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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

**PHOENIX NEWSPAPERS, INC., an
Arizona corporation, and KATHY
TULUMELLO,**

Plaintiffs,

vs.

**ARIZONA STATE SENATE, a public body
of the State of Arizona; KAREN FANN, in
her official capacity as President of the
Arizona State Senate; WARREN
PETERSEN, in his official capacity as the
Chairman of the Arizona Senate Committee
on the Judiciary; SUSAN ACEVES, in her
official capacity as Secretary of the Arizona
State Senate; and CYBER NINJAS, INC.,**

Defendants, and

CYBER NINJAS, INC.,

Real Party in Interest.

Case No.: LC2021-00180-001

**MOTION TO DISQUALIFY
JUDICIAL OFFICER FOR CAUSE**

(Case Assigned to
Judge John H. Hannah Jr.)

(Motion Submitted to
Presiding Judge Pamela Gates)

(Oral Argument Requested)

Pursuant to Rule 42.2, Cyber Ninjas, Inc. (“CNI”) hereby moves to disqualify judicial officer John Hannah from this action for cause, based on information discovered during a January 6th, 2022 hearing as well as in public-records searches conducted by undersigned counsel the following day and the weekend of January 8th.

Relevant Ethical Rules

Rule 2.9(A) and Rule 2.9(C) governing *ex parte* communications and extrajudicial investigations are implicated, as well as Rules governing political activities by a judge including but not limited to 1.2, 2.11, 2.3, 2.4, 3.1, and 4.1 of the Arizona Code of Judicial Conduct (referred to herein as the “ACJC” or “Canon”).

General Factual Background

What follows is a general factual background. The facts that undersigned counsel recently discovered, and which directly give rise to the instant Motion, are contained in the next section.

CNI is registered as a for-profit Florida corporation.¹ In 2021, the Arizona Senate contracted CNI to produce an audit report regarding the 2020 election. CNI’s former CEO is named Douglas Logan. In the instant action, Plaintiff Phoenix Newspapers Inc. dba *The Arizona Republic* sued CNI, originally contending that CNI was a public agency subject to public records law and seeking various audit-related documents belonging to CNI. The suit was filed on June 30, 2021.

At the beginning of this suit, CNI moved to disqualify Judge John Hannah for cause. The grounds were that before being assigned to this action, Judge Hannah had made a *sua sponte* negative comment about the Senate audit in an unrelated case to which CNI was not a party, Case No. CV2020-014553. In that case, the Arizona Republican Party had asked Judge Hannah to order that Maricopa County redo its post-election “hand-count” of ballots, based on a violation of the statutory process for performing the hand-count. In general, the Judge’s orders and conduct in that case showed an unacceptable degree of intemperance. In a lengthy ruling, he claimed that he was being “gas-lighted,” called the Republican Party’s arguments “sophistry,” and sanctioned the Republican Party and its

¹ This Motion is supported by the Declaration of John D. Wilenchik, Esq. attached hereto (the “Declaration”).

undersigned counsel in a decision that remains under appeal.² At no time did Judge Hannah disclose any actual or potential conflict or bias with respect to him serving as the judicial officer on the case. CNI’s prior Motion to Disqualify was denied on the grounds that “[t]he matters alleged in the Motion—including Judge Hannah’s ruling in prior litigation—do not show bias and prejudice that would disqualify Judge Hannah from ruling in this public records matter.” A request to disqualify him without cause that was made as part of the same Motion was also denied. CNI chose not to appeal the motion to disqualify for cause.

Subsequently, Judge Hannah strongly signaled to all parties in the initial hearings on this matter that he would be granting the Plaintiff’s claims. He signed a lengthy Order that Plaintiff’s counsel wrote and first presented him with immediately before a hearing that he scheduled only weeks after service of the suit, granting Plaintiff’s claims. In part, Judge Hannah ruled that CNI is a public agency/officer. On appeal, the Court of Appeals declined to adopt Judge Hannah’s reasoning but accepted a new argument that was independently raised by the Plaintiff on appeal. CNI appealed the decision to the Arizona Supreme Court, which subsequently issued a series of *en banc* orders including an order acknowledging that the Order Judge Hannah signed (and from which CNI appealed) expressly allowed for CNI to withhold documents; and therefore “CNI may...assert any pertinent objections [under which documents are being withheld] in the Superior Court and, if necessary, seek appropriate review in the Court of Appeals.” On January 5th, the Supreme Court

² The negative comment about the audit was contained in footnote 3 of his final Ruling in the case: “The Court is aware that Judge Thomason has affirmed the authority of State Senate officials to compel Maricopa County to produce the materials associated with the 2020 election, including tabulation devices, software and ballots, for the avowed purposes of ‘assessing electoral integrity’ and ‘examining potential reforms to the electoral process’ and apparently also ‘to determine if the result of the Arizona election was correct and to see if there was a further basis to challenge the election outcome.’ *Maricopa County v. Fann*, Maricopa County Superior Court No. CV2020-016840, Order entered 02/25/2021. This Court, like Judge Thomason, expresses no view on the wisdom of that endeavor. It is enough to note that the appropriate forum in which to advocate more exacting scrutiny of the electoral process is the legislature, not the courts.” Judge Hannah made this comment *sua sponte*, as no party had raised the Senate audit or Judge Thomason’s ruling(s) in the case. Judge Hannah’s language – including describing the purposes of the audit as “avowed” and “apparent[]” – expressed skepticism of the audit, and there was no reason to mention the “wisdom” of the “endeavor” other than to express doubt about whether it was wise. The comment also strongly indicated that Judge Hannah felt a personal political interest in these matters and was independently investigating/reading news reports about them, as the Senate audit was not raised by any party and was not involved in the case.

1 denied CNI's petition for review "without prejudice to raising these issues on appeal when the case
2 before the superior court is final."

3 Despite these strong indications that the Supreme Court believed CNI was still entitled to raise
4 objections to production of documents until Judge Hannah issued a final order, Judge Hannah went
5 ahead and set an evidentiary hearing on January 6th at which he found CNI in contempt and began
6 fining it \$50,000 a day for alleged noncompliance with his Order(s). He declined to enter a final order
7 or rule on CNI's objections before finding it in contempt. The Judge set the hearing for January 6th
8 without consulting anyone's calendars, suggesting that it was a deliberate choice of date.³

9 At the beginning of the January 6th hearing, Judge Hannah made a comment that "I do not
10 believe I've had a more important case in 16 years I've been on the bench, because this case goes to
11 the legitimacy of the process that creates the government that I serve."⁴ Given the objectively narrow
12 public-records issues in this case, counsel interpreted this comment to be of a political nature. The
13 issues before Judge Hannah are primarily whether CNI's private records – consisting almost entirely
14 of the company's privately-owned emails/communications – are "public records," and who is going
15 to pay for the cost of searching/editing/producing them on its behalf. During the hearing, counsel
16 argued in part that the records were not government-owned but also that the company lacked the
17 money to pay for records review because the Senate failed to pay the \$100K balance of its \$150K
18 contract; the review would cost around \$60K; and the company is in debt and laid off all of its
19 employees. (Unlike an actual public agency that is genuinely subject to public records requests, CNI
20 is not taxpayer-funded.) Judge Hannah's response was to sanction CNI \$50K a day for non-
21 production, which showed no genuine intent to address these issues. The fine was also fifty times
22 what the Plaintiff requested, and equal to the entire amount of money that CNI had received under its
23 contract with the Senate.

24 Specific Factual Basis for Motion

25 During the January 6th hearing, Judge Hannah asked undersigned counsel *sua sponte* about

26 ³ See Declaration, paragraph 18.

27 ⁴ See hearing audio at the 6:47 mark (six minutes, 47 seconds in), found at <https://bit.ly/3Fhc9Z1>

whether CNI’s former CEO Douglas Logan had appeared for a January 5th deposition that was noticed by the Plaintiff in another action. (*American Oversight v. Senate et al.*, CV2021008265, the “A.O. case.”) That Notice of Deposition, including the date of the deposition, was not part of the record in this case, and had not been mentioned by any party to this case. (Normally in state court, a Notice of Deposition is not a part of the record at all.) However, on December 16th, the Plaintiff in that case (“American Oversight”) issued a press release about the date of the deposition,⁵ which was reported on by news media including the Plaintiff in this case (*The Arizona Republic*).⁶ Undersigned counsel asked Judge Hannah how he knew about the deposition, and whether he had been reading news about the case. This was an important and proper question, because the canon of judicial ethics provides that judicial officers are to promptly notify parties of *ex parte* communications and “shall not investigate facts in a matter independently”; and in the event that a judge receives or considers factual information that is outside of the record and/or *ex parte*, then the judge must also identify the source and substance of the information and give the parties an opportunity to respond. ACJC 2.9(A)(1)(b); 2.9(A)(3); 2.9(B), (C). Judge Hannah hesitated for some time before responding: “Um...the uh, record in another case is, uh, subject to judicial notice.” A link to the audio of this exchange is at <https://bit.ly/3fcLpyr>. (The exchange occurs at one hour, twenty-four minutes and twenty-five seconds [1:24:25] into the full audio of the hearing.) Later in the same hearing, Judge Hannah also stated:

The Court is aware from the record in this case that Cyber Ninjas agreed to undertake this work for \$150,000. The Court is also aware from the record that Cyber Ninjas took in several million dollars from various sources that it says helped pay for this task.

(See audio recording starting at 1:52:30; in particular 1:52:43 – 1:53:35 quoted above.) Judge Hannah then stated that he was awarding sanctions of \$50,000 based on this information, because he felt that Cyber Ninjas had received “several million dollars” and therefore anything less than \$50,000 would be “grossly insufficient.”

Undersigned counsel and his staff have diligently searched the record in this case for any

⁵<https://bit.ly/3K15uG2>

⁶<https://bit.ly/3r7amRb>

1 allegation that “Cyber Ninjas took in several million dollars from various sources” and have been
2 unable to find it. This was however also reported on by *The Arizona Republic*, in a news story dated
3 November 2, 2021.⁷ Judge Hannah did not identify the source or substance of this information before
4 using it to make his findings in direct support of contempt, nor did he give CNI an opportunity to
5 respond before doing so.

6 Out of candor to the Court—and after an intense and costly search of the record not just in this
7 matter, but also the *American Oversight* case—it appears that the Plaintiff in the *American Oversight*
8 case filed a lengthy (41 page) Objection to undersigned counsel’s motion for withdrawal in that matter
9 on December 27th; and in a footnote, it mentioned the allegation that CNI had received millions of
10 dollars. American Oversight also attached a copy of its Notice of Deposition to the Objection, all of
11 which was filed with Judge Kemp but not Judge Hannah. If this was Judge Hannah’s source of the
12 information—a footnote/exhibit to an objection to a motion to withdraw filed in another case over the
13 holidays—then at the minimum he needed to disclose this and give the parties an opportunity to
14 respond before using it as a basis to rule. Instead, he refused to identify the source or substance of the
15 information, even when questioned about it.

16 Earlier during the same hearing,⁸ Judge Hannah also openly commented on CNI’s prior motion
17 to disqualify him.⁹ Judge Hannah made comments indicating he thought CNI’s defenses (which are
18 essentially that CNI is not a public “officer” or “public agency” under public records law; that private
19 records in a private company are not public records; and that CNI lacks the money to review and
20 produce them) were in bad faith and groundless, and he broadly signaled that he intends to sanction it

21
22 ⁷ <https://bit.ly/3FkY4cW>

23 ⁸ Undersigned counsel promptly requested a transcript of the January 6th hearing but was informed on Monday January
24 10th that an expedited transcript will not be available for another 10 (ten) days, i.e. until January 24th. (The transcript
25 order has been placed.) In the meantime, Judge Hannah set another hearing for Friday January 21st at which he indicated
26 that he intends to consider issuing additional “personal” sanctions of some kind. In the interests of justice, CNI must
27 therefore file this Motion without an official transcript. Relevant portions have been excerpted from the audio and are
28 linked herein, and a recording of the entire hearing is available through this link: <https://bit.ly/3fcLpyr>.

⁹ Judge Hannah’s decision to *sua sponte* comment on the Motion to Disqualify filed six months earlier is troubling for a
number of reasons. Among them is that A.R.S. § 12-410 provides that a judge may not retaliate against a party for
filing a motion to disqualify through a finding of contempt.

and its counsel for even raising them. Undersigned counsel noted for the record that Judge Hannah was smiling during counsel's argument. In response, Judge Hannah stated that he was smiling because "I'm thinking of the accusations against me that you made in the motion to recuse me for cause that you did not appeal, which you did not appeal the denial [of], where you said that I'm biased against conservatives and on information and belief a Democrat. I smile every time I think about it because I'm not a Democrat." (A link to this audio is at <https://bit.ly/3KdTfWO>. It occurs 12 minutes, thirty-one seconds into the full hearing audio.) Undersigned counsel pointed out that Judge Hannah did not deny having a bias against conservatives and the hearing moved on.

On the following day (January 7th), undersigned counsel first received information¹⁰ that Judge Hannah has made 18 separate contributions to political candidates and PAC's at the federal level alone in between October 2017 and September 2020. This is an unusual level of political activity for most people, much less a superior court judge. In fact out of the one hundred sixty-one (161) sitting Maricopa County Superior Court judges and commissioners, only six (excluding Judge Hannah) have made any reported federal political contributions since 2011. He was also one of only four judges/commissioners to contribute to a presidential campaign in 2020. (To the best of undersigned counsel's knowledge, none of the four judges who contributed to a presidential campaign presided over a case concerning the 2020 election other than Judge Hannah.) Since 2011, Judge Hannah has made more than three times the number of federal political contributions as the rest of the entire sitting superior court bench combined, eighteen (18) times more on average than any judge who did contribute (with the exception of one judge who has been assigned only to the criminal bench in her entire tenure on the court). This is both in terms of frequency and total amount.¹¹ His contributions averaged around \$100.00 each and were made through "ActBlue," which describes itself as "a powerful online fundraising platform for Democratic candidates up and down the ballot, progressive

¹⁰ See Exhibit 1 to Exhibit "A" hereto, Declaration of John D. Wilenchik, Esq. The information is federal public record and can also be downloaded/accessed through: <https://bit.ly/3qkxfSg>.

¹¹ See Exhibit A hereto, Declaration. Except for the one criminal-court judge (and Judge Hannah), there are only four judges since 2011 who have contributed to federal political campaigns or organizations as reported by the FEC. They contributed a total of only 5 times and in the total combined amount of \$502.50. Hannah has contributed eighteen (18) times in the total amount of either \$1,680 or \$3,930 (the \$2,250 discrepancy is explained below).

1 organizations, and nonprofits.”¹² All of the contributions were to Democratic candidates/candidate
2 committees or to Democratic/progressive Political Actions Committees. Several of the contributions
3 are cause for very serious concern in this case, including because of the Judge’s lack of disclosure.

4 On October 15, 2018, Judge Hannah contributed \$50.00 to a group called “One Nation
5 United,” whose website still shows a count-down to the 2020 election that says at the top: “We must
6 stop Donald Trump and the GOP. They are hellbent on transforming this country into a place none of
7 us would want to live.”¹³ Undersigned counsel has confirmed that, as of October 15, 2018, the website
8 contained the same language at the top of the website, just below the “Make a Contribution” button.
9 (See Exhibit 2 to Declaration for screenshot.)¹⁴ Since the 2016 election,¹⁵ the “Our Mission” portion
10 of the website has stated:

11 The flood of money into ad campaigns and right wing media groups like FOX News
12 has shifted views of Americans so far to the right, that a candidate like Donald Trump
13 was acceptable to a wide group of voters due to the near constant exposure to ads and
14 pseudo-news reports that present a false narrative to the public... Their only advantage
15 is the sheer amount of dollars they can throw at advertising and paid media pundits.
16 Unfortunately this was a winning strategy and Trump won the election. Republican-
aligned PAC advertising and opinion positioning strategies are outdated. We will bring
the fight to them on their own block, city or state to hold back the onslaught of massive
Republican-aligned ad spending.

17 (See Exhibit 3 to Declaration, screenshot.) In other words, aside from being aggressively anti-Trump
18 and anti-GOP, the group’s specific “mission” is to promote media and news reports/advertising that
19 are also anti-Trump and anti-GOP.

20 On September 28, 2019, Judge Hannah contributed \$100 to a group named “Fair Fight, Inc.
21 PAC” founded by Georgia Democrat Stacey Abrams. The website for “Fair Fight” states that

22
23 ¹² <https://secure.actblue.com/about>

24 ¹³ <https://onenationunited.com/>

25 ¹⁴ See Declaration. The “Internet Archive Wayback Machine” reflects that the website has not changed in that respect
26 since at least August 15, 2018. <https://bit.ly/3qgaHlt>

27 ¹⁵ A copy of the “Mission” statement before the 2016 election is Exhibit 9 to the Declaration; and a copy of the “Mission”
statement as of 2019 (after the election) is Exhibit 3. As of October 2018 (when Judge Hannah contributed), it is likely
that the website showed the post-election statement; but the Wayback Machine can confirm only that the post-election
statement was there as of September 2019. In any event, the content of the two statements is substantively the same.
(Compare Exhibit 3 to Exhibit 9.)

“insidious efforts to make voting more difficult” are “undermin[ing] our democracy” (“Fair Fight, Inc. PAC”).¹⁶ As of August 13, 2019, the group’s website claimed that the 2018 elections were “rife...were irregularities”; and an August 7, 2019 press release read in part: “[n]ow, as elections draw closer, Republicans are running scared because they know as well as we do just how out of touch they are with the voters they represent.”¹⁷ On May 14, 2021 (a month and a half before this suit was filed), “Fair Fight” issued a lengthy press release calling CNI’s audit “dangerous” and “discredited,” and claiming that the audit was “being led by conspiracy theorists and insurrectionists.”¹⁸ (After the audit reached its conclusion in September of last year, the same group published an update to their website which simply stated without comment, “Republican Review of Arizona Fails to Show Stolen Election.”¹⁹) The last press release from the group’s CEO prior to Judge Hannah’s contribution (dated July 29, 2019, three months prior to his contribution) claimed that as the result of the group’s “litigation, activism, and advocacy,” it had defeated a voting-machine company which it characterized as having “shielded itself from public records requests.” (July 29, 2019 Press Release.)²⁰ Of note, in the same release the group also praised the government for selecting Dominion voting machines, which it claimed were selected due to the group’s “litigation, activism and advocacy.” The instant suit is also a public-records action against a private elections vendor (CNI); and CNI’s audit was intended in part to assess the integrity of Dominion voting machines (as reflected by the exhibits to the Complaint, *inter alia*; this was also heavily reported by news media).²¹

On September 19, 2020 – less than two months before being assigned to the Republican Party case – Judge Hannah made another \$100 contribution to “Movement Voter PAC.” Since at least September 18, 2020, this group’s website has stated: “We were deeply dismayed by the broader outcome of the 2016 election...We organize for the long game...We are only getting started...[W]e

¹⁶ September 28, 2019 contribution; <https://fairfight.com/>.

¹⁷ <https://bit.ly/34xspZ8>; see also Exhibit 7 to Declaration, page 2.

¹⁸ <https://bit.ly/3HTca7a>; see also Exhibit 8 to Declaration (screenshot of same).

¹⁹ <https://bit.ly/3qgddrW>; see also Declaration.

²⁰ <https://fairfight.com/statement-from-fair-fight-ceo-lauren-groh-wargo/>; see also Exhibit 4 to Declaration.

²¹ CNI’s Statement of Work mentions the review of Dominion machines in several places; it was attached to the Complaint in this matter and made public/reported on as early as April 1, 2021.

can build lasting power and make the 2020s a progressive decade.”²² Since February 27, 2021 – weeks before Judge Hannah’s final ruling awarding sanctions in the Republican Party case against the Republican Party (dated March 15, 2021), and just four months before he was assigned to this case (on June 30, 2021) – the group’s website has shown a “report” on the 2020 election entitled “What the Movement [Voter Project] Won in 2020,” which thanks the group’s “partners” in Arizona for “Biden’s margin of victory in Arizona” and for “flipping the Presidential race by 10,457 votes.” The report also generally calls the 2020 election “a game-changing victory, giving Democrats a narrow trifecta to pass legislation and appoint judges but it was also a near-death experience. We defeated Trump by a hair. While the Biden-Harris ticket won the popular vote by more than 6 million votes, we won the electoral college by less than 43,000 votes across three states: Arizona, Georgia, and Wisconsin. That’s an even narrower margin than the 77,000 votes Trump won by in 2016. MVP’s local grassroots partners won this election....Biden’s margin of victory in Arizona was 10,457 votes..... Make no mistake — without MVP’s partners in these three states, Trump would be president for the next four years.” “Winning Arizona in 2020 was a battle more than a decade in the making. MVP is going to double down on this crucial sunbelt battleground.” “The Presidential race and the electoral college in 2024 are likely to be tough... [We may be] exposed to Republican trifectas controlling elections in advance of 2024 — a terrifying prospect. It looks the GOP is going to run a permanent smear campaign for the next four years and use every dirty trick possible to get revenge in 2022 and 2024. In short, we have our work cut out for us... We have to assume that Trump and the other side are going to upgrade their tactics. MVP is already making early investments to strengthen our local grassroots partners for the battles to come... There’s a lot of analysis and evaluation still to do on the 2020 election.... We are doubling down and going even bigger over the next four years.”²³

Over the course of 2019 and leading up to the 2020 election, Judge Hannah made at least three contributions totaling \$250 to Warren for President, Inc. (on May 15, 2019; June 7, 2019; and \$100 in December 2019). In the two months before the November 2020 election, he contributed to

²² See <https://bit.ly/33k99Oh>; see also Exhibit 5 to Declaration for screenshot as of September 18, 2020.

²³ <https://bit.ly/3qeYjSK>; see also Exhibit 6 to Declaration.

1 Democratic Senate candidates in Alabama, Montana, Maine, South Carolina, and Iowa. (See
2 contributions to Steve Bullock, Sara Gideon, Jaime Harrison, Doug Jones, and Theresa Greenfield on
3 September 19, 2020.) Finally, the FEC website reports a \$2,500 contribution to “Sinema for Arizona”
4 in 2017 for the primary election. This would have been in excess of half the federal limit for the
5 primary, and therefore a direct violation of Canon 4.1. But in candor to the Court, this amount could
6 have been a typo because the link to the associated “pdf” record indicates only a \$250 contribution.

7 Legal Analysis and Argument

8 Judge Hannah made no disclosures with respect to any of these matters during the case with
9 the Republican Party or in this one. In his own words, this case involves a Republican Senate-led audit
10 “for the avowed purposes of ‘assessing electoral integrity’ and ‘examining potential reforms to the
11 electoral process’ and apparently also ‘to determine if the result of the Arizona election was correct
12 and to see if there was a further basis to challenge the election outcome.’”²⁴ The instant suit was also
13 filed by a newspaper, *The Arizona Republic*. Judge Hannah actively contributed to a group whose
14 primary message is that “Donald Trump and the GOP” “are hellbent on transforming this country into
15 a place none of us would want to live” and whose avowed purpose is to “stop them” by promoting
16 anti-Trump and anti-GOP news media and advertising; another group whose purpose is to oppose
17 Republican elections-integrity efforts including the audit that is the subject of this case, and which
18 promotes litigation against election vendors that “shield” themselves against public record requests;
19 and another group that was “deeply dismayed” by Trump’s victory in 2016 and called the 2020
20 election a “near death experience” because “[w]e defeated Trump by a hair” in Arizona, vowing to
21 “double down” on efforts to defeat what it characterizes as GOP “smear campaigns” and “dirty
22 trick[s].”

23 While this goes a long way toward explaining Judge Hannah’s intemperate behavior in these
24 cases, it also creates an inexcusable appearance of impropriety as well as an apparent cause for
25 disclosure and recusal in these matters, which Judge Hannah has neglected and/or improperly
26

27 ²⁴ See Exhibit to earlier Motion, 12-21-20 Ruling by John Hannah in Case No. CV2020-014553.

disregarded. “Any circumstances that objectively lead to the conclusion that the judge’s impartiality might reasonably be questioned calls for disqualification.” *Kay S. v. Mark S.*, 213 Ariz. 373, 379-380, 142 P.3d 249, 255-256 (Ct. App. 2006), *as amended* (Nov. 9, 2006); *see also McElhanon v. Hing*, 151 Ariz. 403, 411, 728 P.2d 273, 281 (1986), *cert. denied*, 481 U.S. 1030 (1987)(“Although we do not conclude that the judge was actually biased against defendant or defense counsel, that is immaterial. The judge should have been disqualified based on the appearance of partiality”). Even when there is no actual bias, justice must appear fair. *McElhanon*, 151 Ariz. at 411, 728 P.2d at 281(citing *inter alia In re Murchison*, 349 U.S. 133 (1955)). “This objective standard extends beyond the judge’s personal belief that his impartiality is not impaired.” *Id.* “The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge’s ability to carry out judicial responsibilities with impartiality is impaired.” *Id.*, quoting Ariz. R. Sup.Ct. 81, Canon 2 (Commentary (Canon 2A) (1993)(internal quotation marks and ellipses omitted). To avoid appearances of impropriety, judges have obligations of disclosure and candor, including disclosing any reason why they might be perceived as biased on the case (or that they actually are), and any sources of information outside the evidence that has been presented to them, as well as giving parties the opportunity to rebut such evidence.

Judge Hannah’s undisclosed history of heavily-activist political contributions clearly warrants recusal in this case, due to at the minimum the objective appearance of impropriety. Canon 1.2 provides that “[a] judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.” Canon 2.11 provides that “[a] judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to the following circumstances: [t]he judge has a personal bias or prejudice concerning a party or a party’s lawyer, or personal knowledge of facts that are in dispute in the proceeding.” Every other member of the superior-court bench that undersigned counsel has ever encountered is extremely cautious about this, and in general about avoiding the appearance of impropriety on cases – not just

in “political” cases like this, but certainly including them. For example, when a case filed by the Republican Party last year was assigned to Judge Coury, he made prompt disclosure of the fact that he was subject to a political campaign by the Democratic Party and he offered to recuse. In general, our superior court bench is replete with judges of honor, integrity and temperance. There is no reason why CNI or any other litigant must continue to face a judge whose partiality and fairness can and should be reasonably questioned.

Canon 3.1 provides that “when engaging in extrajudicial activities, a judge shall not: (A) participate in activities that will interfere with the proper performance of the judge’s judicial duties; (B) participate in activities that will lead to frequent disqualification of the judge; (C) participate in activities that would appear to a reasonable person to undermine the judge’s independence, integrity, or impartiality or demean the judicial office...” Judicial Ethics Advisory Committee Advisory Opinion (“Advisory Opinion” or “A.O.”) 96-04 ²⁵ notes that extrajudicial involvement with organizations “dedicated to particular causes” or that are “active in promoting specific points of view” “may give the appearance of favoritism and raise a question as to the judge’s ability to preside fairly over certain cases.” “As we noted in Opinion 95-02, [o]ne of the central themes of the Code of Judicial Conduct is that judges must perform their duties independently and impartially and cannot participate in any activity that might suggest the appearance of favoritism or call into question the integrity of the judiciary. See Canons 1A, 2A, 2B, 4A(1), 4C(4), 4C(4)(a), 4C(4)(b) and 5.” (Internal quotation marks omitted.) Advisory Opinion 18-06 (issued on December 14, 2018)²⁶ relatedly states that while “[t]he Judicial Code and the Employee Code encourage judges and judicial employees to participate in appropriate extrajudicial activities,” both codes contain “restrictions on such activities. They also make clear that judges and judicial employees should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by their respective codes of conduct.” (Internal quotation marks omitted.) Advisory Opinion 18-06 specifically addressed whether it is appropriate for judges or judicial employees to participate in

²⁵ https://www.azcourts.gov/portals/137/ethics_opinions/1996/96-04.pdf

²⁶ <https://www.azcourts.gov/Portals/137/ethics%20opinion%2018-06.pdf?ver=2018-12-14-123701-727>

“marches, rallies or protests”: “by way of example...the ‘Women’s Marches’...and a recent ‘March for Science.’” Even for seemingly apolitical activities like a “March for Science,” the Advisory Opinion warns that the propriety of a judge’s involvement “is a fact-intensive inquiry that ultimately must be decided on a case-by-case basis.” Of “particular relevance” to the inquiry is whether participation “would appear to a reasonable person to undermine the judge’s independence, integrity, or impartiality,” to which “[a]n objective standard applies. It is not sufficient that the judge personally is convinced of his or her abiding independence and impartiality. In making this assessment, judges should assume their participation will be scrutinized and publicized, and they must consider the public perception should they be depicted in reports of the event, including in press coverage or on social media.” “In assessing the propriety of participation, judges should examine not only the official title of an event, but also its stated mission, as well as its sponsors and organizers.” For example, the Massachusetts Supreme Court issued an Advisory Opinion against judges participating in the 2017 “Women’s March on Washington,” because of the “unmistakable political overtones of the event, as well as public statements by organizers of the march suggesting the event’s purpose was to send a bold message to the new administration on their first day in office.” (A.O. 18-06, internal quotation marks omitted; quoting Massachusetts Supreme Court CJE Opinion No. 2016-10.) A.O. 18-06 also discusses a New York Advisory Opinion which concluded that judges should not attend a “March for Science” if “its organizers become involved in or suggest they will become involved in litigation related to the March’s agenda, advocate for or against the election or appointment of specific individuals to public office, or become the subject of public controversy.” In general, A.O. 18-06 notes that judges have more leeway when engaging in extrajudicial activities that are not overtly political or that are “related to the law, the legal system, or the administration of justice”; but that for political activities, “more rigorous restrictions apply.” As another example, A.O. 18-06 suggests that a judge attending an “Immigration March” is problematic for a number of reasons including if “one of the organizers frequently appears in litigation”; and a judge must consider questions such as whether “a judge’s participation in such a march [could] lead a reasonable person to question that judge’s

1 impartiality when presiding over a state court proceeding involving an individual’s immigration status
2 or other immigration-related issues? And how would the independence of the judicial branch be
3 perceived should a photograph of a participating judge appear in the newspaper alongside protesters
4 carrying signs supporting or opposing political candidates or organizations?” Finally, A.O. 18-06
5 addresses the propriety of a judge participating in extrajudicial activities at all; but once a judge
6 decides to engage in such activities—and especially activities of an overtly political nature—then
7 whether he should preside over overtly political cases is another question entirely. In other words,
8 even if it is proper for a judge to engage in a given extrajudicial activity, then this does not mean that
9 it proper for a judge to actually preside over a case in which his partiality could be reasonably
10 questioned as the result of the activity, much less to neglect or disregard his obligations of disclosure
11 in the matter. The Comment to Canon 4.1 provides that judges “must, to the greatest extent possible,
12 be free and appear to be free from political influence and political pressure.” (Emphasis added.) While
13 Judge Hannah’s apparent decision to exploit Canon 4.1(A)(4) to the fullest – including contributing
14 18 times more often than any other judicial officer (bar one), and three times more than 159 combined
15 – might not raise issues in other kinds of litigation, his decision to contribute to the particular groups
16 discussed above – not to mention the frequency/volume of his contributions — create a clear
17 appearance of impropriety in matters such as this and the Republican Party matter. If the conduct of
18 every single other judge and commissioner in Maricopa County over the last ten years is a “bar” for
19 what constitutes proper judicial conduct, or for the level of political activity that is acceptable for any
20 judge much less one who chooses to preside over political cases, then the answer to whether there is
21 an unacceptable appearance of impropriety in this case is clear. This is even without considering Judge
22 Hannah’s history of intemperance in these matters, or at the minimum the appearance of improper
23 conduct with respect to extrajudicial investigations/reading the news. But the problem is certainly
24 compounded by those things, as well as the fact that the media are parties to this litigation and that the
25 case is overtly political in nature. The Comment to Canon 3 provides that “[a]n independent judiciary
26 requires that judges decide cases according to the law and facts, without regard to whether particular
27
28

laws or litigants are popular or unpopular with the public, the media...Confidence in the judiciary is eroded if judicial decision making is perceived to be subject to inappropriate outside influences.” Canon 2.4 provides that “[a] judge shall not be swayed by partisan interests, public clamor...A judge shall not permit...political...or other interests or relationships to influence the judge’s judicial conduct or judgment. A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge.” Canon 2.3 provides that “[a] judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon...political affiliation.” This includes “verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as...political affiliation.” (Comment 3 to Canon 2.3.) Comments 1 and 2 to Canon 2.3 provide that “[a] judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames...threatening, intimidating, or hostile acts.... Facial expressions and body language may convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or prejudice. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.” Judge Hannah’s history of intemperance and slurs (“sophistry,” “gas-lighting”), and even improper facial expressions/body language (“smiling” about the prior motion to disqualify him), objectively and improperly convey bias and prejudice, which in this case is clearly on the basis of political affiliation. This is to say nothing of Judge Hannah’s more substantive conduct in these matters, including his decision to hold a contempt hearing on January 6th, to make political statement(s) in the hearing, and willingness to threaten and issue personal sanctions and punitive contempt without due process.

There is a reasonable appearance that Judge Hannah has been going out of his way to search for information that has not been presented to him and using it against the Defendant, without either disclosing or giving the parties an opportunity to respond to it; and/or he is reading the news about CNI. This is of particularly serious concern because the Plaintiff in this case is a media organization

(Phoenix Newspapers Inc. dba *The Arizona Republic*); and the newspaper’s sources of information included the American Oversight group, which sued CNI in a separate lawsuit that is pending before Judge Kemp. Under these singular circumstances, reading any news or extrajudicial statements about CNI constitutes not only an improper independent investigation of facts and evidence under Canon 2.9(C) but also an improper consideration of *ex parte* communications in the more traditional sense under Canon 2.9(A). In A.O. 97-11, the Supreme Court Judicial Ethics Advisory Committee considered the propriety of a court looking at a police report in a pending case, where the report had not been introduced into evidence or otherwise placed into the record by any party before the court. The Committee concluded that it was ethically improper, citing the Canon against extrajudicial investigations and *ex parte* communications, *inter alia* (Canon 3). “[F]acts are to be determined on the basis of evidence presented in court within the adversary process so that each side can present its version of the facts. Moreover, even where a judge is not sitting as a fact-finder, he or she should not obtain extrajudicial knowledge of facts, because that knowledge could unfairly influence the judge’s rulings and other actions in the case.” (Quoted from A.O. 97-11, internal quotation marks omitted.) The fact that police reports are “public records which are available for inspection and copying by any person” does not change this result. *Id.* Finally, even when judges are allowed to consider police reports because the law expressly provides for it (e.g. in presentencing hearings), A.O. 97-11 notes that the defendant must ethically still be furnished with a copy of the report, and given a reasonable time and opportunity to respond to it, before the judge uses it to rule. In this case, news reports are generally similar to police reports in that they are both widely available to the public—but as A.O. 97-11 notes, this does not change the result. And if the source of Judge Hannah’s information was not the news but rather the footnote/exhibit(s) to the Objection to Withdrawal in the *American Oversight* case, then his conduct remains improper because that evidence was not presented to him.²⁷ Canon

²⁷ At best, the “evidence” was presented to another judicial officer (Judge Kemp) by the plaintiff in another case, in a very obscure way (as a footnote to an objection to counsel’s withdrawal). Of note: the filings in the *American Oversight* are clearly *ex parte* as to the Plaintiff here. But there are also issues about whether the Objection filed in that case was *ex parte* as to CNI, since it was not served on CNI but rather on undersigned counsel; and undersigned counsel has never made/intended to make a general appearance in the *American Oversight* case. (Counsel appeared some time ago in the case only to request leave to file an amicus brief on behalf of CNI, which

2.9(C) provides that a judge “shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.” (Emphasis added.) The “judicial notice” exception does not apply because “[t]he rules of evidence allow the court to take judicial notice of the contents and disposition of a file, that the case exists and that allegations were made, but the court may not take notice of the truth or falsity of specific allegations except as established by final judgment.” *Matter of Pima Cty. Mental Health No. MH-959-10-85*, 149 Ariz. 7, 9, 716 P.2d 68, 70 (Ct. App. 1986). The evidence in question was not established by a final judgment, but Judge Hannah nevertheless used it for its truth or falsity (and he did not claim to be taking judicial notice in any event). Finally, regardless of whether or how severely Judge Hannah violated the prohibition on extrajudicial investigations, he still held an obligation to disclose the source and substance of the information and to give the parties an opportunity to rebut it before making it the basis for his ruling, which he failed and refused to do even when asked. The obvious problem is that in failing to abide by these duties, Judge Hannah has furthered the reasonable impression that he is biased and going out of his way to find evidence against the Defendant(s) on these matters, and considering facts and information that Defendant(s) will never know of or have any opportunity to rebut.

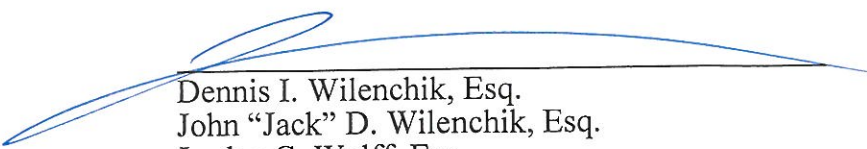
Conclusion

Judges who behave according to the Canon and with integrity will typically recuse at the slightest notion of improper conduct or actual bias, and at the minimum they will disclose issues of ethical concern. When judges fail to do so, they risk stepping outside their anticipated roles as neutral and respected decision-makers and into the role of opposing counsel which imperils our entire system of justice. They become adversaries who serve to inflame disputes rather than help to resolve them. And the public’s worst fears about judges are encouraged if not proven right. For the foregoing reasons, CNI respectfully moves the Court to re-assign this action to another judicial officer.

was denied. Months ago, there were also hearing[s] on motion[s] to consolidate that were denied, in which counsel briefly appeared. CNI was very recently joined as a party to the case but has not filed an Answer or any made any other filings since being joined.)

1 **RESPECTFULLY SUBMITTED** on January 12, 2022.

2 **WILENCHIK & BARTNESS, P.C.**

3
4 
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12 Attorneys for Cyber Ninjas, Inc.

13 **ORIGINAL** of the foregoing filed on
14 January 12, 2022 with the Clerk of the
15 Maricopa County Superior Court.

16 **COPY** of the foregoing hand-delivered on
17 January 12, 2022 to Presiding Judge Pamela Gates

18 **COPY** of the foregoing hand-delivered on
19 January 12, 2022 to the Judge John Hannah

20 **COPY** of the foregoing emailed and mailed on
21 January 12, 2022 to:

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EXHIBIT A





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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

**PHOENIX NEWSPAPERS, INC., an
Arizona corporation, and KATHY
TULUMELLO,**

Plaintiffs,

vs.

**ARIZONA STATE SENATE, a public body
of the State of Arizona; KAREN FANN, in
her official capacity as President of the
Arizona State Senate; WARREN
PETERSEN, in his official capacity as the
Chairman of the Arizona Senate Committee
on the Judiciary; SUSAN ACEVES, in her
official capacity as Secretary of the Arizona
State Senate; and CYBER NINJAS, INC.,**

Defendants, and

CYBER NINJAS, INC.,

Real Party in Interest.

Case No.: LC2021-00180-001

**DECLARATION OF
JOHN D. WILENCHIK, ESQ.**

I, John D. Wilenchik, hereby make this declaration based on my own personal knowledge:

1 1. The Motion to Disqualify (“Motion”), filed concurrently herewith and incorporated as
2 if set forth herein, is true and correct to the best of my knowledge, information and
3 belief.

4 2. I have reviewed audio of January 6th hearing and typed up the following accurate
5 transcription of an exchange in between myself and Judge Hannah:

6 Q. [Hannah] Was he [Douglas Logan] deposed yesterday in the A.O. [American
7 Oversight] case?

8 A. [Wilenchik] Um, he was not, no.

9 Q. Did he appear?

10 A. How are you are aware of that case your Honor – how are you aware of the fact
11 that there was that deposition? Have you been reading the news on this?

12 Q. Um...the uh, record in another case is, uh, subject to judicial notice.

13 A. That’s not part of the record your Honor, that was a notice of Deposition. That
14 was publicly reported on, so I take it you’ve read the news.

15 Q. OK. Go ahead, Mr. Hoffman.

16 The exchange occurs at 1:24:25 (one hour, twenty-four minutes and twenty-five
17 seconds) into the audio of the hearing, which can be found at: <https://bit.ly/3fcLpyr>

18 3. I have reviewed audio of January 6th hearing and typed up the following accurate
19 transcription of a statement made by Judge Hannah:

20 The Court is aware from the record in this case that Cyber Ninjas agreed to
21 undertake this work for \$150,000. The Court is also aware from the record
22 that Cyber Ninjas took in several million dollars from various sources that it
23 says helped pay for this task.

24 The statements occur at 1:52:43 – 1:53:35 of the audio.

25 4. On November 7, 2022, I first learned of the Federal Elections Commission political-
26 contribution information for John Hannah as described in the Motion. A true and
27 accurate summary of the information, which is public record, is attached as Exhibit “1”
28 hereto and also accessible through https://www.fec.gov/data/receipts/individual-contributions/?contributor_name=john+hannah&contributor_state=AZ.

5. On January 8, 2022, I conducted a search of Maricopa County Superior Court judges
and commissioners for whom federal political contributions were reported to the FEC
as far back as 2011. I conducted the search through the “FEC.gov” website by inputting

the names of all one hundred sixty-one (161) Maricopa County Judges and Commissioners as listed on the Maricopa County Superior Court website, <http://www.superiorcourt.maricopa.gov/JudicialBiographies/index.asp>. I searched for “Judge” in the occupation title; and for “Report Time Period” I selected 2011 – 2022. For “Receipt Date Range” I selected 01/01/2007 to 12/31/2022.

6. The results showed seven Maricopa County Superior Court judges or commissioners with reported contributions to federal political campaigns or organizations since 2011.
7. By far the most frequent contributions were by John Hannah, and another judge who has been assigned only to the criminal bench since 2015.
8. On October 15, 2018 Judge Hannah contributed \$50.00 to a group called “One Nation United,” whose website still shows a count-down to the 2020 election and says: “We must stop Donald Trump and the GOP. They are hellbent on transforming this country into a place none of us would want to live.” I looked up this site on the Internet Archive Wayback Machine website, and this statement has been prominently displayed on the website since at least August 15, 2018: <https://web.archive.org/web/20180815220336/https://onenationunited.com/>. I also confirmed that the “Mission” language on the website quoted in the Motion to Disqualify has appeared on the website since the at least the dates stated in the Motion, by using the Internet Archive Wayback Machine. True and accurate screenshots of the donation page and Mission page (as archived by the Wayback Machine) are attached as Exhibits 2, 3 and 9 hereto.
9. On September 28, 2019, Judge Hannah contributed \$100 to a group named “Fair Fight, Inc. PAC.” Its website (and other online sources) reflect that it was founded by Georgia Democrat Stacey Abrams. Its website claims that “insidious efforts to make voting more difficult” are “undermin[ing] our democracy” (“Fair Fight, Inc. PAC”). On May 14, 2021 (a month and a half before this suit was filed), “Fair Fight” issued a lengthy press release calling CNI’s audit “dangerous” and “discredited,” and claiming that the audit was “being led by conspiracy theorists and insurrectionists.” Exhibit 8 hereto is a

true and accurate screenshot that I took on January 10, 2021.¹ After the audit reached its conclusion, the same group apparently published a one-line update to its website which says “Republican Review of Arizona Fails to Show Stolen Election” but contains no further comment.

10. As of August 13, 2019, the website claimed that 2018 elections were “rife...were irregularities”; and an August 7, 2019 press release read in part: “[n]ow, as elections draw closer, Republicans are running scared because they know as well as we do just how out of touch they are with the voters they represent.” A true and accurate copy of the website as of that date, which I obtained from the Internet Archive Wayback Machine,² is attached as Exhibit 7 hereto.

11. According to the group’s online press release archives, the last press release from the group’s CEO before Judge Hannah’s contribution (dated July 29, 2019, three months prior) read:

Make no mistake that it was a result of the hard work of litigation, activism, and advocacy that the state has chosen Dominion over ES&S for the largest purchase of voting machines in American history. ES&S has infiltrated Georgia government, bribed politicians, shielded itself from public records requests, and failed in state after state, and, because of our and our allies’ months-long efforts to expose this corruption, the choice by the state is not as bad as it could have been....

It is currently located at <https://fairfight.com/statement-from-fair-fight-ceo-lauren-groh-wargo/>. A true and accurate screenshot is attached as Exhibit 4 hereto.

12. It was widely reported that CNI’s audit included assessing the integrity of Dominion machines. CNI’s Statement of Work included references to Dominion machines in several places and was made public/reported on as early as April 1, 2021.

13. The instant suit is also a public-records action against a private elections vendor (CNI).

¹ <https://fairfight.com/icymi-startling-on-the-ground-report-exposes-dangerous-and-discredited-maricopa-county-arizona-audit/>

² <https://web.archive.org/web/20190813235908/https://fairfight.com/press-releases/>

14. On September 19, 2020 – less than two months before being assigned to the Republican Party case – Judge Hannah made another \$100 contribution to “Movement Voter PAC.” Since at least September 18, 2020 (one day before he contributed), that group’s website has stated: “We were deeply dismayed by the broader outcome of the 2016 election...We organize for the long game....We are only getting started...[W]e can build lasting power and make the 2020s a progressive decade.” (See Exhibit 5 hereto, a true and accurate screenshot of the “Wayback Machine” archive for the website as of September 18, 2020.)³ Since February 27, 2021 – weeks before Judge Hannah’s final ruling awarding sanctions in the Republican Party case (dated March 15, 2021) and four months before he was assigned to the instant action (June 30, 2021) – the group’s website has shown a “report” on the 2020 election entitled “What the Movement [Voter Project] Won in 2020” which specifically thanks its “partners” in Arizona for “Biden’s margin of victory in Arizona” and “flipping the Presidential race by 10,457 votes.” It also generally called the 2020 election “a game-changing victory, giving Democrats a narrow trifecta to pass legislation and appoint judges but it was also a near-death experience. We defeated Trump by a hair. While the Biden-Harris ticket won the popular vote by more than 6 million votes, we won the electoral college by less than 43,000 votes across three states: Arizona, Georgia, and Wisconsin. That’s an even narrower margin than the 77,000 votes Trump won by in 2016. MVP’s local grassroots partners won this election. ...Biden’s margin of victory in Arizona was 10,457 votes. Our partners in Georgia and Wisconsin contacted voters on a comparable scale.... Make no mistake — without MVP’s partners in these three states, Trump would be president for the next four years.” “Winning Arizona in 2020 was a battle more than a decade in the making. MVP is going to double down on this crucial sunbelt battleground.” “The Presidential race and the electoral college in 2024 are likely to be tough... [We may be] exposed to Republican trifectas controlling elections in advance of 2024 — a terrifying

³ <https://web.archive.org/web/20200918175423/https://movement.vote/about/>

prospect. It looks the GOP is going to run a permanent smear campaign for the next four years and use every dirty trick possible to get revenge in 2022 and 2024. In short, we have our work cut out for us...We have to assume that Trump and the other side are going to upgrade their tactics. MVP is already making early investments to strengthen our local grassroots partners for the battles to come...There's a lot of analysis and evaluation still to do on the 2020 election....We are doubling down and going even bigger over the next four years." A true and accurate screenshot of this website as it was on February 27, 2021 is attached as Exhibit 6 hereto (from the "Wayback Machine").⁴

15. In the two months before the November 2020 election, John Hannah contributed to Democratic Senate candidates in Alabama, Montana, Maine, South Carolina, and Iowa. (See contributions to Steve Bullock, Sara Gideon, Jaime Harrison, Doug Jones, and Theresa Greenfield on September 19, 2020.) The FEC website also reports a \$2,500 contribution to "Sinema for Arizona" in 2017 for the primary election, which would have been in excess of the limits permitted by Canon 4.1. However, I believe that amount could have been a typo because the associated "pdf" record indicates only a \$250 contribution.

16. There were only four Judges who contributed to a candidate or candidate committee for President of the United States in the 2020 cycle, and one of them was John Hannah. To my knowledge, none of the others presided over a case related to the 2020 presidential election.

17. Judge Hannah made no disclosures with respect to any of these matters during any litigation in which he and I have been involved, or any other litigation to my knowledge.

18. With the exception of a judge who has sat only in criminal court, Judge Hannah has made three times as much in political contributions, and more than three times as frequently, as the entire superior court bench combined since at least 2011. His

⁴ <https://web.archive.org/web/20210227163706/https://movement.vote/2020-report/>

contributions were around eighteen times higher and more frequent than the average contribution (by all judges and commissioners other than him and the criminal-court judge).

19. My staff promptly requested a transcript of the January 6th hearing (on January 7th). On January 10th, we were informed that a transcript is not available (even on an expedited basis) until January 24th. The order has been placed.

20. I believe that Judge Hannah set a hearing on January 6th for an improper political purpose. Namely, he intended to issue a contempt finding on the same day as the protests that occurred on January 6, 2021. This belief is based on several things including that he did not consult anyone's calendar for the date of the hearing; he made what I interpreted to be *sua sponte* political statements at the beginning of the hearing; and he ruled from the bench finding my client in contempt without ruling on its objections and issuing a final order, per the *en banc* orders of the Arizona Supreme Court. The nature of his sanction was also punitive; my client had effectively asked for around \$60K to review, search and edit the records being requested since my client was never paid by the Senate for the \$100K balance of their contract; CNI is in debt; and it does not receive taxpayer funding to handle public records requests (as is normal for an actual public agency). The judge responded by sanctioning them \$50K a day, which was clearly not even intended to remedy the problem. The fine was also fifty times what the Plaintiff requested and equal to the entire amount of money that CNI received from its contract with the Senate.

21. In general, I have experienced the most transparent and aggressive bias and prejudice in Judge Hannah's court that I have ever experienced in any court in my entire career. Had Judge Hannah chosen to disclose his clear personal bias and interest in these matters, or the nature and frequency of his political contributions or extrajudicial investigations, then I would have promptly moved to disqualify him due to at the minimum an objective appearance of impropriety, not to mention his actual bias and prejudice on the case.

1 22. The public needs confidence in these or any other proceedings. Judge Hannah's
2 behavior is exactly what everyone fears about the judicial system. I am proud to say
3 that I have not personally experienced this kind of behavior from any other judge on
4 this bench. Our superior court judges otherwise act with restraint and integrity.

5 I declare under penalty of perjury that the foregoing is true and correct to the best of my
6 knowledge and belief.

7 DATED: January 11, 2022.

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10 _____
11 John D. Wilenchik, Esq.
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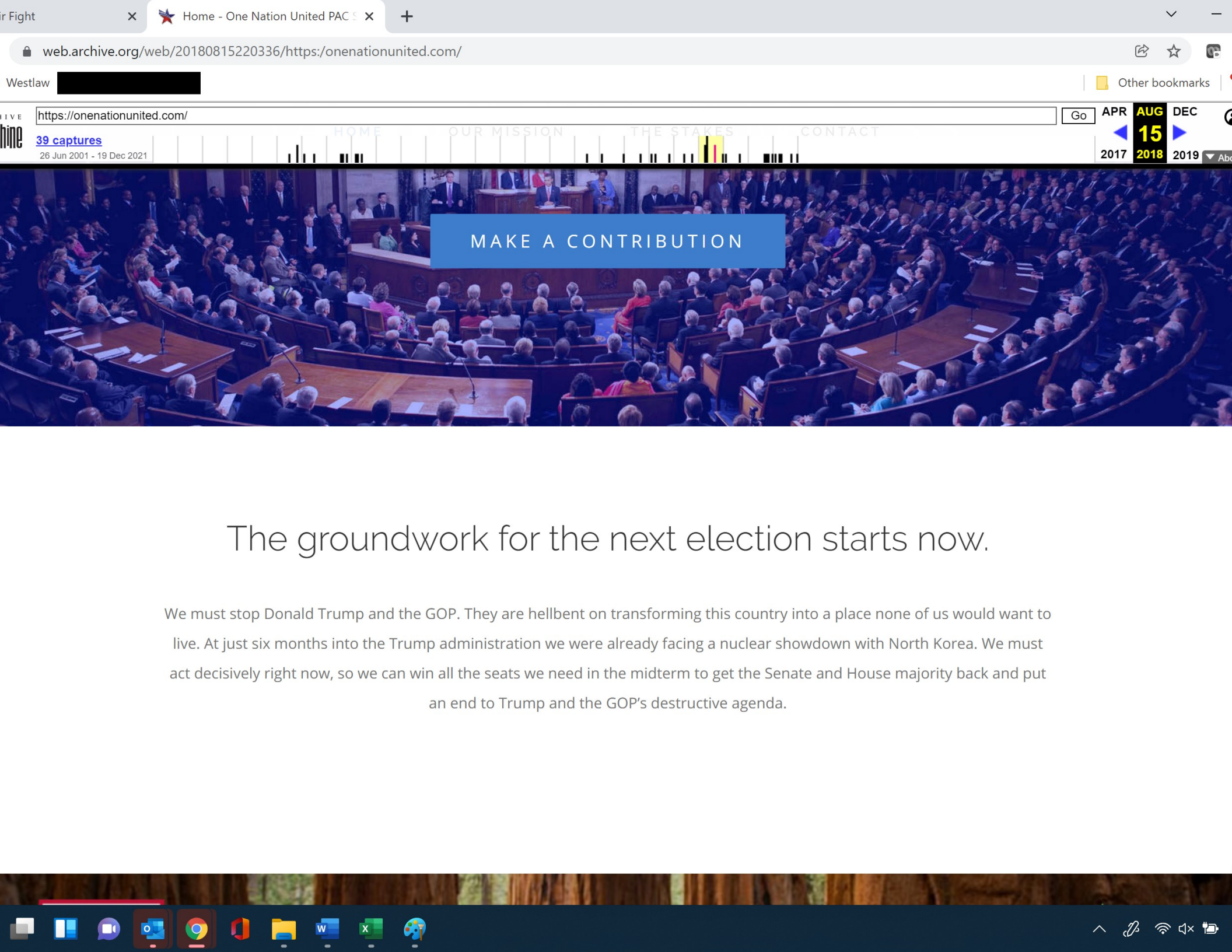
EXHIBIT 1

Committee ID	Committee Name	Contribution Receipt Date	Memo Text	Contribution Receipt Amount	Contributor Name	Contributor City	Contributor State	Contributor Employer	Contributor Occupation	Contributor Aggregate Y.T.D.	FEC Election Type Description
C00508804	SINEMA FOR ARIZONA	10/15/2017 0:00	EARMARKED THROUGH ACTBLUE CONDUIT COMMITTEE 10-08-2017 \$56904.49-SEE MEMO ON SCH A FOR LINE 11C	\$2,500.00	HANNAH, JOHN	PHOENIX	AZ	AZ SUPERIOR COURT	JUDGE	\$250.00	PRIMARY
C00657304	STANTON FOR CONGRESS	9/20/2018 0:00	* EARMARKED CONTRIBUTION: SEE BELOW	\$300.00	HANNAH, JOHN	PHOENIX	AZ	AZ SUPERIOR COURT	JUDGE	\$300.00	GENERAL
C00401224	ACTBLUE	10/15/2018 0:00	EARMARKED FOR ONE NATION UNITED (C00624718)	\$50.00	HANNAH, JOHN	PHOENIX	AZ	AZ SUPERIOR COURT	JUDGE	\$50.00	
C00401224	ACTBLUE	5/15/2019 0:00	CONTRIBUTION TO ACTBLUE	\$20.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$25.00	
C00401224	ACTBLUE	5/15/2019 0:00	EARMARKED FOR WARREN FOR PRESIDENT, INC. (C00693234)	\$100.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$150.00	
C00401224	ACTBLUE	6/7/2019 0:00	CONTRIBUTION TO ACTBLUE	\$5.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$25.00	
C00401224	ACTBLUE	6/7/2019 0:00	EARMARKED FOR WARREN FOR PRESIDENT, INC. (C00693234)	\$50.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$150.00	
C00401224	ACTBLUE	9/28/2019 0:00	EARMARKED FOR HIRAL FOR CONGRESS (C00649897)	\$50.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$50.00	
C00401224	ACTBLUE	9/28/2019 0:00	EARMARKED FOR FAIR FIGHT, INC. PAC - FEDERAL (C00693515)	\$100.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$100.00	
C00693234	WARREN FOR PRESIDENT, INC.	12/28/2019 0:00	* EARMARKED CONTRIBUTION: SEE BELOW	\$100.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$250.00	PRIMARY
C00401224	ACTBLUE	12/28/2019 0:00	EARMARKED FOR WARREN FOR PRESIDENT, INC. (C00693234)	\$100.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$250.00	
C00401224	ACTBLUE	9/19/2020 0:00	CONTRIBUTION TO ACTBLUE	\$20.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$20.00	

C00401224	ACTBLUE	9/19/2020 0:00	EARMARKED FOR DOUG JONES FOR US SENATE (C00640623)	\$87.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$87.00
C00401224	ACTBLUE	9/19/2020 0:00	EARMARKED FOR THERESA GREENFIELD FOR IOWA (C00708164)	\$87.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$87.00
C00401224	ACTBLUE	9/19/2020 0:00	EARMARKED FOR SARA GIDEON FOR MAINE (C00709899)	\$87.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$87.00
C00401224	ACTBLUE	9/19/2020 0:00	EARMARKED FOR MONTANANS FOR BULLOCK (C00741611)	\$87.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$87.00
C00401224	ACTBLUE	9/19/2020 0:00	EARMARKED FOR JAIME HARRISON FOR US SENATE (C00696153)	\$87.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$87.00
C00401224	ACTBLUE	9/19/2020 0:00	EARMARKED FOR MOVEMENT VOTER PAC (C00728360)	\$100.00	HANNAH, JOHN	PHOENIX	AZ	SUPERIOR COURT OF ARIZONA IN MARICOPA	JUDGE	\$100.00



EXHIBIT 2



MAKE A CONTRIBUTION

The groundwork for the next election starts now.

We must stop Donald Trump and the GOP. They are hellbent on transforming this country into a place none of us would want to live. At just six months into the Trump administration we were already facing a nuclear showdown with North Korea. We must act decisively right now, so we can win all the seats we need in the midterm to get the Senate and House majority back and put an end to Trump and the GOP's destructive agenda.



EXHIBIT 3

Republican-aligned PAC advertising and opinion positioning strategies are outdated. Their only advantage is the sheer amount of dollars they can throw at advertising and paid media pundits. One Nation United uses only the most impactful methods to engage voters and get the message and strategy out to defend the most vulnerable Democratic House and Senate candidates. We will bring the fight to them on their own block, city or state to hold back the onslaught of massive Republican-aligned ad spending.



EXHIBIT 4



EXHIBIT 5

Internet Archive Wayback Machine interface showing the URL <https://movement.vote/about/> and the date range 5 Mar 2020 - 18 Aug 2021. The calendar highlights September 18, 2020. The page content is partially visible, showing the heading "History & Success".

History & Success

In early 2016, we spent six months consulting with more than fifty experts to develop an initial list of local movement groups organizing in communities across the country. During 2016, we invested in four small New Hampshire organizations who contacted 85,000 voters in communities being overlooked by national groups because they didn't historically vote at as high a rate. This led to increased voter turnout, especially among communities who aren't as likely to show up to the polls, in an election that was won by Democratic Senator Maggie Hassan by just 1,027 votes.

We were deeply dismayed by the broader outcome of the 2016 election, but we did not stop organizing. In Alabama's special Senate election in 2017, MVP played an especially unique role in seeding, helping to incubate, and funding two major locally-driven, Black-led GOTV efforts: Woke Vote and Black Voters Matter Fund (which in turn supported 35 groups in 17 counties). These groups drove historic black turnout in Alabama.

We organize for the long game. MVP-supported groups like New Virginia Majority have been building power in Virginia for years – and in 2019 they helped Virginia Democrats win state elections across the board. Democrats now have trifecta control in a state that was controlled by Republicans just six years ago. This has already translated to key policy victories including automatic voter registration, same-day voter registration, a 30% increase in the VA minimum wage, in-state tuition for undocumented and refugee college students, prohibitions on discrimination by public health insurance providers based on gender identity or transgender status, ban the box legislation, and several new laws strengthening environmental protections.

These are just some of our successes. In addition to driving electoral victories, MVP has been the first funder to seed or incubate more than 30 gap-filling organizations in key states. This includes groups like North Dakota Native Vote, Lancaster Stands Up (Pennsylvania), Florida Student Power Network, and Faith Organizers Alliance (the major African-American voter engagement group in Nevada).

We are only getting started. By making long-term investments in groups organizing their communities and turning out voters, we can build lasting power and make the 2020s a progressive decade.



EXHIBIT 6

What The Movement Won In 2020

The 2020 election was a game-changing victory, giving Democrats a narrow trifecta to pass legislation and appoint judges, but it was also a near-death experience. We defeated Trump by a hair. While the Biden-Harris ticket won the popular vote by more than 6 million votes, we won the electoral college by less than 43,000 votes across three states: Arizona, Georgia, and Wisconsin. That's an even narrower margin than the 77,000 votes Trump won by in 2016.

MVP's local grassroots partners won this election. Our partners in Arizona alone made more than 30 million voter contact attempts. Biden's margin of victory in Arizona was 10,457 votes. Our partners in Georgia and Wisconsin contacted voters on a comparable scale, with winning margins of 12,670 and 20,565 respectively. Make no mistake — without MVP's partners in these three states, Trump would be president for the next four years. And without the extraordinary double Senate win in Georgia thanks to the heroic work of Black organizers, governing would be next to impossible.

There is nothing small about these achievements. We are eternally grateful to MVP's local partners, who delivered more than the margin of victory. And we should all be proud of ourselves for helping. For the rest of our lives. We saved our country.

On the other hand, we almost lost. We underperformed down ballot. And we have a tough road ahead in 2022 and 2024, more than most people realize. But despite the painful losses, we had so many local victories worth celebrating. On this page, you can find some of our favorite highlights, photos, videos, and takeaways from our grassroots partners.

But first, some stats about our work:



ARIZONA



Our partners in Arizona made more than 30 million voter contacts (1.6 million doors, 20 million calls, and 7 million texts yielding 1.2 million commitments on the C4 side alone). In addition to flipping the Presidential race by 10,457 votes, and helping flip a Senate race, they also flipped a State House and a State Senate seat, coming three seats shy of flipping both chambers! Arizona also elected the first Latina to win a statewide office, who will now be serving on the AZ Corporation Commission, which regulates utilities including fossil fuels and renewable energy.

We supported our partners to expand beyond their core Latinx voting base in Maricopa County. MVP helped seed several new organizations led by Black, Native, APIA, and rural organizers across the state and helped drive these communities to record turnout. The Navajo Nation saw a voter turnout increase of 25%, even as they were devastated by COVID. Their work has made Arizona one of our most amazing success stories.

Winning Arizona in 2020 was a battle more than a decade in the making. MVP is going to double down on this crucial sunbelt battleground, which will feature a competitive Governor's race and a Senate rematch in 2022.

What the Movement Won in 2020

web.archive.org/web/20210227163706/https://movement.vote/2020-report/

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Looking Ahead

Having analyzed the landscape, we anticipate the next two election cycles will be tougher than most people seem to realize. The House is an uphill battle for the next decade and we're likely to lose about five seats with reapportionment and redistricting alone. That's not even factoring in the likely headwinds of the 2022 midterms. The President's party has lost House seats in 37 of the past 40 midterms, losing 33 seats on average. The Senate map is even worse — by far our biggest problem. It will be hard for Democrats to even hold the 50 seats we have for the next decade and 2021 gerrymandering will be almost as bad as before. The Presidential race and the electoral college in 2024 are likely to be tough. And if the 2022 midterms wipe away Democratic Governors and Secretaries of State in key swing states, it will leave us exposed to Republican trifectas controlling elections in advance of 2024 — a terrifying prospect. It looks the GOP is going to run a permanent smear campaign for the next four years and use every dirty trick possible to get revenge in 2022 and 2024. In short, we have our work cut out for us.

MVP is hitting the ground running in 2021. We are making four-year commitments to invest big and early in all of the critical 2022 and 2024 battlegrounds — House, Senate, Presidential, and strategic down ballot races. We have to assume that Trump and the other side are going to upgrade their tactics. MVP is already making early investments to strengthen our local grassroots partners for the battles to come, from South Florida to South Texas, from North Philly to Northern Wisconsin, from East Detroit to Eastern North Carolina, from Orange County to the Navajo Nation.

There's a lot of analysis and evaluation still to do on the 2020 election. But we do know this — when we invest early and deeply and holistically enough in community-led power building, we can move the needle over time. MVP talent scouts emerging local partners who know their communities. And we support them to grow and succeed against all odds. MVP's model works. Thank you so much for being our partner in this work. We are doubling down and going even bigger over the next four years. Please think big and let us know how you want to be involved!



EXHIBIT 7

About Fair Fight – Fair Fight

web.archive.org/web/20190813235722/https://fairfight.com/about-fair-fight/

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ABOUT FAIR FIGHT



Like decades of past elections, the 2018 elections in Georgia were rife with mismanagement and irregularities, but Georgians are fighting back. Fair Fight advocates for election reform, engages in voter education, and encourages turnout in order to secure the voting rights of all Georgians. The 501(c)(4) arm of the organization, Fair Fight Action, engages in activities such as conducting a vote-by-mail program; educating voters about elections, voting procedures, and voting rights; and facilitating a get-out-the-vote program to mobilize voters to cast their ballots during early voting and on election day.

This year, Fair Fight is working to expand democracy and ensure all voters have access to the polls. We promote fair elections in Georgia and around the country, encourage voter participation in elections, and educate voters about elections and their voting rights. Fair Fight brings awareness to the public on election reform, advocates for election reform at all levels, and engages in targeted voter registration and other voter outreach programs and communications.

⬆

Fair Fight PAC, Democratic Party of Georgia Launch Legislative Victory Fund

August 7, 2019

ATLANTA – Today, Fair Fight PAC, founded by former Georgia House Democratic Leader Stacey Abrams, and the Democratic Party of Georgia announced the launch of the Legislative Victory Fund, a multi-million dollar effort to capture the majority in the Georgia House of Representatives and win additional seats in the Georgia Senate. “Georgia Democrats’ ability to fight for a vibrant economy and quality health care depends on the number of seats we control in the General Assembly,” said Abrams. “It was an honor to work with 2018 legislative candidates across Georgia to engage and inspire voters in record numbers, with success across the state. The Legislative Victory Fund will work to protect these incumbents and continue to expand the Democratic caucus in both the House and Senate, with an eye on a House majority.” The Legislative Victory Fund will be a dedicated campaign arm of the Democratic Party of Georgia focused on legislative races. “Republicans under the Gold Dome showed their true colors this past legislative session by passing a forced pregnancy bill, jeopardizing Georgia’s economy and ignoring job creators, and wasting taxpayer dollars while failing to expand health care coverage,” said Democratic Party of Georgia Chair Nikema Williams, a state senator. “Now, as elections draw closer, Republicans are running scared because they know as well as we do just how out of touch they are with the voters they represent.” Leading the Legislative Victory Fund will be Craig Walters, the former Field and Targeting Director of the House Democratic Caucus and a leader in the field effort of Abrams’ historic 2018 gubernatorial campaign. A lifelong Georgian, Walters is a native of McDonough, Georgia and a graduate of Berry College. During Abrams’ seven years as House Democratic Leader, Democrats prevented a Republican supermajority and steadily gained seats. With Abrams at the top of the Democrats’ ticket in 2018 and a slate of tremendous candidates running across the state, Georgia Democrats captured fourteen House seats and two Senate seats that were previously under Republican

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PRESS RELEASES

Fair Fight PAC, Democratic Party of Georgia Launch Legislative Victory Fund

AUGUST 7, 2019 / 0 COMMENTS

Joint Statement on Randolph County’s Renewed Attempts to Close Polling Locations — This Time in Predominantly White Precincts

AUGUST 6, 2019 / 0 COMMENTS

Statement from Fair Fight CEO Lauren Groh-Wargo

JULY 29, 2019 / 0 COMMENTS

UPDATED RELEASE: Fair Fight Re-Releases Website, Updated 40 Page Research Report Showing Corruption and Failures of Election Systems & Software

JULY 22, 2019 / 0 COMMENTS

FLASHBACK: 3 in 4 Georgians are “Concerned” About Secretary of State Brad Raffensperger’s Expected Award of Contract to Failed, Corrupt Voting Machine Company Election Systems &



EXHIBIT 8



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ICYMI: Startling On-The-Ground Report Exposes “Dangerous” and Discredited Maricopa County, Arizona “Audit”

May 14, 2021

Voting rights experts “raising alarms” over the process, saying “there’s no audit or even recount process that looks like this”

A new on-the-ground report from The Guardian lays out the “dangerous” so-called “audit” underway in Maricopa County, Arizona being led by conspiracy theorists and insurrectionists as part of their attempts to overturn the certified results of the last election and continue pushing the Big Lie. This GOP-backed “audit” singling out a heavily Democratic county with large numbers of voters of color already has elections experts “raising alarms” over inconsistencies and a process that “wouldn’t tell the auditors anything.”

As the Washington Post previously reported, “More than five months after the 2020 presidential election, and after numerous failed attempts to overturn the results, former president Donald Trump has seized on a new avenue to try to call the outcome into question: a hand recount of 2.1 million ballots cast in Arizona’s largest county.” This “audit” is not supported by or conducted by state or county election officials, who have already done their job to fairly count, audit, and certify the election results. Arizona’s Electoral Votes were properly cast for Joe Biden and Kamala Harris more than four months ago — and nothing under Arizona law at the time authorized this so-

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PRESS RELEASES

Fair Fight Action Releases Statement on Anniversary of The January 6 Attack on the U.S. Capitol Highlighting Urgency of Passing Federal Legislation Protecting the Freedom to Vote

JANUARY 6, 2022 / 0 COMMENTS



Fair Fight Celebrates One-Year Anniversary of Historic Victories in Georgia’s U.S. Senate Runoff Election as Group Gears Up to Win Again in 2022

JANUARY 5, 2022 / 0 COMMENTS

Fair Fight Responds to Senator Warnock’s Floor Remarks Calling on Colleagues to Pass the Freedom to Vote



EXHIBIT 9

Our Mission

Our Nation United was founded by experienced marketing, psychology, and advertising strategists to win, House and Senate races for Democratic candidates.

Since the 2010 Citizen United decision, republican-aligned Super PACs have raised hundreds of millions of dollars to fund false and negative campaigns against Democratic House and Senate candidates along with an unprecedented campaign to dishonor and malign President Obama. The overwhelming amount of republican-aligned TV advertising in 2010 was devastating to many House and Senate candidates.

This flood of money into ad campaigns has shifted views of Americans so far to the right, that a candidate like Donald Trump is now acceptable to a wide group of voters due to the near constant exposure of ads the present a false narrative to the public.

Luckily, (like their outdated policies) Republican-aligned PAC advertising and opinion positioning strategies are just as outdated. Their only advantage is the sheer amount of dollars they can throw at advertising and paid media pundits. Our Nation United uses only the most impactful methods to engage voters and get the message and strategy out to defend the most vulnerable Democratic House and Senate candidates. We will bring the fight to them on their own block, city or state to hold back the onslaught of massive Republican-aligned ad spending.