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13 **pro hac vice forthcoming*

14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF ARIZONA**

16 TGP Communications, LLC, d/b/a The
17 Gateway Pundit, a Missouri limited liability
18 company; and Jordan Conradson, an
individual,

19 Plaintiffs,

20 v.

21 Jack Sellers, Thomas Galvin, Bill Gates,
22 Clint Hickman, and Steve Gallardo, in their
23 respective official capacities as members of
the Maricopa County Board of Supervisors;
24 Stephen Richer, in his official capacity as
the Maricopa County Recorder; Rey
25 Valenzuela and Scott Jarrett, in their official

Case No. _____

COMPLAINT

1 capacities as Maricopa County Election
2 Directors; and Megan Gilbertson and
3 Marcus Milam, in their official capacities as
4 Maricopa County Communications
5 Officers,

6 Defendants.

7 **COMPLAINT**

8 TGP Communications, LLC, d/b/a The Gateway Pundit (“TGP”) and Jordan
9 Conradson (“Conradson”) (together, “Plaintiffs”) bring the following Complaint against
10 Defendants Jack Sellers, Thomas Galvin, Bill Gates, Clint Hickman, and Steve Gallardo,
11 in their respective official capacities as members of the Maricopa County Board of
12 Supervisors; Stephen Richer, in his official capacity as the Maricopa County Recorder;
13 Rey Valenzuela and Scott Jarrett, in their official capacities as Maricopa County Election
14 Directors; and Megan Gilbertson and Marcus Milam, in their official capacities as
15 Maricopa County Communications Officers (“Defendants”) and, in support of this
16 Complaint, aver as follows:

17 **INTRODUCTION**

- 18 1. This is a case about the Freedom of the Press.
- 19 2. The Defendants have violated that freedom, to not only the Plaintiffs’
20 detriment but to the detriment of the entire marketplace of ideas.
- 21 3. Central to the people’s power in our democracy is the right to vote in free
22 and fair elections. An integral part of that right is the duty of the press to inspect election
23 processes to ensure that they are free and fair, and to call out corruption of the electoral
24 process wherever it may be found. Or the opposite, to show the public that the process is
25 fair, clean, and un-corrupt, thus fostering trust in our system.

1 4. This duty of the press can only be accomplished through the eyes of a reporter
2 on the ground; it is not sufficient for a news agency to rely on the reporting of others who
3 are so sufficiently gelded that the government approves of them. That is not how the
4 freedom of the press works.

5 5. If it were so, then the government would be able to select its preferred press
6 outlets, leaving any who may challenge the government to simply pick up the crumbs from
7 the table of the government-sponsored press.

8 6. That is what the government is doing, in Arizona, right now.

9 7. Plaintiff TGP is a news publication that conducts investigative journalism in
10 pursuit of an open government. Conradson is a reporter affiliated with TGP.

11 8. Maricopa County Elections Department requires a press pass to attend press
12 conferences and, as of November 10, 2022, apparently to even investigate or report on the
13 election process in Maricopa County, Arizona.

14 9. Conradson and TGP requested a press pass, despite the constitutionally
15 repugnant and facially invalid requirements and standards (or lack thereof) to receive one.

16 10. In violation of TGP and Conradson’s First Amendment rights, Defendants
17 unlawfully denied their application for a press pass, stating that Conradson was “not a bona
18 fide correspondent of repute in [his] profession.” And the Defendants further determined
19 in a “star chamber” process that TGP did not meet its standards for unbiased journalism.

20 11. The government does not get to pick and choose who is an approved
21 journalist and who is not, at least not on the basis of the content of the journalist’s reporting
22 or their viewpoint.

23 12. As a result of Defendants’ unlawful actions, Plaintiffs have been deprived of
24 their ability to investigate and report on the Arizona election process.

25

PARTIES

13. Plaintiff TGP Communications, LLC, d/b/a The Gateway Pundit is a Missouri limited liability company.

14. Plaintiff Jordan Conradson is a political reporter based in Arizona.

15. Defendants Jack Sellers, Thomas Galvin, Bill Gates, Clint Hickman, and Steve Gallardo comprise the Maricopa County Board of Supervisors, and are named in this action in their respective official capacities only. The Board of Supervisors is charged by law with conducting elections within its jurisdictional boundaries.

16. Defendant Stephen Richer is Recorder of Maricopa County, and is named in this action in his official capacity only. The County Recorder is the principal elections officer of Maricopa County and is responsible for overseeing and directing numerous components of election administration within this jurisdiction.

17. Defendants Rey Valenzuela and Scott Jarrett are the Election Directors of Maricopa County, and are named in this action in their respective official capacities only. The Maricopa County Election Directors are responsible for overseeing and directing numerous components of election administration within this jurisdiction.

18. Defendants Megan Gilbertson and Marcus Milam are two Maricopa Communications Officers, and are named in this action in their respective official capacities. The Maricopa Communications Officers are responsible for maintaining contact between Maricopa County and the press, and, upon information and belief, oversee approval of press credentials.

JURISDICTION AND VENUE

19. This Court has original subject matter jurisdiction over the federal Constitutional violations alleged in this Complaint pursuant to the provisions of 42

1 U.S.C. § 1983 and 28 U.S.C. § 1331 & 1343. This Court has jurisdiction to issue injunctive
2 and declaratory relief pursuant to 28 U.S.C. § 2201 and 42 U.S.C. § 1983.

3 20. Venue is proper in the District of Arizona pursuant to 28 U.S.C. § 1391. All
4 Defendants reside in Arizona, and all actions pertinent to this complaint occurred in
5 Maricopa County, Arizona.

6 **GENERAL ALLEGATIONS**

7 21. This year’s election will control the outcome not only of individual races
8 across the country, but will also control the balance of power between the two major
9 political parties in the United States Congress.

10 22. Currently, Government officials in Maricopa County, Arizona are continuing
11 to count ballots which have been lodged by the people of Arizona.

12 23. The current election in Maricopa County has been fraught with
13 complications and issues, which may affect the impending results of this election.

14 24. Reasonable minds can disagree as to whether Maricopa County handled its
15 election duties competently, but there is no doubt that how they handled it, and how they
16 continue to handle it, is a matter of public concern and public debate.

17 25. Accordingly, it is of great interest to the press to view and inspect the
18 processes of the Maricopa County elections in order identify any issues with the election
19 process or assure the public that the election has been free and fair.

20 26. TGP is a news publication consisting of news, commentary, punditry, and
21 analysis. As many Americans continue to lose trust in the purportedly unbiased nature of
22 older “institutional” newspapers and networks, TGP highlights that it is addressing this gap
23 as a trusted news source for the stories and views that are largely untold or ignored by
24 traditional news outlets. One of its core values is that it “must have courage in order expose
25

1 the truth about powerful interests that may be angered by our coverage.” Part of TGP’s
2 mission is conducting investigative journalism in pursuit of an open government.

3 27. Maricopa County has established a special procedure for members of the
4 press to participate in election coverage within its jurisdiction. Maricopa County’s website
5 states that: “Maricopa County will require an official Press Pass for members of the press
6 to enter its facilities and/or cover events related to the 2022 General Election.” See
7 **Exhibit 1**, Maricopa County 2022 Elections Press Pass.¹

8 28. The Maricopa County website further states that members of the press will
9 be evaluated based upon the following criteria:

- 10 a. Is the person requesting press credentials employed by or affiliated
11 with an organization whose principal business is news
12 dissemination?
- 13 b. Does the parent news organization meet the following criteria?
 - 14 i. It has published news continuously for at least 18 months, and;
 - 15 ii. It has a periodical publication component or an established
16 television or radio presence.
- 17 c. Is the petitioner a paid or full-time correspondent, or if not, is
18 acting on behalf of a student-run news organization affiliated with
19 an Arizona high school, university, or college?
- 20 d. Is the petitioner or its employing organization engaged in any
21 lobbying, paid advocacy, advertising, publicity, or promotion
22 work for any individual, political party, corporation, or
23 organization?
- 24 e. Is the petitioner a bona fide correspondent of repute in their
25 profession, and do they and their employing organization exhibit
the following characteristics?
 - i. Both avoid real or perceived conflicts of interest;
 - ii. Both are free of associations that would compromise
journalistic integrity or damage credibility;

¹ Available at: <<https://www.maricopa.gov/5856/Maricopa-County-2022-Elections-Press-Pas>> (last accessed Nov. 11, 2022).

- 1 iii. Both decline compensation, favors, special treatment,
2 secondary employment, or political involvement where doing
3 so would compromise journalistic integrity; and
- 4 iv. Both resist pressures from advertisers, donors, or any other
5 special interests to influence coverage.

6 This list is not exhaustive. The time, manner, and place limitations or
7 needs of any one event may require consideration of additional
8 factors.

9 *See Exhibit 1.*

10 29. The Maricopa County Elections website includes a link through which
11 reporters can apply for registration and access to a press pass. *See Exhibit 2*, County Press
12 Page Registration form. The application requests the name and contact information for the
13 reporter, the news organization the reporter works for, contact information for the
14 reporter's supervisor, and links to examples of the reporter's work. *See id.*

15 30. On or about September 27, 2022, TGP and its reporter Conradson applied for
16 press credentials to view the vote tabulation process in Maricopa County and to participate
17 in press conferences given by its officials. *See Exhibit 3*, Completed Registration Form.

18 31. On or about September 30, 2022, TPG and Conrad received a notice from
19 the Maricopa County Elections Department denying their request for press credentials. The
20 denial email specifically stated:

21 Thank you for applying for a Maricopa County Press Pass. This email is to
22 notify you that you have been denied a press credential based on the
23 following criteria which is listed on Maricopa.gov:

- 24 • #4[sic]: You (a) do not avoid real or perceived conflicts of interest and
25 (b) are not free of associations that would compromise journalistic
 integrity or damage credibility. Therefore, you are not a bona fide
 correspondent of repute in your profession.

See Exhibit 4, Denial and Appeal Email.

1 32. Plaintiffs continued to report on the matters of public concern in Maricopa
2 County, but they simultaneously attempted to convince Maricopa to change its mind. Its
3 letter demanding a change was ignored.

4 33. On November 10, 2022, Maricopa county however took this rejection even
5 further, not even allowing the Plaintiffs to remain on the curtilage of the Maricopa County
6 Elections Office, and ejected them completely from the property, not even allowing them
7 to be outside the gate to cover the events inside in any manner at all, and upon being ejected,
8 the government used a drone to follow them to further intimidate them from continuing to
9 make any meaningful effort at newsgathering.

10 34. Other members of the press who apparently worked for media outlets that
11 were deemed sufficiently compliant with the government were allowed to attend and
12 remain within the cordon set up around the Maricopa County building.

13 35. Accordingly, TGP and Conradson were unable to participate in that press
14 conference and future press conferences, and they were unable to view the ballot-counting
15 process which is essential to their reporting – not even from afar.

16 36. On November 10, 2022, TGP and Conradson transmitted a written appeal
17 email to Defendants. *See Exhibit 4*, Denial and Appeal Email.

18 37. Further, on November 10, 2022, counsel for TGP transmitted a letter to
19 Defendants demanding that press credentials be issued immediately to TGP and Conradson
20 and putting Defendants on notice that their continued denial of press credentials was
21 unlawful. *See Exhibit 5*, John C. Burns letter dated November 10, 2022.

22 38. Any reasonable person in America should have known that this was
23 unlawful, as this very issue was the matter of extensive press coverage when then-President
24
25

1 Donald Trump decided that Jim Acosta and CNN were not sufficiently compliant with his
2 administration, and thus they were barred from the White House press corps.²

3 39. To-date, Defendants have not issued press credentials to Defendants, and
4 have barred them from even approaching the building where our democracy hangs in the
5 balance. This is a clear effort to impede the Plaintiffs’ efforts to gather the news.
6 Defendants are unable to participate in press conferences or view the vote tabulating
7 process in Maricopa County – not even from outside the building.

8 **CLAIMS FOR RELIEF**

9 **FIRST CLAIM FOR RELIEF**

10 **Violation of the U.S. Const., Amendment I under 42 U.S.C. § 1983**

11 40. Plaintiffs repeat, reallege, and incorporate the allegations in the paragraphs
12 above as though fully set forth herein.

13 41. Defendants’ decision to deny press credentials on the basis of the Plaintiffs’
14 viewpoint violates the First Amendment.

15 42. Defendants went even further, by not even allowing Plaintiffs to approach
16 the building where the vote counting is taking place, again on the basis of viewpoint.

17 43. Plaintiffs’ access to the Maricopa government facilities, their coverage of the
18 ongoing election in Maricopa County, and their participation in official Maricopa County
19 election press conferences are and were all protected activities under the First Amendment.
20

21 ² See, e.g., Paul Farhi, “Judge hands CNN a victory in its bid to restore Jim Acosta’s
22 White House press pass,” Washington Post (Nov. 16, 2018), available at:
23 <https://www.washingtonpost.com/lifestyle/style/judge-hands-cnn-victory-in-its-bid-to-restore-jim-acostas-white-house-press-pass/2018/11/16/8bedd08a-e920-11e8-a939-9469f1166f9d_story.html>; Jessica Gresko and Michael Balsamo, “Judge orders White
24 House to immediately return CNN’s Jim Acosta’s press pass,” KPNX 12News (Nov. 16,
25 2018), available at: <<https://www.12news.com/article/news/nation-world/judge-to-rule-friday-in-cnn-reporters-white-house-credential-case/507-615125521>>.

1 44. Defendants have deprived Plaintiffs of their right to access the Maricopa
2 County government facilities by denying Conradson's press credentials. Without those
3 credentials, Conradson cannot access Maricopa County government buildings and cannot
4 effectively view on the ongoing election process in Maricopa County and ask questions of
5 Maricopa County government officials, thus depriving Plaintiff TGP of its ability to report
6 on the election process.

7 45. As purported ground for denying Plaintiffs' press credentials, Defendants
8 claim that Conradson does not "avoid real or perceived conflicts of interest," is not "free
9 of associations that would compromise journalistic integrity or damage credibility," and is
10 not "a bona fide correspondent of repute in [his] profession."

11 46. Defendants have no basis for these determinations. The standards are
12 unworkably and unconstitutionally vague and function as an unlawful licensing scheme to
13 limit newsgathering to preferred or controlled media.

14 47. Defendants' justifications for impeding Plaintiffs' First Amendment rights
15 are not sufficiently compelling to justify denial of press credentials. Consequently, the only
16 reasonable inference from Defendants' conduct is that they have denied Conradson a
17 "newsgathering license" as a form of content- and viewpoint-based discrimination and in
18 retaliation for Plaintiffs' exercise of protected First Amendment activity.

19 48. The sole justification for Defendants' conduct is their dislike for Plaintiffs'
20 politics and critique of the election processes. But that is insufficient to justify such a
21 substantial restriction on Plaintiffs' First Amendment rights.

22 49. Defendants' criteria for granting press credentials to the media is subjective
23 and violates Plaintiffs' First Amendments rights.
24
25

1 50. Defendants’ criteria for granting press credentials to the media unlawfully
2 grants them unfettered discretion to choose which media may provide favorable coverage
3 of Defendants and their management of the election process in Maricopa County.

4 51. Defendants’ denial of Plaintiffs’ press credentials violates the Freedom of
5 Press guaranteed to them under the First Amendment.

6 52. Defendants’ denial of Plaintiffs’ press credentials violates the Freedom of
7 Speech guaranteed to them under the First Amendment.

8 53. Defendants’ denial of Plaintiffs’ press credentials violates the Freedom of
9 Association guaranteed to them under the First Amendment.

10 54. Defendants’ criteria for determining who is eligible for press passes in
11 Maricopa County are unconstitutionally vague.

12 55. Plaintiffs have been injured, or reasonably fear imminent injury, by these
13 constitutional violations, and Plaintiffs are entitled to relief.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiffs TGP Communications, LLC, d/b/a The Gateway Pundit
16 and Jordan Conradson respectfully request that the Court enter judgment in Plaintiffs favor,
17 and against Defendants, providing the following relief:

18 A. Immediate authorization of Conradson’s press credentials or in the absence
19 of such credentials, access to newsgathering and press conferences equal to
20 other press outlets, so that Plaintiffs may continue to report from Maricopa
21 County government premises and perform their jobs viewing and reporting
22 on the election process;

23 B. A declaration that the denial of Conradson press credentials was
24 unconstitutional, in violation of the First Amendment; and,
25

- 1 C. A declaration that the press credential regulations are unconstitutional; and,
2 D. All costs, disbursements, fees, and interest; and,
3 E. Such other and additional remedies as the Court may deem just and proper.

4 **JURY DEMAND**

5 Plaintiffs demand a jury trial on all issues so triable.

6
7 Dated: November 12, 2022.

Respectfully submitted,

8 /s/ Marc J. Randazza

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