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9 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**  
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 KARI LAKE FOR ARIZONA, an Arizona political  
12 committee,

13 Plaintiff,

14 v.

15 STEPHEN RICHER, in his official capacity as the  
16 Maricopa County Recorder; REY VALENZUELA,  
17 in his official capacity as the Maricopa County  
18 Director of Elections for Election Services and  
19 Early Voting; SCOTT JARRETT, in his official  
20 capacity as the Maricopa County Director of  
21 Elections for Election Day and Emergency Voting;  
22 BILL GATES, CLINT HICKMAN, JACK  
23 SELLERS, THOMAS GALVIN, AND STEVE  
24 GALLARDO, in their official capacities as  
25 members of the Maricopa County Board of  
26 Supervisors; and MARICOPA COUNTY;

27 Defendants.

No. \_\_\_\_\_

**VERIFIED SPECIAL ACTION  
COMPLAINT**

**(Show Cause Hearing Requested)**

1 Plaintiff Kari Lake for Arizona brings this special action to compel the prompt  
2 production of public records<sup>1</sup> pursuant to the Arizona Public Records Act, A.R.S. § 39-121,  
3 *et seq.* (“PRA”).

4 Plaintiff desires that every lawful vote be properly counted and every voter who was  
5 eligible to vote be allowed to vote. Unfortunately, due to Defendants’ failures, many eligible  
6 voters may not have been able to vote. Because Defendants were unable or unwilling to  
7 conduct a reconciliation of voter check ins against ballots cast of each polling center on  
8 election night in accordance with Arizona law and have now unlawfully refused to produce  
9 public records in response to two public records requests regarding how they administered  
10 the election, Plaintiff cannot determine that every lawful vote will be properly counted. The  
11 records Plaintiff requested in response to the numerous issues with Defendants’  
12 administration of the election are consistent with a parallel demand by the Arizona Attorney  
13 General for answers to questions about the Defendants’ actions.

14 Plaintiff hereby alleges as follows:

15 **SUMMARY OF THE CASE**

16 1. The courts of this state have “the duty of insuring that the constitutional and  
17 statutory provisions protecting the electoral process (*i.e.*, the manner in which an election  
18 is held) are not violated.” *Tilson v. Mofford*, 153 Ariz. 468, 470 (1987).

19 2. Following a series of failures in Defendants’ administration of the election,  
20 Plaintiff, through Kari Lake’s attorney of record, has requested from the Defendants the  
21 production of public records relating to the general election that took place on November 8,  
22 2022. *See* Exhibit 1 & 2. Given instances of misprinted ballots, the commingling of counted  
23 and uncounted ballots, and long lines discouraging people from voting, as demonstrated in  
24 the attached declarations, these records are necessary for Plaintiff to determine the full  
25 extent of the problems identified and their impacts on electors.

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<sup>1</sup> As the definitions of “records” and “other matters” have essentially merged, the term records, as  
used in this action, should be construed as encompassing other matters.

1           3.       Because the law allows the public and the plaintiff only a short period of time  
2 in the context of an election to seek relief from the courts for violations of their rights, the  
3 Defendants' unlawful failure to produce the records of their actions promptly has prejudiced  
4 Plaintiff and is preventing the courts from performing their duty. Therefore, this court  
5 should require that the Defendants produce the requested records prior to the canvassing of  
6 the election.

7           4.       If the Defendants do not produce the records prior to the canvassing of the  
8 election, then they will have not acted promptly as required by the Arizona Public Records  
9 Act, which provides that "access to a public record is deemed denied if a custodian fails to  
10 **promptly** respond to a request for production of a public record." A.R.S. § 39-121.01(E)  
11 (emphasis added). As explained below, the meaning of "promptly" is determined under the  
12 circumstances. In this case, "promptly" must mean sufficiently in advance of the canvassing  
13 to permit Plaintiff and the court to quickly determine the full extent of the problems  
14 identified and their impacts on electors due to the numerous documented failures in the  
15 Defendants' administration of the election.

16           5.       Plaintiff lacks an equally plain, speedy and adequate remedy at law, and  
17 special action relief is necessary to ensure that the Defendants discharge the  
18 nondiscretionary duties imposed upon them by Arizona law.

### **JURISDICTION**

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20           6.       This Court has jurisdiction over this action pursuant to Article 6, § 14 of the  
21 Arizona Constitution, A.R.S. §§ 12-2021, 39-121.02, and Arizona Rule of Special Action  
22 Procedure 4.

23           7.       Venue lies in Maricopa County pursuant to Arizona Rule of Special Action  
24 Procedure 4(b) and pursuant to A.R.S. § 12-401(16) because the Defendants hold office in  
25 that county.

**PARTIES**

1  
2           8.       Plaintiff Kari Lake for Arizona is an Arizona political committee that is  
3 registered with the Arizona Secretary of State. Kari Lake for Arizona is the authorized  
4 campaign committee of Kari Lake, a candidate for Governor of Arizona in the November  
5 8, 2022 general election.

6           9.       Defendant Stephen Richer is the Recorder of Maricopa County and is named  
7 in this action in his official capacity only. Defendant Richer is the officer in charge of  
8 elections in Maricopa County. The County Recorder is an “officer” within the meaning of  
9 A.R.S. § 39-121.01(A)(1). Upon information and belief, the County Recorder has custody,  
10 and is responsible for the preservation, maintenance and care, of some or all the public  
11 records requested by Plaintiff.

12           10.      Defendant Rey Valenzuela is the Director of Elections for Election Services  
13 and Early Voting in Maricopa County, and is named in this action in his official capacity  
14 only. Director Valenzuela is an “officer” within the meaning of A.R.S. § 39-121.01(A)(1).  
15 Upon information and belief, Director Valenzuela has custody, and is responsible for the  
16 preservation, maintenance and care, of some or all the public records requested by Plaintiff.

17           11.      Defendant Scott Jarrett is the Director of Elections for Election Day and  
18 Emergency Voting in Maricopa County, and is named in this action in his official capacity  
19 only. Director Jarrett is an “officer” within the meaning of A.R.S. § 39-121.01(A)(1). Upon  
20 information and belief, Director Jarrett has custody, and is responsible for the preservation,  
21 maintenance and care, of some or all the public records requested by Plaintiff.

22           12.      Maricopa County is a political subdivision of the State of Arizona. Maricopa  
23 County is charged by law with various duties under the PRA and charge by law with  
24 conducting elections within its jurisdictional boundaries, including through its Board of  
25 Supervisors, appointing inspectors, marshals and judges to staff polling places on Election  
26 Day, and appointing certain Central Counting Boards. *See* A.R.S. §§ 11-251(3), 16-531;  
27 EPM at pp. 196–212. The Maricopa County Board of Supervisors is a “public body” within  
28 the meaning of A.R.S. § 39-121.01(A)(2). The Maricopa County Board of Supervisors has

1 custody, and is responsible for the preservation, maintenance and care, of some or all the  
2 public records requested by Plaintiff, and its members are likewise sued here in their official  
3 capacities.

4 **GENERAL ALLEGATIONS**  
5 **The Printer/Tabulator Problem**

6 13. Maricopa County had 223 polling centers open on Election Day.

7 14. Of these 223 polling centers, upon information and belief, at least 118 polling  
8 centers, or 53%, had experienced problems when the County's ballot printers produced ballots that  
9 were not printed darkly enough for the County's vote tabulation machines to read the ballots. (See  
10 Decl. Sonnenklar Ex. e, ¶ 13; Decl. Patrick Ex. 4, ¶ 8-9).

11 15. The Defendants failed to detect, prevent or timely remedy this problem during setup  
12 and testing of their polling stations. Although poll workers tested the printers, according to  
13 observers they did not test whether the tabulators could read the test print. (See Decl. Alford Ex. 5,  
14 ¶ 5).

15 16. Based upon information and belief, the following polling centers appear to have had  
16 a printer/tabulator problem:

- 17 a. Buckeye City Hall
- 18 b. Altrain Medical and Dental Assisting Academy
- 19 c. Biltmore Fashion Park
- 20 d. Buckeye Fire Station 704
- 21 e. Carefree Town Council Center
- 22 f. Cave Creek Town Hall
- 23 g. Dayspring United Methodist Church
- 24 h. Deer Valley Unified School District Office
- 25 i. Envision Community Center
- 26 j. Estrella Mountain Community College
- 27 k. Fountain Hills Community Center

- 1 l. Glendale Community College/Student Union
- 2 m. Mountain Park Health Center
- 3 n. Outlets at Anthem
- 4 o. Radiant Church Sun City
- 5 p. San Tan Village
- 6 q. Shadow Rock Congregational Church
- 7 r. Union Elementary School/District Office
- 8 s. Wickenburg Community Center
- 9 t. Youngtown Clubhouse
- 10 u. Asante Library
- 11 v. Black Mountain Baptist Church
- 12 w. Burton Barr Library
- 13 x. Camelback Christian Church
- 14 y. Chandler Bible Church
- 15 z. Church of Jesus Christ of LDS/Mesa Maricopa Stake
- 16 aa. Compass Church
- 17 bb. Copper Hills Church/Westwing
- 18 cc. Desert Christian Fellowship
- 19 dd. Eldorado Park Community Center
- 20 ee. Estrella Mtn School/Goodyear
- 21 ff. First United Methodist Church of Gilbert
- 22 gg. GCC North Chinle Bldg
- 23 hh. Glendale Christian Church
- 24 ii. Grace in the Desert Adventist Church
- 25 jj. Happy Trails Resort
- 26 kk. Islamic Center of the East Valley
- 27 ll. Laveen Elementary School District Office
- 28 mm. Lifeway Church

- 1 nn. Light and Life Church
- 2 oo. Litchfield Park First Baptist Ch
- 3 pp. Love of Christ Lutheran Chr
- 4 qq. Marley Park
- 5 rr. Memorial Presbyterian Church
- 6 ss. Mesa Baptist Church
- 7 tt. Mesquite Groves Aquatic Center
- 8 uu. North Phoenix Baptist Church PV Campus
- 9 vv. North Scottsdale United Methodist Church
- 10 ww. Nozomi Aquatic Center
- 11 xx. Oasis Community Church
- 12 yy. Salt River Pima Community Center
- 13 zz. Scottsdale Elks Lodge PBOE #2148
- 14 aaa. Shepherd of the Hills United Church of Christ
- 15 bbb. Sheriffs Posse of Sun City West
- 16 ccc. St. Margaret's Catholic Church
- 17 ddd. Standing Stones Community Church
- 18 eee. Tumbleweed Recreation Center
- 19 fff. Velda Rose United Methodist Church
- 20 ggg. Victory Lutheran Church
- 21 hhh. Worship & Word Church
- 22 iii. Academies at South Mountain
- 23 jjj. Aire Libre School
- 24 kkk. Ascension Lutheran Church
- 25 ll. Cactus High School
- 26 mmm. Calvary Free Lutheran Ch
- 27 nnn. Central Christian Church/Mesa
- 28 ooo. Chandler Nature Center

1 ppp. Charles W Harris School  
2 qqq. Church of Jesus Christ of LDS Buckeye  
3 rrr. Church of Jesus Christ of LDS Jomax  
4 sss. Church of Jesus Christ of LDS Southern  
5 ttt. Church of Jesus Christ of LDS Union Hills  
6 uuu. Community of Christ  
7 vvv. Community of Christ Church  
8 www. Cooper Canyon School  
9 xxx. Cottonwood Country Club  
10 yyy. David Crockett School  
11 zzz. Deer Valley Airport  
12 aaaa. Desert Hills Community Church  
13 bbbb. Dist 6 Community Service Center  
14 cccc. Dove of the Desert Untd Methodist Chr  
15 dddd. Dream City Church Phoenix Campus  
16 eeee. Dream City Church Scottsdale Campus  
17 ffff. Escalante Community Center/Tempe  
18 gggg. Estrella Foothills High School #201  
19 hhhh. Faith Baptist Church  
20 iii. Gateway Fellowship Chr/Sbc  
21 jjjj. Gilbert Freestone Frec Center  
22 kkkk. Holiday Park School  
23 llll. Holy Trinity Greek Orthodox Cathedral  
24 mmmm. Islamic Center – Scottsdale  
25 nnnn. Journey Church  
26 oooo. Lakes Rec Ctr @ Westbrook Village  
27 pppp. Laveen Baptist Church  
28 qqqq. Madison Baptist Church



- 1 rrrr. Messinger Mortuary
- 2 ssss. Mountain View Park Comm Ctr
- 3 tttt. Mountain View School
- 4 uuuu. Palm Lane School
- 5 vvvv. Peace Lutheran Church
- 6 wwww. Queen Creek Library
- 7 xxxx. SE Regional Library/Gilbert
- 8 yyyy. Sevilla Elementary School
- 9 zzzz. Shadow Mountain High School
- 10 aaaaa. Skyway Church – West Valley
- 11 bbbbb. St. Nikolas Serbian Orthodox Church
- 12 ccccc. Sun lakes United Methodist Church
- 13 ddddd. Sunland Village East
- 14 eeeee. Tomahawk School
- 15 fffff. Trilogy @ Power Ranch
- 16 ggggg. Trinity Bible Church of Sun City West
- 17 hhhhh. University Presbyterian Church
- 18 iiiii. Valley Baptist Chr/Tonopah
- 19 jjjjj. Valor Christian Center
- 20 kkkkk. Venue 8600
- 21 lllll. Via Linda (Scottsdale) Senior Center
- 22 mmmmm. Vineyard Church of North Phoenix
- 23 nnnnn. Youngker High School #201

24 17. Because of the printer/tabulator problems, the polling locations were chaotic, voters  
 25 were frustrated, and voters had to endure long lines. (See Decl. Sonnenklar Ex. 3, ¶ 8; Decl. Marple  
 26 Ex. 6, ¶ 7; Decl. Prince Ex. 7, ¶ 6-7; Decl. O’Toole Ex. 8, ¶ 6-7; Decl. Buser Ex. 9, ¶ 9; Decl.  
 27 Lasham Ex. 10, ¶ 7; Decl. Tatom Ex. 11, ¶ 6; Decl. Liles Ex. 12, ¶ 7; Decl. Rathbun Ex. 13, ¶ 7;  
 28 Decl. Woodburn Ex. 14, ¶ 7; Decl. Raboin Ex. \*15, ¶ 5; Decl. Mettler Ex. 16, ¶ 5; and Decl. Payne

1 Ex. 17, ¶ 110. The County regularly updates on Election Day, its online listing of polling places,  
2 including wait times. Those public records would provide additional information with regard to  
3 the lines and wait times.

4 18. Many poll workers attempted to call the County hotline but were unable to timely  
5 reach a tech person to fix the printer/tabulators. (See Decl. Sonnenklar Ex. 3, ¶ 27; Decl. Alford  
6 Ex. 5, ¶ 10; Decl. Liles Ex. 12, ¶ 7; and Decl. Payne Ex. 17, ¶ 8).

7 19. Even when technical support was reached, poll workers were told that they did not  
8 know how to fix the problem. (See Decl. Woodburn Ex. 14, ¶ 7).

9 20. Some poll workers ended up encouraging voters to go to different polling centers to  
10 vote. (See Decl. Lasham Ex. 10, ¶ 7; and Decl. Damon Ex. 18, ¶ 17).

11 21. Many voters left without voting. (See Decl. Lasham Ex. 10, ¶ 7; Decl. Liles Ex. 12,  
12 ¶ 7; Decl. Mettler Ex. 16, ¶ 9; Decl. Payne Ex. 17, ¶ 11; and Decl. Weiman Ex. 19, ¶ 10).

13 22. When a tabulator was unable to read a ballot, the voter was given the option to spoil  
14 the ballot and vote again or they could put the ballot in “door #3.” (See Decl. Rathbun Ex. 13, ¶ 7;  
15 Decl. Woodburn Ex. 14, ¶ 7; and Decl. Lindberg Ex. 20, ¶ 7).

16 23. Based upon information and belief, “door #3” was the bin that voters could place  
17 their ballots into and these ballots would be tabulated at Maricopa County Tabulation and Election  
18 Center (“MCTEC”).

19 24. Things were so chaotic that poll workers were unable to watch the voters feed their  
20 ballots through the tabulator. (See Decl. Liles Ex. 12, ¶ 7). Poll workers were pulled in so many  
21 different directions that one poll worker did not have the time to mark “spoiled” on original ballots.  
22 (See Decl. Sonnenklar Ex. 3, ¶ 17).

23 25. As a result of the printer/tabulator problem, many voters were in fear of their vote  
24 not being counted. (See Decl. Liles Ex. 12, ¶ 7).

25 26. This problem with the printer/tabulator never needed to occur because as early as  
26 November 2, 2022, a manager at MCTEC discovered that some of the printers were printing faded  
27 timing marks and the tabulators were not able to read those ballots. (See Decl. Patrick Ex. 4, ¶ 8-  
28 9).

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1 **Problems with Ensuring Every Legal Ballot is Counted**

2 27. Many poll observers saw poll workers mix counted and uncounted ballots in the  
3 same container at the end of the night. (See Decl. Mettler Ex. 16, ¶ 10; Decl. Lindberg Ex. 20, ¶ 7;  
4 and Decl. Blankenship Ex. 21, ¶ 8).

5 28. According to the 2019 Elections Procedures Manual which governs this election,  
6 “the election board must conduct an audit to ensure that the number of voters who signed in on the  
7 signature roster or e-pollbook matches the number of ballots cast, including regular and provisional  
8 ballots and, if the accessible voting equipment independently tabulates votes, any votes cast on the  
9 accessible voting equipment, A.R.S. § 16-602(A)”. (Relevant Pages are attached as Exhibit 22, p.  
10 192).

11 29. However, when asked on Election Night, many poll workers were unable to provide  
12 the observers with the number of voters who signed in on the signature roster or e-pollbook and  
13 therefore could not determine if those numbers matched the numbers of ballots cast. (See Decl.  
14 Marple Ex. 6, ¶ 7; Decl. Prince Ex. 7, ¶ 9; Decl. O’Toole Ex. 8, ¶ 8; Decl. Buser Ex. 9, ¶ 7; Decl.  
15 Woodburn Ex. 14, ¶ 7; Decl. Mettler Ex. 16, ¶ 11; and Decl. Blankenship Ex. 21, ¶ 9).

16 30. The canvass shall occur no “more than twenty days following the election,” *unless*  
17 “the returns from any polling place in the election district where the polls were opened and an  
18 election held are found to be missing.” A.R.S. § 16-642(A). In that case, “the canvass shall be  
19 postponed from day to day until all the returns are received or until six postponements have been  
20 had.” A.R.S. § 16-642(C).

21 31. In addition, there are numerous reports of voters who left the voting center without  
22 voting because the tabulators continued to reject the voters’ ballots. (*Id.* ¶ 22). The returns for those  
23 voters are deemed “missing.”

24 32. Defendants violated A.R.S. § 16-602(A) and Defendants have further compounded  
25 this problem by refusing to respond to Plaintiff’s Public Records Request (*see infra*).

26 33. In addition, based upon information and belief, Palm Ridge Recreational Center had  
27 over two bags of ballots that had been dropped off in Door #3 after the tabulators failed to count  
28

1 their ballots. However, the County claims that there were only eighteen Door #3 ballots attributable  
2 to this polling center.

3 34. Furthermore, based upon information and belief, Plaintiff has been informed that  
4 certain ballots are not being counted at MCTEC because the blue ink used by the voter to mark  
5 their preference was too light for the tabulators.

### 6 **Public Records Requests**

7 35. The first request was submitted on November 15, 2022 (the “First Records  
8 Request”) for the following public records:

- 9 a. “All public records related to voters who checked in to a vote center on  
10 Election Day in the sitebook, and who also submitted a mail ballot on  
11 Election Day, where the mail ballot was not counted, including names  
12 and all available contact information for these electors.”
- 13 b. “All public records related to voters casting drop-offs ballots that were  
14 rejected due to voter submitting another ballot that day including names  
15 and all available contact information for these electors.”
- 16 c. “All public records related to the number of voters who tried to check in  
17 at two different voting centers on Election Day and were (a) permitted to  
18 cast a provisional ballot at the second site or (b) did not cast a ballot at  
19 the second site.”
- 20 d. “All public records related to the adjudication rates by legislative district,  
21 because the write-in candidates for legislative district 22, Arizona  
22 Senate.”
- 23 e. “All public records related to the total number and names of any voter  
24 who checked into a vote center that had any print malfunction of an on  
25 demand printer such that ballots were placed into door 3.”
- 26 f. “All public records to the total number of ballots in every category in any  
27 vote center that had any print malfunction of an on demand printer such  
28 that ballots were placed in door 3.”

- 1 g. “All public records regarding the number of voided, spoiled, cancelled,  
2 or uncounted for any other reason from early ballots dropped off on  
3 Election Day.”
- 4 h. “All public records regarding the total number of ballots including serial  
5 number of any ballot that was duplicated in order to be tabulated as a  
6 result of any print malfunction of an on demand printer such that the  
7 ballots were placed into door 3.”
- 8 i. “All public records regarding the vote centers in which door 3 overflowed  
9 on Election Day causing any poll workers to utilize a means of  
10 transportation and/or storage of these ballots.”
- 11 j. “All public records regarding any commingled ballot.”
- 12 k. “All public records regarding all regarding UOCAVA ballots and  
13 verification processes for confirming these requests.”

14 36. A true and correct copy of the First Records Request is attached hereto as  
15 Exhibit 1.

16 37. The Defendants have not yet provided to Plaintiff the public records in  
17 response to the First Records Request.

18 38. On November 16, 2022, Plaintiff submitted to the Defendants another public  
19 records request (the “Second Records Request”) that sought the following additional public  
20 records:

- 21 a. “All communications prior to Election Day between or among County  
22 employees, agents and vendors with regard to problems with tabulation  
23 or printing of ballots at vote centers.”
- 24 b. “All public records related to retabulation of votes cast in person at vote  
25 centers due to commingling and/or reconciliation issues.”

26 (collectively, the “Requested Records”).

27 39. A true and correct copy of the Second Records Request is attached hereto as  
28 Exhibit 2.







1           56. The officer or public body from whom public records are requested has the  
2 burden of proving that the response was “prompt given the circumstances surrounding each  
3 request.” *Phoenix New Times*, 217 Ariz. at 538–39, ¶ 15.

4           57. Undue delay in the fulfillment of a public records request constitutes a denial  
5 of access to the requested records. *See Phoenix New Times*, 217 Ariz. at 547, ¶ 51.

6           58. A person who has been denied access to requested public records “may appeal  
7 the denial through a special action in the superior court.” A.R.S. § 39-121.02(A).

8           59. A court in a special action proceeding may compel a public officer “to  
9 perform a duty required by law as to which he has no discretion.” Ariz. R. Proc. Special  
10 Actions (“RPSA”) 3(a); *see also* A.R.S. § 12-2021.

11           60. All the documents sought by the First Records Request and the Second  
12 Records Request are “public records” subject to mandatory and prompt disclosure under  
13 the PRA because they have a “substantial nexus” to the Defendants’ official duties and  
14 activities in connection with the conduct and administration of elections in Maricopa  
15 County. *See Griffis v. Pinal County*, 215 Ariz. 1, 4, ¶ 10 (2007).

16           61. Upon information and belief, there are public records in the Defendants’  
17 custody that are responsive to the First Records Request and/or the Second Records  
18 Request.

19           62. The Defendants have a nondiscretionary statutory duty to promptly produce  
20 or make available to Plaintiff all public records sought in the First Records Request and the  
21 Second Records Request.

22           63. The Defendants have not produced or made available to Plaintiff the public  
23 records in response to either the First Records Request or the Second Records Request.

24           64. The Defendants’ failure to promptly produce the requested documents  
25 constitutes an effective denial of access to public records and prevents Plaintiff from  
26 monitoring, and challenging, election activity in the most populous county of the state.

27           65. Plaintiff is accordingly entitled to a writ of mandamus or other relief  
28 compelling the prompt production of the requested public records.

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**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff demands relief in the following forms:

- a. A writ of mandamus or other order requiring the Defendants to immediately produce or make available to Plaintiff all public records requested in the First Records Request and/or the Second Records Request.
- b. Such other relief as the Court deems necessary, equitable, proper, and just.

DATED this 23<sup>rd</sup> day of November 2022.

By: /s/ Timothy A. La Sota  
Timothy A. La Sota, SBN 020539  
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**Verification**

I, Caroline Wren, depose and say:

I have read the foregoing Verified Special Action Complaint and know the contents thereof by personal knowledge. I know the allegations of the Verified Special Action Complaint to be true, except the matters therein on information and belief, which I believe to be true.

Signed under penalty of perjury on this 23<sup>rd</sup> day of November 2022.

*Caroline Wren*

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Caroline Wren