

1 Eli Dalton-Webb
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5 *Plaintiff*
6

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

8
9 **IN AND FOR THE COUNTY OF MARICOPA**

<p>11 Eli Dalton-Webb, a candidate for Clerk of 12 the Superior Court 13 14 15 Plaintiff 16 17 v. 18 19 ADRIAN FONTES, in his official 20 capacity as Arizona Secretary of State, 21 MELISSA AVANT, in her official 22 capacity as Officer in Charge of Elections 23 in Cochise County, BILLY CLOUD, in 24 his official capacity as Cochise County 25 Recorder 26 27 28 Defendants, 29</p>	<p>Case No. CV2026-000232 Assigned to: Hon. Michael Valenzuela Plaintiff's Response to Defendants' Motions to Dismiss</p>
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31 **BILLY CLOUD: PUBLIC RECORDS**

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33 Firstly, this Court cannot do a wholesale dismissal, even if, arguendo, the
34 equitable relief claims are subject to dismissal. On 24 December 2025, it was
35 requested of Defendant Billy Cloud's A.R.S. § 16-804(D) statement (see Exhibit 1 of
36 the Complaint). On 7 January 2026, Defendants Billy Cloud and Melissa Avant and
37 their counsel were made fully aware that they were sued under Arizona public records
38 law and had received the Initial Complaint. On 9 January 2026, two days after
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1 Defendants were made fully aware that they were sued under public records law,
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3 Defendant Billy Cloud turned over records to the Plaintiff.
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5 Arizona case law says “a party has substantially prevailed if it was more
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7 successful than not in obtaining records or other relief that was contested by the
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9 opposing party before litigation commenced.” (ACLU of Ariz. v. Ariz. Dep't of Child
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11 Safety, 251 Ariz. 458). Billy Cloud waited until after he was sued before turning over
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13 the records to the Plaintiff. Because this lawsuit was a catalyst in obtaining the public
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15 records, this Court should award Plaintiff monetary relief against Billy Cloud for the
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17 public records law claim, pursuant to A.R.S. § 39-121.02.
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20 Additionally, A.R.S. § 39-121.01(E) provides that Defendant Billy Cloud
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22 should have promptly turned over the records. The county recorder, pursuant to
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24 A.R.S. § 16-804(D), should have already had his determination made weeks prior to
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26 the request, and the records should have been immediately ready for inspection.
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28 Instead, Defendant Billy Cloud never made his determination until Plaintiff pressed
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30 him to make the determination (assuming the 2 January 2026 statement is the A.R.S.
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32 § 16-804(D) determination). If Plaintiff never asked about the county recorder’s
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34 A.R.S. § 16-804(D) determination, even well after the deadline, the county recorder
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36 would have never made one, even though he was required to by law.
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39 Plaintiff has a cause of action for monetary relief under A.R.S. § 39-121.02,
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41 A.R.S. § 39-121.01(E), and A.R.S. § 39-121.01(B) because Billy Cloud did not
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43 maintain public records regarding his A.R.S. § 16-804(D) determination (violating
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45 A.R.S. § 39-121.01(B)), failed to promptly turn over public records which is a denial
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1 (violating A.R.S. § 39-121.01(E)), and Plaintiff has “substantially prevailed” in this
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3 matter because Billy Cloud only turned over records only after knowing he was being
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5 sued under public records law.
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7 **INJUNCTIVE RELIEF AGAINST DEFENDANTS**
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9 Plaintiff asked for injunctive relief against Adrian Fontes, so that he could start
10 circulating his petition. Plaintiff made all best attempts to get the Secretary of State’s
11 office to comply with the law before suing. It wasn’t until after Plaintiff sued that the
12 Secretary of State started allowing Plaintiff to circulate his petition. Additionally, last
13 Plaintiff checked, the Secretary of State still does not permit Cochise County
14 candidates to circulate petitions for general election candidates, and so injunctive
15 relief is NOT moot in that manner.
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24 Same thing with Melissa Avant—she did not publish Plaintiff’s candidacy until
25 after Plaintiff sued her under Article 2 § 13 and Article 2 § 21 of the Arizona
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31 Although both Defendants have allegedly complied with the Plaintiff’s Initial
32 Complaint’s demands, this Court should still issue injunctive relief, as the Defendants
33 may still revert back to their former conduct without an actual injunction, and this
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44 **DECLARATORY RELIEF: BILLY CLOUD**
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1 In Billy Cloud's statement that is allegedly dated 2 January 2026 (see Exhibit
2 B of Defendant's Motion to Dismiss), nowhere does it explicitly state that it is
3 explicitly an A.R.S. § 16-804(D) determination by the county recorder, causing
4 uncertainty, making declaratory relief proper.
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9 Additionally, there are several problems with Billy Cloud's 2 January 2026
10 statement. Firstly, we have no idea how Billy Cloud came to his conclusion as to how
11 he came up with his determination. Was it the voter registration counts (within the
12 meaning of A.R.S. § 16-804(B))? Was it that there was a new party petition (within
13 the meaning of A.R.S. § 16-802) that was filed? Was it some other legal conclusion?
14 Was it a guess?
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22 The recorder's office has informally told members of the public that the
23 recorder's 2 January 2026 statement was only to say what political parties exceed the
24 A.R.S. § 16-804(B) two-thirds of one percent, and not whether or not they can
25 achieve ballot access.
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31 In a phone call between Plaintiff and Billy Cloud, Billy Cloud said that the
32 Libertarian Party can be on a "county ballot", but not a "primary ballot", but the
33 "county ballot" would be on the same day as the primary and only be open to
34 Libertarians, even though it should not be mistaken as a "primary ballot".
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40 Secondly, "No Labels Party" does not appear to be recognized in this 2
41 January 2026 statement, even though they exceed the statutory two-thirds of one
42 percent (see A.R.S. § 16-802(B)). If it is as simple as exceeding two-thirds of one
43 percent, as Defendant Adrian Fontes explains through counsel, then why isn't "No
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1 Labels” Party in the 2 January 2026 statement? In the Secretary of State’s 1 October
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3 2025 voter registration report², “No Labels Party” achieved 806 out of 83509 voters
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5 in Cochise County (about 0.96%), exceeding the two-thirds of one percent
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7 requirement.
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10 Thirdly, Plaintiff has done numerous public records requests to the county,
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12 and no records turn up that any new party petition has been filed with the county
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14 since 1971. The Libertarian Party was conceived on 1971³, so for judicial economy,
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16 we can assume no one could possibly have attempted to petition for new party any
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18 time before 1971 for the Libertarian Party. In addition, after requesting public records
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20 on the county, no records exist as for any policies or procedures for even
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22 documenting when new party petitions were filed, even if it did happen, for the years
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24 1971 to present time. It might initially sound ridiculous to have a policy or procedure
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26 written down for documenting if/when someone petitions for new party, but the way
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28 the law works is that continued recognition depends on the previous election cycle’s
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30 status, and that previous election cycle’s status depends on its previous election
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32 cycle’s status, and so on. If someone petitioned for new party back in 1981, it’s
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34 possible for that political party to have continued recognition for 45 years. It’s even
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36 possible for gaps in continued party recognition due to voter registration levels
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38 dropping below two-thirds of one percent (or one percent at point in legislative
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40 history), but even in those gaps, someone can petition for new party recognition or
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45 2 <https://apps.azsos.gov/election/VoterReg/2026/State-Voter-Registration-January-2026.pdf>
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47 3 [https://en.wikipedia.org/wiki/Libertarian_Party_\(United_States\)](https://en.wikipedia.org/wiki/Libertarian_Party_(United_States))
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1 run a candidate and qualify anyway. If the government doesn't keep records over
2 those 45 years, including documenting when a petition for new party is filed, or
3 documenting continued recognition, it makes it so that there is no evidence one way
4 or the other as to which political parties are recognized and which ones are not. That
5 is why it is important for there to be policies and procedures for documenting when
6 someone files a petition for new party, so that we, the people of the present, can look
7 deep into the past, and know where to find documents and know how those
8 documents would have been recorded, so that we could know for sure if anyone has
9 filed for new party petition for the last 55 years. Because there are no written records
10 have turned up of policies and procedures for documenting when someone files a new
11 party petition, we don't know which drawer or cabinet to look in to find new party
12 petition records, or which computer to look for such files on. For all we know,
13 someone petitioned for new party petition several years ago, and no one bothered to
14 document that fact, or even if they documented that fact, the government has no
15 policies or procedures in place for documenting that fact, so we don't know where to
16 look for such documentation. Again, our political party recognition laws depend on
17 literal decades of historical record keeping, and a current employee's memory of
18 things is insufficient for determining which political parties are recognized.

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40 Fourthly, Plaintiff has filed public records requests on Billy Cloud, asking for
41 all A.R.S. § 16-804(D) determinations between the years 1980 and 2026. The only
42 records he gave was for the county recorder's 2 January 2026 statement. So for the
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1 past 45 years, we have no idea which political parties have been recognized and
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3 which ones have not.
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5 The Defendants want us to be satisfied with a Motion to Dismiss, even though
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7 no member of the public, even after the Plaintiff has dug deep into this subject by
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9 suing and doing public records requests, can independently figure out which political
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11 parties are entitled to ballot access, and which ones are not, and no member of the
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13 public can figure out what Billy Cloud was thinking and the reasoning behind Billy
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15 Cloud's A.R.S. § 16-804(D) determination. We have counsel for Defendant Adrian
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17 Fontes explaining to us that simply two-thirds of one percent is required for political
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19 party recognition, we also have the same Fontes give the public a report of the "No
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21 Labels Party" achieving this threshold, but then Defendant Billy Cloud tells us⁴ that
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23 "No Labels Party" is not recognized. None of this makes sense.
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27 Nothing in Arizona's declaratory relief statute requires that the Plaintiff assert
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29 one position or the other, just like how monetary relief can be requested without
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31 pleading a specific number in the complaint. There are two positions for declaratory
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33 relief, as is relevant here: (1) the Plaintiff is a member of a party entitled to placement
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35 on the Cochise County ballot on primary election day; or (2) the Plaintiff is not a
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37 member of a party entitled to placement on the Cochise County ballot on primary
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39 election day, and therefore must run in the general election. Declaratory relief can be
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41 requested and given without the Plaintiff asserting one position or the other.
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46 4 Billy Cloud's 2 January 2026 statement does not explicitly state that the statement is made pursuant to
47 A.R.S. § 16-804(D).
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1 The Defendant Billy Cloud holds all the evidence behind Billy Cloud’s A.R.S.
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3 § 16-804(D) determination. The Defendants want us to trust that Billy Cloud’s A.R.S.
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5 § 16-804(D) determination is correct, even though (1) if his determination is based on
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7 voter registration thresholds, “No Labels Party” should be entitled to the ballot, (2) if
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9 his determination is based on new party petitions, no records exist for either
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11 submitted petitions nor policies/procedures for recording petitions for the last 55
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13 years, (3) there are zero A.R.S. § 16-804(D) determination records from any county
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15 recorder for the past 45 years beyond Billy Cloud’s 2 January 2026 statement (if it
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17 even is an A.R.S. § 16-804(D) statement), and they want us to dismiss this action.
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20 It would be inappropriate for this Court to determine that there is no
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22 controversy here, as Plaintiff’s rights are dependent on Billy Cloud’s A.R.S. § 16-
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24 804(D), and there is no evidence as to the rationale behind Billy Cloud’s 2 January
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26 2026 statement. This Court should permit discovery and render declaratory relief.
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28 Plaintiff is not required to allege whether or not he believes the Libertarian Party
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30 should be recognized or not, under Arizona declaratory judgment law.
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33 **MELISSA AVANT: DECLARATORY RELIEF**
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35 Because Defendant Billy Cloud has unofficially and informally explained to
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37 Plaintiff that a “primary ballot” will not be distributed but rather a “county ballot”
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39 that happens to be on the primary election date (which does not make sense), and his
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41 office has informally told members of the public that his 2 January 2026 statement
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43 does not determine which political parties achieve ballot access, it is equitable to
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45 issue declaratory relief against Melissa Avant as to what she is going to do, and also
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1 to issue injunctive relief against Melissa Avant, requiring her to perform acts in ways
2 that comply with the laws and facts of this matter. Billy Cloud can make
3 determinations all day long, but Melissa Avant is the one who will be making the
4 ballot styles. Plaintiff wishes to obtain equitable relief as to what Melissa Avant is
5 going to do in the future—including asking Melissa Avant in discovery whether or
6 not she will be creating ballot styles for Libertarian county political offices.
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14 **ADRIAN FONTES: INJURIES THAT HAVE ALREADY HAPPENED**

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16 The entire Motion to Dismiss on behalf of Adrian Fontes fails to state that
17 there was a period of time after Mr. Dalton-Webb made all reasonable attempts to
18 request from the Secretary of State to circulate his petition. The Secretary of State
19 wants us to think that he is not responsible for the “E-Equal” portal for candidates, and
20 that someone else is, but that violates the plain meaning of A.R.S. § 16-319 and
21 A.R.S. § 16-317. Fontes, and no one else, is responsible for the E-Equal portal. Fontes
22 focuses on the fact that, at the time of the status conference, Plaintiff and defense
23 counsel orally agreed that Plaintiff, **AT THAT TIME** of the status conference, was
24 able to circulate his petition (only as a Libertarian partisan candidate, not as a general
25 election candidate).
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38 The Defendant omitted the (upon information and belief) fact that it wasn’t
39 until after Adrian Fontes was sued that the Defendant looked into the matter and
40 some unknown time after that, the portal changed, and Mr. Dalton-Webb was able to
41 circulate his petition.
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1 The fact is, Defendant Adrian Fontes violated Mr. Dalton-Webb's right to
2 petition during those days that Fontes prohibited Mr. Dalton-Webb from petitioning
3 using E-Qual, even if he corrected the problem after being sued. Even if Fontes
4 violated Article 2 § 5 of the Arizona Constitution (and other laws) for one single day,
5 and then corrected the problem, Mr. Dalton-Webb has a cause of action against
6 Fontes for violating Dalton-Webb's rights under Article 2 § 5 of the Arizona
7 Constitution (and other laws).
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15 Plaintiff has a right to have his grievances heard in this Court for Fontes'
16 violations of various laws and for a redress of those grievances, including nominal
17 damages (\$1), other monetary relief, declaratory relief, injunctive relief, or any other
18 relief that would say that Adrian Fontes violated Article 2 § 5 of the Arizona
19 Constitution (and other laws) for the period of time that he did, even if, arguendo, he
20 corrected the problems. Article 2 § 1 of the Arizona Constitution states "A frequent
21 recurrence to fundamental principles is essential to the security of individual rights
22 and the perpetuity of free government.". Article 2 § 32 makes all provisions of the
23 Arizona Constitution mandatory, including Article 2 § 1. This Court has a
24 constitutional obligation to allow Plaintiff to bring Defendant Adrian Fontes back to
25 the fundamental principles of the Arizona Constitution, including citizens
26 complaining about elected officials (such as Dalton-Webb and Fontes) in court, even
27 if that means simply issuing equitable relief.
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44 Plaintiff hereby raises zero federal claims and zero federal questions before
45 this Superior Court.
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CONCLUSION

Firstly, there are still claims against Defendant Billy Cloud for monetary relief under public records law, pursuant to A.R.S. § 39-121.02, as this lawsuit was a catalyst for production of public records, and therefore, Plaintiff has “substantially prevailed” as A.R.S. § 39-121.02 prescribes. Secondly, declaratory relief against what vaguely (but not explicitly stated that it is made pursuant to A.R.S. § 16-804(D)) appears to be Billy Clouds’ A.R.S. § 16-804(D) determination is still proper, as the Defendant holds all relevant evidence and a Rule 12(b)(6) dismissal is only appropriate when there is no plausibility to a Plaintiff’s claims. Defendant Billy Cloud gives no justification as to how he came to his conclusion that the Republican, Democrat, and Libertarian (and not No Labels) parties have ballot access. Thirdly, this Court should award monetary relief against Melissa Avant to Plaintiff for waiting until being sued before complying with Article 2 § 13 and Article 2 § 21 of the Arizona Constitution. Fourthly, equitable relief claims still exist against Melissa Avant, as there is question as to what ballot styles she is going to create in the future, and those questions rely on the question as to whether or not the Libertarian Party is recognized in Cochise County. Fifthly, there is still injunctive relief that could be sought against Adrian Fontes for still not permitting general election candidates from circulating their petitions. Sixthly, monetary/equitable relief is proper against Adrian Fontes for violating Plaintiff’s rights under Article 2 § 5, inter alia (for injuries that he has already inflicted upon Plaintiff, even if Fontes has corrected the problem).

REQUEST

1 Plaintiff hereby respectfully requests that this Court not dismiss this action,
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3 and to deny the motion to dismiss, and allow this action to proceed. This Court is
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5 required to assume the truth of all plead facts and reasonable inferences favorable to
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7 the Plaintiff for dismissal purposes. The Defendants have not presented facts to the
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9 standard of making all claims against parties non-plausible for the relief requested.
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11 This Court has subject matter jurisdiction to issue equitable relief against Defendants.
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18 **A COPY OF THIS WILL BE SENT TO:**

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35 Submitted respectfully this day, 28 February 2026,
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39 /s/Eli DaltonWebb
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41 Eli Dalton-Webb, *Plaintiff*
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