic.” The Dem also disputed that Strategic Telemetry has a political bias: “It’s not a Democratic firm. They may have had Dem clients, but they’ve also had Republican clients. They’re not an exclusive Democratic firm.”

ONE FATAL FLAW TO THE PLAN

Tuesday’s item about Ableser eyeing a mayoral bid in Tempe prompted one reader who is well-versed in the state Constitution to point out the obvious flaw in the story: Ableser is constitutionally prohibited from becoming mayor. Article 4 Part 2 Section 5 prohibits legislators from holding any other elected office during the term he was elected to serve, regardless of whether he resigns his legislative seat. (The provision also bars lawmakers from being employed by the state or its subdivisions, except for teachers.) Because Tempe municipal elections are held in the spring, the winners will be sworn in during the summer of 2012. With his elected term not expiring until the end of 2012, Ableser is precluded from becoming mayor. “That *Republic* story was funny, because Ed knows that,” the railbird said.

DEM SENATE SPOKESMAN HEADING TO D.C.

Jeanette Tejada de Gomez, the Senate Dem communications director since late 2007, is leaving later this month to move to D.C., where her husband has lived for the past year. Her husband, Nathan Gomez, got a consulting job in D.C. last spring and since then the couple has endured a long-distance relationship. “We’ve obviously been waiting to put our family back together in the same location,” she told our reporter today. Her last day at the Senate is July 22. Schapira said she’ll be missed. “Jeanette has been great. She’s not only been widely respected by her colleagues in the Legislature that she works with but I think by the press as well,” he said. Tejada de Gomez’s departure leaves a hole in the Senate minority office, and Schapira said they’re working on a replacement. They have some people in mind and they are also seeking out those who might be interested to fill the post, he said.

·PRESS RELEASES AND NEWS CLIPS·

Brewer, Amazon.com Celebrate Company’s Investment in Arizona

Fourth Facility to be Opened in Phoenix This Fall

PHOENIX – Governor Jan Brewer and Amazon.com officials today celebrated the online retailer’s creation of more than 3,000 jobs and combined investment of approximately \$150 million in Arizona, including a new facility in Phoenix scheduled to open this fall.

“Amazon is a quality employer, so I’m proud they’ve chosen to invest in Arizona,” said Governor Brewer. “The company’s newest facility means even more jobs for Arizona citizens, and is one more sign that our economy is on the

YELLOW SHEET REPORT

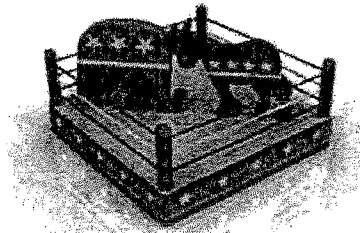
NEWS NOTES AND GOSSIP

IT'S OFFICIAL: PEARCE RECALL WILL BE IN NOVEMBER

The recall against Pearce was certified today by Maricopa County elections officials, and Bennett formally notified Brewer that an election in LD18 needs to be called. The governor now has 15 days to issue an order calling the special election, which will take place in November. Challenges to the 10,365 signatures deemed valid by the county must be filed within the next 10 days. State law also allows Pearce five days in which to resign, which would cancel the need for a special election and instead initiate standard legislative vacancy procedures.

PARTISAN CLASHING RIGHT FROM THE GET-GO

Members of the IRC this morning wasted no time splitting down partisan lines on how to manage public comments. The commission's agenda placed public comments at the end – and not the beginning – of the meeting, which bothered the IRC's Republicans Scott Freeman and Richard Stertz. Freeman got things going shortly after the meeting started at 9:30, asking Chairwoman Colleen Mathis to schedule at least an hour for public comments, leading Mathis to deadpan, "I would prefer, frankly, not to do that," as the agenda was lengthy. Stertz chimed in to "reinforce" Freeman's request, "to give some relief for the people who have schedules." IRC Democrat José Herrera came to Mathis' defense, telling the crowd of approximately 125 people in the room (and the 50 or so that were in an overflow room in the League of Cities and Towns building) that the "agenda is fine. I encourage [the crowd] to stick around." Sensing defeat, Stertz pressed Mathis, asking her if putting public comments at the end of meetings would become "typical," and whether Mathis would also be seeking to put a "cap" on individual speaking time. Mathis responded: "It depends how things go. I don't intend to stop people from giving public discussion," before adding that people can still leave their comments in writing. That drew groans from several members of the audience, which was primarily made up of senior citizens. The reaction also prompted Herrera to call for the removal of people who boo, hiss or are being "disrespectful" and "unprofessional" towards the commission. Throughout the day, a police officer kept watch at the door of the Executive Tower's 3rd floor meeting room. Nobody was asked to leave the hearing.



FINALLY, THE PUBLIC COMMENTS



Eager to give their comments, the anxious audience first was forced to endure presentations on Prop 106, the Voting Rights Act and relevant case law, as well as very detailed discussions on mapping software and commission staffing issues. The discussions, which at times were quite advanced, put several members of the crowd to sleep and left others struggling to stay awake. By the time public comments were heard around 1:30 p.m., much of the audience had dispersed, including redistricting die-hard Ken Clark and Harper, who had signed in to represent the "Constitution and laws of Arizona." But the decrease in numbers didn't translate to a decrease in emotions, as several members of the public ripped the commission's

decision to hire Strategic Telemetry – a firm they said was a shill for Dems – as a mapping consultant. Mathis was also a frequent target, as she was accused of deliberately not disclosing her husband’s paid service on Nancy Young Wright’s campaign. “Do you agree that one of your goals is to contract with a non-biased mapping consultant?” asked Kelly Townsend of the Greater Phoenix Tea Party, who chided what she regarded as the firm’s history of “political activism.” “I asked for a fair deal, not a stacked deck,” said Richard Breyer, a Scottsdale resident and tea partier who said Mathis’ political affiliations don’t match up with her independent registration. Several in attendance also were on hand to praise the commission and its decision to hire the mapping firm, and noted that the previous IRC’s consultant, National Demographics Corporation, was sued and had districts initially rejected by the DOJ. Mathis, after public comments were heard, delivered a prepared statement that declared she accidentally neglected to mention her husband’s political work. She asked IRC counsel whether her application could be retroactively amended. After the meeting, Stertz told our reporter that he grew tired of the treatment Mathis received. “I’m sick of Colleen sitting here, getting beat up... We have a lot of work to get done in a short amount of time, so that issue can hopefully go to rest.”

IRC CRITICS GIVING BREWER AN EARFUL

Brewer hasn’t committed to helping legislative Republicans oust Mathis, but it isn’t for a lack of public input. From June 30 to July 6, the Governor’s Office of Constituent Services received 201 phone calls, emails, letters and faxes complaining about the IRC, Mathis, Strategic Telemetry and other redistricting-related issues, according to Brewer spokesman Matthew Benson. The governor’s office has not received any messages supporting Mathis or the IRC, he said.

ALLEN OFFERS PATH TO FORGIVENESS



Allen didn’t hide her displeasure at the IRC and told our reporter today she’s open to check the commission’s supposed errors, including removing its chairwoman, Mathis, if that can be legally accomplished. She said she’s told leadership as much. “That commission is being blatantly, right-out-in-the-open extremely partisan and being sure that they use the national Democrat party’s lawyers and the mapping people, and making no efforts at all to try to make this as non-partisan as possible and hire companies who have no political connections to anybody and lawyers who have no connections to anybody,” she said. Still, she said she’s willing to give Mathis and the IRC a second chance – but only if they

reconsidered their decision in hiring Strategic Telemetry. “They need to correct the position they’ve taken,” she said.

COMING SOON TO A CITY NEAR YOU?

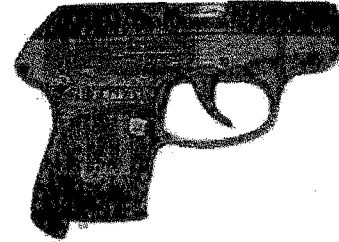
Americans for Prosperity-Arizona is looking to run a bill next year that would require cities to hold their elections at the same time as November regular elections, which Director Tom Jenney said would loosen the control that “special interests” – primarily public employee unions – have historically enjoyed. Jenney said the low voter turnout that results from spring and off-year elections allows candidates to win with only small minorities of the voting public and allows unions to exert extraordinary influence over major spending issues and multibillion-dollar budgets that ultimately benefit the unions themselves. Higher turnout, he said, would weaken the unions’ grip and will lead to city governments that are more representative of taxpayers’ interests. “We believe that there will be greater oversight of municipal spending and greater oversight, especially, of government employee contracts,” Jenney said. Based on voter registration numbers and past turnout, the *Republic* recently reported that the Aug. 30 Phoenix mayoral race will likely be decided by less than 20 percent of the city’s 600,000 registered voters. The

YELLOW SHEET REPORT

NEWS NOTES AND GOSSIP

HAVE GUN, WILL POINT IT AT THE PRESS

Klein grabbed the attention of a *Republic* reporter and the Dems when she recently brandished her pink .380 caliber handgun and pointed it at the reporter. Klein, according to a story in yesterday's *Republic*, pointed the loaded firearm at reporter Richard Ruelas' chest as he interviewed her in the Senate members' lounge for a story that was part of a package examining the role of firearms in Arizona politics, commerce and life. This was how Ruelas described what happened in Sunday's article: "She showed off the laser sighting by pointing the red beam at the reporter's chest. The gun has no safety, she said, but there was no need to worry. 'I just didn't have my hand on the trigger,' she said." The bizarre display wasn't lost on Democrats, who seized on the article today to hammer away at Klein and call on Pearce to ban firearms in the Senate. "The number one responsibility of a gun owner is gun safety," Gallardo said in a news release. "It is unconscionable that a state senator would knowingly aim a loaded gun at another human being. This exhibit of irresponsible gun ownership is how gun deaths and accidents happen." Calling for a ban on all firearms in the chamber, Gallardo said, "Pearce is the one allowing Lori Klein special privileges to carry her loaded gun in the Senate. The Senate ethics committee should seriously look at this situation before someone gets killed." Gallardo also renewed his call to close a "loophole" in the state's gun laws, referring to people's ability to easily buy firearms during gun shows. Gould told our reporter he doesn't plan to conduct an ethics investigation and has no knowledge of any complaints being filed regarding the incident, though he said what Klein did was a clear breach of gun safety rules. "I kind of cringed when I read that she had done that. She wasn't brandishing the weapon. I think she just thought it would be cute to shine the laser sight on the reporter. I personally don't like seeing that kind of thing—because that's how people get killed," he said. "When I see Senator Klein next time, I will remind her of the first rule of gun safety." Klein told our reporter via email that the story is being pushed "by a few individuals who never miss the opportunity to advance an anti-2nd Amendment agenda." She said she wasn't granting any interviews on the subject, but gave her version of events. After a photographer wanted to take photos of her with the gun, she "ensured that the chamber was clear before displaying the weapon." While demonstrating the laser sight on the gun, Klein said she pointed it at a wall: "During this demonstration, the reporter came and sat down in the sofa in front of me, placing himself in the line of the laser sight. He noticed the light, then I noticed the light, then I turned it off. I apologized and let him know that he was safe because I keep my finger out of the trigger guard."



IT'S A BIRD, IT'S A PLANE...



At the end of last Friday's redistricting commission meeting, independent chairwoman Colleen Mathis took a few minutes to once again read from a prepared statement defending herself against criticism. This time, however, she was also defending her husband and asked the public to be patient while she and the commission's legal counsel figure out if they can amend Mathis' initial application, filed last October, which omitted her husband's work as an attorney. Part of that work included serving as the treasurer for Nancy Young Wright's re-election bid in 2010, for which he was paid \$2,500. The criticisms about omitting that work from her application had been trickling

into the public comment portions of the commission meetings since the previous week, but lately some commenters have suggested that the slip is part of a pattern of lies. Last Thursday, IRC attorney Joe Kanefield, told Mathis that the omission (which Mathis characterized as “an unfortunate mistake”) was a technically inaccurate answer to the question. On Friday, Mathis’ requested that the public have patience with the commission while they try to make a formal amendment to her initial application, she also offered some information that she hoped would help quell the perception in some circles that she has Democratic allegiances. Mathis spoke about how her husband had been a registered Republican from when he was 18 years old until he was 40, and she said that he had worked for both U.S. Reps. Bob Michel, R-Ill., and Chuck Hagel, R-Neb. She also noted that the best man at their wedding has been a prominent member of the Federalist Society and that the two of them had attended the inauguration of George W. Bush, as well as the 1988 Republican Convention. Colleen Mathis’ husband, Christopher Mathis, told our reporter after the meeting that he wouldn’t comment about the situation, and the chairwoman said she wasn’t sure whether her appeal would satisfy her critics. Republican commissioner Rick Stertz said he was beginning to tire of the line of attacks Mathis has been subjected to, and said the “issue can hopefully go to rest.”

HORNE ASKED TO PROBE IRC, MATHIS



Brewer’s office isn’t the only one to receive a landslide of complaints of the IRC’s recent hiring of Strategic Telemetry or Mathis, whose vote was critical in securing the services of the firm. Horne’s office has also received dozens of letters on the subject, many of which called for investigations or lawsuits to suspend the contract and remove Mathis. The application omission in the above item prompted Southern Arizona Republicans to organize efforts to cry foul that the commission is chaired by a stalking horse. “This vote was unconscionable and unethical for an independent member of the commission and particularly as the commission chair,” wrote one Tucson resident. “Please do what you can to correct this intolerable situation and keep the redistricting process from becoming more contentious than it already is,” wrote another. While Mathis’ application was silent on the subject of her husband’s past political affiliations, she did tell the *Republic* in May that her husband’s work with Michel and Hagel got her more interested in politics. Horne’s office did not respond to questions on whether the AG’s Office is investigating or will investigate the IRC or Mathis. A copy of the complaints filed with Horne’s office and his response can be viewed in the “documents” section. Those who write Horne are receiving a letter describing that the state Constitution “explicitly designates” IRC commissioner-removing authority to the governor and the Senate. “The provision similarly deals with the alleged conflict of interest raise about Ms. Mathis’s husband. A good time to have raised it would have been during the selection process when she was elected by unanimous consent of all four Commissioners who were themselves appointed by political office holders,” reads Horne’s letter.

IF IT WALKS LIKE A DUCK...

Democrats have bristled in recent weeks at pronouncements that Strategic Telemetry is a Dem firm, with the general response being that, although the company has done work for some prominent Democrats, it isn’t right to label them as partisan. However, the facts seem to tell a different story: Strategic Telemetry has long been labeled a Dem consultant by national media outlets, the firm itself has said it works with progressive candidates and federal campaign spending records show it has not taken money from any Republicans since at least 2003. In a Feb. 28 press release about poll it conducted that found Wisconsin Gov. Scott Walker vulnerable to a recall effort, Strategic Telemetry described itself as providing consulting “for progressive candidates and labor organizations.” The firm also appears to have tried to deflect some of the criticisms leveled at it by GOP critics, scrubbing references to its work with progressive clients from its Facebook page and rearranging a list of services on its website to make redistricting more prominent. As

recently as June 30, the company described itself on its Facebook page as providing “data analysis, strategic advice and statistical modeling of individual-level voting behavior to progressive organizations and campaigns.” The page now says the company provides “statistics, data analysis and mapping services for corporations, government, campaigns, and non-profit organizations.” The Facebook page also sports a new list of services: According to a cache of the page from June 30, Strategic Telemetry was advertising “Microtargeting, Data Entry Automation, Mapping, Campaign Plans.” Now, the page says the firm provides “Marketing, New Media, Data Entry Automation, Mapping and Redistricting Services.” The Facebook changes were made after the conservative blog Sonoran Alliance publicized the firm’s Facebook description on June 29. (Its Twitter page, @StratTelem, still notes that the company “helps progressive campaigns target the right voters with the right messages.”) Additionally, the list of services on the company’s website was re-ordered to put “redistricting services” at the top, ostensibly to combat criticism that Strategic Telemetry doesn’t have experience in redistricting work. Previous versions of the website dating back five years consistently show “redistricting services” listed third, following “campaign plans” and “mapping.” The firm’s website now lists its services in this order:

- *Redistricting support
- *Mapping
- *Census demographics (previous 6th)
- *Population projections (previous 7th)
- *Campaign plans

Finally, a search of campaign finance documents filed with the Federal Elections Commission since 2003 show the company has been paid \$1,136,293 by Democratic candidates, Democratic Party committees and other liberal groups. In the same time, it received no payments from Republican candidates or groups. Aside from the Kerry and Obama presidential campaigns, Strategic Telemetry also provided services for: Democratic National Committee, Democratic Congressional Campaign Committee, Florida Democratic Party, North Carolina Democratic Party, Wisconsin Democratic Party, Washington Democratic Party, Rep. Nick Lampson (D-TX) and Reshma Saujani (Dem congressional candidate from NY). The firm also worked for the MoveOn.org PAC, and was paid \$134,000 by the liberal advocacy group in the 2006 election cycle for political consulting.

NO IRC HEARINGS THIS WEEK

The IRC will not meet on Wednesday, as had been tentatively planned and announced at its last meeting. IRC Executive Director Ray Bladine told our reporter that he and Mathis decided this week would be better devoted to working out the logistics to prepare for a two-week statewide commission tour to take public comments. Those meetings, he said, are expected to begin next week.

NOT MUCH PROOF IN THE PUDDING

FAIR Trust, the group put together by the congressional delegation and GOP legislative leaders to protect Republican interests in the redistricting process, was slated to meet today to discuss the latest IRC happenings. But one Republican who has participated in past meetings said he was disappointed that the group has so far been ineffective and it doesn’t appear that will change. “It’s really become just an attorney-retention program. These attorneys are going to walk away with several hundred thousand dollars in donor money that was intended to get results,” the source said. Part of the problem, according to the source, is that the group is playing everything “so close to the vest” that it has not been able to exert any influence that would help Republicans.

THAT WHOLE PLACE IS GOING TO POT

by pointing constituents to ARS provisions mandating the duty to report abuse or neglect of minors, violations of which have punishments ranging from class 1 misdemeanors to class 6 felonies. Brophy McGee is also advising constituents to read ARS 11-593, which creates a class 2 misdemeanor for failing to notify law enforcement of deaths. Other topics of recent interest to her constituents have been Internet sales tax, the IRC and unemployment – in that order, she said.

IRC ISSUES WILL SPLIT JUST ABOUT EVERYBODY

Friday's Arizona Supreme Court opinion that explained its previous ruling that allowed ASU professor Paul Bender to remain an IRC nominee provided a rare split decision. Both of Brewer's appointees, justices Robert Brutinel and John Pelander, were in the minority, finding that Bender's service as a volunteer tribal judge amounted to a "public office" that left him ineligible for IRC service. However, the pair was outnumbered by justices Scott Bales and Andrew Hurwitz (Napolitano appointees) and retired Hull appointee Michael Ryan, who filled in for Berch. (The chief justice serves as chairwoman of the Commission on Appellate Court Appointments, which screened the IRC applicants, and recused herself because of the conflict of interest.) The majority said in its decision that no use of the terms "public office" or "public officer" in state law includes tribal officers. The minority found that the term "any other public office" has a broad, unqualified meaning and should have been afforded as much when determining whether Bender was eligible. A copy of the ruling can be viewed in the "documents" section.

·PRESS RELEASES AND NEWS CLIPS·

Sinema to deliver Fund Our Schools First signatures to Brewer

STATE CAPITOL, PHOENIX – Sen. Kyrsten Sinema, D-Phoenix (District 15), will hold a press conference Wednesday to discuss the results of her Fund Our Schools First petition and deliver its signatures to Gov. Jan Brewer's office.

Sinema also will demonstrate the new social media tool – Postcard Petitions – which allows her Facebook fans to send a real postcard to Brewer for free, asking her to fund our schools first.

Press Conference

When: Wednesday, July 13 at 10 a.m.

Where: Senate Democratic Caucus Room

Sinema's Fund Our Schools First campaign, launched in May, urges Brewer and the legislature to put every penny that comes into the state treasury above projections into education first.

For more information about the petition, go to www.ksinema.org/fundourschoolsfirst

-30-

Congressman Flake Votes to Prevent Ban on Uranium Mining in Northern Arizona

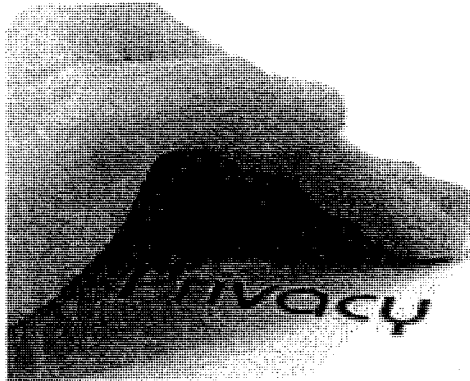
Mining Can Stimulate Economy without Jeopardizing Natural Beauty of the Grand Canyon

Washington, D.C. – Republican Congressman Jeff Flake, who represents Arizona's Sixth District, today voted against an amendment in the House Appropriations Committee that would have removed language from the Interior Appropriations bill which blocks a moratorium on uranium mining in northern Arizona. The amendment failed 23-26.

YELLOW SHEET REPORT

NEWS NOTES AND GOSSIP

PLEASE RESPECT OUR PRIVACY

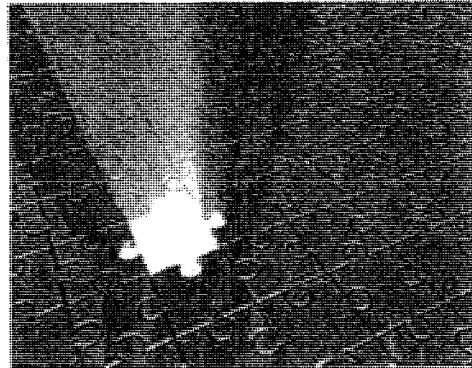


Late last month, just moments before awarding its mapping consultant contract to Strategic Telemetry, the IRC announced it had parted ways with state procurement officials. In announcing the split, IRC Chairwoman Colleen Mathis praised SPO for “all the work they’ve done” and said the commission felt “it was best to go ahead and proceed on its own” in making its consultant selection. The statement was accurate, but a letter from State Procurement Administrator Jean Clark – and not the IRC – formally announced the break-up. Clark’s letter, which was presumably handed over to the commission during the three-hour executive session, noted that the commission has “frequently pursued direction other than that offered by SPO” and that she would delegate procurement

authority to the IRC to “facilitate and respect” IRC autonomy. Exactly what caused the split isn’t known, as Mathis told our reporter she didn’t know why SPO dumped the IRC. Other commissioners, IRC staff and attorneys have either cited laws barring the disclosure of issues discussed in executive session, or referred to Clark’s letter. Clark has been unavailable for comment this week. A copy of the letter can be viewed in the “documents” section.

MISSING PIECES TO THE MAPPING CONSULTANT PUZZLE

The last minute parting of ways didn’t interfere with the IRC using documents bearing the seal of the Department of Administration’s procurement office to inform Strategic Telemetry it had the job. That fact was addressed by Republican IRC Commissioner Scott Freeman at the IRC meeting on Friday. With a slight smirk, Freeman told IRC Executive Director Ray Bladine that the July 5 document gives the impression that SPO was part of the decision to award the contract. “What we tried to do was accept the SPO process as much as we could,” Bladine responded. That statement prodded Freeman to state that the commission would have to “agree” on the final evaluation scores that were presented on the IRC documents distributed to Strategic Telemetry if SPO



was used. Freeman’s statements, which were left unexplained, appear to be an inside reference to separate, and original, evaluations commissioners completed in mid-June when the commission culled the four final mapping consultant finalists from the original list of seven. The IRC’s official procurement file includes statements from Freeman and Stertz that reference an initial round of scoring, though documents provided by the IRC in response to a public records request seeking the procurement file only included the final round of scoring. Stertz’s file includes evaluations for three responses limited to the RFP, while the other commissioners’ files show evaluation scores that reflect a grading of the RFP and interviews conducted before the commission. Similarly, Freeman’s procurement record was titled “Revised evaluation supplementing evaluation prepared for the June 15 meeting in Oro Valley,” and he included a footnote noting that he recorded a higher score than that “provided on the initial evaluation sheet the commissioners

completed in advance of the June 15, 2011, hearing.” The commission’s June 15 agenda includes Item IV, which reads: “Discussion and consideration of confidential documents associated with the evaluation of responses to the mapping consultant RFP and a review and ranking of submitted proposals.”

Apart from Freeman and Stertz, who both told our reporter last week that two evaluations were conducted, the IRC commission, staff and attorneys didn’t provide a solid answer on the evaluation process for mapping consultants. Mathis on Friday told our reporter some commissioners may have taken notes, but she wasn’t aware of formal scoring. Linda McNulty has yet to return calls for comment since being named to the IRC. Herrera yesterday said he didn’t think he completed an initial evaluation, and he wasn’t aware if other commissioners did. He also went as far as to say that the commissioners on June 15 agreed to “make it simple” by not preparing written evaluations when winnowing the list of seven applicants to four finalists. “There was no individual scoring. A scoring sheet was not appropriate. It didn’t fit in. It was more of a conversation and us talking about the firms, and then getting feedback from [state procurement officials]. We felt that we could eliminate three firms, without giving scoring,” he said. The Department of Administration, which oversees SPO, was short on details. Spokesman Alan Ecker wrote in an email that three bids were deemed “not susceptible” and were “set aside.” Ecker did not explain how or by what rubric the bids were critiqued. Freeman, Stertz and IRC Executive Director Ray Bladine cited state law that prohibits disclosing discussions that occur during executive session, and refused to comment on IRC mapping consultant evaluations.

DEM COMMISSIONER: ‘I HAD TO’ GIVE A PERFECT SCORE



The official summary score sheet included in the IRC’s procurement file indicates Strategic Telemetry was given the highest average score. They received 815 points out of a 1,000, with commissioners responsible for weighing 700 points and state procurement charged with providing up to 300 points for bidders’ estimated cost and conformance to the demands of the RFP. Research Advisory Services took second place with 666 points, while National Demographics Corp., which was heavily-favored by Freeman and GOP Commissioner Richard Stertz, placed third with 573 points. The last place firm, Terrasystems Southwest, received 450 points. The scores reflected commissioners’ impressions of the bids and the firms’ interviews. Mathis, Herrera and

McNulty each gave Strategic a perfect 700 of 700 points, and they panned Republican-favorite NDC. (McNulty gave the firm, which worked for the first IRC, 125 of 700 points. Herrera: 150. Mathis: 200.) Mathis told our reporter last Friday that there was no collusion among the commissioners, and that it was fairly easy to predict which commissioners favored which firms. Herrera (pictured) said the same, but offered that his scoring was also indicative of how he felt Republican commissioners would vote. “I had to,” he told our reporter yesterday when asked why he gave Strategic Telemetry, despite professing to prefer Research Advisory Services the most. Only one firm – TerraSystems Southwest – received lower scores than NDC from Mathis, Herrera and McNulty, who each gave the firm 100 of 700 points. The same firm received substantially higher scoring from Freeman (400) and Stertz (350). The lowest Republican score was issued by Stertz, who gave Research Advisory Services 203 points.

LET’S NOT RUSH INTO THINGS

Amid calls to remove IRC chairwoman Colleen Mathis, suggestions that the Legislature go into special session to send a referral to the ballot asking voters this November to get rid of the IRC altogether, and a chorus of anger and disappointment at the commission’s work thus far, Biggs is urging caution. Emerging from a meeting with other Senate leaders this morning, he told our reporter he, too, is upset at the

commission's decisions. "But is it time to go to a nuclear option? No. And that would be going to the ballot," Biggs said. While there aren't many options for Republicans, he said there's simply not enough time to do it right if the proposal were to repeal the commission or modify it via a ballot measure. "When you do something like that, you want to make sure you don't have unintended consequences. Right now, there are things that really bother me and concern me personally, and there are things that concern our caucus. And how do you know that you don't — if you rush through something with this magnitude — create even bigger problems?" he said. Biggs suggested that legislators show up at IRC meetings and bring the issues to people's attentions in district meetings, which will let the IRC know that it's being closely watched. And if that doesn't assuage GOP fears about the new lines, Biggs said a lawsuit would be likely.

BREWER NOT CHOMPING AT THE BIT, EITHER

Brewer spokesman Matthew Benson threw a little cold water on the growing chorus of GOP lawmakers calling for a special session on the IRC. "The governor has no imminent plans to call legislators into a special session on redistricting," he told our reporter on Wednesday, adding it would be "speculative" to comment on whether she would be open to a special session if circumstances changed.

"The governor is aware of some of the concerns among legislative members and she shares some of those concerns. She wants to make sure that the redistricting process is carried out fairly and in accordance with the law. That really is her top priority here," he said. Even if Brewer called the special session, Antenori said Republican lawmakers haven't yet figured out the best

plan of action anyway. Some want to oust IRC Chair Colleen Mathis and others want to put Prop 106 on a special election ballot in November — Antenori said they should do both — while some would prefer to duke it out in court after the districts are drawn, he said. "Not to drag in a Lori Klein analogy, but the gun is loaded and it's just figuring out what target to point it at and when to pull the trigger," Antenori said.



ONLY THE FUTURE OF THE REPUBLIC IS AT STAKE

Among some Republicans, there is a feeling that, given the IRC's perceived direction, what's at stake is Arizona's way of life. Gowan told our reporter he loves the freedoms afforded to residents here and the laws that protect those freedoms. He didn't verbalize it, but the implication was clear: Republicans have been good stewards of the state, and that will change if IRC's actions give Democrats the political upper hand. He told our reporter he supports convening a special election to refer a ballot measure asking the public to repeal the IRC, an idea that Antenori (who has made no secret of his desire to run for Congress in a district currently represented by a Dem) has been pushing. If such a question were on the ballot, Gowan said it would be incumbent on his party-mates to treat it as if they're campaigning for the fate of Arizona itself. Like many other Republicans, he argued that the best body to draw Arizona's political boundaries is the Legislature, which he said is subject to the influence of voters. Currently, he noted, there's no way for the public to check the IRC's actions if it disapproved them. Unable to contain his displeasure, Gowan also called Colleen Mathis an "absolute left-winger."

CHILL OUT, MAN

Today, the second day of Corporation Commission evidentiary hearings for the Mohave waste-to-energy plant, began on a sour note with more bickering between Chairman Gary Pierce and Paul Newman, this time regarding how long the commission should spend on the hearings. Pierce began today's meeting by announcing that there would be ten-minute time limits enforced for witnesses, prompting an objection from

ITCHING FOR A FIGHT

Antenori disagreed and said the situation is urgent. The former Army Ranger stood by the military planning acronym PACE – primary, alternate, contingency and emergency – for what he believes should be the Legislature’s plan of action. The primary plan, he said, should be to urge Mathis to commit to a more transparent process and bring on another mapping consultant, with the alternate plan being to oust and replace Mathis. The contingency plan is to put Prop 106 back on the ballot, Antenori said, and the emergency plan is to fight the IRC’s maps in court. He said some of his colleagues seem to favor the emergency plan before trying the first three. “If all of that fails, then bring on the judge,” he said, adding that he doesn’t think a special session would be an intolerable delay. As long as the maps are finished by March so candidates have 60 days to collect signatures, he said, things will be fine.

ETHNIC STUDIES APPEAL DATE SET

Administrative Law Judge Lewis D. Kowal set Aug. 19 and 23 as the hearing dates for Huppenthal to prove the TUSD Mexican American Studies program is in violation of state law. Huppenthal will be deposed on Aug. 4.

CONGRESSIONAL FUNDRAISING

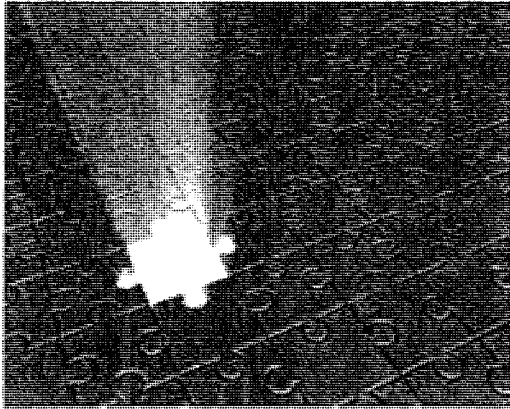


When Gosar announced his second quarter fundraising numbers last week, campaign spokesman Max Fose said he didn’t know how much cash the campaign had on hand. However, with campaign finance reports for the quarter due on Friday, we now know Gosar has \$138,392 in cash – significantly less than the \$215,723 that Kirkpatrick has on hand, a fact her campaign trumpeted this morning in a press release. Gosar’s cash on hand situation likely would be better were it not for nearly \$50,000 in debt that he paid down during the second quarter. He still owes more than \$34,000 for work done on his 2010 campaign. (Detailed reports for the second quarter haven’t yet been posted to the FEC website, but a report from April showed most of the money was owed to Fose’s firm, Integrated Web

Strategies, and another firm that helped Gosar raise money.) While Gosar performed better in the second quarter than he did in the first, he still raised far less than his fellow GOP freshmen: Quayle raked in \$285,029 during the quarter, and Schweikert pulled down \$268,142. The other striking detail from the fundraising totals was that Adams and Salmon sucked the air out of the room in CD6, effectively killing whatever momentum Chuck Gray had. His receipts dropped from an already paltry \$22,637 in the first quarter to a mere \$3,300 in the second. He also has the ignominy of being the only candidate to have less on hand after the second quarter than he did after the first: his cash on hand dropped from \$18,581 to \$16,444. Fundraising details for all candidates are below.

	<u>1st Quarter</u>	<u>2nd Quarter</u>	<u>Total raised</u>	<u>Cash on hand</u>
CD1				
Gosar	\$91,013	\$169,112	\$260,125	\$138,392
Kirkpatrick	3,435	239,956	243,391	215,723
Baldenegro		8,446	8,446	3,631
CD2				
Franks	19,630	59,664	79,294	41,068
CD3				
Quayle	212,023	285,029	497,052	370,277

July 18, 2011

THERE WERE LEGAL WAYS TO SKIN THAT CAT

One Republican observer found recent IRC procurement contract revelations and Dem Commissioner José Herrera's statements to be signs of highly suspect commission dealings. Herrera's admission that he "had" to give Dem-leaning Strategic Telemetry a perfect score to defend against Republican commissioners' interests stood as proof of an illegal intent to achieve a predetermined outcome, said the source. State procurement code dictates that offers and proposals can only be evaluated on the criteria contained in the request for proposal. Procurement evaluators also "shall not modify evaluation criteria or their relative order of importance after offer due date and time," according to code. "It's like golf: Firms don't compete amongst themselves, they compete against par —

and par is a perfect score on the evaluation sheet," said the Republican, who also had misgivings about the IRC maintaining an incomplete procurement file. (Yesterday's *YS* reported that IRC records reflect only commissioners' final RFP and interview evaluations, and they do not include earlier evaluations that presumably should be recorded and maintained.) It is true that state procurement officials terminated their procurement guidance to the IRC late in the process, but that fact wouldn't lessen the IRC's legal responsibility to put together or maintain a complete evaluation file, the source said. Evaluation records are maintained to allow losing bidders to file appeals, if desired. "Constitutional and statutory due process rights give losing bidders the right to protest the award. How can those due process rights be enforced with no written record?" said the source, who also offered some advice, in hindsight: Had the Dems and Mathis wanted to eliminate the Republican-favored firm, National Demographics, from contention, they could have simply written the RFP to prohibit prior IRC contractors from applying.

TALE OF THE TAPE

Any thought that Adams was keeping a lid on his fundraising numbers because they weren't very good was dashed yesterday when the former speaker announced he had raised \$230,775 in the second quarter, about \$60,000 more than Salmon had announced raising on Tuesday, despite Salmon entering the race about two weeks earlier. Adams' \$203,000 cash on hand also surpasses the \$155,744 Salmon's campaign said it had. One GOP railbird said the take-home message from the campaigns' fundraising totals was clear: "What it tells me is that Matt got out-hustled. That's the story for me." Given Salmon's greater name ID and his strong ties to D.C. through both his previous congressional service and his lobbying business, the source said he was widely



expected to out-raise Adams. That he didn't reinforces the long-held perception among many Republicans that Salmon is a poor campaigner. "One of the raps he has always had is that he didn't campaign hard and is kind of lazy — that he took things for granted. These numbers feed into that idea," the source said. A Republican lobbyist added that, while it's human nature to use the first round of fundraising numbers to gauge the campaigns and determine winners and losers, it's premature to draw any solid conclusions: "It's like weighing the fighters for a championship fight a year before the bout." One thing to look for when the

Thursday, July 14, 2011

Terri Proud has joined the anti-Independent Redistricting chorus on the right. Like **Frank Antenori** and **Jack Harper**, she seems to think that griping, stomping and whining about the process, established by a constitutional amendment passed by voters in 1998, will make it go away and they will somehow be in charge the way God and the Founders intended.

Here is how Proud and some of her colleagues seem to think this will work:

- The governor will call a special session of the legislature so they can put a referendum on the ballot. This assumes that Jan Brewer is overly enamored with Proud's legislative colleagues and will kowtow to them just because they are having an infantile snit.

- This will pass the legislature. She's assuming here that a majority of her colleagues will disregard the will of the voters and pass a referendum resolution for the most partisan and petty reasons. Oh wait, that is a good assumption.

- Once this resolution makes the ballot, it will get a majority of voters to go along and vote yes. Yep, there is clearly a majority of voters that thinks that politicians should be allowed to draw their own safe districts so they can be elected in perpetuity. Wake me when you can find a message that doesn't sound like "We don't want to have to talk to people that disagree with us to get re-elected, it's just not right."

- This all can happen with enough time for the legislature to draw districts so candidates can be filed by next June. Unless this process includes a resolution adding two months to the calendar, I don't see how this can happen.

Thinking that the governor and voters would go along with such a proposal is frankly delusional. It's the sort of delusion politicians get when they are in a bubble surrounded only by people they agree with and they have become unaccountable to the electorate. Yep: it's the arrogance of power you get when your system lacks the accountability produced by, you see this coming, competitive districts.

In all the complaining from Republican legislators and activists about the process, I haven't heard anything about what they'd like to see in terms of a fair map. Do they want competitive districts (the reason why the IRC was created in the first place) or not?

NB – Among Proud's complaints is that Chairman **Colleen Mathis's** husband worked on the campaign of a Democratic legislator. Of course, he's worked for Republicans too. Why does this particular campaign stick in her craw? It was Proud's opponent in the last election, Nancy Young-Wright. (D)

Run, Romanism....

It's actually the Democrats who should be unhappy with the IRC

There is much wailing and gnashing of teeth in Republican circles over the activities of the "Independent" Redistricting Commission. The first sign of trouble was when the IRC decided to chose lawyers. The group decided to chose two law firm--one Democratic and one Republican. The Democratic firm was chosen by the Democrats on the Commission together with the support of the Independent on the Commission. Then the Republican firm was chosen by...the Democrats on the Commission together with the support of the independent on the Commission.

That outrageously partisan move awakened every Republican elected official, media outlet and Precinct Committeeman in the state and was followed by an even more outrageously partisan move....the "Independent" commission hired a Democratic map consulting firm that is to draw the lines.

These moves suggested that the Independent on the Commission--Collene Mathis--isn't actually Independent and is actually a Democrat in disguise. Indeed, a little further investigation by the newly awakened blogosphere and media showed that Mathis has history of Democratic connections that she conveniently left off of her application.

Republicans are threatening to use their two thirds majority in the Senate to remove Mathis and it doesn't help that Democrats--rather than claiming that Mathis can be fair--are blaming Republicans for being asleep at the switch during the committee formation stage.

However, outraged Republican would do well to remember that the first step to really screwing someone is feigned courtesy. If Mathis really has it in for Republicans, she should be siding with them on every procedural issue. Vote with them on their attorney selection; vote with them on their mapping selection. Smother them with due process...you want some extra public comment sessions in Sun City? No problem. You guys doing ok on staffing? Can I get you a cup of coffee? Is the AC in your office working well enough? Cable? We can get FOX news piped into the lobby if you want.

There are only two votes that count--final legislative map and final congressional map. Everything else is window dressing.

Mathis's outrageously partisan votes so far have awakened the Republican infrastructure, allowed them to raise funds for a legal defense, hire attorneys, look for ways to remove Mathis and even managed to get the press aware of the possibility that the IRC really isn't fair. So when the real votes come, Mathis will have to be completely fair in order to avoid looking completely partisan.

Mathis may be a Democratic in disguise, but if so, she ruined her advantage by taking off the disguise too early. It's looking like this may be the third decade in a row that Democrats have blown the redistricting process.

Espresso Pundit 7/18/2011

From: Bev Rutt
Sent: Thursday, June 30, 2011 1:19 PM
To: Lugo, Adria
Subject: Bev Rutt - redistricting hire

Please ask Attorney General Horne to file an injunction.

Bev

From: Larry Templeton [mailto:lt@aginfo.com]
Sent: Thursday, June 30, 2011 11:44 PM
To: AGInfo
Subject: Redistricting

Why are allowing a left leaning firm that customarily works with Democrat Causes like the Obama Campaign to be placed in charge of redrawing district lines? Strategic Telemetry reputedly specializes in microtargeting groups of voters. Could a Democrat sympathizing group doing the redistricting influence the outcome of some contests in the next election? Can we demand the Redistricting Commission make a more neutral selection?

From: Moehring Mona
Sent: Friday, July 01, 2011 10:19 AM
To: AGInfo
Subject: re-districting commission

Dear Mr. Attorney General Horne:

It is vital that your office looks into the make-up of the re-districting commission. The so called "independent" commission chairwoman is anything but independent. Her husband is an activist democrat and that alone should have disqualified her to be in independent on the re-districting commission.

This "independent" chairwoman has been openly against the Republican commissioners in every word, deed and vote.

She must be replaced with a truly independent, fair and impartial person.

And it would be nice if you could do something about this radical, progressive democrat mapping company this democrat commission hired from Washington DC to re-draw the lines in the State of Arizona

Sincerely,

Ray and Mona Moehring

From: M. P.
Sent: Friday, July 01, 2011 11:15 AM
To: ConsumerInfo; AGInfo
Subject: REMOVE COLLEEN MATHIS NOW PLEASE!

Mission: The Independent Redistricting Commission's mission is to administer the *fair and balanced* redistricting of the Congressional and Legislative districts for the State of Arizona.

I believe it is a definite conflict of interest that the mapping company is drawing lines so that Colleens husband, who was on the campaign staff for Carol Wright can get Carol Wright elected. Am I to believe the mapping company is a political campaign consulting company!!!!?? The opening statement on their website states: "Strategic Telemetry is dedicated to providing individual-level micro-targeting, data analysis, strategic consulting and other services to help enable campaigns to successfully reach their target audiences and have their message heard." In today's evolving landscape where each vote is more important than ever, making sure that your campaign is running as efficiently and effectively as possible is critical to your success. When I go to <http://strategiclelemetry.com/> I see we have a campaign consulting company mapping our Congressional and Legislative districts!!! Is this what the founding fathers meant when they wrote Article 1 Section 2 of the U.S. Constitution? "The specific purpose, and the subsequent redistricting, of the decennial census requirement in the Constitution was to ensure a true and fair representative government." There is nothing RIGHT or ETHICAL going on here!!! Is S.T. going to run the campaigns for all these new democratic districts they draw? It's a fact that S.T. was the HIGHEST PRICED company and took the longest time to actually produce a map!! Commissioner Herrera has stated that S.T. was not his first choice but that he "went with the Independent"! So this means Colleen Mathis wanted this group all along! The BEST line goes to Lee who said, "If you're an independent, then I'm a French Fry!"

REMOVE COLLEEN MATHIS NOW PLEASE!

Respectfully,

Malcom Randall Pavey

From: whitney malone]
Sent: Friday, July 01, 2011 11:26 AM
To: AGInfo
Subject: Colleen Mathis

Colleen Mathis should be removed and the Redistricting should not go forward.

Thank You
Patricia Malone
Cochise County

From:
Sent: Friday, July 01, 2011 4:13 PM
To: AGInfo
Subject: Redistricting Commission

Just spoke with the AG's office and asked "How do we go on record with two requests regarding the Redistricting Commission? She gave me this email address and your name.

My husband, Richard, and myself want to be counted in the calls and emails for:

1. Remove Colleen Mathis, Chair, Redistricting Commission - conflict of interest.
2. Put an Injunction against Strategic Telemetry - political campaign consulting company is its primary function and they're based in Washington, D.C. Seems like in today's lack of jobs here in AZ that a commission for AZ would have selected, even if not as high tech, an AZ company. This way, keep the jobs here and the money here. Washington, D.C. is getting enough of our money. Also, the Commission did state that S.T. was the HIGHEST bidder. Isn't that rather against how most contracts are let?

Thank you,

The Lockwoods

From: John A.
Sent: Friday, July 01, 2011 7:38 AM
To: AGInfo
Subject: AZ Legislative Redistricting Commission

Dear Attorney General Horne:

The current chair, Colleen Mathis, of the AZ Legislative Redistricting Commission has proven to function as a biased, not independent, objective manner. Please file an injunction under Article 4, of the AZ.

State Constitution for her removal as chair of this commission immediately. It is critical an injunction for her removal be filed before the contract with the Washington, D.C. mapping firm is signed.

Her behavior has included gross misconduct, neglect of duty, and flagrant conflict of interest. Her blatant conflict of interest stems from the fact her husband was on the campaign staff for Carol Wright.

It appears the mapping company was hired to get the district lines redrawn to allow Carol Wright to win the next election.

Thanks your for responding swiftly by filing this injunction now.

Sincerely,

John A. Tirrell

Sent: Friday, July 01, 2011 11:15 AM

To: Rezzonico, Amy

Subject: Redistricting Letter to Attorney General Tom Horne -- please deliver

The attached letter to Attorney General Tom Horne concerns severe improprieties within the Arizona Independent Redistricting Commission that is almost guaranteed to turn into a political firestorm if no action is taken. I would very much appreciate it if you copy and deliver the letter to Mr. Horne.

July 1, 2011

Fax to: Attorney General, Tom Horne

Dear State Officials

Yesterday I attended a public hearing held by the Independent Redistricting Commission in Tucson. What I learned in listening to many concerned citizens of Pima County who spoke during the hearing is deeply disturbing because it is apparent the outcome of the Commission's work will be biased to favor the Democratic party. Here is what prompts me to write to you.

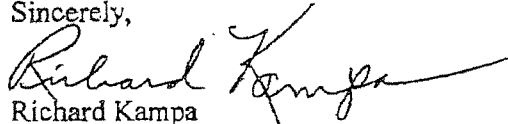
The vendor selected to do the mapping Strategic Telemetry is an organization that extensively supports Democratic campaigns. The list press of coverage on its web site - <http://www.strategictelemetry.com/index.php?pid=6> - clearly shows this. How the Commission could decide to select this Washington D.C. company is hard to understand. Strategic Telemetry's pedigree is steeped in Progressive ideology so their ability to make impartial judgment is impaired. With their biases so plain to see, the results of the redistricting process will be open to fair criticism of prejudice which will shake the voters' faith in the fairness of this expensive project. A different mapping vendor should be selected.

There were three other mapping vendors and one of them is an Arizona company. This firm may not have the experience in redistricting as Strategic Telemetry but lack of experience could have been used to discount this vendor who may be perfectly capable to provide the service called for in the RFP. A local vendor has more incentive to perform well because it can more easily be held accountable for its work output. They may also have a much lower price tag. A local award will put millions of Arizona taxpayer dollars beneficial to the local economy.

The other concern is about the neutrality of the commission's chair. Mrs. Mathis is the spouse of the man in charge of fund development for Nancy Young Wright, a Democrat candidate for state office in the last election. Mrs. Mathis may be a fine person but not the right choice for this position. Many voters will have a hard time accepting that she is or can be truly independent in her judgment in deciding on the redistricting plan the commission will create. She should be replaced.

Please do what you can to correct this intolerable situation and keep the redistricting process from becoming more contentious than it already is. The taxpayers deserve an outcome that they believe was fairly arrived at.

Sincerely,



Richard Kampa
Tucson, AZ

From: John A. "Jack" Tirrell
Sent: Saturday, July 02, 2011 8:09 AM
To: AGInfo
Subject: AZ Independent Redistricting Commission Chair

Dear Attorney General Horne:

Yesterday I sent you an email regarding the Arizona Independent Redistricting Commission's chair, Colleen Mathis. The information I had concerning the affiliation of Ms. Mathis' husband was incorrect. Her husband was the campaign treasurer for Nancy Young Wright, a Democrat, and not Carol Wright.

Her last partisan vote resulted in the hiring of Obama's campaign company Strategic Telemetry from Washington, DC for mapping our Arizona districts. This vote was unconscionable and unethical for an independent member of the commission and particularly as the commission chair.

Please use your good office to remove Ms. Mathis from the commission and see that she is replaced with a truly independent member and chair.

Sincerely,

John A. Tirrell

From: John A. "Jack" Tirrell
Sent: Saturday, July 02, 2011 9:48 AM
Subject: AZ Independent Redistricting Commission Mapping

Dear Arizona Leaders:

Earlier I sent you emails regarding the Arizona Independent Redistricting Commission. I probably should have mentioned I have a little experience with redistricting. In 1968 I was part of a team the Bridgeport Connecticut school board contracted to create a recommended redistricting map. As a team we suggested we should create several maps based on different assumptions so the board would have sufficient information by which to make the best decision. We developed 10 to 12 maps based on various assumptions but only presented 5 or 6 maps to the board (the other maps not presented were not sufficiently distinct from the maps we presented).

I would encourage you to use your influence on the Arizona Independent Redistricting Commission to make sure not just one map is developed and presented to the commission but a series of distinct maps are created based on assumptions the mapping firm develops so the commission has a selection of maps from which to make redistricting decisions. This should assist in keeping the process as objective and independent as is possible. The charge given to the mapping firm is critical to keep the input from the firm to be as impartial and non-subjective as possible.

Any assistance you can provide to make sure the results from the commission are in the best interest of all Arizonans (Democrats, Republicans, and Independents) will be appreciated greatly.

Sincerely,

John A. Tirrell

From: Mikki Niemi ;
Sent: Sunday, July 03, 2011 8:13 AM
To: AGInfo
Subject: FW: AZ Redistricting Commission Meetings (!02 Tucsonans Attended, 52 Spoke) July 7 & 8 Tentatively Scheduled Somewhere

Mr Horne

We need to take this lady out and replace her.

Mikki Niemi

Opinions and Facts!
<http://tucsonpoly.blogspot.com>

 D.P. Niemi

From:
To:
Subject: FW: AZ Redistricting Commission Meetings (!02 Tucsonans Attended, 52 Spoke) July 7 & 8 Tentatively Scheduled Somewhere
Date: Sun, 3 Jul 2011 08:06:43 -0700

We need to put a stop to this, call Horne, legislators, Governor send this to your friends

Mikki Niemi

Opinions and Facts!
<http://tucsonpoly.blogspot.com>

 D.P. Niemi

Date: Sun, 3 Jul 2011 07:49:19 -0700
Subject: AZ Redistricting Commission Meetings (!02 Tucsonans Attended, 52 Spoke) July 7 & 8 Tentatively Scheduled Somewhere
From:
To:

All,
What a miraculous meeting we had because of everyone who showed up at the Tucson meeting and spoke out publicly against the leftist, progressive campaign firm that has been hired to create Arizona's Congressional and Legislative lines. Several of you were even on Fox 11 News and many articles have been written and blogged about what YOU DID!

At the end of the meeting, it was clear that the contract for this company had not been written and so it had not been signed. In fact, the State Procurement Office has bowed out of working with the contracting of this company and so the Administrator, Ray Bladine, has to write the contract himself. A little weird to say the least.

The commission also set their next "tentative meeting dates" as Thursday and Friday, July 7 and July 8. As you know, this means we probably won't know where or when until sometime Tuesday, July 5.

From: Doug Woods
Sent: Sunday, July 03, 2011 6:11 PM
To: AGInfo
Subject: Redistricting

Tom: I can't believe this happened.

I worked hard helping you get elected and also on another campaign to unseat Raul Grijalva. I am outraged at the fact our Redistricting ended up being given to the Liberal Democrats and Ken Strasma and his company Strategic Telemetry, who by the way is in Obama's back pocket. I want to know how in the world did this happen?

From: Jack Heald j
Sent: Sunday, July 03, 2011 7:15 PM
To: AGInfo
Subject: Re-districting

Please stop the wrong actions of Chairwoman Colleen Mathis and the contracting of a very biased Chicago company(DNC mafia).

They disqualified one possible committee candidate(Chris Gleason) because he is a christian!! Do I hear lawsuit?

Thanks,Dr. Jack Heald Tucson

From: Roger Loy [mailto:rl@aginfo.com]
Sent: Sunday, July 03, 2011 7:55 PM
To: AGInfo
Subject: Redistricting Commission Anything but Independent

Dear Mr. Horne,

It has come to my attention that Arizona's Independent Redistricting Commission announced Wednesday that the bid for the mapping process of Arizona's congressional and legislative districts had been awarded to Strategic Telemetry, a campaign consulting firm for left-wing candidates. The company's president, Ken Strasma, was President Obama's national target director.

America needs to be aware of what is happening in Arizona. Our Independent Redistricting Commission has just selected a Democrat campaign company, to redistrict our state. Arizona voters want fair and impartial lines for their new districts.

Why pick this campaign company which clearly has a conflict of interest? It is evident there is much more to this than meets the eye!

Our State Government needs to investigate what is going on with this extreme conflict of interest. Please stop this disgrace.

Thank You,

Roger Loy

From: Tom Miller
Sent: Monday, July 04, 2011 4:02 AM
To: AGInfo
Subject: Independent Redistricting Commission (IRC)

Dear Mr. Horn,

I have been made aware of this commission's intent to hire Strategic Telemetry, Ken Strasma, President to redistrict/remap Arizona. Mr. Strasma has deep roots and ties with the DNC and Obama administrations. If impartiality is a prerequisite, how can this organization be considered for the task at hand?

While the chairman of the IRC supports this action, there may also be a conflict of interest and failure to disclose husband's role as treasurer for Nancy Young Wright bringing into question her commitment to impartiality. Please look into these issues to determine if improprieties exist and help get the process back on track.

Thank You,
Thomas Miller

From:
Sent: Monday, July 04, 2011 9:13 PM
To: AGInfo
Subject: Fwd: Redistricting

Used old add. for Dept/Ed. - sorry 'bout that. John Colvin

From:
To: azgov@az.gov, tom.horne@azed.gov
CC: _____
Sent: 7/4/2011 9:06:14 P.M. US Mountain Standard Time
Subj: Redistricting

One man, one vote. **NO preferential treatment or discrimination!!** LEGAL AZ residents only. Keep the new commission "*honest*"?? Thanks -

John Colvin

From: D E
Sent: Monday, July 04, 2011 8:08 PM
To: AGInfo
Subject: Redistricting

Dear Attorney General Tom Horne,

The Strategic Telemetry and Ken Strasma is linked to several democratic campaigns. I have learned that Mr. Strasma's has been directly involved with the DNC. (Democratic National Committee). Mr. Strasma has been very involved with NECE (National Committee for an Effective Congress) . As stated directly on their web site: an organization that would pool the resources of small contributors from across the country and spend those funds in the most efficient way to elect progressive candidates to the U.S. Senate and House.

NCEC also talks specifically about Arizona on their web page. Indicating that our 2010 Census data could "alter democratic presidential strategy".

As stated in the Democratic Underground, you can find Mr. Strasma listed on this web page, identified as a trainer from NCEC for a Democrat training group.

In addition to these things being uncovered, it was brought to my notice that the contract for this company has not yet been written or signed. In fact, the Arizona State Procurement Office has bowed out of working with the contracting of this company and so the Executive Director, Ray Bladine, has to write the contract himself.

It was also brought to my attention that the chairman of the redistricting commission has a conflict of interest that she did not disclose. Her husband was the Treasurer for Nancy Young Wright, who was an incumbent in LD26 until she was ousted by voters last election cycle.

According to Article 4 of the Arizona State Constitution, Colleen Mathis needs to be removed as chairman of our Independent Redistricting Commission for Gross Misconduct, Neglect of Duty and Conflict of Interest. Her vote was the deciding vote in bringing in the Liberals to Map the Congressional Districts here in Arizona.

There are two Republicans that sit on the redistricting commission that have been fighting this and I thank both of them to keep up the good fight for the people of Arizona. I am sure I am not alone when I say NO party affiliation when it comes to mapping is acceptable in this State. Republican or Democrat.

From: RAYMOND NEWTON [rr
Sent: Monday, July 04, 2011 5:58 PM
To: AGInfo
Subject: [SUSPECTED SPAM] Redistricting contract

Dear Attorney General Horn,

We have heard that the Redistricting Commission intends to contract with Strategic Telemetry to redistrict Arizona. It appears that the process by which this decision was reached may be suspect, as we are informed the Chairman of the Redistricting Commission appears to have an undisclosed conflict of interest. Her husband was the Treasurer for Nancy Young Wright, a Democrat, who was an incumbent in LD26 until she was ousted by voters last election cycle.

It seems to us that both Strategic Telemetry and its President, Ken Strasma, have an obvious, blatant conflict of interest. We understand that both have been linked to several democratic campaigns. It seems that Mr. Strasma has also been directly involved with the Democratic National Committee and NECE (National Committee for an Effective Congress) an organization devoted to electing "progressive" candidates to the U.S. Senate and House. A casual check of www.democraticunderground.com searching for Strategic Telemetry and/or Ken Strasma verified the above.

We understand that the contract for with Strategic Telemetry has not yet been written or signed. Please do everything in your power to see that it is not. Both Strategic Telemetry and Ken Strasma appear to be highly involved in Democrat politics and are too partisan to serve as redistricting agents. To allow this organization and individual to redistrict this State would give the appearance of gross impropriety and would further erode the confidence of many of the public in our governmental officials.

Thank you for your attention to our concern.

Sincerely,

Raymond Newton and Marianne Newton

From: Susan Norman
Sent: Monday, July 04, 2011 3:44 PM
To: AGInfo
Subject: Chairman of the Arizona Re-Districting Commission

July 4, 2011

State of Arizona
Attorney General
Tom Horne

Dear Attorney General Horne,

The Chair of the Arizona Re-Districting Commission, Colleen Mathis, was appointed as an Independent to the Commission. Ms. Mathis has demonstrated not only that she is NOT an Independent member, but, in my opinion, has pursued a Conflict of Interest position as well as committed misconduct in her official capacity. The company, Strategic Telemetry, has been involved with her family in political campaigns for Democratic candidates. Ms. Mathis has picked Strategic Telemetry to be given the contract for mapping the State of Arizona Districts. I believe this is a planned-out strategy to skew the District Mapping in favor of the Democratic Party.

I know you will agree with me that in order for fair elections to be held, it is absolutely vital that the District Mapping Process be done using the highest possible standards and the appointed Commission Members demonstrate ethical caliber.

I urgently request that an injunction be issued preventing the contract to Strategic Telemetry and that Colleen Mathis be dismissed from the Commission and an individual be appointed who actually is an INDEPENDENT and also meets ethical standards.

Sincerely,

Susan K. Norman

From: Terry Tomæ
Sent: Monday, July 04, 2011 9:07 AM
To: AGInfo
Subject: Redistricting

Dear Mr. Horne:

I'd like to know if you plan on filing an injunction to stop the Independent Redistricting Commission from gerrymandering our voting districts in Arizona? I'm tired of politicians cheating every time the voting majority doesn't vote their way. I hope to see/hear a public announcement from you on this soon.

Thank you,
Terry Tomæ (One of the less-than 50% citizenry who still pays taxes.)

"I can respect those who's views are different...I can't those who's views are hypocritically inconsistent!"

From: Christopher Carns |
Sent: Monday, July 04, 2011 8:52 AM
To: AGInfo
Subject: AZ Redistricting
Attachments: Redistricting.docx

What happened to the "Independent" redistricting Committee? It sure looks like the dumoRats threw in a ringer who LIED about her ties to their party to claim the Independant seat. Ken Strasma's company may be awarded the contract to draw up the new maps? What are these people smoking?

#1 - Everyone trying to pass this fraud off as "independent" should be drug tested.

#2 - Charges should be brought against Colleen Mathis for Fraud on her application tot the committee.

#3 - If this committee cannot find a non-politically connected company to draw up the new maps - maybe someone should just draw squares on the current state map and let the chips fall where they do.

See my research below - also attached as a word doc with google search results. The information is out there if people just look.

Christopher L Carns

Google search:

Strategic Telemetry and Ken Strasma

<http://www.stragictelemetry.com/index.php?pid=6>

The Atlantic

February 28, 2011: Dem Pollster Raises Possibility of Walker Recall. **Strasma** extrapolated (based on district-level microtargeting indices for progressivism and willingness to engage in political action) to find that ample voters would be willing to sign **recall petitions for eight Republican state senators**.

San Francisco Chronicle

January 10, 2011: Overseen by **Ken Strasma**, the lauded **national target director of Barack Obama's 2008 presidential campaign**,

July 4, 2011

To: Attorney General Tom Horne

Subject: Proposed Award of Voter Redistricting Mapping Contract

Dear Attorney General Horne,

I am advised that the Arizona Independent Redistricting Committee has selected the firm of Strategic Telemetry to conduct Arizona's voter district mapping. A review of both their history and web-site clearly reveal that the company and their President, Ken Strasna have a history of activist partisanship on behalf of the Democratic Party and progressive causes.

This proposed selection of the Independent Redistricting Committee clearly represents an unacceptable one that can only lead to a partisan gerrymandering of Arizona's voter re-distribution.

It was also brought to my attention that the chairman of the redistricting commission has a conflict of interest that she did not disclose. Her husband was the Treasurer for Nancy Young Wright, who was an incumbent in LD26 until she was ousted by voter's last election cycle.

According to Article 4 of the Arizona State Constitution, Colleen Mathis needs to be removed as chairman of our Independent Redistricting Commission for Gross Misconduct, Neglect of Duty and Conflict of Interest. Her vote was the deciding vote in bringing in the Liberals to Map the Congressional Districts here in Arizona.

I urge that your office exert every effort to intervene in this matter and assure that this selection is overturned and that this contract is not awarded to Strategic Telemetry, or any other, who might be influenced by their political leanings or affiliations. The question of Colleen Mathis's eligibility to serve on the redistricting committee must also be called to question as it would appear that an unacceptable conflict of interest exist. Arizona voter deserve nothing less.

Cordially,
George McK...

From: m
Sent: Tuesday, July 05, 2011 6:50 PM
To: AGInfo
Subject: AZ Independent Redistricting Commission

Dear Attorney General Horne:

We encourage your office to file an Injunction against the Arizona Independent Redistricting Commission.

According to Article 4, AZ State Constitution, Colleen Mathis needs to be removed as Chairman of the AZ Independent Redistricting Commission for gross misconduct, neglect of duty, and conflict of interest. (Her husband was Treasurer for Nancy Young Wright's campaign that narrowly lost but she did not declare his relationship to this Democrat campaign on her application for this position). Her vote has determined that the G. Soros/Obama leftist campaign company (what is independent about that?) would redraw AZ Congressional and Legislative District lines for the next 10 years.

An Injunction needs to be filed ASAP to stop this from proceeding further.

We appreciate any help you can give.

Thank you,

Mrs. Dianne Wisda

From: T.J. DeMark [mailto:tdemark@ag.state.az.us]
Sent: Tuesday, July 05, 2011 6:34 PM
To: AGInfo
Subject: Concern regarding Arizona's redistricting efforts

Hello Attorney General Horne and staff,

I am a Paradise Valley resident and proud supporter of your political campaign during the 2010 election.

I am writing in response to an email I received from 2010 U.S. House Candidate Ruth McClung describing recent actions taken by Arizona's Independent Redistricting Commission. Apparently, this past Wednesday, June 29, the Commission announced that the bid to remap Arizona's congressional and legislative districts was awarded to a Washington DC company named Strategic Telemetry. According to the information contained in the email, as well as my own review of the company's website, Strategic Telemetry identifies itself as a firm that caters to Progressive campaigns and organizations. Its president, Ken Strasma, has been directly involved with the Obama campaign, the Democratic National Committee, and other left-wing organizations that work to elect Progressive candidates to the U.S. House and Senate. This includes groups such as the National Committee for an Effective Congress, who outlined the strategic importance of Arizona's redistricting for Democrats in a web posting from July 2010.

While I do support Strategic Telemetry's right to have a political agenda, I strongly disagree with the Arizona Independent Redistricting Commission's decision to employ such a firm when mapping our state's congressional and legislative districts. I do not believe that a Progressive advocacy group based in Washington DC, nor any ideologically-driven organization for that matter, should be permitted to make unilateral decisions on behalf of a state's constituents. This is even more egregious considering their stated goals are diametrically opposed to the wishes of Arizona's majority.

As a political supporter, I ask that you please investigate the matter immediately, and ensure the continued integrity of our electoral process.

Thank you for your assistance.

Sincerely,
T.J. DeMark

From: Susan Litvak [mailto:susanlitvak@springer.com]
Sent: Monday, July 04, 2011 1:20 PM
To: CivilRightsInfo
Subject: Complaint about Redistricting Process in Arizona

Dear Attorney General Horne:

As a result of the recent census, there will be redistricting in Arizona affecting legislative/congressional seats.

However, we want to voice our concerns about the wholesale railroading of this process by the Democrat party and how the Chairman of the Arizona Independent Redistricting Commission did not divulge her loyalties and relationships to the Democrat party on her application for this position. Trying to hire a company to help with the redistricting process that has similar loyalties is ridiculous.

This process has to be stopped!

Thank you.
Susan Litvak

From: Ellie Burney | [\[mailto:Ellie.Burney@aginfo.com\]](#)
Sent: Tuesday, July 05, 2011 4:44 PM
To: AGInfo
Subject: Independent Redistricting Commission

Dear Arizona Attorney General Tom Horne,
My husband & I have heard that the Redistricting Commission intends to contract with Strategic Telemetry to redistrict Arizona.

It appears that the process by which this decision was reached may be suspect, as we are informed the Chairman of the Redistricting Commission appears to have an undisclosed conflict of interest.

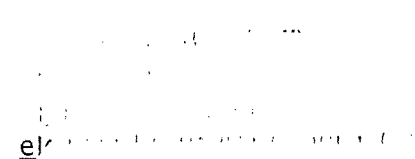
According to Article 4 of the Arizona State Constitution, Colleen Mathis needs to be removed as chairman of our Independent Redistricting Commission for Gross Misconduct, Neglect of Duty and Conflict of Interest. Her vote was the deciding vote in bringing in the Liberals to Map the Congressional Districts here in Arizona. In addition, her husband was the Treasurer for Nancy Young Wright, a Democrat, who was an incumbent in LD26 until she was ousted by voters last election cycle.

It seems to us that both Strategic Telemetry and its President, Ken Strasma, have an obvious, blatant conflict of interest. We understand that both have been linked to several democratic campaigns, and Mr. Strasma has also been directly involved with the Democratic National Committee and NECE (National Committee for an Effective Congress) an organization devoted to electing "progressive" candidates to the U.S. Senate and House. A casual check of www.democraticunderground.com searching for Strategic Telemetry and/or Ken Strasma verified the above. This would be considered prejudicial and biased in redistricting fairly.

We understand that the contract with Strategic Telemetry has not yet been written nor signed. Please do everything in your power to see that it is not.

Both Strategic Telemetry and Ken Strasma appear to be highly involved in Democrat politics and are too partisan to serve as redistricting agents. To allow this organization and individual to redistrict this State would give the appearance of gross impropriety and would further erode the confidence of the public in our governmental officials.

Thank you for your attention to our concern.
Sincerely,
Jerry M. Burney & Eleanor J. Burney
Yuma, AZ


elr

The fullness of life does not come from the things outside us;
we ourselves must create the beauty in which we live.....C. E. Cowman

From: [n \[mailto: \]](#)
Sent: Friday, July 01, 2011 2:24 PM
To: Crime Fraud & Victim Resource Center
Subject: Injunction

Dear Mr. Horne,

Fraud is being committed on our state by Colleen Mathis. I am appalled that Colleen Mathis, Chairman of the Az. Independent Redistricting, has chosen Strategic Telemetry a political consulting firm to decide the new boundaries. This is not an impartial group, Ms. Mathis should be removed immediately from office for derelict and neglect of duty and an injunction needs to be filed to prevent this contract from being allowed to go through.

Thank you,

Marv Grace Leon

From:
Sent: Tuesday, July 05, 2011 9:50 AM
To: AGInfo
Subject: FW: Arizona Independent Redistricting Commission

From: Gary Gomez [[mailto:](#)]
Sent: Thursday, June 30, 2011 8:39 PM
To: CivilRightsInfo
Subject: Arizona Independent Redistricting Commission

Please assist me in complaining about this commission. It is apparant they are not non-partisan. I understand that the Procurment Office has withdrawn their support for contracting with a Mapping consultant as the commission has failed to meet State procurement procedures. They are attempting to contract a firm with no experience in redistricting, a firm that only works on Democratic, progressive, candidates and causes. They have worked for the Obama '08 campaign, the DNC, Labor Unions and now are working on the re-call efforts against Republicans in Wisconsin. They are a Wisconsin - Washington D.C. firm that bid twice what the last firm that did our 2000 redistricting mapping. Another firm, from Arizona, also bid 1/2 of the "winning" bid. At first blush they appear to be not working within the State Constitution.

--
Gary B. Gomez

RECEIVED

JUL 05 2011

ATTORNEY GENERAL
EXECUTIVE OFFICE

July 2, 2011

Jan Brewer, Governor

Re: "Independent Redistricting Commission Mapping Contract"

Dear Governor Brewer:

I strenuously object to the selection of Strategic Telemetry as the mapping service for re-districting the State of Arizona.

This company is clearly not impartial or independent.

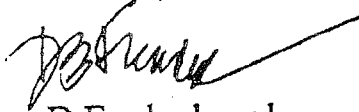
Ken Strasma, the company's president, was President Obama's national "target" director.

If you doubt his political stance, just look at his Facebook page - <https://www.facebook.com/ken.strasma> - "movie - The election of Barack Obama".

This is an affront to Arizona voters.

I respectfully request that the Commission be required to honor their commitment to fair and impartial re-districting by selecting a company that is clearly independent.

Thank you,



D. Fredenburgh
Voter SE Arizona

Cc: T. Horne, Attorney General Arizona

Dear Governor Brewer:

This is NOT impartial, independent mapping, this is campaign politics. Strategic Telemetry is NOT a neutral company.

From their web site: <http://www.strategictelemetry.com/>

Welcome to Strategic Telemetry

Strategic Telemetry is dedicated to providing individual-level microtargeting, data analysis; strategic consulting and other services to help enable campaigns to successfully reach their target audiences and have their message heard.

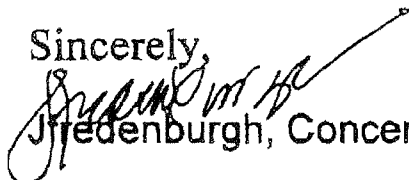
In today's evolving landscape where each vote is more important than ever, making sure that your campaign is running as efficiently and effectively as possible is critical to your success.

Whether your campaign's needs are big or small, contact us today to learn how we can provide a custom-solution for all of your outreach management needs.

The selection of this company is a travesty for the voters of Arizona.

I respectfully request that the Commission HONOR its' commitment to fair and impartial re-districting by selecting a company not tied to campaign politics.

Sincerely,

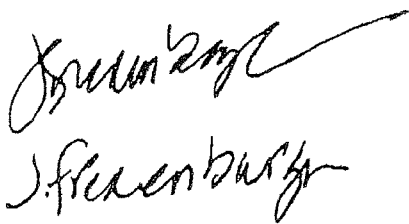

Jeffredenburgh, Concerned Voter

Cc: Tom Horne, Az. Attorney General

An interesting note - I wrote this letter on July 2, 2011. I looked at the Strategic Telemetry web site (cited in my letter), and copied the 'home page' introduction into my letter.

On July 4, when I viewed the home page again, the message had changed.

Thank you.



J. Freudenthal

Dear Attorney General Tom Horne,

This is a follow-up to my letter of yesterday concerning recent actions of the Arizona "Independent Redistricting Commission." JUL 05 2011

ATTORNEY GENERAL
EXECUTIVE OFFICE

According to Article 4, AZ State Constitution, Colleen Mathis needs to be removed as Chairman of the AZ Independent Redistricting Commission (AIRC) for gross misconduct, neglect of duty, and conflict of interest. (Her husband was Treasurer for Nancy Young Wright's campaign that narrowly lost but she did not declare his relationship to this Democrat campaign on her application for this position. Her vote determined that Strategic Telemetry, Inc., a Washington D.C. leftist campaign company would redraw AZ Congressional and Legislative District lines for the next 10 years).

An Injunction to stop further action by the AIRC should be filed as soon as possible before this becomes a national scandal.

Sincerely,

Alex Bissett

From: Susan Lee Whittmore
Sent: Wednesday, July 06, 2011 4:05 PM
To: AGInfo
Subject: CONFLICT OF INTEREST under Article 4 of the Arizona Constitution

TO ATTORNEY GENERAL TOM HORNE:

As we cannot find a category in which this concern neatly fits according to your menu options, we send this message to the general email message center of the Attorney General's office and hope our comments will reach his ear.

Colleen Mathis needs to be removed as chair of the Independent Redistricting Commission. She failed to disclose a conflict of interest regarding the fact that her husband was treasurer for Nancy Young Wright in the last election cycle. Please use your influence or office to investigate and remove her as soon as possible. The future of Arizona depends on a nonpartisan redistricting effort. This type of shoddy politics continues when unopposed.

Art and Susan Whittmore

From:
Sent: Wednesday, July 06, 2011 12:25 PM
To: AGInfo
Subject: FW: For AZ State Attorney General -- Redistricting

Importance: High

-----Original Message-----

From: Tom Bush [mailto:_____] 7
Sent: Friday, July 01, 2011 3:03 PM
To: Rezzonico, Amy
Subject: For AZ State Attorney General -- Redistricting
Importance: High

For the Arizona State Attorney General:

Colleen Mathis needs to be removed as Chairman of the Az. Independent Redistricting Commission for gross misconduct, neglect of duty, and conflict of interest.

I demand an injunction be instituted immediately.

Tom Bush

From:
Sent: wednesday, July 06, 2011 10:13 AM
To: AGInfo
Subject: (no subject)

The Independent Redistricting Commission seems to be quite a scam, why is it no one is looking into this? Someone really needs to oversee this, and clean up all these lying deceitful people that this board seems to consist of. Ms. Matthews is the perfect example in all this. Is it not the job of your office to oversee this?
Thank you for your time.

Sincerely,

Tina Grinnell _____m

From:
Sent: Wednesday, July 06, 2011 8:27 AM
To: AGInfo
Subject: FW: Strategic Telemetry - Re-Districting

From: Jere Fredenburgh [<mailto:>]
Sent: Tuesday, July 05, 2011 8:33 AM
To: CivilRightsInfo
Subject: Strategic Telemetry - Re-Districting

I have tried twice to send this to the “general” email address, and it has been “unsuccessful” ...thus I am attempting to use another AG email for this correspondence. Thank you.

Dear Mr. Horne:

I respectfully request that the contract with Strategic Telemetry, for the mapping of new districts in Arizona, not be allowed to go forward.

Mr. Strasma, president of the company, IS partisan, an active member of the 2008 Obama campaign. This would not be an impartial re-districting.

I understand the Commission is an independent body, but allowing this contract to proceed would be a travesty.

Thank you for your consideration,

Jfredenburgh
voter

From:
Sent: Wednesday, July 06, 2011 8:26 AM
To: AGInfo
Subject: FW: Arizona Redistricting Contract

From: Sandy Brown [mailto:_____om]
Sent: Tuesday, July 05, 2011 9:55 AM
To: CivilRightsInfo
Subject: Arizona Redistricting Contract

AG Horne,

I have been unable to locate a link on your website to address my specific concern, so I trust that whoever receives my e-mail will see that it gets to the appropriate office.

It recently come to my attention that the Arizona Redistricting Commission announced last week that the bid for the mapping process of Arizona's congressional and legislative districts was awarded to Strategic Telemetry, a campaign consulting fund firm for left wing candidates.

The company's president, Ken Strasma, was Obama's national target director.

Do you believe that Arizona will receive fair and impartial lines for our new districts with this firm? Selecting this firm clearly is a conflict of interest.

This company specifically talks about Arizona on their web page, indicating that our 2010 Census Data could alter democratic presidential strategy.

Information received also indicates that the chairman of the commission has a conflict of interest that was not disclosed.

All of this needs to be addressed, sooner rather than later.

If not already, I am asking that you become educated and involved in this situation and do everything possible to rectify what is shaping up to become a major disservice to the citizens of Arizona.

Sincerely,
Sandra Brown

From: _____
Sent: Wednesday, July 06, 2011 8:25 AM
To: AGInfo
Subject: FW: Redistricting

-----Original Message-----

From: _____: [mailto:_____]_____
Sent: Tuesday, July 05, 2011 10:57 AM
To: CivilRightsInfo
Subject: Redistricting

Dear Attorney General Horne,

As I consider our right to vote to be one of our most fundamental and basic civil rights, I am writing you today to ask if there is anything you can do to prevent the hijacking of our states political process by clearly partisan interests.

I have just learned about the involvement of Strategic Telemetry and Ken Strasma in our states redistricting process and I must say I am appalled. How can someone with such strong ties to one political party be allowed to carry out these duties?

It also appears that there is a conflict of interest with Colleen Mathis as chairman of our Independent Redistricting Commission. She cast the deciding vote in bringing in Strategic Telemetry to Map the Congressional Districts here in Arizona even though her husband was the Treasurer for Nancy Young Wright, who lost her seat in the last election.

This blatant subversion of our political process must be stopped immediately and Colleen Mathis must be made to step down as chairman of the commission.

Please do all that you can to bring this out into the open and see that this process is carried out in a fair and just manner by an independent party.

Thank you,
James McGarrahan

From:
Sent: Wednesday, July 06, 2011 8:24 AM
To: AGInfo
Subject: FW: Redistricting

From: Cherie Scott [<mailto:>]
Sent: Tuesday, July 05, 2011 9:25 PM
To: CivilRightsInfo
Subject: Redistricting

I wish to voice my concerns regarding the redistricting commissions choice of Strategic Telemetry to handle the redistricting of our state.

Arizona would be better served by choosing a company free of strong political ties to any particular party. Strategic Telemetry does not meet this standard.

Of the companies reviewed Terra Systems of National Demographics Corp appear to be much better choices.

Please support the choice of a company that will carry out this important task free of political bias.

Sincerely,
Cherie Scott

From:
Sent: Wednesday, July 06, 2011 8:24 AM
To: AGInfo
Subject: FW: Redistricting AZ

From: Darlene/Judie [mailto:
Sent: Tuesday, July 05, 2011 6:47 AM
To: CivilRightsInfo
Subject: Redistricting AZ

Attention: Attorney General Tom Horn

What is going on here? This is unacceptable. What can you do about it? Per Ruth McClung, according to Article 4 of the Arizona State Constitution, Colleen Mathis needs to be removed as chairman of our Independent Redistricting Commission for Goss Misconduct, Neglect of Duty and Conflict of Interest. Her vote was the deciding vote in bringing in the Liberals to Map the Congressional Districts here in Arizona. I would appreciate some action on this. Note: I have Ruth McClung's research and I assume you can get it.

Juanita C. Williams
Yuma, AZ

**AZ REDISTRICTING MAPPING BID GOES TO
LIBERAL CAMPAIGN STRATEGIC COMPANY**

RUTH MCCLUNG

For Immediate Release
Friday, July 1, 2011.

Tucson, AZ -- Arizona's Independent Redistricting Commission announced Wednesday that the bid for the mapping process of Arizona's congressional and legislative districts had been awarded to Strategic Telemetry, a campaign consulting firm for left-wing candidates.

The company's president, Ken Strasma, was President Obama's national target director.

When asked about this Ruth McClung said, "America needs to be aware of what is happening in Arizona. Our Independent Redistricting Commission has just selected a Democrat campaign company, to redistrict our state.

Arizona voters want fair and impartial lines for their new districts.

Why pick this campaign company which clearly has a conflict of interest? It doesn't take a Rocket Scientist to figure out there is much more to this than meets the eye!"

Ms. McClung went on to say, "The people of this country need to stand up against this type of political bias when it comes to mapping our political districts, not just in Arizona, but all over the country."

~~###~~

From: Owner1
Sent: Thursday, July 07, 2011 8:50 AM
To: AGInfo
Subject: Colleen Mathis/Redistricting Council

Mr. Attorney General

Please investigate Ms Colleen Mathis regarding the incomplete information she supplied on her application.

While she may be registered as an Independent, she has very strong links to the Democratic party through her husband.

Her incomplete information on the application is not only dishonest, it is cause for removal from the Commission.

Thank you for your consideration.

Vince Leach

From: jan thalberg
Sent: Thursday, July 07, 2011 10:38 AM
To: AGInfo
Subject: AZ Redistricting Commission Meetings (102 Tucsonans Attended, 52 Spoke) July 7 & 8
Tentatively Scheduled Somewhere

Dear Tom Horne,

It is imperative that Coleen Mathis be removed as chairman, and an injunction filed. According to Article 4, AZ State Constitution, Colleen Mathis needs to be removed as Chairman of the AZ Independent Redistricting Commission for gross misconduct, neglect of duty, and conflict of interest. (Her husband was Treasurer for Nancy Young Wright's campaign that narrowly lost but she did not declare his relationship to this Democrat campaign on her application for this position. Her vote determined that this leftist campaign company would redraw AZ Congressional and Legislative District lines for the next 10 years).

An Injunction needs to be filed ASAP to stop this from proceeding further.

**Janet Thalberg
Tucson**

From: Tucson Smart Girl Politics <_____>
Subject: AZ Redistricting Commission Meetings (102 Tucsonans Attended, 52 Spoke) July 7 & 8
Tentatively Scheduled Somewhere
To:
Date: Sunday, July 3, 2011, 11:06 PM

Thanks to Lynne St. Angelo and Christine Bauserman for their tireless work on this very important issue!

From Lynne:

All,
What a miraculous meeting we had because of everyone who showed up at the Tucson meeting and spoke out publicly against the leftist, progressive campaign firm that has been hired to create Arizona's Congressional and Legislative lines. Several of you were even on Fox 11 News and many articles have been written and blogged about what YOU DID!

At the end of the meeting, it was clear that the contract for this company had not been written and so it had not been signed. In fact, the State Procurement Office has bowed out of working with the contracting of this company and so the Administrator, Ray

From: Jim O'Conno
Sent: Thursday, July 07, 2011 3:42 PM
To: AGInfo
Cc: 'Jim O'Connor'
Subject: Removal of Colleen Mathis from her position on Redistricting Commission

Dear Mr. Horne,

Please take immediate action necessary to remove Colleen Mathis from her position and get her replaced with a truly "independent" non-partisan Chairman of this redistricting commission.

Jim O'Connor

July 9, 2011

COMPLETED

The Honorable Tom Horne
Arizona Attorney General

Dear Attorney General Horne:

Thank you for looking into the situation involving the Arizona Independent Redistricting Commission (AIRC) Chairman Colleen Mathis and for getting back to me so quickly. I appreciate your sentiment on the issue and understand the limits of your office.

You should know, however, that important additional information has recently surfaced that would raise the issue to a new level of concern and quite possibly involve issues of conspiracy. Legislative-District 26 residents have uncovered proof that Ms. Mathis blatantly lied on her application to be considered for the Independent Chairman of the AIRC.

On **October 12, 2010**, Ms. Mathis applied, by signed application form, to serve on the AIRC as the "Independent." I believe she deliberately lied on that application form specifically on questions 1, 6, and 8. A copy of that form with the answers submitted by Ms. Mathis is attached.

The key to understanding the deliberate lying by Ms Mathis lies in Question 8, which required Ms. Mathis to list the names of employed parents, siblings, **spouse**, children etc. and the names and addresses of their employers. Now we know that on the date Ms. Mathis signed the application, her husband, Chris Mathis, held a key paid position as Treasurer for the Nancy Young Wright legislative campaign in LD 26 which Ms. Wright lost by a narrow margin. Ms. Mathis only listed the names of two brothers and I believe she left out the name and position of her husband because she knew that disclosing that information would preclude her from ever sitting on the Commission. If one understands the seriousness of her deliberate omissions on Question 8, then the lying on Question 6 and even Question 1 becomes apparent. It should be noted that even though the other four commissioners may have had access to Ms. Mathis' application, there was no way they tell from it the situation regarding her husband.

If we connect all the dots, it is easy to believe Ms. Mathis had her eye on the Chairman's spot on the AIRC for quite a while, for reasons other than political neutrality.

Attorney General Horne, you are aware as much if not more than anyone of the damage that can be done by having the redistricting in the hands of individuals as well as contractors that have political agendas. I am sure you will do what you can to expose the lies of Ms. Mathis and correct the situation as much as you can. I have not copied this email to Governor Brewer but will if you suggest I do.

Respectfully,
Alex Bissett

COMPLETED 7-7-11

By Attorney General Tom Horne
1215 - W Washington
Phoenix Az. 85607-2926

RECEIVED

JUL 11 2011

ATTORNEY GENERAL
EXECUTIVE OFFICE

Re Arizona Redistricting Commission

On June 29 Arizona Redistricting Commission voted to hand off the task of mapping the new electoral district map to leftist firm called Strategic Telemetry.

The president of this firm was the national target director for Obama 2008 presidential campaign.

I demand an injunction be filed. We are not being represented by this commission.

I appreciate your attention to this matter.

Sincerely
Maris Pearson
District 6



From: Linda Stacey]
Sent: Sunday, July 10, 2011 10:38 AM
To: AGInfo
Subject: Redistricting Commission

Dear Attorney General Horn,
Please ensure that the AZ Independent Redistricting Commission is truly independent. It certainly sounds as if Democrats have highjacked or attempted to highjack the process. How is it possible that a Democrat-leaning mapping consultant was selected? Chairwoman Mathis definitely needs to resign. I am so disappointed that Republicans did so well in 2010 elections but can't get a neutral redistricting commission.
Linda Stacey

7/10/2011

From:
Sent: Monday, July 11, 2011 1:30 PM
To: AGInfo
Subject: Redistricting Commission

Dear Mr. Horne,

I totally object to the redistricting commission's selection of Strategic Telemetry which has ties to the Democratic Party and the Obama campaign. In addition, the so called Independent Colleen Mathias has ties to the Democratic Party.

There were a choice of 3 companies to use for the redistricting map, 2 of which are located here in AZ. But the Chair, Colleen Mathias, requested a unanimous vote for the out of state company, Strategic Telemetry.

Several meetings are being held behind closed doors.

This is suppose to be a fair and unbiased panel. It is not and we ask that Colleen Mathias step down from this panel.

Sandi Bartlett

From: Crime Fraud & Victim Resource Center
Sent: Monday, July 18, 2011 10:07 AM
To: AGInfo
Subject: FW: Report Fraud in the IRC

From: John Merrill [mailto:john.merrill@ag.state.az.us]
Sent: Monday, July 11, 2011 2:13 PM
To: Crime Fraud & Victim Resource Center
Subject: Report Fraud in the IRC

TO:

Tom Horne

Arizona State Attorney General

SUBJECTS:

Fraud in the Independent Redistricting Commission

The Strategic Telemetry contract is illegal.

Chairman of the IRC, Colleen Coyle Mathis is Not Independent & Lied on Application

THE STRATEGIC TELEMETRY CONTRACT IS ILLEGAL

The Strategic Telemetry contract is illegal because the State Procurement Office withdrew. Strategic Telemetry is NOT non-partisan. The company has spent their entire existence advising and managing progressive candidates like Obama, Kerry, Jerry Brown, SEIU, Move On, AFL-CIO, other state Democratic parties, etc. Strategic Telemetry's specialty is

"mining "voter data and right now our Arizona GOP Voter Vault info is being downloaded.

Strategic Telemetry is NOT an experienced mapping consultant. They still have to learn how to use mapping software. A Phil Gordon' guy named as Executive Director, (Ray Bladine) after state procurement office withdrew stated at an IRC meeting that he now has the authority to write and sign the contract with Strategic Telemetry. This sounds like something corrupt. The Procurement Office has to review/sign contracts. Why did they refuse to continue with the Commission?

Here are reasons why Strategic Telemetry is NOT eligible to do the contract. One of ST's clients was the National Director for the 2008 Obama for President Campaign. On the website, RedistrictingOnline: Strategic Telemetry-"groundbreaking work for Obama presidential campaign 2008 merging voter info w/ other demographic & marketing data. Helped Jerry's Brown's gubernatorial (CA) ... by mining through 800 data points on info about voters. (RO 7-01-11)

They worked for the Policy Director for DNC redistricting, an extremely partisan group.

Strategic Telemetry was part of the Recall effort of the Wisconsin-Governor and Republican Legislators. Strategic Telemetry's website states that they work for progressive candidates.

· The President of Strategic Telemetry is a former Director Natl Committee for Effective Congress (NEC). Website states "one of the most influential political organizations having helped elect hundreds of progressive candidates to congress". NEC is a progressive LOBBYING GROUP and the president, Ken Strasma, NOW heads targeting efforts for Barack Obama's campaign. Strategic Telemetry worked on John Kerry's campaign. Daily Kos 3-1-11: Strategic Telemetry - Pres Obama's 2008 campaign micro-targeter now working on Wisconsin recall. Strategic

Telemetry's Facebook page: "strategic adviceto progressive organizations and campaigns".

- Strategic Telemetry is not a Mapping Consultant-they are Progressive Campaign Managers/Advisors/LOBBYISTS for the DNC and Obama

- Sources: Sonoran Alliance and Cholla Jumps

STRATEGIC TELEMETRY'S CONTRACT

AZ State Procurement Office resigned from working on the contract with Strategic Telemetry so the Executive Director, Ray Bladine, wrote the contract. At Friday's meeting, Blandine said he has the authority to write and execute the Strategic Telemetry Contract even though SPO is the correct agency. Blandine was Phil Gordon's former City Manager

The two legal firms selected as co-counsel for the IRC represents Democrats. Mathias refused a counsel for each party. Source: Associated Press 7-9-11

Previous IRC commissions have kept the money in Arizona for doing IRC work by using Glendale's National Demographics Corp. Strategic Telemetry has to spend a week learning how to use the mapping software, which is a standard in the industry. If Strategic Telemetry truly was a mapping consultant and not just a "tracker" (read "data mining" info) then why are they not expert's on this software?

CHAIR COLLEEN COYLE MATHIS

The IRC Chairman, Olleen Coyle Mathis lied on her application by not stating that she and her husband were big donors to Democrat causes including Obama. Mathias lied on questions #1, #6 and #8 on her application. Please check the completed, signed Mathias application on the Sonoran Alliance blog 6-29-11 (article "AZ 'Independent' Redistricting Commission Picks Leftist Progressive Firm to Map Arizona Lines").

Here are the questions and her lies:

#1-"independent and impartial"-yes FALSE

#6-"possible conflict of interest"-no FALSE

#8-List parents, spouse, siblings-only siblings mentioned FAILED TO MENTION HUSBAND

Husband not mentioned on Application: Husband, Chris Mathias was the PAID Treasurer for a Tucson Democratic candidate

Husband is an attorney and Democrat activist

- Both contributed to Andrei Cherney (head of AZ's Democratic Party)
- Both contributed to Arizona List PAC-progressive PAC
- Husband gave \$500 to Barack Hussein Obama's 2008 campaign

Source: Sonoran Alliance blog 6-29-11 plus reader comments from Campaign Finance Reports

- Colleen (Chair) current occupation is the Government Funding Manager for University Physicians HealthCare. Her job is to get Funds from the ARR Act-stimulus funds. Colleen was given her position at University Physicians in 2009. (last page Application)
- Colleen hand-picked Strategic Telemetry. When the Commission split 2/2 along party lines, Colleen was the deciding vote for Strategic Telemetry.

Commission Has Provided No Minutes-2 Months Late. There Are No Agendas for Most Meetings on IRC's Website. (<http://www.azredistricting.org/>) Meetings Not Open and Transparent. More than half of the meetings have been behind closed doors. The Chair refuses to put some items other commissioners requested on the Agenda so public may not be allowed to respond. The Chair changed format so Public Comment put at end of meeting instead of the beginning as the

norm. Few people can wait 4-5 hours. Meetings should be in the evenings or weekends for working people. The Website has NO BLOG. IRC should be on Facebook and Twitter to receive comments from the public

Quick History: Respective state legislators in each party select their 2 Republicans and 2 Democrats. Of course, the vote will almost always be tied so the 5 person is an Independent. Janet Napolitano selected the "Commission on Appellate Court Appointments" and they are all Democrats posing as Independents. If we force Mathias to step down, another progressive will be selected.

From: GREGG WILLITS ;____
Sent: Saturday, July 02, 2011 8:12 AM
To: ConsumerInfo
Subject: [SUSPECTED SPAM] REMOVE COLLEEN MATHIS

Attorney General Horne:

Please do all you can to remove Colleen Mathis from the Arizona Independent Redistricting chairmanship. The liberal bias is so very obvious. This is not what the founding fathers had envisioned. The redistricting is so one-sided and it is unfair to us consumers!

Regards,

Carolyn Willits, Tucson, Az

From: Carl Foster [
Sent: Wednesday, July 27, 2011 9:58 AM
To: AGInfo
Subject: Redistricting Commission Possible Illegal Activity

Dear Mr. Horne,

I am deeply concerned that the independence of the Redistricting Commission has been compromised, and that the open meetings statutory requirements were not followed. The Arizona State Procurement Officer submitted a letter stating that the selection process for Strategic Telemetry was in violation of state procurement operations.

I urge you to investigate the commission and the methods they used to select a subcontractor to draw the new legislative district lines. There is abundant evidence of wrongdoing, and perhaps criminal activity.

Carl Foster

4

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Mary R. O'Grady

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August 15, 2011

Via U.S. MAIL AND EMAIL

Mark Wilson
Senior Litigation Counsel
Arizona Attorney General's Office
1275 West Washington
Phoenix, AZ 85007

Re: Independent Redistricting Commission—Open Meeting Law Investigative Demands

Dear Mark:

As I've mentioned previously, we remain eager to sit down with you to discuss in detail the concerns of the Attorney General's Office and to explore mutually acceptable solutions to those concerns. That said, this letter is to address some of the issues raised by your investigative demands served on the members of the Independent Redistricting Commission ("Commission") August 11.

Documents. As Joe Kanefield advised you by email, the Commission could not provide you with the documents that you requested by 4:00 today. As you know, we received your request for extensive documents from each of the five Commissioners Thursday afternoon, August 11. Apart from any other issues that your investigative demand raises, two business days is not enough time to collect responsive documents from the five Commissioners and review them for, among other things, responsiveness and privilege. We have started the process of collecting responsive documents from Commissioners, but you will not be receiving the documents today.

Interviews. As a courtesy, we also wanted to let you know that, apart from any other issues raised by the proposed interviews, the interview schedule specified in the investigative demands will need to be modified because it conflicts with the Commission's work this week.

Timeframe for Objections. The investigative demands specified this Wednesday, August 17, and Thursday, August 18, as the deadlines for objections. We briefed the

Commission about the inquiry this morning, and it will also be on the Commission's agenda for meetings later this week. The statute requires a "reasonable time" for responses to investigative demands. A.R.S. § 38-431.06(C)(3). We will need additional time to prepare appropriate objections and receive guidance on these issues from the Commission. Therefore, we respectfully request an extension until Wednesday, August 24, to provide you with objections to the investigative demands.

Service/Representation. I wanted to be clear with regard to our role as counsel. Joe Kanefield and I, assisted by others at our respective law firms, are counsel for the Commission. You began questioning whether we represented the Commission or the individual Commissioners when I objected to your investigator's attempt on July 29 to schedule interviews for the Commissioners by contacting Commission staff rather than working through Joe or me. Because Joe and I represent the Commission, any contacts regarding your investigation of the Commission should go through us, as counsel for the Commission pursuant to Ethical Rule 4.2. This does not mean that we represent the Commissioners as individuals. The Commissioners are significant constituents of our client, the Commission, but our client is the Commission. Consistent with ER 1.13, Joe and I can accept service for the Commissioners on matters within the scope of their responsibilities as Commissioners. The acceptance of service form that you provided with the investigative demand identified me as counsel for the individual Commissioners. I am authorized to accept service on behalf of the Commissioners, but I am doing so as part of my role as counsel for the Commission. I will modify the acceptance of service forms accordingly.

Commission Cooperation. Your August 11 letter incorrectly suggests that the Commission has not cooperated with the Attorney General's three-week old inquiry into procurement and open meeting law matters relating to the Commission's mapping consultant contract. As you know, we first learned of the Attorney General's inquiry when reporters informed us of the Attorney General's press release announcing the inquiry the morning of July 21. The Commission's immediate response was to attempt to cooperate. As soon as you were assigned to the case, we asked to meet with you so we could work cooperatively to address any concerns, and you never agreed to such a meeting.

Our overarching interest has always been that any legitimate concerns of your Office be addressed fairly and efficiently and in a manner that respects the Commission's constitutional authority and responsibilities. As you know, the Commission is made up of five citizen volunteers who have significant, time-sensitive constitutional tasks to perform—and full-time jobs. The Attorney General's Office announced its procurement and open meeting law inquiry on the first day of the Commission's first round of fifteen public hearings throughout the State. Those hearings just ended Saturday, August 6, and the Commission's work developing legislative and congressional district maps really begins this week. We would like to work cooperatively in a manner that does not impede the important work of the Commission and does not place unnecessary burdens on the citizens who have volunteered their time to serve as Commissioners.

Mark Wilson
August 15, 2011
Page 3

At the risk of repeating myself, in closing, I want to confirm that our overriding goals are to understand and address any concerns of the Attorney General's Office while proceeding with the Commission's work. We will put every effort into finding acceptable solutions once we fully understand what those concerns are. We thus would like to meet with you as soon as possible about how to bring your inquiry to a prompt conclusion. We feel strongly that such an approach is preferable to one in which we exchange written demands and responses. To ensure that the Commission's important work continues unimpeded, I am receiving assistance from my partner Jean-Jacques Cabou on this matter, and I encourage you to contact him at 602-640-9399 or Joe Kanefield at 602-798-5468 to discuss how the Attorney General and the Commission can work together to resolve this matter.

Sincerely,


Mary R. O'Grady

cc: Joe Kanefield (via email)
Jean-Jacques Cabou

3799915

5

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Mary R. O'Grady

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August 29, 2011

VIA E-MAIL AND U.S. MAIL

Mr. Mark Wilson
Senior Litigation Counsel
Arizona Attorney General's Office
1275 West Washington
Phoenix, AZ85007

Re: Independent Redistricting Commission – Objections to Investigative Demands

Dear Mark:

We write on behalf of the Arizona Independent Redistricting Commission (the "Commission") to respond to the written investigative demands that your office served. Since the Attorney General announced via press release July 21 that he was opening an inquiry into the Commission's compliance with open meeting and procurement laws, the Commission's concern has been that any legitimate questions be addressed fairly and efficiently and in a manner that respects the Commission's constitutional responsibilities. Although the investigation purportedly covers both procurement and open meeting law issues, the investigative demands are based solely on the Attorney General's investigative authority under the Open Meeting Law.

The Attorney General issued his investigative demands pursuant to A.R.S. § 38-431.06(B)(1) on August 11, 2011. The demands required that objections be filed by August 17 and 18, 2011. You agreed that we may file the objections to these investigative demands today. The objections to the investigative demands are set forth below along with comments directed toward a prompt resolution to this matter.

1. ***The Attorney General's Statutory Authority Under the Open Meeting Law Does Not Extend to the Commission.***

As a threshold matter, there are serious questions whether the Attorney General can use the statutory procedures under A.R.S. § 38-431.06 to investigate the Commission, a legislative body governed by Article IV, part 2, § 1 of the Arizona Constitution, and, therefore, the Commission objects to the investigative demands. The Commission was created to remove the Legislature from the redistricting process and reassign that important responsibility to an

independent Commission made up of citizen volunteers. The constitutional provision governing the Commission emphasizes that the Commission is to be both independent and open to public scrutiny.

To further these purposes, Proposition 106, the citizen initiative that created the Commission, included its own open meeting requirement that, like the other provisions of the initiative, is self-executing. The Constitution requires that “[w]here a quorum is present, the independent redistricting commission shall conduct business in meetings open to the public, with 48 or more hours public notice required.” Ariz. Const. Art. IV, pt. 2, § 1(12). To fulfill this constitutional mandate, the Commission follows the procedures set forth in the Open Meeting Law but provides the additional public notice that is constitutionally required. The Commission goes to great length to ensure that its business is open to the public, and to public scrutiny. For example, its meetings are transcribed by a certified court reporter. Whenever technologically possible, its meetings are streamed live via the internet on the Commission’s website. Meeting transcripts and recordings are archived and available to the public continually on the Commission’s website. While the Open Meeting Law provides a convenient reference for procedures of the Commission, it is, by its terms, different from the constitutionally prescribed requirement of openness for the Commission.

Notably absent from Article IV, part 2, § 1 of the Constitution is any reference to the authority of the Attorney General to enforce this constitutional requirement of openness. Applying the statutory provisions for the investigation and enforcement of Open Meeting Law complaints to the Commission is contrary to the language of Proposition 106 and creates a serious risk to the Commission’s independence. *See, e.g., Ariz. Independent Redistricting Comm’n v. Fields*, 206 Ariz. 130, 75 P.3d 1088 (App. 2003) (establishing that the Commission is a legislative body and that its “commissioners, who are constitutional officers, are cloaked with legislative privilege”); *Hughes v. Speaker of the New Hampshire House of Reps.*, 876 A.2d 736, 744 (N.H. 2005) (“[W]hether a legislature has violated the procedures of a state right-to-know law is not justiciable.”) (collecting cases); *Ozanne v. Fitzgerald*, 798 N.W.2d 436, 440 (Wis. 2011) (also refusing to enforce state open meeting law against legislature citing separation of powers concerns).

We recognize that this issue has not been addressed by Arizona courts, but we believe that it is important to the Commission as an independent legislative body to object to the investigative demands on this basis. This objection does not mean that the Commission cannot be held accountable for its constitutional obligation to conduct its business in open meetings. On the contrary, it simply requires that the constitutional open meeting requirements be addressed by the courts, rather than through an enforcement proceeding initiated by the Attorney General under the Open Meeting Law.

2. *The Attorney General Has Not Established Reasonable Cause for the Investigation.*

The facts surrounding this investigation illustrate the problems with permitting the Attorney General to conduct statutory Open Meeting Law investigations against the Commission. This inquiry was not initiated based on a signed, written complaint under A.R.S. §

38-431.06(A), but was opened on the independent initiative of the Attorney General, as is permitted by statute. The Attorney General's press release announcing the investigation indicated that it was based on reports of wrongdoing, and when the Commission asked for copies of those reports all that your office provided were numerous emails from citizens, blog posts, and Yellow Sheet articles raising frustrations with the Commission, partisan complaints about Strategic Telemetry, and complaints (often of an intensely personal, partisan nature) about Chairperson Mathis.

None of the complaints made in these materials provides reasonable cause to believe that a violation of the Open Meeting Law has occurred. Indeed, the subject of the Open Meeting Law is raised only three times in these materials and none of these provide any specific allegation that an Open Meeting Law violation has occurred.

Even if the Attorney General had statutory authority to conduct an investigation of the Commission, any investigation must be supported by reasonable cause and all information must be relevant to the alleged violation. A.R.S. § 38-431.06(D). You have failed to establish either and, therefore, the Commission objects to the investigative demand.

3. *The Attorney General's Office is Operating Under a Disqualifying Conflict of Interest.*

As you probably know, before the Commission hired its own legal counsel, the Attorney General's Office provided the Commission with legal advice. Until approximately May 13, 2011, when the Commission selected retained counsel to represent it, the Attorney General and his Office represented and advised the Commission with respect to various legal issues. For instance, during the period of its representation the Attorney General's Office ("AGO") provided advice and training to the Commission through Assistant Attorney General Jim Barton, Assistant Attorney General Christopher Munns, and other members of the AGO regarding the Open Meeting and the procurement laws. Also during the period of the AGO's representation of the Commission, the AGO provided specific advice to the Commission during executive sessions regarding the procurement of a mapping consultant. Under these circumstances, the AGO cannot continue the Investigation.

Arizona Rule of Professional Conduct ("ER") 1.9(a) states: "A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client..." ER 1.10(a) states: "While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by ERs 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm."

Quite simply the AGO is currently investigating its former client, the Commission, regarding the very same issues on which the AGO previously provided legal advice to the Commission, specifically the open meetings laws, the procurement laws, and the request for proposals regarding a mapping consultant. There is substantial risk that, during the period of the

AGO's representation of the Commission, lawyers in the AGO learned confidential factual information that would be relevant to the AGO's current investigation. *See* E.R. 1.9 cmt. 3. Consequently, the AGO is disqualified from continuing its Investigation.

4. *The Investigative Demands are Otherwise Objectionable on Their Face.*

Beyond the constitutional and ethical prohibition to the AGO continuing the Investigation, the Commission asserts the following additional objections to the investigative demands.

The Commission objects to each of the written demands, and the demand for testimony under oath from the Commissioners, to the extent that they call for the disclosure of information or documents protected by the attorney-client privilege, the legislative privilege, and/or any other applicable privilege. The demands for the production of documents related to Commission meetings and communications between the Commission and/or individual Commissioners (Requests for Production Nos. 1, 3, 4, 5) all potentially implicate protected attorney-client communications.

These same requests, also call for the production of information and documents covered by the legislative privilege afforded to the Commission. The Arizona Court of Appeals has explicitly stated that "the Commission commissioners, who are constitutional officers, are cloaked with legislative privilege for actions that are 'an integral part of the deliberative and communicative processes' utilized in developing and finalizing a redistricting plan, and 'when necessary to prevent indirect impairment of such deliberations.'" *Arizona Independent Redistricting Commission v. Fields*, 206 Ariz. 130, 137, 74 P.3d 1088, 1095 (App. 2003) (quoting *Gravel v. United States*, 408 U.S. 606, 616 (1972)). In addition, the Court has held that the privilege extends to protect against "disclosure of documents in appropriate circumstances" because "their mere disclosure could 'chill' legislators from freely engaging in the deliberative process necessary to the business of legislating." *Id.* at 140, 74 P.3d at 1098. Thus, the Commission, and the individual Commissioners, are not required to testify or produce any documents related to their development of a redistricting plan, including the selection of the mapping consultant for the purposes of creating that plan.

In addition, your demands for communications between the Commission and/or individual Commissioners and "any other person" (Requests for Production Nos. 3 and 4) are overbroad, irrelevant to an inquiry regarding a potential Open Meeting Law violation, and therefore the Commission objects to these demands. The only communications that might be relevant to such an investigation would be communications between Commissioners; communications between an individual Commissioner (or the Commission itself) and a third-party would have no bearing on whether an Open Meeting Law violation occurred. Your demand for "[c]opies of all telephone and/or cell phone billing records" (Request for Production No. 6) is similarly overbroad. Your office has not disclosed either reasonable cause or relevance of the Commissioner's personal cell phone records. In addition, two of the commissioners are practicing attorneys, and their attorney-client confidentiality obligations pursuant to ER 1.6 prohibit the wholesale disclosure of their phone records.

5. *The Commission Wants to Continue Working Toward a Resolution Notwithstanding the Concerns Detailed Above.*

Despite the serious concerns referenced above, the Commission remains willing to resolve any legitimate concerns about the openness of the Commission's processes. As you know, we promptly provided you with the sole executive session transcript that you requested—from the meeting of June 29—and have asked you to advise us if the transcript raises any concerns. To date, you have not notified us of any concerns about the transcript. That Executive Session was conducted so that the Commission could receive legal advice and discuss procurement documents that were confidential at the time. Following the executive session, the Commission selected a mapping consultant in a public session, and the Commissioners explained their votes. They also reaffirmed that decision at a public meeting earlier this week.

In previous meetings, the Commission, working with the State Procurement Office, provided as much information as possible to the public about the procurement process. The names of all the companies submitting proposals were announced at a public meeting June 15 and the names of the companies to be interviewed were announced at that meeting following a discussion of the confidential proposals in executive session with representatives of the State Procurement Office. Interviews of four of the seven applicants were conducted in a public meeting June 24, and the Commission selected its mapping consultant at another public meeting June 29. The fact that the Commission's meeting in Tucson June 30 included three hours of public testimony criticizing the Commission's decision that it had made in Phoenix less than 24 hours earlier illustrates the very public nature of this particular procurement.

The Commission's chair has long supported releasing the executive session transcripts about the mapping consultant procurement so that the public can be informed about those discussions. Although the Commission believes it has the independent constitutional authority to release those transcripts in its discretion, it prefers to get your office's approval of such a release because of the Attorney General's position that the Open Meeting Law provisions apply to the Commission. Please let us know if you would approve of the release of any executive session transcripts regarding the selection of a mapping consultant.

In addition to the executive session discussion, you have told us that you were concerned about communications among Commissioners about the mapping consultant contract out of properly noticed meetings. As mentioned previously, nothing in the materials that your Office has provided to us to support your investigation provides any basis for this concern. Nevertheless, despite these concerns, as we have previously mentioned, we believe that with the release of the executive session transcripts and perhaps some additional training on communications out of public meetings, this matter should be closed.

6. *Conclusion.*

The Commission, its staff, and its five, unpaid, citizen-volunteer commissioners are presently engaged in time-sensitive, technical work of tremendous importance to Arizona. With

Mr. Mark Wilson
August 29, 2011
Page 6

that in mind, Commissioners Stertz and Freeman have agreed to speak with you and the other Commissioners have also expressed a willingness to speak with you if you agree to provide the reasonable cause upon which you have opened this investigation and disclose the remedies you intend to seek should you determine that an infraction occurred. Prudence, and the integrity of the Commission, however, demand that the objections discussed above be raised and preserved.

We hope that your Office will accept the Commission's proposal to resolve this matter with the release of executive session transcripts and additional training on communications outside of public meetings. We look forward to hearing from you soon.

Sincerely,



Mary R. O'Grady
Osborn Maledon, P.A.



Joseph A. Kanefield
Ballard Spahr, LLP

cc:Jean-Jacques Cabou

3818047

6

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

15 ARIZONA INDEPENDENT)
16 REDISTRICTING COMMISSION, an)
17 Independent Constitutional Body,)
18 Plaintiff/Petitioner,)
19 vs.)
20 THOMAS C. HORNE, in his official)
21 capacity as Attorney General of the State of)
22 Arizona,)
23 Defendant/Respondent.)

No. CV2011-017914
**VERIFIED COMPLAINT
FOR DECLARATORY,
INJUNCTIVE, AND SPECIAL
ACTION RELIEF**

24 The Arizona Independent Redistricting Commission ("IRC" or the
25 "Commission") was created by the voters in 2000 for the purpose of drawing Arizona's
26 congressional and legislative districts in a fair, open and transparent manner. After each
27 decennial census, five citizen-volunteers are appointed as Commissioners of the IRC;
28 they donate hundreds of hours of time and effort to Arizona's more than 6.5 million

COPY

SEP 27 2011



MICHAEL K. JAMES, CLERK
K. KEE
DEPUTY CLERK

1 other citizens by undertaking the difficult, intricate task of redistricting.

2 At present, Arizona Attorney General Tom Horne – at the behest of a handful of
3 partisan critics of the IRC – is using the substantial powers of his office to investigate
4 the IRC’s commissioners for alleged open meeting violations, which have distracted the
5 Commission from its work, and deprived Arizona voters of the independent redistricting
6 process they created over a decade ago. Regrettably, the IRC now needs the assistance
7 of the courts to carry out its mission and to order the Attorney General to refrain from
8 exercising authority he does not possess.

9 Therefore, for its Verified Complaint for Declaratory and Injunctive Relief,
10 Plaintiff Arizona Independent Redistricting Commission states as follows:

11 **INTRODUCTION**

12 1. This action seeks a judicial declaration as to whether the IRC is truly
13 independent, free from interference by politics and politicians, except as explicitly
14 provided in the Constitution.

15 2. In November 2000, Arizona voters chose to amend our State’s
16 Constitution by creating an Independent Redistricting Commission in order to remove
17 the singular task of redistricting from the legislature and place it into the hands of an
18 independent group of citizen-volunteers.

19 3. Among other things, the ballot initiative establishing the IRC, “Prop. 106,”
20 called for the IRC to be composed of five citizen-volunteers: one member nominated by
21 each of the President of the Arizona Senate, the Minority Leader of the Arizona Senate,
22 the Speaker of the Arizona House of Representatives, and the Minority Leader of the
23 Arizona House of Representatives. The four nominated commissioners are then tasked
24 with selecting a chairperson of the Commission, from a pool of eligible, non-partisan
25 applicants.

26 4. The IRC is composed of Commissioners Richard Stertz and Scott Freeman
27 (Republicans) and Jose Herrera and Linda McNulty (Democrats). These four
28 commissioners unanimously selected Chairperson Colleen Coyle Mathis.

1 5. At present, the IRC is engaged in the most intense period of its work,
2 working with its staff and consultants, considering public comment received at
3 numerous public meetings, and drawing new congressional and legislative district maps
4 for Arizona.

5 6. Also right now, the Attorney General is conducting, and publicly
6 promoting, an investigation of the IRC he claims is authorized by Arizona's Open
7 Meeting Law, A.R.S. §38-431 *et. seq.* Among other things, as part of this investigation,
8 the Attorney General has issued Civil Investigative Demands ("CIDs") to all five
9 commissioners. The CIDs are purported to require the production of documents and
10 testimony under oath from all commissioners.

11 7. On Sunday, September 4, 2011, the *New York Times* ran a story stating
12 that Attorney General Horne told that publication in an interview that he would bring
13 legal action against the Commission or its commissioners. **Exhibit A.**

14 8. In an effort to portray the commissioners in a negative light at the
15 beginning of his curiously public investigation, the New York Times article also quoted
16 Attorney General Horne as drawing an analogy to the criminal defendants in Watergate
17 by saying of the IRC commissioners: "They're stonewalling . . . [a]nd as I've said
18 before, it didn't work in Watergate and it won't work now."

19 9. On September 7, 2011, Attorney General Horne petitioned the Superior
20 Court to enforce the CIDs. That petition bears cause number CV2011-016442, and
21 contains "common question[s] of law or fact" such that this action is appropriate for
22 consolidation with that one pursuant to Ariz. R. Civ. P. 42(a) and LRCiv. 2.1.

23 PARTIES

24 10. Plaintiff IRC is the constitutionally authorized body empowered to draw
25 Arizona's legislative and congressional district maps pursuant to Arizona Constitution
26 Article IV, Part 2, Section 1.

27 11. Defendant Thomas C. Horne is the Attorney General for the State of
28 Arizona. He is sued in his official capacity only.

1 **JURISDICTION AND VENUE**

2 12. This Court has jurisdiction over actions seeking declaratory and injunctive
3 relief pursuant to Article 6, Section 14 of the Arizona Constitution, A.R.S. §§ 12-123,
4 12-1801, and 12-1831, and Arizona Rules of Civil Procedure 57 and 65.

5 13. Declaratory and injunctive relief is appropriate here because, among other
6 things, this action seeks to determine questions “of construction or validity arising
7 under” the Arizona Constitution and the Arizona Revised Statutes and because it seeks
8 “a declaration of rights, status or other legal relations thereunder.”

9 14. Furthermore, this Court has jurisdiction over special actions against
10 bodies, officers, and persons pursuant to Article 6, Section 18 of the Arizona
11 Constitution and Rules 1 through 4 of the Arizona Rules of Procedure for Special
12 Actions.

13 15. Special action relief is appropriate in this case because by conducting an
14 investigation of the IRC, including by issuing CIDs pursuant to A.R.S. § 38-431.01,
15 Attorney General Horne has proceeded in excess of his authority and has influenced and
16 impaired the function of the IRC, an independent constitutional body of a branch of
17 government co-equal to his own.

18 16. The IRC, and the voters it is constituted to serve, will suffer irreparable
19 injury unless the requested relief is granted by means of this action.

20 17. Venue is proper in Maricopa County under A.R.S. § 12-401 and Arizona
21 Rule of Procedure for Special Actions 4(b).

22 **FACTUAL BACKGROUND**

23 **A. Nature of the Action.**

24 18. The IRC brings this action to seek independent, judicial review of the
25 constitutional questions of first impression posed by Attorney General Horne’s decision
26 to use the Open Meeting Law in order to investigate the IRC.

27 19. Importantly, the Attorney General is not seeking to enforce the openness
28 mandate set forth in Article IV, Part 2, Section 1(12) of the Arizona Constitution.

1 20. This is only the second redistricting cycle being conducted pursuant to
2 Prop. 106. No court has ever been asked to decide whether the Attorney General can
3 wield his investigative and enforcement powers under Arizona's generally applicable
4 Open Meeting Law to investigate the IRC.

5 21. The language of Prop. 106 makes clear that the business of the IRC is to be
6 conducted in public; the IRC has always done that:

7 a. During its mapping work, the IRC conducts frequent public
8 meetings, often several times per week.

9 b. Its meetings, including its executive sessions, are transcribed by a
10 certified court reporter.

11 c. Its meetings are, whenever technologically possible, streamed live
12 via the internet on the IRC's website.

13 d. Meeting transcripts and recordings are archived and available to the
14 public continually on the IRC's website.

15 22. The language of Prop. 106 also makes clear, though, that the IRC's
16 primary quality is its independence. Whereas the work of redistricting was previously
17 done by the state legislature, Prop. 106 hands this important work over to citizen-
18 volunteers. Prop. 106 requires, among other things, that IRC commissioners not be
19 current or recent holders of public office. It also requires that they not be current or
20 recent lobbyists, members of a political party committee, or campaign committee.

21 23. The Arizona Constitution requires that all candidates for appointment to
22 the IRC must demonstrate a commitment to performing the Commission's charge in an
23 honest, independent and impartial fashion and to upholding public confidence in the
24 integrity of the redistricting process. Ariz. Const. art. IV, Pt. 2, sec. 1(3).

25 24. In short, IRC members are to be citizen-volunteers, not politicians. And it
26 is to these independent, impartial citizen-volunteers alone that Arizona's voters entrusted
27 redistricting by enacting Prop. 106.

28 25. In addition to setting forth in detail the qualifications of the IRC's

1 commissioners, Prop. 106 also sets forth a specific, uniquely tailored, exclusive check on
2 the power of the IRC's commissioners: "a member of the independent redistricting
3 commission may be removed by the governor, with the concurrence of two-thirds of the
4 senate, for substantial neglect of duty, gross misconduct in office, or inability to
5 discharge the duties of office." Ariz. Const. Art. IV, pt. 2, sec. 1. (10).

6 26. The power to remove an IRC commissioner is thus, by the terms of the
7 Constitution, shared by the Governor and the Senate; the Attorney General has no role in
8 that voter-approved, constitutionally-mandated process.

9 27. Operating outside of this initiative-approved, constitutional process, the
10 Attorney General has begun an investigation (the "Investigation") of this independent
11 body using powers granted to him under Arizona's general Open Meeting Law.

12 28. He has made many public statements about the Investigation.

13 29. He has made public statements critical of the IRC, its work, and its
14 individual members.

15 30. He has drawn comparisons of the commissioners' alleged misconduct to
16 the criminal defendants indicted during the Watergate scandal.

17 31. And he has served investigative demands purporting to compel the IRC's
18 commissioners to produce documents and to sit for examinations under oath.

19 32. The IRC and its commissioners have nothing to hide. The IRC has told
20 the Attorney General and has stated publicly that it is willing to publish (subject to
21 redactions for its previously recognized legislative and attorney-client privileges) the
22 transcripts of all executive sessions relating to the hiring of its mapping consultant,
23 Strategic Telemetry, which appears to be the sole focus of the Attorney General's
24 investigation.

25 33. The IRC, however, was set up by the voters to be independent. It cannot,
26 without guidance from the courts, give up that independence by yielding to a process
27 that is not specifically authorized by the constitutional amendment that created it.

28 34. To be clear, if Arizona's courts decide that the Attorney General, under the

1 Open Meeting Law, is both empowered and qualified to enforce that law against the
2 IRC, then the Commission and its commissioners will comply. But one person—an
3 elected, executive branch official being overtly urged on by partisan critics of the
4 Commission—should not be allowed to unilaterally make that decision.

5 35. In short, this is a textbook case for a declaratory judgment; the
6 Commission therefore has invoked the jurisdiction of this court to provide guidance
7 regarding the respective roles of the Attorney General and the IRC under the Arizona
8 Constitution.

9 **B. The Recent Work of the Commission.**

10 36. In order to perform the complicated work of drawing districts in
11 conformity with Article IV, pt. 2, § 1 of the Arizona Constitution, the IRC selects a
12 mapping consultant. In this redistricting cycle, the IRC solicited proposals, conducted
13 interviews, and held numerous public meetings before selecting a mapping consultant.

14 37. On June 29, 2011, the IRC voted 3-2 to select Strategic Telemetry as the
15 mapping consultant. The Arizona Constitution provides that three or more affirmative
16 votes are required for any official action. Ariz. Const. art. IV, Pt. 2, sec. 1 (12).
17 Consequently, the decision was final in accordance with the constitutional authority
18 vested in the IRC.

19 38. The very next day, organized opposition began a campaign of attacks on
20 Strategic Telemetry, the IRC, and Chairperson Mathis. The transcript of the IRC's
21 public meeting on June 30, 2011, reflects roughly 90 pages of public comments
22 criticizing the selection of Strategic Telemetry and the conduct of Chairperson Mathis.

23 39. Upon information and belief, many of the individuals making comments
24 did so by using same set of talking points.

25 40. In the days and weeks that have followed the selection of the mapping
26 consultant, criticism of that decision and of Chairperson Mathis have remained a
27 constant theme among a vocal minority of followers of the IRC's actions.

28 41. This vocal minority has been organized and abetted, in large part, by email

1 and other communications from recognized Arizona partisans and politicians exhorting
2 their followers to contact elected officials, including Attorney General Horne, and ask
3 those officials to impede the work of the Commission.

4 42. In early July, media reports noted that the Attorney General had been
5 asked to investigate the IRC and its mapping consultant decision using the powers given
6 to him under Arizona’s Open Meeting Law, A.R.S. § 38-431 *et seq.*

7 43. Throughout July, various elected officials and members of the public
8 continued their public attacks on the IRC, its mapping consultant, and its Chairperson.
9 Some of these attacks—largely from officials and supporters from one side of the
10 political spectrum—took the form of comments at IRC meetings, statements in media
11 reports and programming, and strident letters and emails to the Attorney General.

12 **C. The Commission’s Requirement of, and Commitment to, Public Meetings.**

13 44. Prop. 106, and now the Constitution, requires that “[w]here a quorum is
14 present, the independent redistricting commission shall conduct business in meetings
15 open to the public, with 48 or more hours public notice required.” Ariz. Const. Art. IV,
16 pt. 2, sec. 1. (12).

17 45. As partially explained in Paragraph 21 above, the IRC goes to great length,
18 and significant expense, to ensure that its business is open to the public, and to public
19 scrutiny, as required by the Constitution.

20 46. The requirements of the Constitution, however, are plainly different,
21 imposed using different words, from those set forth in the generally applicable Open
22 Meeting Law.

23 47. For example: The Open Meeting Law requires that notice of meetings,
24 including agendas for meetings, for bodies governed by that Law be “posted **twenty-**
25 **four hours** before the meeting.” A.R.S. § 38-431.02(G).

26 a. But the Constitution requires the IRC to ensure that “**48 or more**
27 **hours public notice**” is provided before a meeting. Ariz. Const. Art. IV, pt. 2,
28 sec. 1. (12).

1 48. By way of further example:

2 a. The Open Meeting Law applies to gatherings of a subject body “in
3 person or through technological devices, of a quorum of members . . . at which
4 they discuss, propose, or take legal action, including any deliberation by a
5 quorum” A.R.S. § 38-431.02(G).

6 b. The Constitution requires that the IRC “where a quorum is present .
7 . . conduct business in meetings open to the public” Ariz. Const. Art. IV, pt.
8 2, sec. 1. (12).

9 49. Thus, while the Open Meeting Law may provide a convenient and helpful
10 reference for procedures of the IRC, it is, by its terms, different from the constitutionally
11 prescribed requirement of openness for the IRC.

12 50. While providing other enforcement mechanisms through other
13 constitutional officers, neither Prop. 106, nor Article IV, Pt. 2, Sec. 1 of the Constitution,
14 explicitly empower, or even mention, the Attorney General with respect to any
15 enforcement or investigative power over the acts of the IRC or its Commissioners.

16 51. Instead, the Constitution provides a check on the actions of IRC
17 commissioners by setting up a process whereby commissioners can be removed from
18 office upon action by the Governor, with the concurrence of two-thirds of the Senate, for
19 “substantial neglect of duty, gross misconduct in office, or inability to discharge the
20 duties of office.” Such conduct could include an intentional violation of the
21 Commission’s constitutional mandate of openness.

22 52. The Constitution further provides that the IRC is subject to fiscal oversight
23 from the Department of Administration, which of course reports to the Governor.

24 **D. The Attorney General’s Investigation.**

25 53. On July 21, 2011, Attorney General Horne, whose office had previously
26 represented the IRC on issues including its compliance with open meeting rules and on
27 procurement, announced via press release that he had begun to investigate the
28 “Commission’s compliance with Arizona’s Open Meeting Law and procurement laws

1 when it recently entered into a contract with Strategic Telemetry to provide mapping
2 consultant services.” **Exhibit B.**

3 54. When subsequently asked by counsel for the IRC to provide the supporting
4 documents and basis for the investigation, the Attorney General responded with a cover
5 letter attaching numerous news/gossip clips from *The Yellow Sheet Report*, emails from
6 citizens, and blog posts, raising, in often vitriolic, partisan, intemperate language,
7 frustrations with the IRC, complaints about Strategic Telemetry, and complaints (often
8 of an intensely personal nature) about Chairperson Mathis. **Exhibit C.**

9 55. For example, among the materials enclosed with the Attorney General’s
10 cover letter were emails and letters stating:

11 a. “Please ask Attorney General Horne to file an injunction.” From
12 Bev Rutt, June 30, 2011.

13 b. “Why are [*sic*] allowing a left leaning firm that customarily works
14 with Democrat Causes like the Obama Campaign to be placed in charge of
15 redrawing district lines? . . . Can we demand the Redistricting Commission [*sic*]
16 make a more neutral selection?” From Larry Templeton, June 30, 2011.

17 c. “It is vital that your office look into the make-up of the re-
18 districting commission. The so called ‘independent’ commission chairwoman is
19 anything but independent She must be replaced with a truly independent, fair
20 and impartial person. And it would be nice if you could do something about this
21 radical, progressive democrat mapping company this democrat commission hired
22 from Washington DC to re-draw the lines in the State of Arizona.” From Ray and
23 Mona Moehring, July 1, 2011.

24 d. “REMOVE COLLEEN MATHIS NOW PLEASE!” From
25 Malcolm Randall Pavey, July 1, 2011.

26 e. “The current chair, Colleen Mathis, of the AZ Legislative
27 Redistricting Commission has proven to function as a biased, not independent,
28 objective manner. Please file an injunction under Article 4, of the AZ. State

1 Constitution for her removal as chair of this commission immediately. It is
2 critical an injunction for her removal be filed before the contract with the
3 Washington, D.C. mapping firm is signed.” From John A. Tirrell, July 1, 2011.

4 f. “I would encourage you to use your influence on the Arizona
5 Independent Redistricting Commission to make sure not just one map is
6 developed and presented to the commission....” From John A. Tirrell, July 2,
7 2011.

8 g. “We need to take this lady out and replace her.” From Mikki
9 Niemi, July 3, 2011.

10 h. “Tom: I can’t believe this happened. I worked hard helping you get
11 elected and also on another campaign to unseat Raul Grijalva. I am outraged at
12 the fact our Redistricting ended up being given to the Liberal Democrats and Ken
13 Strasma and his company Strategic Telemetry, who by the way is in Obama’s
14 back pocket. I want to know how in the world did this happen?” From Doug
15 Woods, July 3, 2011.

16 i. “Why pick this campaign company which clearly has a conflict of
17 interest? It is evident there is much more to this than meets the eye! Our State
18 Government needs to investigate what is going on with this exteme [sic] conflict
19 of interest. Please stop this disgrace.” From Roger Loy, July 3, 2011.

20 j. “I urgently request that an injunction be issued preventing the
21 contract to Strategic Telemetry and that Colleen Mathis be dismissed from the
22 Commission and an individual be appointed who actually is an INDEPENDENT
23 and also meets ethical standards.” From Susan K. Norman, July 4, 2011.

24 k. “I’d like to know if you plan on filing an injunction to stop the
25 Independent Redistricting Commission from gerrymandering our voting districts
26 in Arizona? I’m tired of politicians cheating every time the voting majority
27 doesn’t vote their way. I hope to see/hear a public announcement from you on
28 this soon.” From Terry Toman, July 4, 2011.

1 l. “I am a Paradise Valley resident and proud supporter of your
2 political campaign during the 2010 election While I do support Strategic
3 Telemetry’s right to have a political agenda, I strongly disagree with the Arizona
4 Independent Redistricting Commission’s decision to employ such a firm when
5 mapping our state’s congressional and legislative districts As a political
6 supporter, I ask that you please investigate the matter immediately, and ensure the
7 continued integrity of our electoral process.” From T.J. DeMark, July 5, 2011.

8 m. “Colleen Mathis needs to be removed as chair of the Independent
9 Redistricting Commission Please use your influence or office to investigate
10 and remove her as soon as possible.” From Art and Susan Whittemore, July 6,
11 2011.

12 n. “Thank you for looking into the situation involving the Arizona
13 Independent Redistricting Commission (AIRC) Chairman Colleen Mathis and for
14 getting back to me so quickly. I appreciate your sentiment on the issue and
15 understand the limits of your office Attorney General Horne, you are aware
16 as much if not more than anyone of the damage that can be done by having the
17 redistricting in the hands of individuals as well as contractors that have political
18 agendas. I am sure you will do what you can to expose the lies of Ms. Mathis and
19 correct the situation as much as you can.” From Alex Bissett, July 9, 2011.

20 o. “Please do all you can to remove Colleen Mathis from the Arizona
21 Independent Redistricting chairmanship. The liberal bias is so very obvious.
22 This is not what the founding fathers had envisioned. The redistricting is so one-
23 sided and it is unfair to us consumers!” From Carolyn Willits, July 2, 2011.

24 56. Although the cover letter from the Attorney General invoked his authority
25 under the Open Meeting Law, not a single complaint made in this material—the only
26 material provided to the IRC by the Attorney General—contains information sufficient
27 to suggest any actual violation of the Open Meeting Law. Rather, the emails are nakedly
28 partisan appeals, to an audience the writers plainly see as sympathetic to their efforts to

1 oppose the hiring of Strategic Telemetry and to remove, because of her vote,
2 Chairwoman Mathis from her constitutional office.

3 57. The Attorney General has now announced that he is no longer pursuing an
4 investigation for any alleged violation of the procurement law, presumably because the
5 Commission was advised by his office that the procurement code does not apply to the
6 IRC.

7 58. In an effort to avoid litigation and to reach a compromise with the
8 Attorney General's Office, the IRC wrote letters to the Attorney General raising
9 concerns about, among other things, the constitutionality of his investigation. **Exhibit**
10 **D.**

11 59. In a letter of August 29, 2011, the IRC explained in detail its objections
12 and invited further dialogue with the Attorney General aimed at reaching a mutually
13 agreeable resolution of the present dispute between him and the IRC. He did not
14 respond to that letter. He sued instead, signing the court petition personally.

15 **E. The Attorney General's Prejudicial Media Campaign.**

16 60. Attorney General Horne did more than simply bring legal action to resolve
17 a dispute between four constitutional officers.

18 61. The day of his lawsuit, he engaged in a media blitz, granting print,
19 television, and other interviews in which he discussed the details of his ongoing
20 investigation. Among the statements he made during his day-long press junket, Attorney
21 General Horne repeated his previous refrain likening the decisions of Commissioners
22 Mathis, McNulty and Herrera to stand firm in their constitutional convictions to the
23 behavior of the criminal defendants in Watergate.

24 62. Two days after his suit, Attorney General Horne again sought to
25 sensationalize the dispute between his office and the three defendant commissioners by
26 releasing the transcripts of the sworn interviews of Commissioners Stertz and Freeman
27 to the media after pledging on the record not to release the transcripts before the
28 initiation of any legal proceeding. (*See* Transcript, Examination Under Oath of Richard

1 Stertz, at p. 9.)

2 63. Upon information and belief, although one member of the media had filed
3 a public records request seeking these transcripts, the Attorney General affirmatively
4 made contact with several members of the press, making sure that the transcripts were
5 released as widely as possible.

6 64. The transcripts themselves make clear that the interviews were granted
7 under certain conditions mutually agreed upon between the Attorney General and the
8 IRC. Among those conditions was that the Commission preserved its objections to
9 object to the questions on the grounds of legislative privilege. Those objections have not
10 been ruled on by a court, yet for no legitimate reason relating to his investigation and
11 contrary to his own pledge, the Attorney General distributed the transcripts to the press.

12
13 **F. The Attorney General's Use of the Investigation for Political Purposes.**

14 65. The Attorney General has also discussed the Investigation, its specifics, its
15 merits, and his conclusions, at partisan political gatherings. Such conduct trenches upon
16 basic constitutional guarantees of due process.

17 66. On September 8, 2011, the day after he filed his suit against the individual
18 commissioners, Attorney General Horne was the featured speaker at a political
19 committee meeting held at 3839 N. Drinkwater Blvd., Scottsdale, Arizona. **Exhibit E.**

20 67. While the nominal topic was "the redistricting process and how it affects
21 the structure of our Congressional and Legislative Districts in Arizona," the actual
22 topics on which the Attorney General spoke were the details and press coverage of
23 Investigation.

24 68. The Attorney General began his remarks by stating: "I thought I would
25 start off with this morning's news. How many of you saw the story this morning about
26 *me going after the redistricting commission?* Just about everybody." **Exhibit F** at 1

27
28

1 (emphasis added).¹

2 69. The Attorney General further explained, incorrectly, that his Investigation
3 has obtained “testimony now from the two Republicans on the Independent Redistricting
4 Commission that the Chairwoman had called them and said that she wanted a unanimous
5 vote for Strategic Telemetry...She wanted to buy a vote...” *Id.*

6 70. The transcripts of the interviews of Commissioners Stertz and Freeman –
7 transcripts released to the media by the Attorney General as described above – belie the
8 Attorney General’s claim.

9 71. The Attorney General did more at this political meeting than discuss and
10 mischaracterize the facts of the Investigation. He also discussed his conclusions, while
11 also insisting that he had reached no conclusions.

12 72. For example, after making the statements described above in Paragraphs
13 66 and 67, the Attorney General said, “That’s a blatant violation of the Open Meeting
14 law.”

15 73. Later in the meeting, after discussing scoring procedures used by the IRC,
16 the Attorney General told the crowd, “So that’s additional evidence that the Open
17 Meeting law was violated.” *Id.*

18 74. The Attorney General also noted that his findings could be used as the
19 basis for removal of a commissioner under the constitutional removal process for a
20 commissioner.

21 75. Near the end of his remarks, the Attorney General employed a refrain that
22 has become common for him during the course of the Investigation. He said “...some of
23 you may have seen, I have heard you [*sic*] saying, it didn’t work for Watergate, and it’s
24 not going to work here.” *Id.*

25 76. Finally, the Attorney General acknowledged that “... as the Attorney

26 ¹ A transcription of his remarks is provided in Exhibit F. The Clerk of the Court
27 discourages the filing of multimedia exhibits, and thus the audio recording has not been
28 filed with the Court. The audio file is maintained in undersigned counsel’s files and is
available upon request.

1 General, [he] shouldn't reach a conclusion until the investigation is over but...." *Id.*

2 77. The Attorney General's own actions, and his rhetoric, demonstrate that he
3 has reached a conclusion, a conclusion carefully calculated to appeal to audiences and
4 voters like those to whom he spoke on the day after he filed his petition.

5 **G. The Need for Relief from the Courts.**

6 78. This redistricting cycle is only the second since the enactment of Prop.
7 106. And while the Constitution itself provided the first IRC with specific guidance as
8 to many issues of its function and governance, that IRC still found itself litigating such
9 important issues as:

10 a. The level of judicial review afforded Commission enactments.

11 *Ariz. Minority Coalition for Fair Redistricting v. Ariz. Indep. Redistricting*
12 *Comm'n*, 220 Ariz. 587, 208 P.3d 676 (2009).

13 b. Its nature as a legislative body and entitlement to legislative
14 immunity. *Ariz. Indep. Redistricting Comm'n v. Fields*, 206 Ariz. 130, 75 P.3d
15 1088 (App. 2003).

16 c. The proper role of "competitiveness" in its work and the process by
17 which its maps were made public. *Ariz. Minority Coalition for Fair Redistricting*
18 *v. Ariz. Indep. Redistricting Comm'n*, 220 Ariz. 587, 208 P.3d 676 (2009).

19 d. The extent to which the IRC can consider the locations of
20 incumbents during the redistricting process. *Ariz. Minority Coalition for Fair*
21 *Redistricting v. Ariz. Indep. Redistricting Comm'n*, 211 Ariz. 337, 121 P.3d 843
22 (App. 2005).

23 e. Whether the commissioners are prohibited from using personal
24 knowledge and experience in the redistricting process. *Id.*

25 79. In the last cycle, no question was raised regarding whether the Attorney
26 General could seek to impact the work and independence of the IRC by, to use the words
27 of the Attorney General himself, "going after the redistricting commission" under the
28

1 guise of enforcing the Open Meeting Law. Now, as a result of the Attorney General's
2 investigation, that question must be answered, and it must be answered by the courts.

3
4 **COUNT ONE**

5 **For Declaratory and Injunctive Relief and for Special Action Relief Confirming**
6 **That the IRC Is Independent, and Exclusively Subject to Voter-Approved**
7 **Measures Designed to Ensure Both Openness and Separation of Powers**

8 80. The preceding paragraphs are incorporated herein.

9 81. The Constitution provides a specific, tailored, voter-approved process to
10 ensure that the IRC is both open to the public and at the same time independent of the
11 partisanship that occasioned its creation in the first place.

12 82. That process is embodied in two paragraphs of Ariz. Const. Art. IV, pt. 2,
13 sec. 1:

14 a. Paragraph (12), mandating that "where a quorum is present" the
15 IRC "conduct business in meetings open to the public," and

16 b. Paragraph (10), providing no mechanism for punishing an
17 individual commissioner of the IRC except that if the conduct of that
18 commissioner rises to the level of "substantial neglect of duty [or] gross
19 misconduct in office," the commissioner may be subject to a removal proceeding
20 by the Governor and the Senate.

21 83. The IRC, while it may refer to and adopt as needed provisions of the Open
22 Meeting Law, is independent and the Open Meeting Law cannot be enforced against it
23 by the Attorney General, a partisan, elected official.

24 84. The general powers of the Attorney General to investigate and enforce
25 violations of the Open Meeting Law do not apply to the meetings and members of the
26 IRC, which was formed by citizen-initiative and designed to be independent from
27 political pressure and partisan influence.

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WHEREFORE, Plaintiff prays for the following relief:

I. A judgment declaring:

a. That, as concerns the need for its business to be publicly conducted, the Independent Redistricting Commission is subject only to the specific constitutional provisions of Article IV, Part. 2, Section 1, requiring that, “where a quorum is present” it “conduct business in meetings open to the public.”

b. That the exclusive vehicle in which to raise alleged violation of the IRC’s constitutional “open to the public” mandate is a civil action brought by any citizen with standing against the IRC to enforce Article IV, Part 2, Section 1(12) of the Arizona Constitution.

c. That no mechanism for punishing an individual commissioner of the IRC for violating the “open to the public” mandate exists, except that if such a violation rises to the level of “substantial neglect of duty [or] gross misconduct in office,” the commissioner may be subject to a removal proceeding under Article IV, pt. 2, sec. 10.

d. That the Open Meeting Law, while a permissible reference for the conduct of the IRC, is unenforceable against the IRC.

e. That the Attorney General lacks the power to investigate members of the IRC for alleged violations of the Open Meeting Law.

II. A judgment declaring that:

a. The mapping work and deliberations related thereto, including the deliberations regarding the hiring of a mapping consultant, are covered by legislative privilege.

b. The Investigation, by intruding on the legislative privilege of the members of the Commission, is unlawful and in excess of the authority granted to the Attorney General by the Constitution and laws of Arizona.

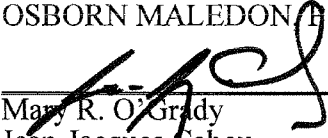
III. An order for injunctive relief prohibiting the Attorney General from investigating the IRC or its commissioners under the Open Meeting Law.

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IV. Other relief as the Court may deem just and appropriate.

DATED this 27th day of September, 2011.

OSBORN MALEDON P.A.



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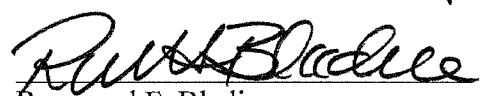
VERIFICATION

I, Raymond F. Bladine, Executive Director of the Arizona Independent Redistricting Commission, verify under penalty of perjury that:

1. I have read the foregoing Verified Complaint and know the contents thereof.

2. To the best of my knowledge and recollection, I know the matters stated in the Verified Complaint to be true and correct, except matters stated on information and belief, which matters I believe to be true.

Executed this 26th day of September, 2011.


Raymond F. Bladine

A

The New York Times
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MARTHA

September 3, 2011

Arizona Redistricting Panel Is Under Attack, Even Before Its Work Is Done

By MARC LACEY

TEMPE, Ariz. — Even before the drawing of new political boundaries, Arizona's redistricting commission has faced a barrage of criticism and a chorus of boos, not to mention a state investigation. Next up, a lawsuit.

Arizona voters sought to take the raw politics out of redistricting with the passage of a ballot measure in 2000 that created an independent citizens' group to handle the process. No longer would politicians retire to back rooms, the thinking went, to draw their own maps after every census.

But the Arizona Independent Redistricting Commission, with two Republican members, two Democratic members and an independent chairwoman, has found itself subject to such fierce attacks that its work is being questioned even before that work has been done. The stakes are high — explosive population growth over the last decade, especially among Latinos, entitles the state to one more Congressional seat, its ninth.

Conservative critics, including members of various Tea Party groups, have taken to the microphone at meetings to denounce the commission as biased. What infuriates them most is that the commission voted 3 to 2 (with the Republicans voting no) to hire a mapping consultant based in Washington that has ties to President Obama's first presidential campaign.

Similarly convinced that the commission is skewed toward the left, conservative politicians have pushed for the ouster of the panel's chairwoman, Colleen C. Mathis, who is a registered independent but whose husband, Christopher, worked on the losing campaign of a Democratic state representative.

"To me, this commission and its work is tainted," State Senator Al Melvin, Republican of Tucson, said at a recent meeting as he faced down Ms. Mathis.

"If guilt by association is the idea, as it seems to be for some, then Democrats should perhaps be more uncomfortable with me than Republicans," Ms. Mathis said recently, pointing out that her husband was a Republican for most of his life and has worked for Republicans on Capitol Hill. She and her husband even attended the 1988 Republican National Convention, she said.

Joining in the scrutiny, the Arizona attorney general, Tom Horne, has started an inquiry into whether the panel violated open meeting and procurement laws when it considered applications from mapping consultants behind closed doors. The commission gave the job to Strategic Telemetry, whose president, Ken Strasma, crunched data for the Obama campaign in 2008.

In an interview, Mr. Horne said his office would file a motion in court this week to compel Ms. Mathis and the two Democrats on the panel, Jose M. Herrera and Linda C. McNulty, to cooperate with his investigators. Until now, they have refused.

"They're stonewalling," said Mr. Horne, a Republican. "And as I've said before, it didn't work in Watergate and it won't work now."

Others, though, consider the real scandal to be an effort to discredit the commission before it completes its work — or really even started it.

"Obviously, some Arizona politicians do not like anything that is outside their control," Terry Goddard, a former Democratic state attorney general, wrote in a recent letter published in *The Arizona Republic*, in which he was joined by Paul Johnson, a registered independent and former mayor of Phoenix. "They might lose some of their power if the commission creates districts that are fair and competitive."

Although Republicans currently dominate Arizona politics, the state's voters are an independent lot. Jan Brewer, a Republican, became governor after Janet Napolitano, a Democrat, was named to a cabinet post in the Obama administration. Of Arizona's eight House seats, Democrats held five after the 2008 election but lost two in 2010, a strong year for Republicans nationwide.

The redistricting commission has been proceeding with the task of carving up the population of 6.4 million. It held numerous public hearings around the state and took initial steps toward producing new maps. But the public comment periods at its meetings have been vicious, with commissioners being likened to cockroaches and lawbreaking being alleged at every turn.

Arizona has a checkered history when it comes to redistricting. Given past discrimination against Latinos, it is one of 16 states required to submit its revised political boundaries to the Justice Department for approval. The state has seen its last three redistricting plans, all during Republican administrations, rejected in whole or in part by Washington.

Mr. Horne recently filed a lawsuit challenging the Voting Rights Act's requirement that Arizona clear its redistricting maps and voting changes with the federal government. Attorney General Eric H. Holder Jr. responded in a statement that he would fight to uphold the law.

After the 2000 census, Bruce L. Adelson was one of the Justice Department lawyers who rejected Arizona's redistricting plan for failing to adequately protect the voting rights of ethnic minorities. Now in private practice, Mr. Adelson was hired by Arizona's redistricting commission to help it navigate the process.

At a recent meeting, he warned the commissioners that the state's application would be subject to intense scrutiny and that Justice Department lawyers were likely to be closely following the controversy.

"Clearly I have no doubt the department is aware of the various articles and controversies," Mr. Adelson said. "Nine years ago, I was aware."

Meanwhile, Republican lawmakers have met with Ms. Brewer to urge her to begin the process of trying to oust Ms. Mathis, although that idea seems to be losing steam. Other Republicans are pushing for a special election that would allow voters to restore the Legislature's right to draw political lines.

"The gun is loaded, and it's just figuring out what target to point it at and when to pull the trigger," State Senator Frank Antenori, a Republican, told The Yellow Sheet Report, a publication for Arizona political insiders, in July. His mention of guns was metaphorical, but it nonetheless drew alarm in some quarters and was reported to the Justice Department.

"I spent 20 years in the Army, so I use military analogies," Mr. Antenori said. "It wasn't about targeting anybody, and it's sick anyone would try to twist my words."

Watching the process from the sidelines — with concern — has been Sandra Day O'Connor, the retired Supreme Court justice, who was a Republican state senator here earlier in her career and is well respected by members of both parties.

Lamenting the increase in partisan rancor, she said, "What we have not seen enough of is thoughtful, civil discussion on the issues that divide us and an attempt to really develop a consensus."

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DECLARATION

I, Karen Smith, declare as follows:

1. I am a Word Processor at Osborn Maledon, P.A.
2. On September 19, 2011, I transcribed the attached audio of Attorney General Thomas Horne¹ from the LD8 Redistricting Meeting held on September 8, 2011.

I declare under penalty of perjury that the foregoing is accurate to the best of my professional ability.

Executed this 22nd day of September, 2011.



Karen Smith

¹ See **Exhibit 1**, attached hereto.

1



A PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

MEMORANDUM

TO: File

FROM: Karen Smith

DATE: September 19, 2011

RE: Transcription of Attorney General Thomas Horne speaking at the LD8 Redistricting Meeting on September 8, 2011

Well, it's great to be with you guys. I've always loved coming to District 8 because, this part of District 8, since this part of District 8 is part of my old District 24 that I represented in the legislature. And I thought I would start off with this morning's news. How many of you saw the story this morning about me going after the redistricting commission? Just about everybody. As you know, the Open Meeting law says that all boards, commissions in Arizona, school boards [inaudible] must do its business in open meetings so the public can see the deliberations. And so it's an open meeting law obviously if they, or a majority of the members meet in private, but it's also a violation even if they don't meet if somebody rounds up votes by talking to people serially because it has the same effect. They arrived at the meeting and then they just rubber stamp it and it's a big sham and the public doesn't get to see the deliberations or the discussions. And so I have testimony now from the two Republicans on the Independent Redistricting Commission that the Chairwoman had called them and said that she wanted a unanimous vote for Strategic Telemetry. She wanted to buy a vote and they would need her vote later on so she wanted their vote to make it unanimous and if their vote would make it unanimous it means she, most probably she already had the two Democrats and so she knew she had the majority of three. That's a blatant violation of the Open Meeting law.

We have substantial other evidence. For example the two Democrats and the Independent gave Strategic Telemetry a perfect, a score of 700 points on a scale of 1 to 700 and one of the Republicans testified that that is not possible if you're being intellectually honest because you can get deductions for information you don't supply and so on. Knowing the scale, it's just not possible being intellectually honest and give somebody a perfect vote and here you have all three of them doing it. So it's highly unlikely that they did that independently and coincidentally. It's most probably that that was pursuant to an agreement that they, they got together and agreed they would all give a perfect vote to Strategic Telemetry. So that's additional evidence that the Open Meeting law was violated.

And then Commissioner Herrera spoke at an open meeting and said that he really preferred a different consultant but out of negotiations he was agreeing to vote for Strategic Telemetry. Well, no such negotiations occurred in public so that's an indication again that there were secret negotiations going on outside the public view which would indicate a violation.

Now, the two Republicans have testified, the two Democrats and the Independent have refused to testify. And so I went to court to compel them to testify and one of the things I cited was case law that said unlike the criminal case this is a civil case. It has significant penalties but they're not criminal penalties, they're civil penalties. Unlike a criminal case we can't hold it against them if they decide not to testify. In a civil case there's case law that says that you can hold it against them and you can have an assumption that the accusations made against them are true if they won't testify and negate them because normally if you're innocent you want to say something. You want to say, no I didn't do this. If you refuse to testify there's implication there that you are guilty and that's why you're not testifying.

So we've got rather substantial evidence. As many of you know, the Independent Chairperson has sided with the Democrats in rather bizarre ways. For example, in the very beginning there's let's say one lawyer for the Democrats and one lawyer for the Republicans. The Democrats decided what lawyer they wanted. The two Republicans said, "Well, we want Lisa Hauser and the Independent and the two Democrats voted together to say, "No, you don't get Lisa Hauser, you get Joe Kanefield." Now, Joe Kanefield's a good guy. I like him, but you'd think the two Republicans ought to be able to choose the Republican.

And then the big issue, it really is Strategic Telemetry, which is a company that has done work in the past only for Democrats, and with that objective, and this is the choice that has been made according to evidence that we have, we at least have reasonable cause to believe as a result of illegal dealings.

If we can, we're going to appear before the court on October 3rd to compel testimony. If we can establish that there was a violation of the Open Meeting law the possible remedies are, occupy a wide range – from additional education for them although I must tell you that they got an education from our office. We specifically told them that you can't line up votes in private. You can talk to one other person but you can't talk to two other people because that constitutes a forum even if you don't want it at times. So they did get – there's a transcript of the training they got from our office about what not to do which is exactly what it appears they went ahead and did.

And, but at the other end of the spectrum, would be removal from office or the Governor and two-thirds of the senate could remove a member from office and there are two-thirds that are Republicans so we have all those prospects so if we try to. So that's the status of our investigation today and my actions especially strong actions to not permit stonewalling or cover-up.

And some of you may have seen, I have heard you saying, it didn't work for Watergate, and it's not going to work here. And as the Attorney General, I shouldn't reach a conclusion until the investigation is over, but I will not tolerate stonewalling here. And strange, some of you may

have seen in the Republic, Terry Goddard, of all people, tried to intimidate me. He wrote an article attacking my investigation.

[inaudible] so I was, I don't know. Maybe you have seen it on Horizon. Any of you guys watch it on Horizon? I said that I sent a message to Goddard that you can't intimidate me. So he should think twice and that he, as the former attorney general, should not participate in the government. So that's the story so far in redistricting.

The other recent case that I think might be interesting to you is a case [end of clip].

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

STATE OF ARIZONA,)
THOMAS C. HORNE,)
Plaintiff,)
vs.)
) No. CV2011-016442
COLLEEN MATHIS,)
LINDA MCNULTY,)
JOSE HERRERA,)
Defendant.)
_____)

Phoenix, Arizona
10/3/11

BEFORE THE HONORABLE DEAN FINK
REPORTER'S TRANSCRIPT OF PROCEEDINGS
(Order to Show Cause Return Hearing)

CARRIE NEWMAN, RPR, CSR
Certified Reporter
Certificate No. 50785

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A P P E A R A N C E S

ON BEHALF OF THE STATE:
THOMAS C. HORNE

ON BEHALF OF THE DEFENDANT:
KIERSTEN A. MURPHY
PAUL K. CHARLTON
ANDREW GORDON
TIM NELSON
JOE KAINFIELD

* * * *

1 P R O C E E D I N G S

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3 - - -
4 (Whereupon, the following proceedings took place in open
5 court:)

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9 THE COURT: Good morning, this is the time set
10 for return hearing in the matter of State of Arizona versus
11 Colleen Mathis et al. This is CV2011-016442.

12 Let me start by asking counsel to please announce their
13 appearances for the record.

14 MR. HORNE: Tom Horne, Attorney General on
15 behalf of the Attorney General's Office. I have with me Joe
16 Foster of the Attorney General's Office. Joe Foster was the
17 Ethic's Attorney in the Goddard Administration and continues
18 to be the ethics attorney and will argue the Motion to
19 Disqualify. And also appearing is Mark Wilson of the
20 Attorney General's Office.

21 THE COURT: All right. Thank you, Counsel. And
22 Counsel on the other side.

23 MR. GORDON: Andrew Gordon for Commissioner
24 McNulty and I also want to say that Jay Cabou and Joe
25 Kainfield are Counsel for the Independent Redistrict

1 Commission are here.

2 MR. NELSON: Good Morning, Tim Nelson on behalf
3 of Commissioner Herrera.

4 THE COURT: Thank you, Mr. Nelson.

5 MR. CHARLTON: Good morning, Your Honor, Charles
6 Charlton on behalf of Chairwoman Colleen Mathis along with
7 Kiersten Murphy, law firm of Gallagher and Kennedy.

8 THE COURT: Thank you, Mr. Charlton. Good
9 morning folks.

10 Okay. Today as was indicated in my order, today
11 was a return hearing which I'm not planning on taking
12 evidence. I also wasn't planning to have oral argument today
13 per se. What the purpose of today's hearing was to make sure
14 the case was fully joined which it appears now that it has
15 been.

16 I'm not sure, Mr. Nelson, I've received any notice of
17 appearance although it's very possible one may have been
18 filed.

19 MR. NELSON: Your Honor, it was filed this
20 morning.

21 THE COURT: Okay. Thank you. Really what I
22 wanted to do with today's hearing is to get an assessment of
23 where we are, what should be done in order to resolve the
24 case on the merits.

25 In other words, if it's something that we don't need to

1 take evidence on -- and right now I'm inclined to think this
2 is a legal issue and not something that evidence is going to
3 have an impact on.

4 But I'd like to hear from counsel on that -- then to set
5 whatever briefing schedule should be set and set the actual
6 argument. So that's my purpose in today. I know that there
7 are some other things happening in this matter or related to
8 this matter. I did read this morning the Plaintiffs' Motion
9 to Consolidate this matter with another case which is pending
10 I believe in front of Judge Gama at this moment.

11 And I read the response that Mr. Horne filed to that
12 understanding that a reply is likely forthcoming. So there's
13 that. And then as I took the bench today I see that there's
14 a motion for disqualification of Counsel, although -- and it
15 was alluded to by Mr. Horne -- I take it that that is to
16 disqualify Mr. Horne in this case?

17 MR. HORNE: Yes, Your Honor.

18 THE COURT: Okay. I haven't read it. It's just
19 on my desk at this point so I certainly will get to reading
20 that and expect that the State will respond as appropriate.

21 MR. HORNE: Your Honor, we received the motion
22 at 9:45 this morning.

23 THE COURT: Sure.

24 MR. HORNE: We actually did respond with an
25 e-mail to Your Honor and all Counsel, I think, about 10:40 or

1 so. So there is a response. Your secretary has it. And we
2 may have sat a new record for filing a response to a motion.

3 THE COURT: I'm sorry?

4 MR. HORNE: We may have sat a new world record
5 for a response to a motion but as we'll talk later getting
6 this matter decided quickly is very important I think to the
7 State.

8 THE COURT: Thank you. And Counsel just -- I
9 think you're probably all fairly aware of this but when
10 things are e-filed they don't come directly to our division
11 they go to the Clerk of the Court, just sort of like paper
12 files used to. And then until they actually push a button
13 and send it to us after having reviewed it we don't get it.
14 So it is not as instantaneous as some might think. And it
15 usually takes us 24 to 48 hours before we can see things and
16 are able to deal with them.

17 So as it's coming in I've been working on reading it.
18 So it sounds like you have a number of issues to deal with
19 apart from the issue on the merits of what this was
20 originally filed regarding, we have a question about
21 consolidation of the matter and now there appears to be a
22 question about disqualification of Counsel, both of which
23 we'll certainly need to address in due course.

24 Why don't we start though by asking Counsel to address a
25 couple of things. One would be this question of whether this

1 is an issue that might be susceptible to needing some
2 evidence or whether this appears to be -- at least what's
3 pending before me -- an issue of law.

4 And I note that right now we are not getting to the
5 merits of any potential investigation. The question is
6 really can an investigation go forward I believe.

7 And then I guess the second thing I'd like you to
8 address is timing and any issue regarding briefing on any of
9 these outstanding matters and any proposals in that regard.
10 So we'll hear from each of you about what you think we ought
11 to do and when and try to get some decisions made on how the
12 case will proceed, which I think is job one for today.

13 So, Mr. Horne, we'll start with you.

14 MR. HORNE: Thank you, Your Honor. First of all
15 with respect to the -- we do believe this can be resolved,
16 it's a legal issue, in the Motion to Disqualify that was
17 filed this morning, the other side asked for discovery, it's
18 argument that that is unnecessary. The only conceivable
19 factual issue on disqualification would be whether or not
20 there was a disclosure of any confidential information during
21 the time when we instructed The Commission on what the Open
22 Meeting Law was and what would be violations of the Open
23 Meeting Law. If there was any such confidential information
24 that would be in their knowledge.

25 And so they have not alleged any specific confidential

1 information they gave. We think there can't be any because
2 basically what we did was we told them what needs to be done
3 to comply with the Open Meeting Law and in fact we
4 specifically instructed them not to do what it is now alleged
5 that they did.

6 So if they think they disclosed confidential information
7 they can put that forth but they don't need to conduct
8 discovery against us to find that out. If there was
9 anything, that would be within their knowledge. So we think
10 no factual determination should be needed.

11 And if I could talk about timing for a minute, Your
12 Honor?

13 THE COURT: Yes, please.

14 MR. HORNE: Timing is crucial in this case
15 because there are major public policy issues involved and The
16 Commission is proceeding. They have published maps. And the
17 later it gets the more remedies if any should be needed
18 become an interference with the public policy issues of
19 getting districts designed in a timely manner and knowing
20 that we had to do this very quickly we originally asked to
21 get the sworn statements.

22 We have detailed in our complaint to Your Honor the
23 delays that occurred during the month that followed including
24 things like saying that The Chairman would be available
25 possibly next Wednesday and then that was cancelled with no

1 new date set, and those kinds of discussions to try to work
2 things out until finally we got an objection about a month
3 later.

4 Your Honor then gave the parties a full month before
5 this hearing. We didn't get a Motion to Consolidate until
6 the middle of next week. I would mention as a total aside,
7 that when they did file that they issued a press release. So
8 when they criticized me for letting the press know things
9 that I think they are entitled to know, they did the same
10 things. I don't criticize them for it but don't think they
11 should criticize me for it. And then the Motion to
12 Disqualify didn't come in until this morning. We filed a
13 response to the Motion to Disqualify this morning. And we
14 think that only a few days should be needed for reply.

15 We filed a Motion to Dismiss the other action. We think
16 that should be heard by the judge it was originally assigned
17 to because it deals with subject matter, jurisdiction.

18 THE COURT: Let me ask you about that for a
19 moment, Mr. Horne. Because I did read that in your motion.
20 But I guess I'm wondering why is it important that if I did
21 consolidate it I certainly have the same ability to dismiss
22 the case if I find there's no jurisdiction. Why is it
23 important that -- why is that a reason not to consolidate?

24 MR. HORNE: If Your Honor is inclined to
25 consolidate and then deal with the motion we would simply ask

1 that everything be accelerated so that we could get it
2 resolved quickly. If it's done -- we saw it as a delay in
3 tactic. They waited the month, then they filed it with a
4 Motion to Consolidate in the last minute. After they had,
5 you know, the first month in the discussions with us, and
6 then a full month to respond to Your Honor's order, we get it
7 in the last minute before this hearing. So we see it as a
8 delaying tactic.

9 If we can get everything necessary filed this week and
10 then Your Honor then could hear the matter say next Monday we
11 would not object to Your Honor ruling on the Motion to
12 Dismiss.

13 THE COURT: Help me, because that case isn't
14 pending before me at this time. The Motion to Dismiss was
15 filed when and has there been a response yet to your
16 knowledge?

17 MR. HORNE: The Motion to Dismiss was filed
18 this morning. So there's been no response. So we would ask
19 for an accelerated response. We could reply within one day.
20 So if Your Honor gave them three days to respond we could
21 reply within one day and Your Honor would have the pleadings
22 ready for a decision next Monday.

23 THE COURT: Certainly if I consolidate I can put
24 those orders in place. Right now I can't reach into that
25 case and set timelines on it unless and until I've actually

1 consolidated. But I understand the --

2 MR. HORNE: Right. Your Honor, the question of
3 whether Your Honor rules on the Motion to Dismiss or whether
4 the originally assigned Judge rules on the Motion to Dismiss
5 is not of significance to us other than with respect to
6 timing.

7 So if Your Honor did consolidate but put in an
8 accelerated schedule both on the Motion to Dismiss and the
9 merits we came prepared this morning to argue all of that if
10 necessary. We would be prepared next Monday to argue it.

11 The main thing is not to let the matter move on while
12 we're undergoing legal proceedings at a slow pace while they
13 are publishing maps and taking testimony and so on. Because
14 if remedy should eventually be needed I anticipate they would
15 argue that these proposed remedies are coming too late in the
16 process and they would disrupt the process and for that
17 reason we have been seeking to do things as quickly as
18 possible from day one.

19 THE COURT: And I understand your concern and
20 wish to move it on. You've mentioned Monday a couple of
21 times. Is there something significant or special about
22 Monday I should know or do you just --

23 MR. HORNE: Because Your Honor set this for a
24 Monday. I assumed maybe this was your motion day.

25

1 THE COURT: It is my motion day. Although I
2 think next week is a court holiday so we won't be here next
3 Monday but that's helpful.

4 MR. HORNE: Well Tuesday is fine with us. Any
5 day is fine with us. I'm simply trying to convey to Your
6 Honor a very very major sense of urgency from -- because of a
7 very major public policy considerations, we're talking about
8 the lines that the State will live with for the next ten
9 years and State legislature and Congressional districts.
10 Having that done in a timely way is very important.

11 And we anticipate that if the matter didn't proceed very
12 quickly the other side would come in and say you can't
13 implement a remedy now because it would be too disruptive to
14 that process. So we don't want to do that. If remedies are
15 needed we want them to come soon enough so that it's not
16 disruptive to the process.

17 That's the reason we feel a great sense of urgency in
18 the timing and that we responded within three business days
19 of the Motion to Consolidate and within an hour of the Motion
20 to Disqualify me.

21 THE COURT: All right. Thank you Mr. Horne.
22 Anything else?

23

24 MR. HORNE: No. That's all. Thank you.

25 THE COURT: Thank you.

1 Mr. Gordon.

2 MR. GORDON: Thank you, Your Honor. I think I'm
3 largely speaking for the other parties. But if Tim or Paul
4 or Counsel for the Independent Redistricting Commission had
5 something to say I'm sure they will add to it. In terms of
6 the underlying issue of whether this Court -- whether the
7 Attorney General's Office has the authority to proceed with
8 this it is fundamentally a legal issue. I don't anticipate
9 discovery necessary on that issue. They -- if the Court were
10 to consolidate the matter now pending in front of Judge Gama
11 that is the issue raised in that Declaratory Judgement
12 Action. The IRC will respond to the Motion to Dismiss. And
13 we will -- and probably cross moot for summary judgment on
14 the issue of whether there was subject matter jurisdiction
15 for the AG to proceed. We will join in that moving to
16 dismiss this action and that can be presented as a legal
17 issue. In terms -- let me do the legal factual then I'll get
18 to timing issues.

19 In terms of the disqualification issue while I think the
20 facts are largely known to us the one thing we have asked for
21 at a minimum in the brief that I think is relevant to the
22 disqualification motion is the AG's file on their
23 representation of The Commission in this matter.

24 The AG has that file and they can produce it and the
25 faster they do it the faster we can get to it.

1 In terms of timing it seems pretty -- I think it's
2 pretty evident -- I don't mean to be presumptuous -- but I
3 think it's pretty evident, that dealing with the Motion to
4 Consolidate and the Motion For Disqualification need to go
5 first or that would certainly be our suggestion.

6 In terms of briefing the matter while the Attorney
7 General has alluded to the need to go quickly, quite frankly,
8 A, I didn't hear anything that really made it need to go
9 quickly. The remedies are whether he's going to be able to
10 depose the Commissioners or not and proceed down the line on
11 the Open Meeting Law assuming it applies. That has nothing
12 to do with how The Commission goes forward in it's work of
13 producing maps, just not related.

14 THE COURT: And I think Mr. Gordon -- I
15 understand the issue before me is really whether the Attorney
16 General's Office may conduct an investigation, but I think
17 the remedies he was referring to were should an investigation
18 turn anything up then there might need to be some remedies, I
19 think that's what he was talking about.

20 MR. GORDON: I guess theoretically, but the
21 remedies that he has aren't really going to impact the
22 mapping process.

23 Beyond that, this raises pretty profound Constitutional
24 question that quite honestly as far as we know no Court has
25 addressed before. And with all due respect to this Court

1 whatever you decide on either side it's pretty easy to
2 predict it's going to go up. And having an orderly and
3 thorough briefing schedule at this level -- and I don't mean
4 extended briefing schedule but at least following the normal
5 timing is going to make the whole thing perceived the way it
6 should. So in terms of briefing the Disqualification
7 Motion -- I'm not sure on the Motion to Consolidate, I'm not
8 sure they want a reply. I don't know if you need a reply. I
9 don't mean to speak for the IRC. But if you need a reply,
10 how long do you need?

11 MR. CABU: Your Honor, Jay Cabu on behalf of the
12 Independent Redistricting Commission. In terms of the
13 Consolidation Motion we don't disagree with the Attorney
14 General that there is a time factor here. To the extent the
15 Attorney General is willing to stipulate to a consolidation
16 we may also be able to stipulate to an accelerated briefing
17 schedule. We would prefer not to drag out the briefing
18 procedural issue of consolidation. The Commission simply
19 wants to be heard on any important issues of integrity and
20 we're committed to doing what we can to provide a thorough
21 brief in an orderly yet expedited fashion.

22 MR. HORNE: Your Honor, if we can have an
23 expedited schedule then we will stipulate to the
24 consolidation.

25 THE COURT: Thank you.

1 MR. GORDON: In terms of the Disqualification
2 Motion -- and I just checked my e-mail on my phone -- and I
3 haven't received it yet, in any event. But we would
4 certainly need to the end of the week to reply and that
5 assumes we get whatever file is the AG's office has on this
6 matter. In terms of briefing the -- and just let me stay
7 with the Disqualification Motion for a moment, Your Honor --
8 whether you want oral argument on that or not we would defer
9 to you.

10 In terms of the underlying issues the -- I think what
11 will happen is the IRC would file a response and likely a
12 cross-motion assuming you consolidate the issues on the
13 jurisdictional issues. That will get that in front of us.
14 The normal response time for that is two weeks. And I think
15 two weeks would work here. I believe that covers the items
16 both you and the Attorney General have raised.

17 Did I miss --

18 THE COURT: I think you've generally covered
19 those issues. I will tell you as I sit here today -- and
20 because this motion was sitting on my bench when I came out
21 here and I haven't had a chance to read it -- and the motion
22 I'm talking about is the Disqualification Motion. I'm a
23 little at a loss about this issue of whether this file that's
24 clearly being requested needs to be resolved and how it needs
25 to be resolved. So that's of some concern to me. But apart

1 from that I think you have addressed all of the issues that
2 we need to discuss.

3 MR. GORDON: On that particular issue the
4 Attorney General's Office can advise us whether they have a
5 file and what's in it and whether they are willing to produce
6 it. If there's no file that's the end of the inquiry, right?

7 If there is and they are willing to produce it and
8 produce it promptly that should resolve it.

9 If there is and they are not willing to produce it,
10 we'll have to come back and talk to you.

11 MR. HORNE: We're certainly happy to produce any
12 files that we have. We need The Commission itself to
13 represent the waiver of any privileges that they have since
14 Andy represents one of the individual commissioners as I
15 understand it.

16 But we would be happy to produce anything that we have
17 promptly within a day or two to help with the acceleration
18 process that we're urging on the Court.

19 THE COURT: Thank you, Mr. Horne.

20 MR. GORDON: Not to quibble but since it's our
21 file where they were representing us I don't think a waiver
22 of the privilege is necessary.

23 THE COURT: Well, it may be though. I think his
24 point being that you represent one individual commissioner so
25 if Commissioner Mathis needs to say it's okay that you give

1 my stuff to Mr. Gordon, who does not represent me, and vice
2 versa. So I think those waivers -- and unless there's some
3 problem with generating those --

4 MR. GORDON: So let's assume there is a file,
5 let's just say that we can file a reply within five days,
6 real days, not business days, of whenever they give us the
7 file. We'll get them whatever waivers are necessary this
8 morning.

9 THE COURT: All right. Thank you, Mr. Gordon.
10 Mr. Cabu.

11 MR. CABU: Yes Your Honor, thank you. On the
12 issue of waiver Your Honor I think correctly alludes to the
13 fact the waiver would have to be of the institution, in other
14 words, of the IRC.

15 Mr. Kainfield and I can certainly try to seek that
16 waiver in an expeditious fashion but we do believe as a
17 matter of legal ethics that we're required to have a waiver
18 by the body which is our client, and we are not empowered to
19 grant that waiver. We are required to ask for and receive
20 specific authorization.

21 The Commission is meeting today. To the extent that
22 this would be something we could raise with them today, we're
23 committed to doing that either today or at the earliest
24 possible moment.

25 THE COURT: Is it possible do you know to get

1 that on their agenda at this point in time?

2 MR. CABU: Your Honor, matters relating to this
3 investigation are a standing agenda item. So we believe they
4 would be fine with that. And between myself and Joe here and
5 our colleague, Mary O'Grady (phonetic), we will make sure
6 that's discussed in a timely fashion.

7 THE COURT: And I don't know that I need to
8 decide today whether in addition to that waiver each
9 individual Commissioner needs to give a waiver but if the
10 attorney general's office is seeking that and there's no
11 objection to it I guess I'd just ask things move quickly so
12 that that can happen.

13 MR. HORNE: Your Honor we never represented any
14 individual commissioner or any staff. We only represented
15 The Commission as a body. So that's the only waiver we need
16 is from the body.

17 THE COURT: Okay. So I think that issue is
18 resolved then.

19 Mr. Cabu, if you can do what you can to get that on the
20 agenda today so we can expedite the process of the exchange
21 in the file I think that would be helpful.

22 MR. CABU: We will do that, Your Honor, thank
23 you.

24 THE COURT: Thank you.

25 Mr. Charlton.

1 MR. CHARLTON: Thank you, Your Honor. Two
2 points. No. 1, we are largely in agreement with what Mr.
3 Gordon has just told the Court.

4 But there is one other factor that we'd like the Court
5 to consider as well. In Mr. Gordon's motion he asked for the
6 possibility of discovery that would allow depositions or
7 interviews of some of the individuals involved.

8 We believe, Your Honor, that the idea or the concept
9 behind how it is certain contracts were issued and certain
10 contracts were accepted during executive sessions and the
11 advice that the Attorney General's Office gave are
12 inextricably intertwined with the idea of whatever Open
13 Meeting Law violation Mr. Horne sees.

14 We also believe there may have been involvement
15 personally with Mr. Horne and his Assistant Attorney Generals
16 as it relates to the advice that The Commission was given
17 relating to the awarding of certain contracts or which
18 individuals or which companies should be allowed to go
19 forward.

20 If that's so, Your Honor, then Mr. Horne's personal
21 involvement in those discussions and that thought process and
22 the reasoning that it took place inside the Attorney
23 General's Office becomes relevant to the issue of whether or
24 not he should be disqualified as the individual that pursues
25 whatever wrongs he thinks took place in this case. So we

1 would ask the Court to keep an open mind as to the scope of
2 discovery.

3 It may not be enough, Your Honor, to simply ask for "the
4 file" whatever that is in this matter. We'd like an
5 opportunity to reply to the State's response so that we can
6 inform the Court in a more articulate fashion.

7 Some items may need to be filed under seal because they
8 dealt with executive session so the Court will have more
9 information to determine exactly what discovery should be
10 made available to Ms. Mathis.

11 That's the first point, Your Honor.

12 THE COURT: All right.

13 MR. CHARLTON: The second point, Your Honor --
14 and this may be -- I don't know -- Mr. Horne's first
15 appearance as The Attorney General in court. I know Mr.
16 Horne has a great deal of experience as a private litigator.
17 But when Mr. Horne talks about press conferences and press
18 releases and I heard him mention it today and I feel
19 compelled now to respond to Ms. Horne's statement as it
20 relates to the press and the media many of whom are in the
21 Court today in this way.

22 Mr. Horne no longer represents a private individual. He
23 represents a sovereign. So when Mr. Horne stands up in a
24 public arena and says this case is like Watergate or this
25 case is like a cover-up, he impugns the integrity of the

1 citizens he is sworn to defend.

2 And until such time as this court or any other court
3 finds there has been a wrongdoing Mr. Horne's obligation is
4 to litigate this case here in this venue and not before the
5 members of the media and not before Republican held meetings,
6 Your Honor.

7 If Mr. Horne continues to go forward in this fashion
8 then we will file a motion for a gag order. Mr. Horne should
9 know better. I have a great deal of respect for him. For
10 him to say this is a tit for tat that The Commission can
11 release a press release, I can release a press release. Mr.
12 Horne wears a much different hat and stands on a much
13 different mantle.

14 Thank you, Your Honor.

15 THE COURT: Thank you.

16 Mr. Nelson, anything you would like to say or add?

17 MR. NELSON: No, nothing to add, Your Honor. I
18 agree with Mr. Charlton's comments as well. Thank you.

19 THE COURT: Thank you.

20 Mr. Horne, anything you would like to say in reply to
21 some of the discussions that have come up and et cetera.

22 MR. HORNE: Well, Your Honor, I will say that --
23 one comment I made is just because they criticized press
24 releases. And press releases are a way to avoid getting
25 repeated calls from reporters and having to answer the same

1 questions over and over again.

2 And as I pointed out they issued a press release as
3 well. But I will also point out that I refuse to comment on
4 the substance throughout. I did not -- and I've never
5 commented on what they are doing with respect to
6 redistricting, unlike some e-mails that I got that they tried
7 to hold me responsible for. I refused to comment on how the
8 investigation was going when reporters called me about that
9 until they said they would not testify. That was the shock
10 to me was when they said they were refusing to testify. Then
11 I felt compelled -- and that I had no probable cause or no
12 reasonable cause to compel. It was at that point that I had
13 to file a Motion to Compel which showed what reasonable cause
14 I had. That was a public document. And at that point and
15 only at that point was it -- did it make no sense for me to
16 refuse to answer questions from the media given the fact that
17 there was a -- I had to respond to them saying, I didn't have
18 reasonable cause and that was then a public document.

19 But at no point have I indicated what the result of the
20 investigation will be. I simply expressed frustration which
21 I think is understandable over people who are part of a
22 public body refusing to testify and wanting to keep silent
23 and giving what would appear to me to be stonewalling.

24 With respect to depositions, there's been no showing of
25 any need for depositions. I think it would be entirely

1 improper without any showing that they had given confidential
2 information which is the only relevant factual issue.

3 If the -- and if they would make such a showing then we
4 would see if there's a dispute. But at the moment, they have
5 not alleged that they gave any confidential information to us
6 and that's the only issue related to the Open Meeting Law.

7 We are not -- we are not at this time conducting an
8 investigation under the Procurement Law, only the Open
9 Meeting Law. And Your Honor knows the testimony that we
10 already had with respect to the Open Meeting Law.

11 And my only other comment, Your Honor, is that I'm
12 willing to make all necessary concessions agreeing to
13 consolidation and agreeing to provide our file immediately.
14 But I would ask that we conclude all of that in one week
15 rather than two weeks, as Mr. Gordon suggested, because the
16 timing here is so crucial.

17 THE COURT: Thank you, Mr. Horne.

18 MR. HORNE: Thank you, Your Honor.

19 THE COURT: Give me a second, folks.

20 I want to make sure I cover everything that needs to be
21 covered.

22 So we've got several moving parts here. Let me resolve
23 a couple of those moving parts then we can talk about the
24 things that remain and a briefing schedule on those. At.

25 This time -- and I know the State indicated they were

1 willing to stipulate to consolidation -- I do think things
2 will move more quickly, whether they move as quickly as the
3 State would like or not I don't know.

4 But I think they will move more quickly if this is
5 consolidated. And I will say also from what I understand of
6 the issue being raised and the case pending before Judge Gama
7 it really is interrelated with the question of -- that's been
8 raised by Attorney General's Office and the case pending
9 before me. And I think it does make sense for those matters
10 to resolve at the same time since these are issues that I
11 don't think our trial courts have had to resolve necessarily
12 previously.

13 So I am going to grant the Consolidation Motion to move
14 things along and that's with -- consolidate this matter with
15 CV2011-017914, they will be consolidated in this matter which
16 is the older filed case. And going forward everything should
17 be filed in my Case Number which is CV2011-016442.

18 So we'll grant that and give notice to Judge Gama that
19 we have done that with our minute entry so that he's aware.

20 So that was one issue. Then on the Motion to
21 Disqualify, I'd like to have the Defendant's reply to the
22 Motion to Disqualify by Tuesday October 11. I would have
23 said Monday but it's a holiday, so we'll move it over to
24 Tuesday.

25 And I do think it's important to resolve that issue one

1 way or another so that either the State can move forward as
2 they have and we're ready to go on the other issues, or if
3 they need to get alternate counsel or something that can be
4 done in plenty of time to resolve the substantive issues
5 which I think are the most important issues here.

6 So I'd like to have an oral argument on the Motion For
7 Disqualification October 14th, Friday, at 1:30.

8 Will that work for all parties?

9 MR. GORDON: One second. Okay. Having advised
10 Mr. Charlton that I'll be in Italy, then he's ready to go.

11 MR. CHARLTON: Your Honor, I'd like to go to
12 Italy.

13 THE COURT: I was going to say, I think Mr.
14 Gordon is getting the better end of that deal.

15 All right, very good. We'll schedule that oral argument
16 and I'll want to keep it to that issue. So 20 minutes on
17 October 14th at 1:30 on the disqualification issue.

18 So with regard to the issue of discovery, I think we
19 have all on the record essentially resolved the issue of the
20 file.

21 And I can try to make it clear that Mr. Cabu is going to
22 do his best to obtain a waiver today and then the file will
23 be produced as soon as possible thereafter and it should be
24 produced in time for it to be considered in the reply that
25 the Defendant's will be filing.

1 As to Mr. Charlton's suggestion that perhaps there might
2 be other discovery that still might need to happen, I
3 understand that, but at this time, I'm not going to order any
4 other additional discovery. And in your reply brief if you
5 think what you have is insufficient you can let the Court
6 know and that's something I can consider at the time of the
7 oral argument and then perhaps either allowing additional
8 discovery or not. But I do want to move forward, okay?

9 MR. CHARLTON: Yes, Your Honor.

10 THE COURT: Okay. That takes care of that. So
11 with that, I think -- if I'm following everything
12 correctly -- what we're left with are the substantive issues.

13 There is a Motion to Dismiss that the State filed today,
14 this morning, in Judge Gama's case, now our case, and what's
15 contemplated is there would be a response and a cross-motion
16 which would involve the substantive issue, let's say in both
17 directions, correct?

18 MR. GORDON: That's correct, Your Honor. And I
19 believe the commissioners will join in -- at least my
20 Commissioner will.

21 THE COURT: Mr. Cabu, did you have something you
22 wanted to add?

23 MR. CABU: No, Your Honor. Your Honor's
24 understanding is correct. We do anticipate responding to the
25 Motion to Dismiss and then cross move for summary judgment at

1 the same time. We believe that will satisfy everyone's need
2 for expedited proceedings. Also we do believe-- to raise an
3 issue that you raised at the beginning of the hearing -- that
4 that is certainly susceptible to resolution as a purely legal
5 issue.

6 THE COURT: Okay. Thank you. And no one
7 disagrees with that last point? Okay.

8 And so if we have a motion and cross motion, typically
9 then the State would get to reply to that and then there
10 would be one more reply brief on the cross motion.

11 So those -- that's the briefing schedule we need to come
12 up with.

13 Mr. Gordon, what's your Italy trip involving?

14 MR. GORDON: My trip is not determined, Your
15 Honor, as long as I get to take it.

16 THE COURT: All right. I think I'd like the
17 response to the Motion to Dismiss with the cross motion filed
18 -- and I am going to expedite things, but not quite as fast I
19 think as the State is requesting. Because I want -- this
20 issue is too important to rush the legal analysis. And I
21 want both sides to have full amount of time. But I would
22 like to get a response and cross motion say early in the week
23 of October 17.

24 So Monday or Tuesday, is that doable for the Defense?
25 You've got a lot of lawyers on your side so I'm hopeful that

1 you can do that.

2 MR. CABU: Yes, Your Honor, the 18th, that's
3 Tuesday?

4 THE COURT: Yes.

5 MR. CABU: That would be fine.

6 THE COURT: All right. So Tuesday, October
7 18th.

8 And then, Mr. Horne, I want to give you and your folks a
9 reasonable time to file your brief if the two replies are
10 about a week apart. So you would -- say October 25, the
11 following Tuesday, is that sufficient time you think for you
12 to respond?

13 MR. HORNE: Your Honor. We could do it faster
14 if that would give us a quicker oral argument date.

15 THE COURT: Well -- and I appreciate that --
16 but I want the brief to be a good one because I need your
17 help on both sides. I want it to be thorough and thoughtful.
18 And so why don't we say October 25. If you get it done
19 quicker than that, that's fine. Okay.

20 MR. HORNE: If Your Honor orders it.

21 THE COURT: Well, let's go with that.

22 And then let's say November 1st will be the final brief
23 from the Defense. And I would like Counsel to work out a
24 system of communicating these things electronically so when
25 you file it, it is getting to the other side right away and

1 we are not waiting for it to be mailed.

2 But I will leave that to you folks to work out outside
3 of my presence. I'm sure that won't be a problem.

4 And then if that briefing is complete it appears that I
5 could read all of that, digest it, and be ready for an oral
6 argument on Monday November 7th at 2:30.

7 Is that a problem for either side?

8 MR. HORNE: No, Your Honor.

9 MR. CHARLTON: No, Your Honor.

10 THE COURT: Okay. We'll set oral argument Monday
11 November 7th, at 2:30.

12 The Motion to Disqualify barring any discovery issues or
13 others that might come up should be resolved well in advance
14 of that. And we should be ready to have that motion, the
15 substantive issues addressed on November 7.

16 I think we have covered most of the administrative
17 issues to get this thing moving along. But let me ask if
18 there's anything we've missed or we should have addressed
19 before we adjourn for the morning?

20 Mr. Horne, anything else?

21 MR. HORNE: Nothing further, Your Honor.

22 MR. GORDON: Nothing, Your Honor.

23 MR. CABU: Nothing, Your Honor.

24 MR. CHARLTON: No, Your Honor.

25 MR. NELSON: Yes, nothing, Your Honor.

1 THE COURT: Okay. Thank you, folks.

2 Lastly, let me say I know this an important issue to
3 both sides. It's important to the State. I know politics is
4 infused somewhat in all of this just because of the nature of
5 it. But it's my intent to address this based on the law and
6 not based on politics. So as you go forth and have your
7 responsibilities to address just know at least for my
8 purposes the political side of this is not going to make a
9 difference. I will rule on the law.

10 MR. HORNE: We always assumed that, Your Honor.

11 THE COURT: All right. Thank you, folks. We'll
12 stand at recess. Have a good rest of your day.

13 (Proceedings adjourned.)

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C E R T I F I C A T E

I, CARRIE NEWMAN, do hereby certify that the foregoing 31 pages constitute a full, true, and accurate transcript of the proceedings had in the foregoing matter, all done to the best of my skill and ability.

WITNESS my hand this 5 day of OCTOBER, 2011.

CARRIE NEWMAN, RPR, CSR
Certified Reporter
Certificate No. 50785

8

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-016442
CV 2011-017914

10/03/2011

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

STATE OF ARIZONA, et al.

THOMAS C HORNE
MARK D WILSON

v.

COLLEEN MATHIS, et al.

KIERSTEN A MURPHY

ROOPALI HARDIN DESAI
PAUL K CHARLTON
ANDREW S GORDON
JEAN JACQUES CABOU
JOSEPH KANEFIELD
MARY JO FOSTER
TIMOTHY A NELSON
COURT ADMIN-CIVIL-CCC
DOCKET-CIVIL-CCC
JUDGE GAMA

**CASE CONSOLIDATED
ORAL ARGUMENTS SET**

OCH Courtroom 202

2:07 p.m. This is the time set for a return hearing on Plaintiff's Petition for Enforcement of Written Investigative Demands and Application for Order to Show Cause. Plaintiffs are represented by counsel, Thomas Horne, Mark Wilson and Mary Jo Foster. Defendant Mathis is represented by counsel, Paul Charlton and Kiersten Murphy. Defendant McNulty is represented by counsel, Andrew Gordon and Roopali Desai. Defendant Herrera is represented by counsel,

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-016442
CV 2011-017914

10/03/2011

Tim Nelson. Jean J. Cabou and Joseph Kanefield are present on behalf of the Arizona Independent Redistricting Committee who is the Plaintiff in a related case.

Court reporter Carrie Newman is present and a record of the proceeding is also made by audio and/or video tape.

Discussion is held regarding the posture of the case and briefing schedule of pending motions.

A Motion to Consolidate having been filed in case number CV2011-017914 by the Arizona Independent Redistricting Committee and Plaintiff having stipulated to the consolidation,

IT IS ORDERED consolidating cases CV2011-016442 and CV2011-017914 into **CV2011-016442** for all further proceedings.

With respect to Defendant Linda McNulty's Motion for Disqualification of Counsel and Defendant Colleen Mathis' Joinder therein, and a Response having been filed by Plaintiff today,

IT IS FURTHER ORDERED Defendant Linda McNulty's Reply to its Motion for Disqualification of Counsel is due by October 11, 2011.

IT IS FURTHER ORDERED setting oral argument on Defendants McNulty and Mathis's Motion for Disqualification of Counsel on **October 14, 2011 at 1:30 p.m. (20 minutes)** in this division.

With respect to Plaintiffs' Motion to Dismiss filed in CV2011-017914 and the Cross-Motion expected to be filed,

IT IS ORDERED the Response to Plaintiffs' Motion to Dismiss and Cross-Motion shall be filed by October 18, 2011. Plaintiffs' Reply to its Motion to Dismiss and Response to the Cross-Motion is due by October 25, 2011. Defendants' Reply to the Cross-Motion is due by November 1, 2011. All briefing shall be transmitted electronically to opposing counsel.

IT IS FURTHER ORDERED setting oral argument on Plaintiffs' Motion to Dismiss and the Cross-Motion on **November 7, 2011 at 2:30 p.m. (1 hour)** in this division.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-016442
CV 2011-017914

10/03/2011

A record of the proceedings will be made by CD in lieu of a court reporter. Should you want an unofficial copy of the proceedings, the parties or counsel may request a CD of the proceedings for a \$20.00 charge. If a CD is requested, please obtain a form from the bailiff or from the Self Center to request a daily copy of a court hearing or trial proceeding being conducted. Pay the applicable fee **at the Self Service Center**. Attach the receipt showing payment of the fee and present both the receipt and the form to the courtroom clerk or bailiff. **For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.** Should an official transcript be required, you may request that the court prepare it. The party ordering the transcript must pay for it. To request a transcript, call 602-506-7100 and provide the date of the proceeding, the case number, the case caption, if the transcript is for an appeal, and your name, address, and telephone number.

With this new technology, a court reporter is likely not required and the parties are encouraged to experience the court's video recording system before requesting a court reporter. If a court reporter is required, the Court must receive a written request at least 3 court days before the commencement of the proceeding. Failure to timely request a court reporter will be deemed consent to proceed without a court reporter.

11:45 a.m. Matter concludes.

IT IS FURTHER ORDERED:

If extended oral argument is necessary, counsel must so advise the Court no later than four court days prior to the date set for hearing so that oral argument can be rescheduled.

Any motion or stipulation for continuance must be filed with the Court no later than four court days prior to the date set for hearing. After that date, no continuances will be granted except for extraordinary circumstances.

All memoranda and affidavits regarding the motion must be filed and copies lodged with this division no later than four court days prior to the date set for hearing.

Counsel are advised that if the answering memorandum is not timely filed in accordance with the Arizona Rules Of Civil Procedure, oral argument may be vacated and the motion will be ruled upon in accordance with Rule 7.1 (b), A.R.C.P.

No agreement by the parties to modify the pleading schedule will be honored by the Court unless the Court is notified and approves the parties' agreement. Any such agreement

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-016442
CV 2011-017914

10/03/2011

will not change the argument date without a court Order and will, in any event, require that all motions are fully briefed and at issue not later than one full week before the argument date.

ALERT: Effective September 1, 2011, the Arizona Supreme Court Administrative Order 2011-87 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.

9

Senate Miscellaneous Motion

Bill Number: MIS001

Senate concur in the Governor's removal of Colleen Mathis as a member of the IRC

Action Date: 11/01/2011

Action: Passed

Amendments:

Senate concur in the Governor's removal of Colleen Mathis as a member of the IRC

<u>Member Short Name</u>	<u>Vote</u>	<u>Member Short Name</u>	<u>Vote</u>
ABOUD	N	LANDRUM TAYLOR	N
ALLEN	Y	LOPEZ	NV
ANTENORI	Y	MCCOMISH	Y
BARTO	Y	MELVIN	Y
BIGGS	Y	MEZA	N
BUNDGAARD	Y	MURPHY	Y
CAJERO BEDFORD	NV	NELSON	Y
CRANDALL	Y	PEARCE R	Y
DRIGGS	Y	PIERCE S	Y
GALLARDO	N	REAGAN	Y
GOULD	Y	SCHAPIRA	N
GRAY	Y	SHOOTER	Y
GRIFFIN	Y	SINEMA	N
JACKSON	NV	SMITH	Y
KLEIN	Y	YARBROUGH	Y

Ayes: 21 Nays: 6 Not Voting: 3

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Attorneys for Plaintiff Arizona Independent Redistricting Commission

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA, ex rel. THOMAS)
C. HORNE, Attorney General,)
Petitioner,)

Case No. CV2011-016442
(Consolidated with
No. CV2011-017914)

vs.)
COMMISSIONER COLLEEN MATHIS,)
COMMISSIONER LINDA McNULTY,)
COMMISSIONER JOSE HERRERA,)
Respondent.)

**PLAINTIFF ARIZONA
INDEPENDENT REDISTRICTING
COMMISSION'S SEPARATE
STATEMENT OF FACTS**

ARIZONA INDEPENDENT)
REDISTRICTING COMMISSION, an)
Independent Constitutional Body,)
Plaintiff/Petitioner,)

(Hon. Dean Fink)

vs.)
THOMAS C. HORNE, in his official)
capacity as Attorney General of the State of)
Arizona,)
Defendant/Respondent.)

1 Plaintiff Arizona Independent Redistricting Commission submits these facts in
2 support of its Motion for Summary Judgment.

3 1. In November 2000, Arizona voters chose to amend our state's Constitution
4 by creating an Independent Redistricting Commission ("IRC" or "Commission") in
5 order to remove the singular task of redistricting from the legislature and place it into the
6 hands of an independent group of citizen-volunteers. (See Proposition 106 (2000)
7 Publicity Pamphlet, attached hereto as **Exhibit A**; see also Ariz. Const. art 4, pt. 2 § 1.)

8 2. The official title of the ballot initiative establishing the IRC, "Prop. 106,"
9 explained that the initiative was aimed at "ending the practice of gerrymandering and
10 improving voter and candidate participation in elections by creating an independent
11 commission of balanced appointments...." (Ex. A. at 54.)

12 3. Prop. 106 enjoyed broad bipartisan support for its high-minded mission,
13 including from our state's three previous attorneys general. (Ex. A. at 56-58.)

14 4. Speaking about Proposition 106, then-sitting Attorney General Janet
15 Napolitano explained that:

16 Through open meetings throughout the State...[t]his initiative
17 takes redistricting out of the hands of incumbents who too often
18 draw district lines to protect their seats rather than to create fair,
19 competitive legislative and congressional districts. This initiative
20 is fair to all Arizonans because it opens up the system to public
21 scrutiny; it eliminates conflicts of interest by taking the process of
22 redistricting out of incumbents' hands... We need a politically
23 neutral commission to handle redistricting.

24 (Ex. A. at 57.)

25 Former Republican Attorney General Grant Woods, joined by other prominent
26 Republicans, stated regarding Prop. 106 that "[b]y transferring redistricting
27 responsibility from self-interested politicians to an independent citizen's panel, [Prop.
28 106] will generate more competition, more accountability and better government for all
Arizonans. As long-time Republicans and public servants, we're proud to support this
kind of reform for Arizona...." (Ex. A. at 57.)

1 5. Former Democratic Attorney General Terry Goddard’s statement of
2 support for Prop. 106 explained that “[r]ight now, legislative and congressional districts
3 are drawn in a way that protects incumbents. [Prop. 106] responsibly reforms our
4 redistricting system in a way that will create more competition for our elected officials,
5 which in turn, will create better government for all of us.” (Ex. A. at 58)

6 6. Pursuant to the Arizona Constitution, the IRC is to be composed of five
7 citizen-volunteers: one member selected by each of the President of the Arizona Senate,
8 the Minority Leader of the Arizona Senate, the Speaker of the Arizona House of
9 Representatives, and the Minority Leader of the Arizona House of Representatives,
10 following a screening process administered by the Commission on Appellate Court
11 Appointments. The four nominated commissioners are then tasked with selecting a
12 chairperson of the Commission, from a pool of eligible, non-partisan applicants. (Ariz.
13 Const. art 4, pt. 2 § 1(3), (6), (8), (9).)

14 7. The IRC is currently composed of Commissioners Richard Stertz and Scott
15 Freeman (Republicans) and Jose Herrera and Linda McNulty (Democrats). These four
16 commissioners unanimously selected Colleen Coyle Mathis to serve as the
17 Commission’s Chairperson. (Verified Complaint for Declaratory, Injunctive, and
18 Special Action Relief (“Compl.”) ¶ 4.)

19 8. The purpose of the Commission is the drawing of maps for congressional
20 and legislative redistricting. (Compl. ¶ 88.)

21 9. The primary quality of the IRC is its independence. Whereas redistricting
22 was previously done by the Arizona Legislature, Prop. 106 hands this important work
23 over to citizen-volunteers. (Compl. ¶ 22.)

24 10. Within the three years prior to appointment to the Commission, the
25 commissioner members cannot “have been appointed to, elected to, or a candidate for
26 any other public office, including precinct committeeman or committeewoman but not
27 including school board member or officer, and shall not have served as an officer of a
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1 political party, or served as a registered paid lobbyist or as an officer of a . . . candidate's
2 campaign committee.” (Ariz. Const. art. 4, pt. 2 § 1 (3).)

3 11. The Arizona Constitution requires that all candidates for appointment to
4 the IRC must demonstrate a commitment to performing the Commission’s charge “in an
5 honest, independent and impartial fashion and to upholding public confidence in the
6 integrity of the redistricting process.” (Ariz. Const. art. 4, pt. 2 § 1 (3).)

7 12. The IRC’s Constitutional charter makes clear that the business of the IRC
8 is to be conducted in public: “Where a quorum is present, the independent redistricting
9 commission shall conduct business in meetings open to the public, with 48 or more
10 hours public notice provided.” (Ariz. Const. art. 4, pt. 2 § 1 (12).)

11 13. The IRC’s Constitutional charter does not apply the Open Meeting Law,
12 A.R.S. § 38-431 *et seq.*, to the IRC. (*See* Ariz. Const. art. 4, pt. 2 § 1.) The
13 requirements of the Open Meeting Law differ from those of the IRC’s constitutional
14 charter:

15 a. The Open Meeting Law requires that notice of meetings, including
16 agendas for meetings, for bodies governed by that Law be “posted twenty-four
17 hours before the meeting.” (A.R.S. § 38-431.02(G).) But the Constitution
18 requires the IRC to ensure that “48 or more hours public notice” is provided
19 before a meeting. (Ariz. Const. art. 4, pt. 2 § 1 (12).)

20 b. The Open Meeting Law applies to gatherings of a subject body “in
21 person or through technological devices, of a quorum of members . . . at which
22 they discuss, propose, or take legal action, including any deliberation by a
23 quorum . . .” (A.R.S. § 38-431(4)) Whereas, the Constitution requires that the
24 IRC “[w]here a quorum is present . . . conduct business in meetings open to the
25 public . . .” (Ariz. Const. art. 4 pt. 2 § 1 (12).)

26 14. The IRC goes to great length, and significant expense, to ensure that its
27 business is open to the public, and to public scrutiny, as required by the Constitution:

28

- 1 a. During its mapping work, the IRC conducts frequent public meetings,
2 often several times per week.
- 3 b. Its meetings, including its executive sessions, are transcribed by a
4 certified court reporter.
- 5 c. Its meetings are, whenever technologically possible, streamed live via
6 the internet on the IRC's website.
- 7 d. Meeting transcripts and recordings are archived and available to the
8 public continually on the IRC's website.

9 (Compl. ¶¶ 21, 45.)

10 15. The IRC's constitutional charter also sets forth a specific, uniquely
11 tailored, exclusive check on the power of the IRC's commissioners: "a member of the
12 independent redistricting commission may be removed by the governor, with the
13 concurrence of two-thirds of the senate, for substantial neglect of duty, gross misconduct
14 in office, or inability to discharge the duties of office." (Ariz. Const. art. 4, pt. 2 § 1
15 (10).) Pursuant to this charter, the power to remove an IRC commissioner is thus, by the
16 terms of the Constitution, shared by the Governor and the Senate; the Attorney General
17 has no role in that voter-approved, constitutionally-mandated process. (*Id.*; Compl. ¶
18 26.)

19 16. The IRC's constitutional charter does not explicitly empower, or even
20 mention, the Attorney General with respect to any enforcement or investigative power
21 over the acts of the IRC or its commissioners. (*See* Ariz. Const. art. 4, pt. 2 § 1.)

22 17. Members of the Commission enjoy legislative immunity as set forth in
23 *Ariz. Indep. Redistricting Comm'n v. Fields*, 206 Ariz. 130, 75 P.3d 1088 (App. 2003).
24 (Compl. ¶ 87.)

25 18. Article 4, Part 2, Section 1 (19) of the Arizona Constitution specifically
26 empowers the Commission to hire staff, consultants and attorneys, without whom the
27 technical, intricate work of mapping could not be accomplished by a group of citizen-
28 volunteers.

1 19. The Commissioners were required to consider, deliberate, and decide upon
2 the technical merits of various approaches to map-drawing presented by the candidates
3 for the mapping consultancy. (See ADOA Solicitation No. ADSPO11-00000704 and
4 responses thereto, *available at* http://www.azredistricting.org/docs/Mapping-Info/ADSPO11-00000704_RFP_060611.pdf and
5 <http://www.azredistricting.org/Mapping-Information/default.asp> respectively.)

7 20. At present, the IRC is engaged in the most intense period of its work,
8 working with its staff and consultants, considering public comment received at
9 numerous public meetings, and drawing new congressional and legislative district maps
10 for Arizona. (Compl. ¶ 5.)

11 21. Before promulgating draft legislative and congressional maps, the IRC
12 received input from elected officials, business leaders, and ordinary citizens at dozens of
13 public meetings. (See, e.g., www.azredistricting.org, last accessed Oct. 15, 2011.)

14 22. The Commission is now in the midst of a state-wide tour wherein it will
15 meet over two dozen times to receive public input on and discuss the draft maps. (See
16 *id.*) In addition to meeting in Phoenix, Tucson, and Flagstaff, the Commission will
17 meet, for example, in Tuba City, Window Rock, Globe, Sierra Vista, and Yuma. (*Id.*)
18 As with all its meetings, the Commission will make live, streaming video of these
19 meetings available via its website, www.azredistricting.org. (*Id.*) At every meeting, the
20 Commission's agenda includes time for any member of the public to address the
21 Commission on the record, including by making personal presentations of mapping
22 proposals. (*Id.*)

23 23. In order to perform the complicated work of drawing districts in
24 conformity with Article 4, pt. 2, § 1 of the Arizona Constitution, the IRC selects a
25 mapping consultant. (Compl. ¶ 36.) In this redistricting cycle, the IRC solicited
26 proposals, conducted interviews, and held numerous public meetings before selecting a
27 mapping consultant. (*Id.*)

28

1 24. On June 29, 2011, the IRC voted 3-2 to select Strategic Telemetry as the
2 mapping consultant. (Compl. ¶ 37.) The Arizona Constitution provides that three or
3 more affirmative votes are required for any official action. (Ariz. Const. art. 4, pt. 2, 1
4 (12).)

5 25. The very next day, organized opposition began a campaign of attacks on
6 Strategic Telemetry, the IRC, and Chairperson Mathis. (Compl. ¶ 38.) The transcript of
7 the IRC's public meeting on June 30, 2011, reflects roughly 90 pages of public
8 comments criticizing the selection of Strategic Telemetry and the conduct of
9 Chairperson Mathis. (*Id.*; see also Transcript of Meeting *available at*
10 www.azredistricting.org/Meeting-info/default.asp.)

11 26. In the days and weeks that followed the selection of the mapping
12 consultant, criticism of that decision and of Chairperson Mathis remained a constant
13 theme among a vocal minority of followers of the IRC's actions. (Compl. ¶ 40.) This
14 vocal minority has been organized and abetted, in large part, by email and other
15 communications from recognized Arizona partisans and politicians exhorting their
16 followers to contact elected officials, including Attorney General Horne, and ask those
17 officials to impede the work of the Commission. (*Id.* ¶ 41.)

18 27. In early July, media reports noted that the Attorney General had been
19 asked to investigate the IRC and its mapping consultant decision using the powers given
20 to him under Arizona's Open Meeting Law, A.R.S. § 38-431 *et seq.* (Compl. ¶ 42.)

21 28. Throughout July, various elected officials and members of the public
22 continued their public attacks on the IRC, its mapping consultant, and its Chairperson.
23 (Compl. ¶ 43.) Some of these attacks—largely from officials and supporters from one
24 side of the political spectrum—took the form of comments at IRC meetings, statements
25 in media reports and programming, and strident letters and emails to the Attorney
26 General. (*Id.*; see also *id.* ¶ 54.)

27
28

1 29. The Attorney General is conducting, and publicly promoting, an
2 Investigation of the IRC he claims is authorized by Arizona’s Open Meeting Law,
3 A.R.S. §38-431 *et. seq.* (Compl. ¶ 6.)

4 30. Among other things, as part of this Investigation, the Attorney General has
5 issued Civil Investigative Demands (“CIDs”) to all five commissioners. (Compl. ¶ 6.)
6 The CIDs are purported to require the production of documents and testimony under
7 oath from all commissioners. (Compl. ¶ 6.)

8 31. On September 7, 2011, Attorney General Horne petitioned the Superior
9 Court to enforce the CIDs. (Petition for Enforcement of Written Investigative Demands
10 and Application for Order to Show Cause.)

11 32. The Attorney General has publicized his Investigation, speaking on
12 multiple occasions with the media and partisan groups about it. The day he filed his
13 lawsuit, he engaged in a media blitz, granting print, television, and other interviews in
14 which he discussed the details of his ongoing Investigation. (Compl. ¶ 61.)

15 33. Two days after filing his suit, Attorney General Horne again sought to
16 sensationalize the dispute between his office and the three defendant commissioners by
17 releasing the transcripts of the sworn interviews of Commissioners Stertz and Freeman
18 to the media after pledging on the record not to release the transcripts before the
19 initiation of any legal proceeding. (Compl. ¶ 62.)

20 34. The transcripts themselves make clear that the interviews were granted
21 under certain conditions mutually agreed upon between the Attorney General and the
22 IRC. (Compl. ¶ 64.) Among those conditions was that the Commission preserved its
23 objections to object to the questions on the grounds of legislative privilege. (*Id.*) Those
24 objections have not been ruled on by a court, yet for no legitimate reason relating to his
25 Investigation and contrary to his own pledge, the Attorney General distributed the
26 transcripts to the press. (*Id.*)

27 35. The Attorney General has also discussed the Investigation, its specifics, its
28 merits, and his conclusions, at partisan political gatherings. (Compl. ¶ 65.)

1 36. On September 8, 2011, the day after he filed his suit against the individual
2 commissioners, Attorney General Horne was the featured speaker at a political
3 committee meeting held at 3839 N. Drinkwater Blvd., Scottsdale, Arizona. (Compl. ¶
4 66.)

5 37. While the nominal topic was “the redistricting process and how it affects
6 the structure of our Congressional and Legislative Districts in Arizona,” the actual topics
7 on which the Attorney General spoke were the details and press coverage of
8 Investigation. (Compl. ¶ 67.)

9 38. The Attorney General began his remarks by stating: “I thought I would
10 start off with this morning’s news. How many of you saw the story this morning about
11 *me going after the redistricting commission?* Just about everybody.” (Compl. ¶ 68.)

12 39. The Attorney General further explained, incorrectly, that his Investigation
13 has obtained “testimony now from the two Republicans on the Independent Redistricting
14 Commission that the Chairwoman had called them and said that she wanted a unanimous
15 vote for Strategic Telemetry....She wanted to buy a vote....” (Compl. ¶ 69.) The
16 transcripts of the interviews of Commissioners Stertz and Freeman – transcripts released
17 to the media by the Attorney General as described above – belie the Attorney General’s
18 claim. (Compl. ¶ 70.)

19 40. The Attorney General also discussed his conclusions at this meeting, while
20 insisting that he had reached no conclusions. (Compl. ¶ 71.) For example, after making
21 the statements described above, the Attorney General said, “That’s a blatant violation of
22 the Open Meeting law.” (Compl. ¶ 72.) Later in the meeting, after discussing scoring
23 procedures used by the IRC, the Attorney General told the crowd, “So that’s additional
24 evidence that the Open Meeting law was violated.” (Compl. ¶ 73.)

25 41. The Attorney General also noted that his findings could be used as the
26 basis for removal of a commissioner under the constitutional removal process for a
27 commissioner. (Compl. ¶ 74.)

28

1 42. The Attorney General’s own actions, and his rhetoric, demonstrate that he
2 has reached a conclusion, a conclusion carefully calculated to appeal to audiences and
3 voters like those to whom he spoke on the day after he filed his petition. (Compl. ¶ 77.)

4 43. On October 3, 2011, the Commission approved its draft congressional
5 district maps; on October 10, 2011, the Commission approved its draft legislative district
6 maps. (E.g. www.azredistricting.com.)

7 44. Beginning with the promulgation of the draft maps discussed in Paragraph
8 43 above, the Commission is now engaged in a state-wide tour conducting public
9 meetings to receive input on its draft maps. (E.g. www.azredistricting.com; see also
10 **Exhibit B** hereto.)

11 45. On October 3, 2011, the Attorney General filed with the Court his
12 “RESPONSE TO MOTION TO CONSOLIDATE AND MEMORANDUM
13 REGARDING ASSERTIONS IN THE NEW COMPLAINT” (the “Response to
14 Consolidation”). In that document, among other things, the Attorney General argued
15 that the Commission has subjected itself to the Open Meeting Law by referencing
16 provisions of the Open Meeting Law in its agendas and by observing certain procedures
17 often followed by bodies subject to judicial enforcement of the Open Meeting Law.
18 (Response to Consolidation at 7.)

19 46. After the IRC filed this lawsuit to have the Court determine whether or not
20 the Attorney General has the power to conduct his Investigation, the Attorney General
21 moved to dismiss the IRC’s lawsuit, arguing that the IRC is not empowered to bring it in
22 the first place. (Motion to Dismiss filed October 3, 2011.)

23 47. On October 5, 2011, Governor Brewer threatened to initiate a
24 constitutional impeachment process against unnamed commissioners unless the draft
25 congressional map adopted by the Commission on October 3, 2011 is adjusted to favor
26 the Republican Party before the final maps are adopted. See *Redistricting Commission*
27 *Has Botched Process*, available at
28 http://azgovernor.gov/dms/upload/PR_100511_IRC.pdf (last accessed Oct. 17, 2011).

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RESPECTFULLY SUBMITTED this 18th day of October, 2011.

OSBORN MALEDON, P.A.

/s/ Jean-Jacques Cabou

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SUPREME COURT OF ARIZONA

ARIZONA INDEPENDENT)
REDISTRICTING COMMISSION, an) Arizona Supreme Court
Independent Constitutional Body,) No. CV-11-0313-SA
)
Petitioner,)
)
COLLEEN COYLE MATHIS) FILED 11/17/2011
)
Intervenor,)
v.)
)
JANICE K. BREWER, in her)
official capacity as the)
Governor of the State of) O R D E R
Arizona; ARIZONA STATE SENATE;)
RUSSELL PEARCE, in his official)
capacity as Senate President,)
)
Respondents.)
)
_____)

Having considered the filings in this matter by the petitioner, the intervenor, the respondents, and the amici curiae, and the arguments of counsel,

1. The Court accepts jurisdiction of the petition for special action, having concluded that it has jurisdiction under Article 6, Section 5(1) of the Arizona Constitution;
2. The Court concludes that the issues presented in this matter are not political questions and are therefore justiciable. See *Brewer v. Burns*, 222 Ariz. 234, 238-39 ¶¶ 16-22, 213 P.3d 671, 675-76 (2009);
3. The Court concludes that the letter of November 1, 2011, from the Acting Governor to the intervenor Colleen Mathis does not demonstrate "substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office" by the intervenor Mathis, as required under Article 4, Part 2, Section 1(10) of the Arizona Constitution;

Therefore, the Court grants the relief requested by the intervenor Mathis and orders that she be reinstated as chair of the Independent Redistricting Commission.

The Court in due course will issue an opinion more fully detailing its reasoning in this matter.

DATED this _____ day of November, 2011.

FOR THE COURT

Andrew D. Hurwitz, Vice Chief Justice

TO:

Mary R. O'Grady
Kristin L. Windtberg
Joseph N. Roth
Timothy A. Nelson
Lisa T. Hauser
Joe Sciarrotta
Christopher Hering
Christina Estes-Werther
Thomas A. Zlaket
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Patricia Ferguson-Bohnee
Peter A. Gentala
Paul F. Eckstein

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SUPREME COURT OF ARIZONA

ARIZONA INDEPENDENT)	Arizona Supreme Court
REDISTRICTING COMMISSION, an)	No. CV-11-0313-SA
Independent Constitutional Body,)	
)	
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)	
Petitioner,)	
)	
COLLEEN COYLE MATHIS)	
)	
)	
Intervenor,)	
)	
v.)	
)	
JANICE K. BREWER, in her)	O R D E R
official capacity as the)	
Governor of the State of)	
Arizona; ARIZONA STATE SENATE;)	
RUSSELL PEARCE, in his official)	
capacity as Senate President,)	
)	
)	
Respondents.)	
)	
_____)	FILED 11/23/2011

The Court has received Respondents' Joint Motion to Reconsider Order of November 17, 2011, Respondents' Joint Motion for Expedited Consideration, Respondents' Joint Motion to Stay Order Reinstating Petitioner-Intervenor Mathis Pending Reconsideration, and the Motion to Intervene of Andrew M. Tobin, Speaker of the Arizona House of Representatives and Joinder in the Governor and Senate's Motion for Reconsideration.

After consideration, the Court decides as follows:

IT IS ORDERED granting Respondents' Joint Motion for Expedited Consideration.

IT IS FURTHER ORDERED denying Respondents' Joint Motion to Stay Order Reinstating Petitioner-Intervenor Mathis Pending Reconsideration.

IT IS FURTHER ORDERED denying Motion to Intervene of Andrew M. Tobin, Speaker of the Arizona House of Representatives and Joinder in the Governor and Senate's Motion for Reconsideration. The Court will treat the Motion as an amicus brief.

IT IS FURTHER ORDERED denying Respondents' Joint Motion to Reconsider Order of November 17, 2011, except insofar as the motion seeks clarification of the Order. As the Order notes, the Court accepted jurisdiction of the petition for special action, having concluded that it has jurisdiction under Article 6, Section 5(1) of the Arizona Constitution. The Court further concluded that the issues presented are not political questions committed by the Constitution to the unreviewable discretion of the other branches of government.

IT IS FURTHER ORDERED clarifying the Court's November 17, 2011 Order as it concerns the letter of November 1, 2011, from the Acting Governor to Colleen Mathis. The Order states that the November 1, 2011 letter does not demonstrate "substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office" as required under Article 4, Part 2, Section 1(10) of the Arizona Constitution. Respondents seek clarification whether the Court's conclusion was based on the format of the November 1, 2011 letter, which stated that the Governor had determined that Mathis had "failed to conduct the Arizona Independent Redistricting Commission's business in meetings open to the public, and failed to adjust the grid map as necessary to accommodate all of the goals set forth in Arizona Constitution Art. 4, Pt. 2, § 1(14)."

The Governor's November 1, 2011 letter constitutes her findings of grounds for the removal of Mathis. The Court's conclusion that the letter does not demonstrate "substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office" is based on the letter's substance, not its format. The letter does not, as a matter of law, identify conduct that provides a constitutional basis for removal.

One ground identified in the Governor's letter is a failure to conduct the commission's business in meetings open to the public. The Constitution directs that "[w]here a quorum is present, the independent redistricting commission shall conduct business in meetings open to the public, with 48 or more hours public notice provided." Ariz. Const., Art. IV, Pt. 2, § 1(12). The statutory Open Meeting Law defines "meeting" in terms of a gathering of a quorum, A.R.S. § 38-431(4), and it directs that all meetings of public bodies shall be public meetings and that legal action of

public bodies shall occur in public meetings. *Id.* § 38-431.01(A). A failure to conduct the business of the commission in meetings open to the public must at least involve violations of these laws for it to constitute "substantial neglect of duty" or "gross misconduct." (We do not decide whether the constitutional provision preempts any statutory Open Meeting Law requirements, an issue that is being litigated in another forum.) There is, however, no allegation of any non-public meeting of a quorum of the commission in the Governor's October 26, 2011 letter or in the responses thereto. Nor does the Governor's November 1, 2011 letter find that a non-public meeting of a quorum of the commission occurred.

With regard to preparing maps, the commissioners perform legislative tasks in which they must "balance competing concerns" and "exercise discretion in choosing among potential adjustments to the grid map," *Ariz. Minority Coalition for Fair Redistricting v. Arizona Indep. Redistricting Comm'n*, 220 Ariz. 587, 597 ¶ 28, 208 P.3d 676, 686 (2009), and the commission's adoption of final maps is subject to judicial review for compliance with the Constitution's procedural and substantive requirements. *Id.* at 596 ¶ 24, 208 P.3d at 685. The Governor's disagreement with commissioners over whether they have properly considered constitutional criteria for adjusting the grid map before they have completed final maps is not, as a matter of law, a constitutional basis for removal.

As noted in the Order, the Court in due course will issue an opinion more fully detailing its reasoning in this matter.

DATED this _____ day of November, 2011.

FOR THE COURT

Andrew D. Hurwitz, Vice Chief Justice

TO:

Mary R. O'Grady
Kristin L. Windtberg
Joseph N. Roth
Timothy A. Nelson
Lisa T. Hauser
Joe Sciarrotta
Christopher Hering
Christina Estes-Werther
Thomas A. Zlaket
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Jean-Jacques Cabou
David J. Cantelme

13

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-016442

12/09/2011

HONORABLE DEAN M. FINK

CLERK OF THE COURT
S. Brown
Deputy

STATE OF ARIZONA, et al.

COLLEEN CONNOR

v.

COLLEEN MATHIS, et al.

KIERSTEN A MURPHY

JEAN JACQUES CABOU
ROOPALI HARDIN DESAI
TIMOTHY A NELSON
MARK D WILSON
ANDREW S GORDON
THOMAS PURCELL LIDDY
JOSEPH KANEFIELD
BRUNN W ROYSDEN JR.

UNDER ADVISEMENT RULING

Following oral argument on November 16, 2011, the Court took under advisement the State's Motion to Dismiss in consolidated case number CV2011-017914, the Arizona Independent Redistricting Commission's Motion for Summary Judgment and related Joinders in this case number, and the State's Cross-Motion for Summary Judgment. The Court notes that subsequent to oral argument in this matter, the Court received Commissioner Herrera's Response to State's Cross-Motion for Summary Judgment and Joinder in Commissioner McNulty's Response to State's Cross-Motion for Summary Judgment, and the Court has read and considered the document. The Court has also read and considered Commissioner Mathis's Notice of Supplemental Authority filed November 29, 2011. The pending matter and the briefing

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2011-016442

12/09/2011

herein raise a number of difficult issues of first impression. Upon further consideration of the case file and arguments presented by the parties, the Court is now prepared to rule.¹

The Court begins by denying the State's motion to dismiss. Standing in Arizona courts is prudential rather than jurisdictional.² Waiver of the requirement of standing, although exercised with great reluctance, is permissible in exceptional circumstances, generally in cases of critical public importance that are likely to recur and where the issues are sharply presented to the Court. *Sears v. Hull*, 192 Ariz. 65, 71 ¶ 24-25 (1998). Such is clearly the situation here. Whether the Independent Redistricting Commission ("IRC") is subject to the Open Meeting Law must necessarily be faced in one way or another. To resolve the question at the earliest possible opportunity is plainly in the public interest. The Court therefore need not address whether the limited jural status of the IRC enables it to seek a declaratory judgment protecting its constitutional authority and independence, as the Court determines to allow the suit to proceed regardless. *Johnson v. Tempe Elementary School Dist. No. 3 Governing Bd.*, 199 Ariz. 567 (App. 2000), first raised at oral argument, leads to a trap of circularity. In that case, the Court of Appeals dismissed an appeal approved by the school board in executive session on the ground that its action violated the Open Meeting Law, *id.* at 570 ¶ 15. The opinion is on point only if the IRC is governed by the Open Meeting Law, which is precisely what this lawsuit was filed to determine. For the purpose of this motion, the Court must assume that the allegations made in the complaint are true and determine if the plaintiff is entitled to relief under any theory of law. *Grand v. Nacchio*, 222 Ariz. 498, 500 ¶ 6 (App. 2009). Because the IRC is entitled to seek relief under its theory that the Open Meeting Law does not apply, the action cannot be dismissed. The Court therefore does not consider an evidentiary hearing on the IRC's decision to file this lawsuit to be necessary.

The constitutional status of the Independent Redistricting Commission is unique in Arizona. It is established in the same section, Art. IV Pt. 2 § 1, as the House and Senate. Unlike

¹ The Court also received a Request for Judicial Notice, filed November 15, 2011, seeking that this Court take judicial notice of a brief filed by the Arizona Center for Law in the Public Interest in a related matter pending before the Arizona Supreme Court. To the extent that the Supreme Court's ruling in that case that Ms. Mathis's actions did not constitute grounds for removal bears on the question, which the Supreme Court deliberately left to this Court, of whether the Open Meeting Law applies to the IRC, that ruling speaks for itself (and will no doubt speak even more clearly when released in full). The ACLPI's brief to the Supreme Court, eloquent and apparently effective as it was in arguing the issue then at bar, does not address itself to the distinct issue presented here. The Court therefore believes that the ACLPI's brief is unnecessary to the Court's ruling, and denies the request to take judicial notice on that ground.

² The State's citation of *Yamamoto v. Santa Cruz County Bd. of Supervisors*, 124 Ariz. 538, 539 (App. 1979), is inapposite because it deals with non-jural entities as defendants, not as plaintiffs. The due process concerns implicated in asserting jurisdiction over an unwilling non-jural defendant are naturally not present when the non-jural entity itself invokes the court's jurisdiction.

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other commissions and boards established in the Constitution, the legislature is not expressly empowered to enact rules for it; instead, detailed rules are laid down in the Constitution itself.³ The rule relevant here, which governs the conduct of its business, is set forth at § 1(12): “Three commissioners, including the chair or vice-chair, constitute a quorum. Three or more affirmative votes are required for any official action. Where a quorum is present, the independent redistricting commission shall conduct business in meetings open to the public, with 48 or more hours public notice provided.” (To distinguish this from the Open Meeting Law, the Court will refer to it herein as the “Open Meetings Clause,” or simply the “Clause.”) There is no dispute that the Clause is binding on the IRC. The question is whether the legislature may bind the IRC to rules more stringent than those in the Clause.

As the State points out, the Open Meeting Law, A.R.S. § 38-431 et seq., was already on the books when the amendment creating the IRC was passed. Had the voters wished for it to apply to the IRC, they could have incorporated it by reference or by reiterating its requirements in the Constitution, or by authorizing the legislature to prescribe additional rules. Instead, they wrote entirely new open meeting language, more stringent in some respects (for instance, requiring 48 instead of 24 hours notice of public meetings) and less stringent in others.⁴ When interpreting a constitutional provision, the Court’s “primary purpose is to effectuate the intent of those who framed the provision and, in the case of an amendment, the intent of the electorate that adopted it.” *Heath v. Kiger*, 217 Ariz. 492, 495 ¶ 9, 176 P.3d 690, 693 (2008) (internal quotation and alteration omitted). The Court must assume that the voters knew what they were doing and

³ By contrast, Art. XV § 6, dealing with the Corporation Commission, lays down no rules, but expressly empowers the legislature to “prescribe rules and regulations to govern proceedings instituted by and before it.” And Art. XI § 3 provides that the powers and duties of the State Board of Education “shall be such as may be prescribed by law.”

⁴ The State argues that to the extent the Open Meetings Clause does not provide for a mechanism for going into executive session – as the Open Meeting Law does – the IRC necessarily violates the Clause when it has gone into executive session to receive legal advice. First, the Court notes that the use of executive session to receive legal advice was not an alleged underpinning of any of the State’s requested relief in this matter. Second, while the Court is initially drawn to the facial logic of the State’s argument, the Court agrees with the IRC that the ability to receive legal advice that is protected by the attorney-client privilege is a fundamental matter that necessitates executive session ability. At the time Prop. 106 was enacted, the Arizona courts recognized that, where openness in government conflicts with the necessity for public officials to engage in full and free discussion of legal matters with counsel in private, confidentiality prevails even in the absence of an express statutory exception. *Gipson v. Bean*, 156 Ariz. 478, 482 (App. 1987) (review denied 1988); see also *State ex rel. Thomas v. Schneider*, 212 Ariz. 292, 299 ¶ 33 (App. 2006). It would be incongruous for the voters to have given the IRC the right to hire counsel as part of Prop. 106, but not the concomitant right to receive confidential advice from that counsel. Based on this need, courts in other jurisdictions have read exceptions into open meeting requirements to allow for such confidential communications. E.g., *Sacramento Newspaper Guild v. Sacramento Cnty. Bd. of Supervisors*, 69 Cal. Rptr. 480, 487-92 (Cal. Ct. App. 1968); *Oklahoma Ass’n of Mun. Attorneys v. State*, 577 P.2d 1310, 1315 (Okla. 1978). The Court finds those authorities to be persuasive here.

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give full effect to their judgment. The Open Meetings Clause they enacted is not coextensive with the Open Meeting Law.⁵

Apparently conceding that application of the Open Meeting Law impinges upon the independence of those subject to it, the State argues that the statute does not intrude upon, but is harmonious with, the rationale for the IRC's creation. According to the State, the voters were concerned, not with self-interested political influence over the crafting of electoral districts, but with the lack of transparency in the process; because the Open Meeting Law promotes the goal of transparency, it is harmonious with the Open Meetings Clause. The State does not explain why, if such was the voters' intent, they did not simply order the legislature to abandon its "smoke-filled back rooms" and conduct its redistricting openly. To the contrary, the voters went to extraordinary lengths to insulate the IRC from politics, excluding both current and former elected officials down to the entry-level precinct committeeman (and barring commissioners from holding office until the next commission is appointed) and specifically prohibiting the drawing of districts around the residences of incumbents or potential candidates.⁶ In contrast to the comprehensive exclusion of political influence is the general language of the Open Meetings Clause. Had the abhorrence of smoke-filled rooms motivated them, the voters would surely have laid down equally restrictive rules to guarantee visibility, especially when they had the exemplary text of the Open Meeting Law readily at hand. The Court can only conclude that, while openness was important as reflected by the inclusion of the Open Meetings Clause, more important was insulating the IRC from interference by the political branches.

Applying the Open Meeting Law to the IRC would subject it to political influence from two sources. The first source, obviously, is the legislature. If the legislature can, through its plenary legislative power, dictate how the IRC is to conduct its business and impose penalties for

⁵ Counsel for the Maricopa County Attorney's Office, which has taken over this case in light of the Attorney General's conflict of interest, informed the Court that it is not pursuing a summary judgment ruling as urged by the Attorney General that serial communications violate the Open Meeting Law. The Court observes that this theory is supported only by a 1975 Attorney General's opinion, which is to date not supported by any published opinion and which naturally does not address the Open Meetings Clause. Further, as discussed in the Notice of Supplemental Authority filed by Commissioner Mathis on November 29, 2011, it appears that the Arizona Supreme Court has concluded that serial communications are not a violation of the Open Meeting Law, although we do not yet have the benefit of the Supreme Court's written opinion on the topic. To the extent the Supreme Court does so hold, however, even if this Court found that the Open Meeting Law applied to the IRC, it would appear that the State has not stated "reasonable cause to believe there may have been a violation" of the Open Meeting Law. A.R.S. § 38-431.06. Accordingly, even if the Open Meeting Law applied, the Court would correctly dismiss the State's action on that basis.

⁶ The Constitution also limits the grounds for removing a commissioner to specified non-political ones. The Supreme Court has recently ruled that the existence of one or more of the enumerated grounds is not a political question, although it has not yet explained its reasoning. *Arizona Independent Redistricting Comm. v. Brewer*, No. CV-11-0313-SA (filed 11/17/2011).

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non-compliance, that power cannot be limited to open meetings; it can be used to harass and hamstring the IRC. The second source is the executive, specifically prosecutors such as the Attorney General and the various county attorneys, all of whom are empowered to investigate alleged Open Meeting Law violations. The threat of prosecution, even a baseless one, can be reasonably expected to intimidate its target.

The Court therefore concludes that the Open Meeting Law, A.R.S. § 38-431 *et seq.*, cannot be applied to the Independent Redistricting Commission.⁷ This leads to a second question: does the prosecutorial authority of the State extend to enforcement of the Open Meetings Clause, beyond the authority possessed by any citizen of Arizona to compel compliance by filing a special action?

The Open Meetings Clause contains no enforcement mechanism. Nor does it prescribe any penalty for noncompliance, other than removal by the Governor with the consent of two-thirds of the Senate, to the extent that the noncompliance constitutes “substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office.” Ariz. Const. art. 4, pt. 2 § 1 (10). Even if there is a violation, then, there is nothing for the prosecutor to prosecute.

Beyond that, the doctrine of legislative immunity protects the official acts of the IRC and individual commissioners. The doctrine of immunity for the performance of legislative acts is one long predating statehood. *See Gravel v. United States*, 408 U.S. 606 (1972) (outlining its history in common law). It applies to “actions that are an integral part of the deliberative and communicative processes utilized in developing and finalizing a redistricting plan, and when necessary to prevent indirect impairment of such deliberations.” *Arizona Independent Redistricting Comm. v. Fields*, 206 Ariz. 130, 139 ¶ 24 (App. 2003) (internal quotation marks omitted). Contrary to the State’s argument, the choice of a consultant is a legislative, not an administrative act, even though some preliminary and follow-up work may be delegated; the allegation here is that three commissioners improperly agreed on the choice of consultant, not on the application process or the contractual compensation of their choice. *See id.* at 140 ¶ 29-30. The “deliberative and communicative processes” involved in choosing the consultant are therefore necessarily privileged.

The State makes another argument against the application of legislative immunity: only “legitimate” communicative processes compliant with the Open Meetings Clause (or Law) are entitled to immunity. The threat is in the corollary expressly stated at oral argument: the Attorney General, in the first instance, decides what communicative processes are “legitimate.” The premise that legislative immunity does not exist until the entitlement to it is accepted by the

⁷ Nothing prevents the IRC from using the Open Meeting Law as persuasive authority for interpreting the Open Meetings Clause, as it apparently has done on occasion. It is not obligated to accept its guidance, however.

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executive branch (or presumably by the court, should the matter get that far) is wholly inconsistent with the overarching separation of powers.

The State's argument that immunity would open the door to evils like bribery and embezzlement is not persuasive. Legislative privilege does not shield those who misuse public office for personal gain. But no such accusation has been made against any of the IRC commissioners. The allegations against them are that they failed to perform their official legislative acts in the proper manner. This is fully within the scope of the privilege.

Therefore, the Court finds that the Open Meeting Law, A.R.S. § 38-431 *et seq.*, does not apply to the IRC, which is governed instead by the open meetings language of Article IV Pt. 2 § 1(12) (the Open Meetings Clause). It further finds that neither the Attorney General nor the Maricopa County Attorney may proceed in their investigation, except as provided by the Rules of Procedure for Special Actions.

For the foregoing reasons, as well as others expressed by the IRC and the individual commissioners in their briefing and argument, the Motion for Summary Judgment filed by the IRC and joined by Commissioners Mathis, McNulty, and Herrera is granted. The State's Cross-Motion for Summary Judgment is denied.

Accordingly,

IT IS HEREBY ORDERED that no later than December 15, 2011, counsel shall lodge a form of order for the Court's signature consistent with this ruling, and including the declaratory relief requested in the IRC's pleadings. The form of judgment should be simple and narrowly tailored to the relief requested. Preferably, the parties will stipulate to the form of the judgment, but if no agreement can be reached counsel for the IRC will lodge a proposed form of judgment, which the Court will hold for the requisite period for any objections.

ALERT: Effective September 1, 2011, the Arizona Supreme Court Administrative Order 2011-87 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.

14

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12
13 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
14 IN AND FOR THE COUNTY OF MARICOPA

15 STATE OF ARIZONA, ex rel. WILLIAM)
16 G. MONTGOMERY, Maricopa County)
Attorney,)

Case No. CV2011-016442

17 Petitioner,)

FINAL JUDGMENT

18 vs.)

(Assigned to the Honorable Dean M. Fink)

19 COMMISSIONER COLLEEN MATHIS,)
20 COMMISSIONER LINDA McNULTY)
COMMISSIONER JOSE HERRERA,)

21 Respondent.)

22 ARIZONA INDEPENDENT)
23 REDISTRICTING COMMISSION, an)
Independent Constitutional Body,)

24 Plaintiffs/Petitioner,)

25 vs.)

26 THOMAS C. HORNE, in his official)
27 capacity as Attorney General of the State of)
Arizona,)

28 Defendant/Respondent.)

Ballard Spahr LLP
1 East Washington Street, Suite 2300
Phoenix, AZ 85004-2555
Telephone: 602.798.5400

1 Pursuant to this Court’s December 9, 2011 ruling granting summary judgment to
2 the Independent Redistricting Commission (“IRC”) and Commissioners Colleen Mathis,
3 Linda McNulty, and Jose Herrera and denying the State’s Cross-motion for Summary
4 Judgment and Motion to Dismiss, final judgment is hereby entered granting the following
5 declaratory and injunctive relief.

6 1. The Court declares that:

7 a. As concerns the need for its business to be publicly conducted, the
8 IRC is subject only to the specific constitutional provisions of Article IV, pt. 2,
9 § 1(12) (“the Open Meetings Clause”), requiring that “[w]here a quorum is
10 present, the independent redistricting commission shall conduct business in
11 meetings open to the public, with 48 or more hours public notice provided.”

12 b. The exclusive vehicle in which to raise an alleged violation of the
13 Open Meetings Clause is a civil action brought by any citizen with standing
14 against the IRC to enforce the Open Meetings Clause.

15 c. No mechanism exists to prosecute an individual IRC commissioner
16 for alleged violations of the Open Meetings Clause.

17 d. A.R.S. § 38-431 *et seq.* (“the Open Meeting Law”), while a
18 permissible reference for the conduct of the IRC, is unenforceable against the IRC.

19 e. The State of Arizona, through the Attorney General or the various
20 County Attorneys, lacks the power to investigate members of the IRC for
21 violations of the Open Meeting Law.

22 f. For the reasons set forth above, under Article IV, pt. 2, § 1(12), there
23 is no basis for the prosecution of the investigative demands served on the
24 individual IRC commissioners. Likewise, even if the Open Meeting Law applied
25 to the IRC, the State has not stated reasonable cause to believe there may have
26 been a violation of A.R.S. § 38-431.06.

27 g. The IRC’s mapping work and deliberations related thereto, including
28 the deliberations regarding the hiring of a mapping consultant, are covered by

1 legislative privilege.

2 h. The State’s investigation into the IRC’s deliberations, by intruding
3 on the legislative privilege of the commissioners, is unlawful and in excess of the
4 authority granted to the Attorney General and Maricopa County Attorney by the
5 Constitution and laws of Arizona.

6 2. The Court enjoins the State of Arizona, through the Attorney General, the
7 Maricopa County Attorney or any other County Attorney, from proceeding with an Open
8 Meeting Law investigation of the IRC and its Commissioners.

9 In addition, final judgment is entered denying any and all relief that the State of
10 Arizona requested in its Petition for Enforcement of Written Investigative Demands and
11 Application for Order to Show Cause to Commissioners Mathis, McNulty, and Herrera.

12 For the foregoing reasons, and those set forth in this Court’s December 9, 2011
13 “Under Advisement Ruling”, **IT IS HEREBY ORDERED, ADJUDGED, AND**
14 **DECREED** that:

- 15 1. The IRC’s **MOTION FOR SUMMARY JUDGMENT** is **GRANTED**;
16 2. The State of Arizona’s **MOTION TO DISMISS** is **DENIED**;
17 3. The State of Arizona’s **CROSS-MOTION FOR SUMMARY**
18 **JUDGMENT** is **DENIED**;

19 4. The State of Arizona’s **PETITION FOR ENFORCEMENT OF**
20 **WRITTEN INVESTIGATIVE DEMANDS AND APPLICATION FOR ORDER**
21 **TO SHOW CAUSE** to Commissioners Mathis, McNulty, and Herrera is **DENIED**; and

22 5. The IRC’s requested relief in its complaint for declaratory judgment and
23 injunctive relief is **GRANTED** as set forth in the declaratory and injunctive relief
24 described above.

25
26
27 Dated: _____

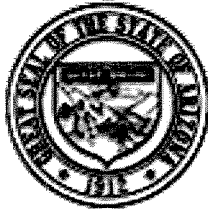
Honorable Dean M. Fink

28

eSignature Page -- 201112161212907_IRC.pdf

Granted

Signed on this day, December 16, 2011



/s/ Dean Fink

Judicial Officer of Superior Court

15



Election Information

- Home
- Election Services
- Business Services
- Public Services

2000 General Election

Last updated on August 28, 2000 at 10:14:10 PM

Initiative, Referendum and Recall Applications

Betsy Bayless

Unofficial

Petition Serial Number	Title / Sponsor / Description	Filer ID	Appl. Date	Due Date	Signatures Required
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01-C-2000			April 29, 1999	July 6, 2000	152,643
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Jerry Overton
1138 Oro Vista
Litchfield Park, AZ 85340
623/935-4308

A proposal to freeze primary residential property tax valuations at their year-2000 levels until such time as property is sold, gifted, or substantially improved. Properties sold after implementation would be valued at their sale price; properties gifted or substantially improved after implementation would be valued at their appraised value.

REFILED AS 5-C-2000

02-C-2000	Fair Districts, Fair Elections	200002282	September 13, 1999	July 6, 2000	152,643
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Fair Districts, Fair Elections
Jim Pederson, Chair
2800 North Central #1500
Phoenix, AZ 85007
602/776-1200

This citizen-sponsored Arizona Constitutional amendment will create a new "citizens' independent redistricting commission" to draw new legislative and congressional district boundaries after each U.S. Census. This amendment takes the redistricting power away from the Arizona Legislature and puts it in the hands of a politically neutral commission of citizens who are not active in partisan politics and who will serve without pay to create fair districts that are not "gerrymandered" for any party's or incumbent's advantage.

03-C-2000	Taxpayer Protection Alliance		October 28, 1999	July 6, 2000	152,643
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Taxpayer Protection Alliance
Richard D. Mahoney, Chair
3431 West Thunderbird, Suite 302 PMB
Phoenix, AZ 85053
602/866-2394

The Taxpayer Protection Act of 2000 will: (1) end all Arizona state and local income taxes over a four year phaseout period; (2) ensure that any new taxes be approved by a majority of voters; and (3) allow voluntary pledges in favor of elimination of the federal income tax and its replacement by a federal sales tax to be placed on election ballots next to the name of all candidates who take that pledge.

04-C-2000	Arizonans for Consumer Choice and Fair Competition	200002289	January 24, 2000	July 6, 2000	152,643
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Yes on 108: Arizonans for Consumer Choice and Fair Competition (Qwest)
John M. Duffy, Chair
3033 North Third Street, Room 1010
Phoenix, AZ 85012
602/630-1168

Consumer Choice and Fair Competition Telecommunications Amendment:
-Updates century-old telephone regulations to encourage consumer choice and competition in telecommunication services and to assure that all consumers and companies are treated fairly;
-Ends state government regulation of rates for local phone services in communities where two or more competing companies offer basic local service, and requires that consumers in those communities who have access to only one company receive the same competitive rates offered other consumers;
-Maintains state authority to set rates in communities served by only one company and allows use of modern rate options, such as rate caps.

05-C-2000	Fair Tax Initiative Fair Tax Initiative W. A. McGibbon, Chair 1138 Oro Vista Litchfield Park, AZ 85340 623/935-4308	20002292	February 2, 2000	July 6, 2000	152,643
	1) Amending the state constitution to freeze the taxable valuation of residential property at its tax-year 2001 level until it is sold or substantially improved and 2) to require voter approval of any increased property tax levies imposed by the state, counties, cities, towns or community college or school districts at special elections held in May. Levy increases exclusively the result of new construction are exempt from voter approval				
01-I-2000	English Language Education for Children in Public Schools English for the Children - Arizona Mary Mendoza, Chair 733 West Ohio Street Tucson, AZ 85714 520/294-7212	200002258	January 6, 1999	July 6, 2000	101,762
	Requires that all public school instruction be conducted in English. Children not fluent in English shall normally be placed in an intensive one-year English immersion program to teach them the language as quickly as possible while also learning academic subjects. Parent may request a waiver of these requirements for children who already know English, are ten years or older, or have special needs best suited to a different educational approach. Normal foreign language programs are completely unaffected. Enforcement law suits by parent and guardian are permitted.				
02-I-2000	It's Time to A.C.T.! Abolish the Car Tax It's Time to A.C.T.! Representative Marilyn Jarrett 4228 East Hope Street Mesa, AZ 85205 602/641-7765	200002257	January 6, 1999	July 6, 2000	101,762
	REFILED AS 3-I-2000				
03-I-2000	It's Time to A.C.T.! Abolish the Car Tax It's Time To A.C.T.! Representative Marilyn Jarrett 4228 East Hope Street Mesa, AZ 85205 602/641-7765	200002257	January 8, 1999	July 6, 2000	101,762
	This citizen-sponsored initiative will eliminate the vehicle license tax (the car tax) and replace it with a one-time \$8.50 plate processing fee and a \$25 per year registration fee to be paid every two years. A portion of the revenues lost due to this substantial tax cut will be replaced by a 3 cent per gallon additional tax on gasoline to be used primarily (by state law) for roads and freeways.				
04-I-2000	Citizens Growth Management Initiative Citizens for Growth Management Lila J. Schwartz, Chair P O Box 22 Phoenix, AZ 85001-0022 602/254-8581	199802199	March 10, 1999	July 6, 2000	101,762
	Citizens Growth Management Initiative. This initiative would require cities and counties to adopt growth management plans to limit urban sprawl. The plans would have to set urban growth boundaries, limit development and new city services outside the boundaries, require developers to pay for roads and schools to serve new subdivisions, and protect air and water quality. Plans could not be substantially changed without voter approval, and citizens could adopt plans and amendments by initiative. The initiative would also limit wildcat subdivisions, provide for public access to state conservation lands, and amend existing laws to conform them to the initiative.				
05-I-2000	March 31, In each year, Observed as Dr. Cesar Estrada Chavez Day Si Se Puede/Yes We Can Rebekah L. Friend, Chair 5818 North 7th Street, #201 Phoenix, AZ 85014 602/264-1846, ext. 18	200002265	March 24, 1999	July 6, 2000	101,762

REFILED AS 6-I-2000 DUE TO CHANGE IN SUMMARY

06-I-2000	Si Se Puede/Yes We Can Rebekeh L. Friend, Chair 5818 North 7th Street, Suite 201 Phoenix, AZ 85014 602/264-1846, ext. 18	200002265	April 7, 1999	July 6, 2000	101,762
	This measure will establish March 31st of each year as the day to honor Dr. Cesar Estrada Chavez in Arizona. It will not create a legal holiday. There will be no cost to the state of Arizona or its taxpayers for this day.				
07-I-2000	Healthy Arizona Initiative Political Action Committee Mark Osterloh, Chair 1240 North Third Avenue Tucson, AZ 85705 520/622-3339	2092	July 27, 1999	July 6, 2000	101,762
	In 1996 voters overwhelmingly passed the first Healthy Arizona Initiative to provide healthcare for Arizona's working poor at the federal poverty level and fund six preventative health programs. Politicians have again failed to carry out the will of the people. This initiative requires that our recent settlement with the tobacco industry - which will bring Arizona several billion dollars - be spent on the health of Arizonans, starting with funding 1996's Healthy Arizona Initiative. It circumvents the politicians, returning power to the voters, because three years is too long to wait to see the doctor.				
08-I-2000	Drug Medicalization, Prevention, and Control Act of 2000 The People Have Spoken 1998-02166 John Norton, Chair P.O. Box 34506 Phoenix, AZ 85067 602/222-6639	199802166	October 13, 1999	July 6, 2000	101,762
	REFILED as 9-I-2000				
09-I-2000	The People Have Spoken -- 1998-02166 The People Have Spoken -- 1998-02166 John Norton, Chair P.O. Box 34506 Phoenix, AZ 85067 602/222-6639	199802166	October 21, 1999	July 6, 2000	101,762
	FILED BY: Plants Are Medicine; W. Michael Walz, Chairman 45 West Jefferson, Ste 412 Phoenix, AZ 85003				
	The Drug Medicalization, Prevention, and Control Act of 2000 will: (1) ensure that assets forfeited by criminals will be used for drug treatment and gang prevention; (2) mandate harsher punishments for serious drug felons and remove minimum sentences for non-violent drug users; (3) change the punishment for possession of two ounces or less of marijuana from a potential jail term to a fine; (4) make non-violent drug offenders convicted only of simple possession eligible for parole; and (5) establish a system run by the Attorney General for legal distribution of medical marijuana to qualifying patients.				
10-I-2000	Right To Work Freedom 1st Amendment Jose DeElena 1675 East Cody Street Apache Jct, AZ 85219-4222 480/983-1418		October 22, 1999	July 6, 2000	101,762
	For Brothels to become legal in Arizona both in call & out call, Prostitution legal in the form of Brothels. Matthew 21:31, Joshua 6:17. Prostitutes have no rights nor freedoms in AZ. If a female has a right to murder her unborn babies because its her body. A prostitute should have the same right. Brothels can control diseases. Brothels have Doctors checking their girls everyday. Many moral values righteous females & males are not check everyday by Doctors, its why sexual diseases are spreading. It seems that hate groups like white supremacists, Gangs, drug users & other hate groups have rights & freedom. Brothels should have				

rights 24hrs 365 days till the end of time, Judgement day. Brothels-Prostitutes have never said they want to over throw the U.S.A. Government. Brothels want to pay taxes, give money as love donations to build homeless shelters, & many other shelters, etc.

11-I-2000	Healthy Children Healthy Families Carol Kamin, Chair 3507 North Central Avenue, Suite 408 Phoenix, AZ 85012 602/7760624 The Healthy Children Healthy Families initiative uses Arizona's tobacco settlement money to: Provide health insurance for uninsured working parents; Strengthen KidsCare, Arizona's program for uninsured children; Help children start school ready to learn through new efforts for child abuse prevention, prenatal outreach, family mentoring and expanding preschool opportunities; Promote early detection and prevention of cancer, heart and lung disease and strokes; Assist older Arizonans with their health care needs; Protect Arizona's programs for preventing and reducing tobacco use. Let's use tobacco industry payments for health care and prevention for Arizona families.	200002284	November 15, 1999	July 6, 2000	101,762
12-I-2000	Committee of the AZ Breakfast Club & Citizens for Defending the Constitution of the AZ Republic A Committee of the Arizona Breakfast Club & Citizens for Defending the Constitution of the Arizona Republic Drawer A Scottsdale, AZ 85252 602/280-7600 "An amendment to statutes of our Republic providing felony prosecution for Violations of the oath of office and empanelling a Grand Jury to consider violations of state and federal constitutions and the sovereign Rights of We the People of Arizona."		December 16, 1999	July 6, 2000	101,762
13-I-2000	Stop Ripoffs of Arizona Renters James C. Whittington, Chair AZ Renters Association, Inc. 3330 East Main Street, #509 Mesa, AZ 85213 408/654-9581 It's Time To ROAR! Stop Ripoffs of Arizona Renters. This citizens-sponsored initiative will limit rents on mobile home spaces to \$325.00 per month with annual increases not to exceed the Consumer Price Index. It will also give renters associations the right of first refusal when a park is sold.	200002295	March 27, 2000	July 6, 2000	101,762
01-RC-1999	Recall of Karen Johnson Karen Johnson Recall Committee Jeff Braeger, Chair 14640 North 2nd Avenue Phoenix, AZ 85023 602/942-9597 WITHDRAWN 2-26-1999	200002263	February 26, 1999	June 25, 1999	8,996
01-RC-2000	No More Homeless, American Jobs For Americans Jose DeElena, Applicant 1675 East Cody Street Apache Junction, AZ 85219-4222 480/983-1418 To Recall AZ State Governor Jane D. Hull First & the next one's will be her supporter's city-county & state leaders of AZ. This Braceros program - Guest worker proposal will make more American people Homeless, Americans losing jobs to Foreigners, illegals etc. I and other Americans have been deny Jobs and many Forms of discriminations has been use against us Americans, both veterans & non-veterans. And American Employers need to be boycott, any businesses churches etc that hire Foreigners, illegals etc.		October 25, 1999	February 21, 2000	254,404
02-RC-1999	Keep Your Phone Number, Recall Jim Irvin W. David Doiron, Chair Box 23794 Tempe, AZ 85285 602/967-2302	200002271	April 16, 1999	August 13, 1999	238,947

Did not file petitions. Past filing deadline date.

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JAN 30 2012

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MAR Case # CV2011-016442**

No.	Document Name	Filed Date
1.	PETITION FOR ENFORCEMENT OF WRITTEN INVESTIGATIVE DEMANDS AND APPLICATION FOR ORDER TO SHOW CAUSE	Sep. 7, 2011
2.	EXHIBITS TO PETITION FOR ENFORCEMENT OF WRITTEN INVESTIGATIVE DEMANDS AND APPLICATION FOR ORDER TO SHOW CAUSE	Sep. 7, 2011
3.	CERTIFICATE OF COMPULSORY ARBITRATION	Sep. 7, 2011
4.	ORDER TO SHOW CAUSE	Sep. 8, 2011
5.	NOTICE OF APPEARANCE	Sep. 13, 2011
6.	CREDIT MEMO	Sep. 13, 2011
7.	(PART 1 OF 2) NOTICE OF FILING AFFIDAVIT	Sep. 14, 2011
8.	(PART 2 OF 2) NOTICE OF FILING AFFIDAVIT	Sep. 14, 2011
9.	NOTICE OF APPEARANCE	Sep. 16, 2011
10.	CREDIT MEMO	Sep. 16, 2011
11.	REQUEST FOR COURT REPORTER RE OCTOBER 3, 2011 ORDER TO SHOW CAUSE HEARING	Sep. 30, 2011
12.	NOTICE OF APPEARANCE	Oct. 3, 2011
13.	RESPONSE TO MOTION TO CONSOLIDATE AND MEMORANDUM REGARDING ASSERTIONS IN THE NEW COMPLAINT	Oct. 3, 2011
14.	(PART 1 OF 2) MOTION FOR DISQUALIFICATION OF COUNSEL	Oct. 3, 2011
15.	(PART 2 OF 2) MOTION FOR DISQUALIFICATION OF COUNSEL	Oct. 3, 2011
16.	COMMISSIONER COLLEEN MATHIS' JOINDER IN COMMISSIONER LINDA MCNULTY'S MOTION FOR DISQUALIFICATION OF COUNSEL	Oct. 3, 2011
17.	RESPONSE TO MOTION FOR DISQUALIFICATION OF COUNSEL	Oct. 3, 2011
18.	JOINDER OF DEFENDANT COMMISSSIONER(SIC) JOSE HERRERA IN MOTION FOR DISQUALIFICATION OF COUNSEL	Oct. 3, 2011
19.	CREDIT MEMO	Oct. 3, 2011
20.	REQUEST FOR TRANSCRIPT OF OCTOBER 3, 2010, HEARING	Oct. 3, 2011
21.	ME: CASE CONSOLIDATION [10/03/2011]	Oct. 6, 2011
22.	JOINDER IN COMMISSIONER MCNULTY'S REPLY IN SUPPORT OF MOTION FOR DISQUALIFICATION OF COUNSEL	Oct. 11, 2011





STATE OF ARIZONA VS COMMISSIONER MATHIS

**Electronic Index of Record
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24.	(PART 2 OF 2) REPLY IN SUPPORT OF MOTION FOR DISQUALIFICATION OF COUNSEL	Oct. 11, 2011
25.	REQUEST FOR COURT REPORTER AND TRANSCRIPT OF OCTOBER 14, 2011 ORAL ARGUMENT	Oct. 12, 2011
26.	JOINDER OF DEFENDANT COMMISSIONER JOSE HERRERA IN REPLY IN SUPPORT OF MOTION FOR DISQUALIFICATION OF COUNSEL	Oct. 12, 2011
27.	(PART 1 OF 2) NOTICE OF HAVING PROVIDED FILE	Oct. 12, 2011
28.	(PART 2 OF 2) NOTICE OF HAVING PROVIDED FILE	Oct. 12, 2011
29.	RESPONSE TO "NOTICE OF HAVING PROVIDED FILE"	Oct. 13, 2011
30.	STIPULATION REGARDING SERVICE BY ELECTRONIC MAIL	Oct. 13, 2011
31.	(PART 1 OF 2) DEFENDANTS' SUPPLEMENTATION OF RECORD RE: MOTION FOR DISQUALIFICATION	Oct. 16, 2011
32.	(PART 2 OF 2) DEFENDANTS' SUPPLEMENTATION OF RECORD RE: MOTION FOR DISQUALIFICATION	Oct. 16, 2011
33.	(PROPOSED) ORDER REGARDING SERVICE BY ELECTRONIC MAIL	Oct. 17, 2011
34.	RESPONSE TO SUPPLEMENTATION OF RECORD	Oct. 17, 2011
35.	ME: MATTER UNDER ADVISEMENT [10/14/2011]	Oct. 18, 2011
36.	(PART 1 OF 2) PLAINTIFF ARIZONA INDEPENDENT REDISTRICTING COMMISSION'S SEPARATE STATEMENT OF FACTS	Oct. 18, 2011
37.	(PART 2 OF 2) PLAINTIFF ARIZONA INDEPENDENT REDISTRICTING COMMISSION'S SEPARATE STATEMENT OF FACTS	Oct. 18, 2011
38.	PLAINTIFF ARIZONA INDEPENDENT REDISTRICTING(SIC) COMMISSION'S CONSOLIDATED RESPONSE TO MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT	Oct. 18, 2011
39.	PLAINTIFF ARIZONA INDEPENDENT REDISTRICTING COMMISSION'S NOTICE OF ERRATA	Oct. 19, 2011
40.	PLAINTIFF ARIZONA INDEPENDENT REDISTRICTING COMMISSION'S CONSOLIDATED RESPONSE TO MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT	Oct. 19, 2011



STATE OF ARIZONA VS COMMISSIONER MATHIS

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No.	Document Name	Filed Date
41.	DEFENDANT COMMISSIONERS' JOINDER IN ARIZONA INDEPENDENT REDISTRICTING COMMISSION'S RESPONSE TO MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT	Oct. 20, 2011
42.	(PART 1 OF 2) PETITIONER'S STATEMENT OF FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO MOTION FOR SUMMARY JUDGMENT	Oct. 25, 2011
43.	(PART 2 OF 2) PETITIONER'S STATEMENT OF FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO MOTION FOR SUMMARY JUDGMENT	Oct. 25, 2011
44.	PETITIONER'S RESPONSE TO MOTION FOR SUMMARY JUDGMENT AND CROSS-MOTION FOR SUMMARY JUDGMENT	Oct. 25, 2011
45.	REPLY AND SUPPORT OF MOTION TO DISMISS	Oct. 25, 2011
46.	REPLY IN SUPPORT OF MOTION TO DISMISS	Oct. 26, 2011
47.	NOTICE OF ERRATA	Oct. 26, 2011
48.	ME: UNDER ADVISEMENT RULING STATUS CONFERENCE SET [10/27/2011]	Oct. 28, 2011
49.	NOTICE OF APPEARANCE	Nov. 1, 2011
50.	PETITIONER'S MOTION TO REINSTATE DATE FOR ORAL ARGUMENT AND MOTION FOR SUBSTITUTION	Nov. 2, 2011
51.	ME: ORAL ARGUMENT SET [11/03/2011]	Nov. 7, 2011
52.	PLAINTIFF ARIZONA INDEPENDENT REDISTRICTING COMMISSION'S CONSOLIDATED REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO PETITIONER'S CROSS-MOTION FOR SUMMARY JUDGMENT	Nov. 9, 2011
53.	COMMISSIONER MCNULTY'S RESPONSE TO STATE'S CROSS-MOTION FOR SUMMARY JUDGMENT	Nov. 9, 2011
54.	(PART 1 OF 2) ARIZONA INDEPENDENT REDISTRICTING COMMISSION'S AND COMMISSIONERS' CONSOLIDATED OBJECTION AND CONTROVERTING STATEMENT OF FACTS IN RESPONSE TO PETITIONER'S STATEMENT OF FACTS SUPPORTING THEIR MOTION FOR SUMMARY JUDGMENT	Nov. 9, 2011
55.	(PART 2 OF 2) ARIZONA INDEPENDENT REDISTRICTING COMMISSION'S AND COMMISSIONERS' CONSOLIDATED OBJECTION AND CONTROVERTING STATEMENT OF FACTS IN RESPONSE TO PETITIONER'S STATEMENT OF FACTS SUPPORTING THEIR MOTION FOR SUMMARY JUDGMENT	Nov. 9, 2011

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No.	Document Name	Filed Date
56.	COMMISSIONER COLLEEN MATHIS' JOINDER IN: AIRC'S CONSOLIDATED REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO PETITIONER'S CROSS-MOTION FOR SUMMARY JUDGMENT AND COMMISSIONER LINDA MCNULTY'S RESPONSE TO STATE'S CROSS-MOTION FOR ...	Nov. 10, 2011
57.	(PART 1 OF 2) REQUEST FOR JUDICIAL NOTICE	Nov. 15, 2011
58.	(PART 2 OF 2) REQUEST FOR JUDICIAL NOTICE	Nov. 15, 2011
59.	COMMISSIONER HERRERA'S RESPONSE TO STATE'S CROSS-MOTION FOR SUMMARY JUDGMENT AND JOINDER IN COMMISSIONER MCNULTY'S RESPONSE TO STATE'S CROSS-MOTION FOR SUMMARY JUDGMENT	Nov. 16, 2011
60.	ME: MATTER UNDER ADVISEMENT [11/16/2011]	Nov. 18, 2011
61.	(PART 1 OF 2) NOTICE OF SUPPLEMENTAL AUTHORITY	Nov. 29, 2011
62.	(PART 2 OF 2) NOTICE OF SUPPLEMENTAL AUTHORITY	Nov. 29, 2011
63.	ME: UNDER ADVISEMENT RULING [12/09/2011]	Dec. 12, 2011
64.	(PART 1 OF 2) NOTICE OF LODGING FORM OF JUDGMENT AND STIPULATION REGARDING FORM OF JUDGMENT	Dec. 15, 2011
65.	(PART 2 OF 2) NOTICE OF LODGING FORM OF JUDGMENT AND STIPULATION REGARDING FORM OF JUDGMENT	Dec. 15, 2011
66.	FINAL JUDGMENT	Dec. 16, 2011
67.	NOTICE OF APPEAL	Dec. 19, 2011
68.	(PART 1 OF 2) CIVIL APPEALS DOCKETING STATEMENT	Dec. 20, 2011
69.	(PART 2 OF 2) CIVIL APPEALS DOCKETING STATEMENT	Dec. 20, 2011
70.	CREDIT MEMO	Dec. 20, 2011
71.	NOTICE OF APPEAL	Jan. 17, 2012

APPEAL COUNT: 1

RE: CASE: UNKNOWN



STATE OF ARIZONA VS COMMISSIONER MATHIS

**Electronic Index of Record
MAR Case # CV2011-016442**

DUE DATE: 01/26/12

CAPTION: STATE OF ARIZONA VS COMMISSIONER MATHIS

CONSOLIDATED FROM CV2011-017914

EXHIBIT(S): NONE

LOCATION ONLY: NONE

SEALED DOCUMENT: NONE

DEPOSITION(S): NONE

TRANSCRIPT(S): NONE

COMPILED BY: martine on January 23, 2012

CERTIFICATION: I, MICHAEL K. JEANES, Clerk of the Superior Court of Maricopa County, State of Arizona, do hereby certify that the above listed Index of Record, corresponding electronic documents, and items denoted to be transmitted manually constitute the record on appeal in the above-entitled action.

The bracketed [date] following the minute entry title is the date of the minute entry.

CONTACT INFO: Clerk of the Superior Court, Maricopa County, Appeals Unit, 601 W Jackson St, Phoenix, AZ 85003; 602-506-7775

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JAN 30 2012

**Electronic Index of Record
MAR Case # CV2011-017914**

No.	Document Name	Filed Date
1.	VERIFIED COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND SPECIAL ACTION RELIEF	Sep. 27, 2011
2.	CERTIFICATE OF COMPULSORY ARBITRATION	Sep. 27, 2011
3.	PLAINTIFF'S MOTION TO CONSOLIDATE	Sep. 28, 2011
4.	AFFIDAVIT OF SERVICE	Sep. 29, 2011
5.	SUMMONS	Sep. 29, 2011
6.	MOTION TO DISMISS	Oct. 3, 2011
7.	CREDIT MEMO	Oct. 3, 2011
8.	ME: CASE CONSOLIDATION [10/03/2011]	Oct. 6, 2011

APPEAL COUNT: 1

RE: CASE: UNKNOWN

DUE DATE: 01/26/12

CAPTION: STATE OF ARIZONA VS MATHIS

CONSOLIDATED TO CV2011-016442

EXHIBIT(S): NONE

LOCATION ONLY: NONE

SEALED DOCUMENT: NONE

DEPOSITION(S): NONE

TRANSCRIPT(S): NONE

COMPILED BY: martine on January 23, 2012

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STATE OF ARIZONA VS MATHIS

**Electronic Index of Record
MAR Case # CV2011-017914**

CERTIFICATION: I, MICHAEL K. JEANES, Clerk of the Superior Court of Maricopa County, State of Arizona, do hereby certify that the above listed Index of Record, corresponding electronic documents, and items denoted to be transmitted manually constitute the record on appeal in the above-entitled action.

The bracketed [date] following the minute entry title is the date of the minute entry.

CONTACT INFO: Clerk of the Superior Court, Maricopa County, Appeals Unit, 601 W Jackson St, Phoenix, AZ 85003; 602-506-7775