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10	Attorneys for Plaintiff State of Arizona ex rel. Mark Brnovich, Attorney General	
11	Automey General	
12	IN THE SUPERIOR COURT	OF THE STATE OF ARIZONA
13	IN AND FOR THE CO	OUNTY OF MARICOPA
14		
15	THE STATE OF ARIZONA, <i>ex rel</i> . MARK BRNOVICH, Attorney General	No:
16	D1 1 100	VERIFIED CIVIL COMPLAINT FOR
17	Plaintiff,	DECLARATORY, INJUNCTIVE, SPECIAL ACTION, AND QUO WARRANTO RELIEF
18	vs.	WARRANIO RELIEF
19	ADRIAN FONTES, in his official capacity as	
20	Maricopa County Recorder, and RUNBECK ELECTION SERVICES, INC.	
21	EBBOTTOT BERVIOLES, IIVO.	
22	Defendants.	
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The State of Arizona, through Mark Brnovich, the Attorney General, brings this action for declaratory, injunctive, and quo warranto relief and hereby alleges as follows:

INTRODUCTION

1. This action is brought by the State, through the Attorney General, to enjoin Defendant Maricopa County Recorder Adrian Fontes, in conjunction with Defendant Runbeck Election Services, Inc., from acting today in contravention of Arizona law and mailing vast numbers of illegal ballots to Arizona voters in the days immediately prior to Arizona's 2020 Presidential Preference Election.

JURISDICTION AND VENUE

- 2. This Court has jurisdiction over actions seeking declaratory and injunctive relief under Article VI, § 14 of the Arizona Constitution and A.R.S. §§ 12-123, 12-1801, and 12-1831.
- 3. A justiciable controversy exists because, without Court intervention, Defendant Adrian Fontes, with the assistance of Defendent Runbeck, stands to violate state law in an irreparable manner.
- 4. This Court has jurisdiction over special actions against bodies, officers, and persons pursuant to Article VI, § 18 of the Arizona Constitution and Arizona Rule of Procedure for Special Actions 4(a).
- 5. Pursuant to Article VI, § 14 of the Arizona Constitution and A.R.S. § 12-123, this Court has jurisdiction over claims brought pursuant to A.R.S. §§ 12-2041 and 42-1004(E).
- 6. Venue is proper in Maricopa County under A.R.S. § 12-401 and Arizona Rule of Procedure for Special Actions 4(b).

PARTIES

- 7. Plaintiff is the State of Arizona ex rel. Mark Brnovich, Attorney General.
- 8. Defendant Adrian Fontes is the Maricopa County Recorder.
- 9. Defendant Runbeck Election Services Inc. is a body corporate registered and located in the State of Arizona.

FACTUAL ALLEGATIONS

- The 2020 Presidential Preference Election is scheduled for Tuesday, March 17,
 2020.
- 11. Arizona law permits an elector to request an official early ballot from the county recorder where the elector is registered to vote. *See* A.R.S. § 16-542.
- 12. The request must be made by "a verbal or signed request to the county recorder." A.R.S. § 16-542.
- 13. When making the request for an early ballot, the elector must provide their name, address, date of birth, state or country of birth, or any other information that if compared to the voter registration would confirm the elector's identify. *See* A.R.S. § 16-542.
- 14. Defendant Fontes is the Maricopa County Recorder, and pursuant to A.R.S. § 16-542 has been granted the authority to mail ballots to certain electors within Maricopa County pursuant only to the statutory authority granted to him.
- 15. The county recorder "shall mail the early ballot and the envelope for its return postage prepaid to the address provided by the requesting elector within five days after receipt of the official early ballots from the officer charged by law with the duty of preparing ballots[.]" A.R.S. 16-542(C).
- 16. "If an early ballot request is received on or before the thirty-first day before the election, the early ballot shall be distributed not earlier than the twenty-seventh day before the election and not later than the twenty-fourth day before the election." 16-542(C).
- 17. "In order to be complete and correct and to receive an early ballot by mail, an elector's request that an early ballot be mailed" must include all required information and the request "must be received by the county recorder ... no later than 5:00 p.m. on the eleventh day preceding the election." 16-542(E).
- 18. Arizona law also permits any voter to request to be included on a permanent early voting list, allowing the voter "to receive an early ballot for any election for which the county voter registration roll is used to prepare the election register." 16-544.

- 19. In order to request to be on the permanent early voting list, a voter "may submit a written request that contains the required information," or may submit a form that "conform[s] to requirements prescribed in the instructions and procedures manual issued pursuant to § 16-452." 16-544(B).
- 20. After receiving a request from a voter to be on the "the permanent early voting list, the county recorder ... shall compare the signature on the request form with the voter's signature on the voter's registration form and, if the request is from the voter, shall mark the voter's registration file as a permanent early ballot request." 16-544(C).
- 21. For any polling place election scheduled in March, the County Recorder shall mail an election noticed to all eligible voters who are on the permanent early voting list. The notice includes the dates of the election, the dates that the voter's ballot is expected to be mailed, and the address where the ballot will be mailed. The notice shall include a means for the voter to change the voter's mailing address or update residence address. The notice shall also include a means for the voter to "[r]equest that the voter not be sent a ballot for the upcoming election or elections indicated on the notice." 16-544(D).
- 22. If the voter does not return the notice or notify the county recorder "within forty-five days before the election" of the voters desire to not receive an early ballot by mail, "the ballot shall automatically be scheduled for mailing." 16-544(F).
 - 23. The country recorder maintains the permanent early voting list. 16-544(A).
- 24. The county recorder "shall mail an early ballot to all eligible voters included on the permanent early voting list" no "later than the first day or early voting." 16-544(D).
- 25. On Friday, March 13, 2020 Defendant Fontes issued a press release stating that while "some who will say there is no authority to mail ballots to all voters under the law… there is no prohibition" and he would be mailing out ballots "to traditional Election Day voters who are not on the Permanent Early Voting List", just four days before the schedule Presidential Primary Election on Tuesday, March 17, 2020.

- 26. Defendant Fontes's actions violate A.R.S. § 16-542, which only authorizes ballots to be mailed to electors who "make a verbal or signed request to the county recorder" and who make their request by 5:00 pm on the eleventh day preceding the election. A.R.S. § 16-542(A), (E).
- 27. Pursuant to A.R.S. § 16-241(E), every act that is an offense pursuant to the election laws of this State is an offense for purposes of the presidential preference election, and in connection with a presidential preference election a person is subject to the penalties prescribed by those general election laws.
- 28. A.R.S. § 16-1021 gives the Attorney General power to "enforce the provisions of this title through civil and criminal actions."
- 29. Under A.R.S. § 16-1010, a person who knowingly refuses to perform a duty with which they have been charged under law relating to elections, or who, in his or her official capacity, knowingly acts in violation of any provision of such law, is guilty of a class 6 felony unless a different punishment for such act or omission is prescribed by law.
- 30. Under A.R.S. § 16-452(C), a person who violates any rule adopted pursuant to the A.R.S. section setting forth the Election Procedures Manual is guilty of a class 2 misdemeanor.
- 31. There has been a legislative effort to obtain statutory authority for county recorders to mail ballots to all qualified electors in the county under certain conditions, most recently during the current legislative session in Senate Bill 1077.
- 32. The legislative effort to obtain statutory authority for county recorders to mail ballots to all qualified electors in the county under certain conditions has not proven successful as of the filing of this Complaint, and Defendant Fontes is aware that there is no statutory authority for his planned actions.

COUNT ONE - DECLARATORY RELIEF

33. Plaintiff incorporate by reference the above allegations.

- 34. Pursuant to Arizona's Uniform Declaratory Judgment Act (A.R.S. § 12-1831 *et seq.*), Plaintiff is entitled to and requests a judicial determination and declaratory judgment that the Defendants are in contravention of state law.
- 35. There is an actual and justiciable controversy, and such judgment or decree will terminate the uncertainty and controversy giving rise to this proceeding as required by A.R.S. § 12-1836.
- 36. Accordingly, the Plaintiff is entitled to declaratory relief providing that the Defendants must comply with state law and not mail early ballots other than those approved by A.R.S. §§ 16-452 and 16-544.

COUNT TWO - INJUNCTIVE RELIEF

- 37. Plaintiff incorporate by reference the above allegations.
- 38. Arizona and its voters will be irreparably harmed if the Defendants are permitted to mail ballots without legal authority, thereby creating a swarm of illegal ballots and immense voter confusion.
- 39. The balance of equities and considerations of public policy strongly support the issuance of injunctive relief.
- 40. Accordingly, the Plaintiff are entitled to injunctive relief enjoining the Defendants from mailing early ballots other than those approved by A.R.S. §§ 16-452 and 16-544.

COUNT THREE - QUO WARRANTO RELIEF

- 41. Plaintiff re-alleges and incorporates the preceding paragraphs.
- 42. Under A.R.S. § 12-2041(A), the Attorney General may bring an action "in the name of the state upon his relation, upon his own information . . . against any person who usurps, intrudes into or unlawfully holds or exercises any public office or any franchise within this state."
- 43. Under A.R.S. § 12-2041(B), the Attorney General "shall bring the action when he has reason to believe that any such office or franchise is being usurped, intruded into or unlawfully held *or exercised*" (emphasis added).

1	44. Here, Defendant Fontes, with the assistance of Defendant Runbeck, is exercising
2	power beyond his lawful franchise and without statutory authority.
3	REQUEST FOR RELIEF
4	WHEREFORE, Plaintiff pray for judgment in their favor and against Defendants as follows:
5	A. Declare that Defendants must comply with state law and not mail early ballots other than
6	those approved by A.R.S. §§ 16-452 and 16-544.
7	B. Enter an injunction enjoining the Defendants from mailing early ballots other than those
8	approved by A.R.S. §§ 16-452 and 16-544.
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	C. Enter other injunctive relief that is necessary and appropriate to ensure compliance with
10	the foregoing constitutional and statutory provisions.
11	D. Award such other relief as the Court deems proper.
12	RESPECTFULLY SUBMITTED: March 13, 2020.
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14	MARK BRNOVICH
15	ATTORNEY GENERAL
16	By:
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1	Verification	
2	I declare under penalty of perjury of the laws of the State of Arizona	
3	that the foregoing is true to the best of my knowledge, information and belief.	
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5	Executed this day of, 2020 in Phoenix, Arizona.	
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