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5 *Attorneys for Plaintiffs*

6 ARIZONA SUPERIOR COURT  
7  
8 MARICOPA COUNTY

9 THOMAS HANSEN, an individual;  
ALEXANDER CARDONA, an  
10 individual; CHARLOTTE COSTELLO,  
an individual; RICHARD DELLA  
11 PORTA, an individual; SUZANNE  
DISTASO, an individual; CARMEN  
FRANCIS, an individual; CARRIE  
12 GOODE, an individual; IRA GOODE,  
an individual; CELESTE IRONS, an  
13 individual; JANA ROSE OCHS, an  
individual; and DANIEL O'NEAL, an  
14 individual;

15 Plaintiffs,

16 v.

17 REP. MARK FINCHEM, a candidate  
for Secretary of State; KATIE HOBBS,  
18 in her official capacity as Secretary of  
State; APACHE COUNTY BOARD  
19 OF SUPERVISORS; LARRY NOBLE,  
in his official capacity as Recorder of  
20 Apache County; COCHISE COUNTY  
BOARD OF SUPERVISORS; DAVID  
21 W. STEVENS, in his official capacity  
as Recorder of Cochise County;

Case No.:

**VERIFIED COMPLAINT**

**(Election Case/Candidate Challenge  
Per A.R.S. § 16-351)**

1 COCONINO COUNTY BOARD OF  
2 SUPERVISORS; PATTY HANSEN, in  
3 her official capacity as Recorder of  
4 Coconino County; GILA COUNTY  
5 BOARD OF SUPERVISORS; SADIE  
6 JO BINGHAM, in her official capacity  
7 as Recorder of Gila County; GRAHAM  
8 COUNTY BOARD OF  
9 SUPERVISORS; WENDY JOHN, in  
10 her official capacity as Recorder of  
11 Graham County; GREENLEE  
12 COUNTY BOARD OF  
13 SUPERVISORS; SHARIE  
14 MILHEIRO, in her official capacity as  
15 Recorder of Greenlee County; LA PAZ  
16 COUNTY BOARD OF  
17 SUPERVISORS; RICHARD GARCIA,  
18 in his official capacity as Recorder of  
19 La Paz County; MARICOPA COUNTY  
20 BOARD OF SUPERVISORS;  
21 STEPHEN RICHER, in his official  
capacity as Recorder of Maricopa  
County; MOHAVE COUNTY BOARD  
OF SUPERVISORS; KRISTI BLAIR,  
in her official capacity as Recorder of  
Mohave County; NAVAJO COUNTY  
BOARD OF SUPERVISORS;  
MICHAEL SAMPLE, in his official  
capacity as Recorder of Navajo County;  
PIMA COUNTY BOARD OF  
SUPERVISORS; GABRIELLA  
CAZARES-KELLY, in her official  
capacity as Recorder of Pima County;  
PINAL COUNTY BOARD OF  
SUPERVISORS; and VIRGINIA  
ROSS, in her official capacity as  
Recorder of Pinal County; SANTA  
CRUZ COUNTY BOARD OF  
SUPERVISORS; SUZANNE SAINZ,  
in her official capacity as Recorder of  
Santa Cruz County; YAVAPAI  
COUNTY BOARD OF

1 SUPERVISORS; LESLIE HOFFMAN,  
2 in her official capacity as Recorder of  
3 Yavapai County; YUMA COUNTY  
4 BOARD OF SUPERVISORS; and  
5 ROBYN STALLWORTH  
6 POQUETTE, in her official capacity as  
7 Recorder of Yuma County;

8 Defendants.

9 This is a challenge, pursuant to Arizona Revised Statutes, § 16-351, to the  
10 candidacy of Mark Finchem who is running for Secretary of State.

11 **PARTIES, VENUE, AND JURISDICTION**

12 1. Plaintiff Thomas Hansen is a qualified elector in Arizona. He resides in  
13 Mohave county.

14 2. Plaintiff Richard Della Porta is a qualified elector in Arizona.

15 3. Plaintiff Charlotte Costello is a qualified elector in Arizona.

16 4. Plaintiff Carmen Francis is a qualified elector in Arizona.

17 5. Plaintiff Celeste Irons is a qualified elector in Arizona.

18 6. Plaintiff Alexander Cardona is a qualified elector in Arizona.

19 7. Plaintiff Suzanne Distaso is a qualified elector in Arizona.

20 8. Plaintiff Carrie Goode is a qualified elector in Arizona.

21 9. Plaintiff Ira Goode is a qualified elector in Arizona.

10. Plaintiff Jana Rose Ochs is a qualified elector in Arizona.

11. Plaintiff Daniel O'Neal is a qualified elector in Arizona.

1           12.       Defendant Mark Finchem is a candidate for Secretary of State, a statewide  
2 office. He currently serves as a member of the Arizona House of Representatives. He  
3 resides in Pima County.

4           13.       Defendant Katie Hobbs is the Arizona Secretary of State, a public officer,  
5 and is named as a defendant in this action in her official capacity. The Secretary of State  
6 is the officer with whom the petitions are required to be filed and is named as an  
7 indispensable party. A.R.S. § 16-351(C)(2).

8           14.       The following Defendants are referred to collectively as the “County  
9 Defendants.”

10          15.       Defendants Board of Supervisors for Apache, Cochise, Coconino, Gila,  
11 Graham, Greenlee, La Paz, Maricopa, Mohave, Navajo, Pima, Pinal, Santa Cruz,  
12 Yavapai, and Yuma counties are named as indispensable parties pursuant to A.R.S. § 16-  
13 351(C)(3).

14          16.       Defendant Larry Noble is the Apache County Recorder, a public officer of  
15 Apache County, and is named as a defendant in this action in his official capacity. He is  
16 named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

17          17.       Defendant David W. Stevens is the Cochise County Recorder, a public  
18 officer of Cochise County, and is named as a defendant in this action in his official  
19 capacity. He is named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

1           18.       Defendant Patty Hansen is the Coconino County Recorder, a public officer  
2 of Coconino County, and is named as a defendant in this action in her official capacity.  
3 She is named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

4           19.       Defendant Sadie Jo Bingham is the Gila County Recorder, a public officer  
5 of Gila County, and is named as a defendant in this action in her official capacity. She is  
6 named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

7           20.       Defendant Wendy John is the Graham County Recorder, a public officer of  
8 Graham County, and is named as a defendant in this action in her official capacity. She is  
9 named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

10          21.       Defendant Sharie Milheiro is the Greenlee County Recorder, a public  
11 officer of Greenlee County, and is named as a defendant in this action in her official  
12 capacity. She is named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

13          22.       Defendant Richard Garcia is the La Paz County Recorder, a public officer  
14 of La Paz County, and is named as a defendant in this action in his official capacity. He is  
15 named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

16          23.       Defendant Stephen Richer is the Maricopa County Recorder, a public  
17 officer of Maricopa County, and is named as a defendant in this action in his official  
18 capacity. He is named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

19          24.       Defendant Kristi Blair is the Mohave County Recorder, a public officer of  
20 Mohave County, and is named as a defendant in this action in her official capacity. She is  
21 named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

1           25.       Defendant Michael Sample is the Navajo County Recorder, a public officer  
2 of Navajo County, and is named as a defendant in this action in his official capacity. He  
3 is named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

4           26.       Defendant Gabriella Cazares-Kelly is the Pima County Recorder, a public  
5 officer of Pima County, and is named as a defendant in this action in her official capacity.  
6 She is named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

7           27.       Defendant Virginia Ross is the Pinal County Recorder, a public officer of  
8 Pinal County, and is named as a defendant in this action in her official capacity. She is  
9 named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

10          28.       Defendant Suzanne Sainz is the Santa Cruz County Recorder, a public  
11 officer of Santa Cruz County, and is named as a defendant in this action in her official  
12 capacity. She is named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

13          29.       Defendant Leslie Hoffman is the Yavapai County Recorder, a public officer  
14 of Yavapai County, and is named as a defendant in this action in her official capacity.  
15 She is named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

16          30.       Defendant Robyn Stallworth Poquette is the Yuma County Recorder, a  
17 public officer of Yuma County, and is named as a defendant in this action in her official  
18 capacity. She is named as an indispensable party pursuant to A.R.S. § 16-351(C)(3).

19          31.       Venue is proper in this Court because defendants reside in, or hold office  
20 in, different counties. Ariz. Stat. §§ 12-401(7), (16); *McClung v. Bennett*, 235 P.3d 1037  
21 (Ariz. 2010).



1 prominent House Members, Senators, and the incumbent President, led directly,  
2 intentionally, and foreseeably to the insurrectionists' violent assault on the Capitol.<sup>1</sup>

3 36. Finchem was engaged in efforts to intimidate Congress and the Vice  
4 President into rejecting valid electoral votes and to subvert the essential constitutional  
5 function of an orderly and peaceful transition of power. Finchem was engaged with the  
6 January 6 attack by being in close contact with the planners of the Wild Protest, including  
7 throughout the day on January 6, and by participating in the attack with the advance  
8 knowledge that it was substantially likely to lead to the attack.

9 37. Finchem promoted the events of January 6 ahead of time. He coordinated  
10 many of his efforts with U.S. Representatives Paul Gosar and Andrew Biggs, and agreed  
11 with them on a plan to first delegitimize, then challenge, and finally overturn the 2020  
12 presidential election.

13 38. The planners of the "Save America" demonstration at the Ellipse in  
14 Washington, D.C. on January 6 (hereafter "Ellipse Demonstration") report that U.S.  
15 Representatives Paul Gosar and Andrew Biggs met with them beforehand. Gosar offered  
16 "blanket pardons" to the organizers of that demonstration in connection with unrelated  
17 criminal investigations.

18 39. The stated goal of the organizers was to pressure Vice President Pence into  
19 disregarding the electoral votes from several states and declaring Trump the winner of the

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20  
21 <sup>1</sup> This candidacy challenge uses the term "insurrectionists" without prejudice as to whether the events of January 6 may also constitute a "rebellion" within the meaning of the Disqualification Clause.



1 2020 election. The likelihood of violence during the implementation of this plan was  
2 plain to bystanders and equally or more so to those intimately involved. Before the  
3 demonstration, violent groups announced they were going to attend it. Plans for  
4 violence—and specifically occupying the Capitol to prevent the certification vote or  
5 violently influence its outcome—were so prevalent that one reporter has remarked that  
6 “[a]nyone with a Twitter account and an hour of time to kill could have warned about the  
7 potential for violence on Jan. 6—and many did.” Furthermore, the insurrection was, in  
8 part, intended to prevent the certification in order to send false electoral slates to  
9 Congress—an effort Finchem was involved in.

10 40. Finchem publicly supported the insurrection as it was happening.

11 41. Finchem—who later denied or obfuscated his actions of January 6—  
12 advanced with the crowd near to the steps of the Capitol as it was being overrun, took a  
13 picture outside the Capitol among the violent mob just moments after the Capitol was  
14 breached, and Tweeted his support while the insurrection was ongoing. “What happens  
15 when the People feel they have been ignored, and congress refuses to acknowledge  
16 rampant fraud. #stopthesteal,” he wrote.

17 42. Since the insurrection, Finchem has continued to voice his support for the  
18 insurrectionists who stormed the Capitol, describing them as “peaceful patriots,” while  
19 falsely claiming that any violence that might have occurred was perpetrated by “antifa”  
20 infiltrators.

1           43. Finchem’s individual actions, as well as his collective actions taken in  
2 concert with others, as described in detail below, establish that he engaged in the  
3 insurrection of January 6 and is therefore constitutionally disqualified from running for  
4 the Arizona Secretary of State, under the Disqualification Clause of Section Three of the  
5 Fourteenth Amendment.

#### 6                                   **CONSTITUTIONAL AND STATUTORY BACKGROUND**

7           44. Under Section Three of the Fourteenth Amendment to the U.S.  
8 Constitution, known as the Disqualification Clause, “No Person shall be a . . .  
9 Representative in Congress . . . or hold any office, civil or military . . . under any State . .  
10 . who, having previously taken an oath, as a member of Congress . . . or as a member of  
11 any State legislature . . . to support the Constitution of the United States, shall have  
12 engaged in insurrection or rebellion against the same.”

13           45. Arizona requires all candidates for primary election to file nomination  
14 papers with the Secretary of State that, among other things, declare “[t]he candidate will  
15 be qualified at the time of election to hold the office the person seeks.” Ariz. Stat. § 16-  
16 311(D).

17           46. To enforce that requirement, “any elector” may challenge a candidate’s  
18 nomination “for any reason relating to qualifications for the office sought as prescribed  
19 by law.” *Id.* § 16-351(B). That includes constitutional qualifications. *Pacion v. Thomas*,  
20 236 P.3d 395, 397 (Ariz. 2010).

#### 21                                   **FACTUAL BACKGROUND**

1           47. Representative Finchem took an oath as an elected member of the Arizona  
2 House of Representatives. Ariz. Stat. § 38-231(E)–(F). That oath included a promise to  
3 “support the Constitution of the United States.” *Id.* § 38-231(E). A record of the oath is  
4 filed with the Secretary of State. *Id.* § 38-233(A).

5           48. Finchem has a history of incendiary rhetoric and advocating violence  
6 against his political opponents.

7           49. Finchem was, at one point, the Arizona Coordinator of the Coalition of  
8 Western States (“COWS”), which supported both Cliven Bundy’s violent confrontation  
9 with federal law enforcement in 2014 and the occupation of the Malheur National  
10 Wildlife Refuge in 2016. He also claimed at one point to be a member of the “Oath  
11 Keepers,” a violent far-right militia group.

12           50. After the 2020 election, Finchem publicly insisted that then-President  
13 Trump had won the election, posting those false claims online consistently from  
14 November 2020 through January 6, 2021. These statements were made in support of a  
15 larger movement, often using the slogan “Stop the Steal,” that advances and promotes the  
16 false claim that Donald Trump won the 2020 election.

17           51. Paul Gosar, a member of the United States House of Representatives for  
18 Arizona’s fourth congressional district, was a leader of this movement. He helped to  
19 organize some of the earliest rallies and made contacts with both Finchem and a violent  
20 extremist named Ali Alexander. Gosar publicly and consistently coordinated with both  
21 Finchem and Alexander in the weeks leading up to January 6.

1           52.    On November 6, 2020, Gosar was already advocating illegal means to  
2 overturn the election, urging the U.S. Department of Justice to seize voting machines.

3           53.    On November 30, 2020, Finchem advocated that Arizona withhold its  
4 electors. Gosar joined in that call.

5           54.    In late November, Gosar spoke at a meeting of the “Oath Keepers” in  
6 Northern Arizona where he said, “We are in a Civil War, we just haven’t started shooting  
7 yet.”

8           55.    On December 7, Gosar wrote an op-ed arguing Biden’s win amounted to a  
9 “coup.”

10          56.    Finchem took money to advance this narrative. On December 18, the  
11 Trump campaign paid Finchem \$6,037 for “recount: legal consulting” even though  
12 Finchem is not a lawyer. Finchem claimed the money was for security at an event he held  
13 in Phoenix with Rudy Giuliani—an event Finchem and Giuliani used to promote the lie  
14 that Trump won the election.

15          57.    Simultaneously, in November 2020, various persons associated with the  
16 movement attempted to block the certification of President-elect Biden’s victory with  
17 dozens of lawsuits. None succeeded, and all were found to be baseless. After litigation  
18 failed, some within this larger movement accepted that they had exhausted their legal  
19 options for challenging the results of the presidential election.

20                   **The Unconstitutional Scheme to Overturn the 2020 Election Results**

21

1           58. Others, however, followed Gosar and Finchem’s lead and turned to  
2 extralegal plans.

3           59. They formulated an unconstitutional scheme to subvert the constitutional  
4 process of counting the electoral votes in Congress, preventing President-elect Biden  
5 from being sworn in as President. Leaders of this scheme—including then-President  
6 Trump, certain Members of Congress, including Representative Gosar, and others outside  
7 government—established and promoted a plan to prevent Congress from certifying  
8 President-elect Biden’s victory on January 6, the day Congress counts the presidential  
9 electors’ votes.

10          60. The votes of presidential electors, under the provisions of the Twelfth  
11 Amendment to the U.S. Constitution and the Electoral Count Act, 3 U.S.C. §§ 15 et seq.,  
12 are officially counted as follows. At 1:00 p.m. on January 6 of the year following a  
13 presidential election, the U.S. Senate and the U.S. House of Representatives meet jointly  
14 in the House Chamber, with the Vice President of the United States (in his capacity as  
15 President of the Senate) presiding. Beginning with Alabama, and proceeding  
16 alphabetically, the Vice President opens each state’s certificate of the votes of its electors,  
17 and calls for objections, if any. Any objection must be filed by at least one Senator and at  
18 least one Member of the House. These objections are then voted upon separately by the  
19 House and Senate. 3 U.S.C. § 15; U.S. Const. amend. XII.

20          61. The Electoral Count Act provides that, if a state has submitted only one  
21 return of electoral votes, and if the electoral votes were “regularly given by electors

1 whose appointment has been lawfully certified,” then Congress cannot reject those  
2 electoral votes. 3 U.S.C. § 15.

3         62. The Electoral Count Act provides two scenarios in which, theoretically,  
4 Congress can reject electoral votes. First, “the two Houses concurrently” may reject one  
5 or more electoral votes from a state when both Houses “agree that such vote or votes  
6 have not been so regularly given by electors whose appointment has been so certified.”  
7 Second, if a state submits multiple conflicting returns of its electoral votes, the Act  
8 contains procedures for determining which return prevails. *Id.*

9         63. After the 2020 election, no lawful procedure under the Electoral Count Act  
10 could prevent the counting of electoral votes from the states where President-elect Biden  
11 had won the election. None of those states had submitted multiple competing electoral  
12 tallies to Congress, notwithstanding attempts to create “alternate slates,” described below.  
13 And, as was generally understood at the time, there were insufficient votes in the U.S.  
14 House of Representatives to reject as not “regularly given” the electoral votes from any  
15 state, let alone to reject enough electoral votes to change the outcome to anything other  
16 than a Biden victory.

17         64. Since no lawful procedure under the Electoral Count Act could prevent the  
18 counting of electoral votes from the states where President-elect Biden had won the  
19 election, leaders of the scheme to subvert the counting of the votes developed plans by  
20 which Vice President Pence would refuse to recognize the votes of electors from certain  
21 states that Trump had lost, thus leading to a Trump “victory” in Congress.

1           65.     However, these plans relied on cooperation from sympathetic members of  
2 Congress and, crucially, Vice President Pence. The strategy centered on Pence abusing  
3 the Vice President’s ceremonial duty to “open all the certificates” of state electoral votes  
4 as a pretext to unilaterally reject votes.

5           66.     Key leaders and participants in the larger scheme developed plans to  
6 pressure or intimidate Congress and Pence into cooperating—and, if that failed, to  
7 obstruct the electoral count certification.

8           67.     Obstructing certification would have also delayed the process so as to  
9 facilitate another strategy: to introduce fake electoral votes.

10          68.     In December 2020, Trump and key allies devised a plan to create “alternate  
11 slates” of electors.

12          69.     These “electors” met on the same day as the real electors. The apparent  
13 plan was to introduce them at some point during or after January 6.

14          70.     An “alternate slate” was created in Arizona. Both Finchem and Gosar  
15 promoted the effort to produce “alternate” electors.

16          71.     Finchem has been subpoenaed by the U.S. Congress’s Select Committee to  
17 Investigate the January 6th Attack on the United States Capitol regarding his role in that  
18 effort.

19          72.     This effort to produce “alternate” electors has been described in a recent  
20 brief by that congressional committee as a criminal conspiracy to defraud the United  
21 States.

1           73.    The U.S. District Court for the Central District of California has concluded  
2 that it was “more likely than not” that the overall scheme, of which Finchem’s efforts  
3 were part, constituted a criminal conspiracy to defraud the United States by interfering  
4 with the election certification process, and obstruction of an official proceeding of  
5 Congress. *Eastman v. Thompson*, No. 8:22-cv-00099-DOC-DFM (C.D. Cal. Mar. 28,  
6 2022), 2022 WL 894256.

7           74.    To further their scheme to overturn the presidential election results, in  
8 December 2020 and January 2021, organizers associated with a group called “Women for  
9 America First” planned a demonstration at the Ellipse in Washington, D.C. (the “Ellipse  
10 Demonstration”) on January 6 to coincide with, and seek to block, the certification of  
11 electoral votes. At this demonstration, they planned to push false claims of massive voter  
12 fraud and to pressure Pence to refuse to count slates of electors from states with close  
13 contests.

14           75.    The organizers of the Ellipse Demonstration communicated directly with  
15 White House staff about the demonstration.

16           76.    In addition, the organizers of the Ellipse Demonstration planned and  
17 promoted events that developed into violence in November and December. Specifically,  
18 the group promoted the November 14 “Million MAGA March” in D.C. that left one  
19 person stabbed and several arrested; a demonstration on December 6, 2020 in Des  
20 Moines where a pro-Trump attendee shot into a car of teenage girls; and a December 12  
21 demonstration in D.C. where several were stabbed and one person was arrested.



1           77. Organizers’ plans for January 6 also included a march on the U.S. Capitol  
2 while Congress was counting electoral votes.

3           78. On December 19, 2020, Trump endorsed the demonstration, claiming it  
4 would be “wild.” Trump’s call for a protest was widely understood to be a coded call for  
5 violence by Trump supporters. On social media, his supporters openly called for weapons  
6 to be carried into the District of Columbia, for law enforcement to be murdered if they  
7 interfered, and for supporters to storm the Capitol to prevent the certification of  
8 President-elect Biden’s victory.

9           79. Around this time, Alexander’s allies received a permit to host a separate but  
10 related protest, which Alexander labeled the “Wild Protest,” around the steps of the  
11 Capitol on January 6. Finchem and Gosar were publicized as speakers at the Wild Protest.

12           80. On December 30, 2020, Alexander replied to a tweet by Representative-  
13 elect Marjorie Taylor Greene, a well-known promoter of political violence, promising  
14 that “1776” —the American Revolution and subsequent Revolutionary War— “is  
15 \*always\* an option” if objections to certification were blocked.

16           81. The responses indicate it was understood as a call to storm the Capitol.  
17 Alexander increasingly used references to “1776” between December 30 and January 6 as  
18 a call for violence if Trump was not installed as president for another four years.

19           82. By this time, it was well known that events Alexander planned and  
20 promoted had developed into violence. Indeed, the organizers of the Ellipse  
21

1 Demonstration claim that they warned their congressional contacts about the possibility  
2 of violence at the Wild Protest.

3 83. At about this time, Trump and his associates in the movement to overturn  
4 the 2020 election used extralegal and unlawful tactics, as Trump and Meadows attempted  
5 to intimidate Georgia Secretary of State Raffensperger into fabricating votes and  
6 declaring Trump the winner of Georgia’s presidential election.

7 84. On January 5, 2021, Pence informed Trump that he did not have the  
8 authority to unilaterally reject electoral votes and consequently would not do so. This was  
9 widely and publicly reported that same day.

10 85. Finchem spoke at a “pre-rally” organized by Alexander, also on January 5,  
11 where Finchem made false claims of election fraud.

### 12 **The Events of January 6, 2021**

13 86. At the Ellipse Demonstration, speakers included Trump’s lawyer, Rudy  
14 Giuliani, who called for “trial by combat,” and U.S. Representative Mo Brooks of  
15 Alabama, who urged the crowd to “start taking down names and kicking ass” and be  
16 prepared to sacrifice their “blood” and “lives” and “do what it takes to fight for America”  
17 by “carry[ing] the message to Capitol Hill,” since “the fight begins today.”

18 87. Finchem attended the Ellipse Demonstration that morning and claimed he  
19 was in D.C. “to deliver an evidence book and letter to Vice President Pence showing key  
20 evidence of fraud in the Arizona Presidential Election, and asking him to consider  
21 postponing the award of electors” and to “visit with Congressmen from Arizona.”

1           88.    On information and belief, these “Congressmen from Arizona” referred to  
2 Gosar and Biggs, and the primary purpose of his visit with them pertained to their joint  
3 efforts to overturn the results of the 2020 presidential election.

4           89.    Around 12:00 pm, then-President Trump began speaking about how “we  
5 will stop the steal.”

6           90.    Seven minutes into his speech, the crowd was chanting “Fight for Trump!”.  
7 About 16 minutes into his speech, he said, “[a]fter this, we’re going to walk down and I’ll  
8 be there with you. We’re going to walk down. We’re going to walk down any one you  
9 want, but I think right here. We’re going walk down to the Capitol, and we’re going to  
10 cheer on our brave senators, and congressmen and women. We’re probably not going to  
11 be cheering so much for some of them because you’ll never take back our country with  
12 weakness. You have to show strength, and you have to be strong.”

13           91.    At about this point, 10,000-15,000 demonstrators began the roughly 30-  
14 minute march to the Capitol, where they joined a crowd of 300 members of the violent  
15 extremist group “Proud Boys.”

16           92.    Around 1:00 p.m.—just as Congress had begun the process of jointly  
17 counting the electoral votes—then-President Trump ordered the remaining crowd to  
18 “walk down Pennsylvania Avenue . . . we are going to the Capitol.”

19           93.    At around that time, Trump supporters attacked police protecting the  
20 barricades surrounding the Capitol. As Trump ended his speech, a large portion of the  
21 crowd began their 30-minute march to the Capitol.

1           94.    By 1:30 p.m., law enforcement retreated as insurrectionists scaled the walls  
2 of the Capitol. Many were armed with weapons, pepper spray, and tasers. Some wore full  
3 body armor; others carried homemade shields. Many used flagpoles, signposts, or other  
4 weapons to attack police officers defending the Capitol.

5           95.    Because Gosar and Biggs had filed objections to Arizona’s slate of electors,  
6 by this time the joint counting session had been suspended and the House and Senate  
7 were debating the objections separately.

8           96.    Finchem was directly involved in the assault on the Capitol Building.  
9 Finchem’s text messages with Alexander and other planners of the event reveal that  
10 Finchem, after asking “I presume you want me to get as close to the front as I can,” was  
11 warned that “They are storming the capital [sic], I don’t think it [sic] safe.”

12           97.    Finchem responded, “I am on the side of the Capitol facing the supreme  
13 Court, is that the right side?”.

14           98.    Finchem rushed to the Capitol in a golf cart.

15           99.    Contemporaneous photographs show that Finchem was present at the  
16 Capitol.

17           100.   By 2:00 p.m., as Gosar was objecting to the certification of the Arizona  
18 election results, the Capitol had been breached by insurrectionists, smashing through  
19 first-floor windows.

1           101. Over the next two hours, hundreds of insurrectionists stormed the Capitol,  
2 attacking police with weapons and pyrotechnics. One police officer was crushed against a  
3 door, screaming in agony as the crowd chanted “Heave, ho!”

4           102. An attacker ripped off the officer’s gas mask, beat his head against the  
5 door, took his baton, and hit his head with it.

6           103. Another officer was pulled into a crowd, beaten and repeatedly Tased by  
7 insurrectionists.

8           104. The insurrectionists demanded the arrest or murder of various other elected  
9 officials who refused to participate in their attempted coup.

10          105. They chanted “hang Mike Pence” and threatened Speaker Pelosi.

11          106. They taunted a Black police officer with racial slurs for pointing out that  
12 overturning the election would deprive him of *his* vote.

13          107. Confederate flags and symbols of white supremacist movements and  
14 notably the insurrection that spawned the need for the Fourteenth Amendment including  
15 Section 3, were widespread.

16          108. At 2:13 p.m., Vice President Pence was removed by the Secret Service; the  
17 House adjourned at 2:20 p.m.

18          109. The insurrectionists had successfully obstructed Congress from certifying  
19 the votes, temporarily blocking the peaceful transition of power from one presidential  
20 administration to the next.

1           110. Finchem took a picture of a throng of insurrectionists on the steps of the  
2 Capitol at approximately 2:30 p.m..

3           111. Finchem was also videotaped around this time near the steps of the Capitol.

4           112. At 2:44 p.m., insurrectionists attempted to force their way into the  
5 Speaker’s Lobby (adjacent to the House Chamber) as lightly armed security guards tried  
6 to hold the door long enough to evacuate Members of Congress and others.

7           113. Senate staffers took the electoral college certificates with them when they  
8 were evacuated, ensuring they did not fall into the hands of the insurrectionists.

9           114. Shortly after, the House Chamber and Senate Chamber fell.  
10 Insurrectionists, some carrying zip ties and tactical equipment, overtook the defenses of  
11 the United States government and achieved, through force, effective control over the seat  
12 of the United States Congress.

13           115. After 3:00 p.m., DHS, ATF, and FBI agents, and police from Virginia and  
14 Maryland, joined Capitol Police to help regain control of the Capitol.

15           116. At 3:16 p.m. Finchem posted online the picture he had taken of  
16 insurrectionists after the Capitol was breached. He commented, “What happens when the  
17 People feel they have been ignored, and congress refuses to acknowledge rampant fraud.  
18 #stopthesteal.”

19           117. Finchem’s post of his picture of the insurrectionists and his accompanying  
20 comment constitute support for an ongoing insurrection.

21



1 stayed there for “about 20 minutes, took a few photos, and left the area,” never getting  
2 within “500 yards” of the Capitol and not learning about the breach until 5:00 p.m. when  
3 he had returned to his hotel. He also repeated the claim that “antifa” was responsible for  
4 any violence.

5 126. Finchem’s *post hoc* denial or obfuscation of his actions on January 6 is  
6 contradicted by contemporary evidence and indicates consciousness of culpability.

7 127. On February 15, 2022, Finchem was subpoenaed by the January 6 Select  
8 Committee to testify and produce documents regarding the insurrection.

9 **CLAIM FOR RELIEF**  
10 **Ineligible for Election Under A.R.S. § 16-351(B); U.S. Const. Amend.14 §3.**

11 128. All preceding allegations are incorporated as if repeated herein.

12 129. Under section Three of the Fourteenth Amendment to the U.S.  
13 Constitution, known as the Disqualification Clause, “No Person shall be a . . .  
14 Representative in Congress . . . or hold any office, civil or military . . . under any State . .  
15 . who, having previously taken an oath, as a member of Congress . . . or as a member of  
16 any State legislature . . . to support the Constitution of the United States, shall have  
17 engaged in insurrection or rebellion against the same.”

18 130. Finchem swore an oath to support the U.S. Constitution as a member of a  
19 state legislature. He is a candidate for the office of Arizona Secretary of State, an “office”  
20 within the meaning of Section Three of the Fourteenth Amendment. *See* Ariz. Const. art.  
21 5, §§ 1, 9; *Citizens in Charge, Inc. v. Husted*, 810 F.3d 437, 442 (6th Cir. 2016).



1           131. The January 6, 2021 attack on the U.S. Capitol, either alone or in  
2 combination with related attempts to prevent a peaceful and legitimate transfer of power,  
3 constituted an “insurrection” or “rebellion” under Section Three of the Fourteenth  
4 Amendment.

5           132. The insurrectionists successfully defied the authority of the United States.

6           133. The demonstration was targeted at intimidating Congress and Vice  
7 President Pence—in particular, to intimidate Pence into violating the Twelfth  
8 Amendment and the Electoral Count Act by ignoring the legal electoral votes for Biden.  
9 And the insurrectionists mounted their violent assault on the U.S. Capitol and the  
10 government officials within for the purpose of preventing the Vice President of the  
11 United States and the United States Congress from fulfilling their constitutional roles in  
12 ensuring the peaceful transition of power. As they attacked, the insurrectionists insisted  
13 that elected officials anoint their preferred candidate the winner—or be murdered.

14           134. This was an attack on the *United States*. The importance of counting the  
15 electoral votes in our constitutional system cannot be overstated. It formalizes a deeper,  
16 bedrock norm in our democracy: the peaceful transition of power. The Electoral Count  
17 Act, as well as the Article II and the Twelfth Amendment, lay out the procedures for  
18 counting votes; together with the Twentieth Amendment, they ensure that transition is  
19 orderly and non-violent. They are essential constitutional functions of the United States  
20 government. An attempt to disrupt those procedures, particularly through violence, is an  
21 attack on our country itself.

1           135. This was no mere riot; it was an attempt to disrupt an essential  
2 constitutional function and illegally prolong Trump’s tenure in office.

3           136. An attack on public authority need not be likely to succeed in order to  
4 constitute an insurrection.

5           137. The January 6 insurrectionists’ violent seizure of the House and Senate  
6 Chambers and key congressional offices did, in fact, obstruct and delay this essential  
7 constitutional procedure. This violent attack on the political system of the United States  
8 in the heart of the nation’s capital is the paradigm of insurrection.

9           138. This analysis of January 6 is consistent with the understanding of Congress,  
10 the U.S. Department of Justice, and federal courts.

11           139. On the evening of January 6, after Congress was finally able to reconvene,  
12 Senator Mitch McConnell of Kentucky, the Senate Majority Leader, described the assault  
13 as a “failed insurrection.”

14           140. He has since confirmed his understanding in response to the attempted  
15 characterization of the insurrection as “legitimate political discourse”: “We saw it  
16 happen. It was a violent insurrection for the purpose of trying to prevent the peaceful  
17 transfer of power after a legitimately certified elections, from one administration to the  
18 next. That’s what it was.”

19           141. In court filings, the U.S. Department of Justice has characterized the attack  
20 on the Capitol as “an insurrection attempting to violently overthrow the United States  
21

1 Government.” *United States v. Chansley*, No. 21-cr-00003 (D. Ariz. filed Jan. 14, 2021),  
2 ECF No. 5, <https://bit.ly/3FJ1LdM>.

3 142. Judge Carl Nichols of the U.S. District Court for the District of Columbia  
4 has issued a ruling in a pending case, describing the attack as an “uprising” that  
5 “target[ed] a proceeding prescribed by the Constitution and established to ensure a  
6 peaceful transition of power.”

7 143. Members of the “Oath Keepers” that stormed the Capitol or organized the  
8 storming have been indicted on seditious conspiracy charges.

9 144. The elements of seditious conspiracy fit the definition of the federal crime  
10 of insurrection. 18 U.S.C. § 2384 (defining the crime as “conspir[ing] to overthrow, put  
11 down, or to destroy by force the Government of the United States . . . or to oppose by  
12 force the authority thereof, or by force to prevent, hinder, or delay the execution of any  
13 law of the United States”).

14 145. Bipartisan majorities of the House and Senate voted for articles of  
15 impeachment describing the attack as an “insurrection.” 167 Cong. Rec. H191 (daily ed.  
16 Jan. 13, 2021); 167 Cong. Rec. S733 (daily ed. Feb. 13, 2021).

17 146. In the impeachment trial, President Trump’s own defense lawyer stated that  
18 “the question before us is not whether there was a violent insurrection of [sic] the Capitol.  
19 On that point, everyone agrees.” 167 Cong. Rec. S729 (daily ed. Feb. 13, 2021),  
20 <http://bit.ly/EveryoneAgrees>.

1           147. The Senate voted by unanimous consent to award a Congressional Gold  
2 Medal for Capitol Police officer Eugene Goodman by passing a bill that categorized the  
3 January 6 attackers as “insurrectionists.” Congress separately voted to award  
4 Congressional Gold Medals to other Capitol Police, using the same “insurrectionists”  
5 language. 167 Cong. Rec. S694–95 (daily ed. Feb. 12, 2021).

6           148. Recognizing January 6 as an insurrection or rebellion for purposes of  
7 Section Three is also consistent with the intent of the Fourteenth Amendment’s drafters,  
8 who worried that the reelection of the pre-war political class in the South would re-  
9 empower those willing to use violence or otherwise reject the results when their  
10 preferred policies were not enacted, or their preferred candidates were not elected. *See,*  
11 *e.g.*, 69 Cong. Globe, 39th Cong., 1st Sess. 2532 (1866) (statement of Rep. Banks)  
12 (“They do not rely on ideas for success. They govern by force. Their philosophy is  
13 force. Their tradition is force.”). The idea behind Section Three was that politicians who  
14 took an oath to protect the Constitution and then disregarded the norms of peaceful and  
15 lawful political discourse could not be trusted to hold office—that was true then, and it  
16 remains true today.

17           149. Finchem was engaged with the January 6 attack by being in close contact  
18 with the planners of the Wild Protest, including throughout the day on January 6.

19           150. To “engage” in insurrection or rebellion, one must voluntarily and  
20 knowingly aid the insurrection by providing it with something useful or necessary.  
21 *United States v. Powell*, 65 N.C. 709 (C.C.D.N.C. 1871) (holding that “engage” merely



1           WHEREFORE, the plaintiffs respectfully request that the Court make the  
2 following findings of fact and conclusions of law:

3           A.     Candidate Finchem was involved in planning efforts to intimidate Congress  
4 and the Vice President into rejecting valid electoral votes and subvert the essential  
5 constitutional function of an orderly and peaceful transition of power. He was involved in  
6 either planning the attack on January 6, and/or planning the pre-attack Ellipse  
7 Demonstration, Wild Protest, and/or march on the Capitol, with the advance knowledge  
8 that it was substantially likely to lead to the attack, and otherwise voluntarily aided the  
9 insurrection. Finchem joined the insurrectionists mob outside the Capitol and encouraged  
10 the insurrectionists as they stormed the Capitol in an effort to disrupt an essential  
11 constitutional function and the peaceful transition of power.

12           B.     Candidate Finchem, as a member of the Arizona Legislature, and prior to  
13 the insurrection, took an oath of office to support the Constitution of the United States;

14           C.     Pursuant to Section Three of the Fourteenth Amendment to the Constitution  
15 of the United States, Candidate Finchem shall not hold any office in the State of Arizona;

16           D.     Congress has not by a vote of two-thirds of each House removed this  
17 disability from Candidate Finchem;

18           E.     Pursuant to Section 16-351, Arizona Revised Statutes, subsection(B),  
19 Candidate Finchem is not qualified to hold the office of Secretary of State; and

20           F.     Secretary Hobbs and the County Defendants be ordered to exclude  
21 Finchem's name from the ballot for the 2022 primary.

1 DATED this 7th of April 2022.

2 BARTON MENDEZ SOTO PLLC

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16 *Attorneys for Challengers*

17  
18 \* Motions for pro hac vice admission  
forthcoming.

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**VERIFICATION**

I, Thomas Hansen, do state and swear under penalty of perjury and as permitted by Rule 80(c), Ariz. R. P. Civ. P., as follows:

I am a plaintiff in this action. I have read the foregoing Verified Complaint and, to the best of my knowledge, information and belief, the statements made therein are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 7th day of April 2022.

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Thomas Hansen