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6 ARIZONA SUPERIOR COURT

7 MARICOPA COUNTY

8 CHARLOTTE COSTELLO, an
9 individual; TOM HANSEN, an
individual; CARMEN FRANCIS, an
10 individual; and CELESTE IRONS, an
individual;

11 Plaintiffs,

12 v.

13 REP. PAUL GOSAR, a candidate for
14 office; KATIE HOBBS, in her official
capacity as Secretary of State; LA PAZ
15 COUNTY BOARD OF
SUPERVISORS; RICHARD GARCIA,
16 in his official capacity as Recorder of
La Paz County; MARICOPA COUNTY
17 BOARD OF SUPERVISORS;
STEPHEN RICHER, in his official
18 capacity as Recorder of Maricopa
County; MOHAVE COUNTY BOARD
19 OF SUPERVISORS; KRISTI BLAIR,
in her official capacity as Recorder of
20 Mohave County; YUMA COUNTY
BOARD OF SUPERVISORS; and
21 ROBYN STALLWORTH

Case No.:

VERIFIED COMPLAINT

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

1 POQUETTE, in her official capacity as
2 Recorder of Yuma County;

3
4 Defendants.

5 This is a challenge, pursuant to Arizona Revised Statutes, § 16-351, to the
6 candidacy of U.S. Representative Paul Gosar who is running for re-election in
7 Congressional District 9.

8 **PARTIES, VENUE, AND JURISDICTION**

9 1. Plaintiff Charlotte Costello is a qualified elector in Arizona's 9th
10 Congressional District. She lives in Mohave County.

11 2. Plaintiff Carmen Francis, Thomas Hansen, and Celeste Irons are qualified
12 elector in Arizona's 9th Congressional District. They live in Mohave County.

13 3. Representative Paul Gosar is a candidate for Arizona's 9th Congressional
14 District, which includes parts of La Paz, Mohave, Yuma, and Maricopa Counties. He has
15 residences in both or either Yavapai and/or Coconino Counties.¹

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

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¹ For the purposes of this litigation, whether Gosar resides in Yavapai or Coconino
County is unimportant.

1 5. Defendants La Paz County Board of Supervisors are named as defendants
2 in their official capacities, and are named as indispensable parties pursuant to A.R.S. §
3 16-351(C)(3).

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

7 7. Defendants Maricopa County Board of Supervisors are named as
8 defendants in their official capacities, and are named as indispensable parties pursuant to
9 A.R.S. § 16-351(C)(3).

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

13 9. Defendants Mohave County Board of Supervisors are named as defendants
14 in their official capacities, and are named as indispensable parties pursuant to A.R.S. §
15 16-351(C)(3).

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

19 11. Defendants Yuma County Board of Supervisors are named as defendants in
20 their official capacities, and are named as indispensable parties pursuant to A.R.S. § 16-
21 351(C)(3).

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

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

7 14. This Court has jurisdiction pursuant to A.R.S. § 16-351(A).

8 **INTRODUCTION**

9 15. This is a candidacy challenge under Arizona Stat. § 16-351. Plaintiffs,
10 registered voters in the 9th Congressional District of Arizona, seek a permanent
11 injunction and order to show cause to remove U.S. Representative Paul Gosar from the
12 2022 primary ballot. This candidate should be excluded from the ballot because he is not
13 constitutionally qualified to hold the offices of U.S. Representative, under the
14 Disqualification Clause, Section Three of the Fourteenth Amendment to the U.S.
15 Constitution.

16 16. The events of January 6, 2021, in which Defendant Gosar (the “candidate”)
17 engaged, amounted to an insurrection or a rebellion under Section Three: a violent,
18 coordinated effort to storm the Capitol to prevent the Vice President of the United States
19 and the United States Congress from fulfilling their constitutional roles by certifying
20 President Biden’s victory, and to illegally extend then-President Trump’s tenure in office,
21

1 including by illegally introducing illegitimate electors as “alternate slates” for Congress
2 to vote on.

3 17. As described below, the demonstration at the Ellipse and related march on
4 the U.S. Capitol, as well as the “Wild Protest” at the Capitol and their endorsement by
5 prominent House Members (including Gosar), Senators, and the incumbent President, led
6 directly, intentionally, and foreseeably to the insurrectionists’ violent assault on the
7 Capitol.²

8 18. Gosar engaged in efforts to intimidate Congress and the Vice President into
9 rejecting valid electoral votes and to subvert the essential constitutional function of an
10 orderly and peaceful transition of power. Gosar engaged in either planning the attack on
11 January 6, or, alternatively, the planning of the pre-attack demonstration and/or march on
12 the Capitol with the advance knowledge that it was substantially likely to lead to the
13 attack, and otherwise voluntarily aided the insurrection.

14 19. Gosar promoted the events of January 6 ahead of time.

15 20. Furthermore, the planners of the “Save America” demonstration at the
16 Ellipse in Washington, D.C. on January 6 (hereafter “Ellipse Demonstration”) report that
17 Gosar met with them beforehand.

18 21. Gosar offered “blanket pardons” to the organizers of that demonstration in
19 connection with unrelated criminal investigations.

21 ² This candidacy challenge uses the term “insurrectionists” without prejudice as to whether the
events of January 6 may also constitute a “rebellion” within the meaning of the Disqualification Clause.

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

12 23. Gosar publicly supported the insurrection as it was happening.

13 24. While the insurrection was occurring, Gosar posted identical pictures to his
14 Twitter account and his Parler account of insurrectionists scaling the Capitol walls—
15 while the former included a disingenuous and unconvincing attempt to disclaim violence,
16 the latter read “Americans are upset.” Gosar reposted a video of himself urging Pence to
17 refuse to accept the votes from multiple states. And he made multiple posts defending the
18 insurrectionists’ motivations without condemning their tactics. When it became clear the
19 insurrection might fail he shifted tack, falsely claiming that the violence was coming
20 from “antifa,” intentionally spreading disinformation in a chaotic environment, impeding
21 the response to the insurrection.

1 25. Since the insurrection, Gosar has continued to voice his support for the
2 insurrectionists who stormed the Capitol, describing them as “peaceful patriots,” while
3 falsely claiming that any violence that might have occurred was perpetrated by “antifa”
4 infiltrators.

5 26. Gosar’s individual actions, as well as his collective actions taken in concert
6 with others, as described in detail below, establish that he engaged in the insurrection of
7 January 6 and is therefore constitutionally disqualified from running for congressional
8 office, under the Disqualification Clause.

9 **CONSTITUTIONAL AND STATUTORY BACKGROUND**

10 27. Under the Disqualification Clause, “No Person shall be a . . .
11 Representative in Congress . . . or hold any office, civil or military . . . under any State . .
12 . who, having previously taken an oath, as a member of Congress . . . or as a member of
13 any State legislature . . . to support the Constitution of the United States, shall have
14 engaged in insurrection or rebellion against the same.”

15 28. Arizona requires all candidates for primary election to file nomination
16 papers with the Secretary of State that, among other things, declare “[t]he candidate will
17 be qualified at the time of election to hold the office the person seeks.” Ariz. Stat. § 16-
18 311(D).

19 29. To enforce that requirement, “any elector” may challenge a candidate’s
20 nomination “for any reason relating to qualifications for the office sought as prescribed
21

1 by law.” *Id.* § 16-351(B). That includes constitutional qualifications. *Pacion v. Thomas*,
2 236 P.3d 395, 397 (Ariz. 2010).

3 **FACTUAL BACKGROUND**

4 30. Public reports and publicly available evidence support the following.

5 31. Representative Gosar took an oath to support the U.S. Constitution when he
6 was sworn in as members of the House of Representatives in 2012 and 2016, pursuant to
7 Article VI of the U.S. Constitution. He took that oath again on January 3, 2019, at the
8 start of the 11th Congress, and on January 3, 2021, at the start of the 117th Congress.

9 32. Gosar has a history of incendiary rhetoric and advocating violence against
10 his political opponents.

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

16 34. Gosar was a leader of this movement. He worked with, on the one hand,
17 other government officials, and on the other hand, violent extremists, on a plan to
18 delegitimize, challenge, and ultimately overturn the results of the presidential election.

19 35. He helped to organize some of the earliest rallies and made contacts with
20 both Arizona Representative Mark Finchem and a violent extremist named Ali
21

1 Alexander. Gosar publicly and consistently coordinated with both Finchem and
2 Alexander in the weeks leading up to January 6.

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

5 37. Along with Finchem, on November 30, he advocated that Arizona withhold
6 its electors.

7 38. In late November, Gosar spoke at a meeting of the “Oath Keepers” in
8 Northern Arizona where he said, “We are in a Civil War, we just haven’t started shooting
9 yet.” On December 7, Gosar wrote an op-ed arguing Biden’s win amounted to a “coup.”

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

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

16 40. Others, however, followed Gosar’s lead and turned to extralegal plans.

17 41. Upon information and belief, they formulated an unconstitutional scheme to
18 subvert the constitutional process of counting the electoral votes in Congress, preventing
19 President-elect Biden from being sworn in as President. Leaders of this scheme—
20 including then-President Trump, certain Members of Congress, including Representative
21 Gosar, and others outside government—established and promoted a plan to prevent

1 Congress from certifying President-elect Biden’s victory on January 6, the day Congress
2 counts the presidential electors’ votes.

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

13 43. The Electoral Count Act provides that, if a state has submitted only one
14 return of electoral votes, and if the electoral votes were “regularly given by electors
15 whose appointment has been lawfully certified,” then Congress cannot reject those
16 electoral votes. 3 U.S.C. § 15.

17 44. The Electoral Count Act provides two scenarios in which, theoretically,
18 Congress can reject electoral votes. First, “the two Houses concurrently” may reject one
19 or more electoral votes from a state when both Houses “agree that such vote or votes
20 have not been so regularly given by electors whose appointment has been so certified.”
21

1 Second, if a state submits multiple conflicting returns of its electoral votes, the Act
2 contains procedures for determining which return prevails. *Id.*

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

11 46. Since no lawful procedure under the Electoral Count Act could prevent the
12 counting of electoral votes from the states where President-elect Biden had won the
13 election, leaders of the conspiracy to subvert counting of the votes developed schemes by
14 which Vice President Pence would refuse to recognize the votes of electors from certain
15 states that Trump had lost, thus leading to a fallacious Trump “victory” in Congress.

16 47. However, these plans relied on cooperation from sympathetic members of
17 Congress and, crucially, Vice President Pence. The plans centered on Pence abusing the
18 Vice President’s ceremonial duty to “open all the certificates” of state electoral votes as a
19 pretext to unilaterally reject votes. U.S. Const. amend. XII.

20 48. Key leaders and participants in the larger scheme developed plans to
21 pressure or intimidate Congress and Pence into cooperating—and, if that failed, to

1 obstruct the electoral count certification. Obstructing certification would have also
2 delayed the process so as to facilitate another strategy: to introduce fake electoral votes.

3 49. In December 2020, Trump and key allies devised a plan to create “alternate
4 slates” of electors.

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

7 51. An “alternate slate” was created in Arizona. Gosar promoted the effort to
8 produce phony “alternate” electors.

9 52. Finchem has been subpoenaed by the U.S. Congress’s Select Committee to
10 Investigate the January 6th Attack on the United States Capitol regarding his role in that
11 effort. This effort to produce “alternate” electors has been described in a recent brief by
12 that congressional committee as a criminal conspiracy to defraud the United States.

13 53. The U.S. District Court for the Central District of California has concluded
14 that it was “more likely than not” that the overall scheme, of which Gosar’s efforts were
15 part, constituted a criminal conspiracy to defraud the United States by interfering with the
16 election certification process, and obstruction of an official proceeding of Congress.

17 *Eastman v. Thompson*, No. 8:22-cv-00099-DOC-DFM (C.D. Cal. Mar. 28, 2022), 2022
18 WL 894256.

19 54. To further their scheme to overturn the presidential election results, in
20 December 2020 and January 2021, organizers associated with a group called “Women for
21 America First” planned a demonstration at the Ellipse in Washington, D.C. (the “Ellipse

1 Demonstration”) on January 6 to coincide with, and seek to block, the certification of
2 electoral votes. At this demonstration, they planned to push false claims of massive voter
3 fraud and to pressure Pence to refuse to count slates of electors from states with close
4 contests.

5 55. Upon information and belief, the organizers of the Ellipse Demonstration
6 were in close contact with several Members of Congress or their staff during this time
7 regarding the details of the demonstration, including Gosar or his staff. Those same
8 organizers were also in touch with White House staff about the demonstration.

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

15 57. To encourage the Women for America First organizers to plan the event on
16 January 6 in Washington, D.C., Gosar assured the organizers that then-President Trump
17 would extend them “blanket pardons” in connection with unrelated criminal
18 investigations.

19 58. Organizers’ plans for January 6 also included a march on the U.S. Capitol
20 while Congress was counting electoral votes.

1 59. On December 19, 2020, Trump endorsed the demonstration, claiming it
2 would be “wild.” Trump’s call for a protest was widely understood to be a coded call for
3 violence by Trump supporters. On social media, his supporters openly called for weapons
4 to be carried into the District of Columbia, for law enforcement to be murdered if they
5 interfered, and for supporters to storm the Capitol to prevent the certification of
6 President-elect Biden’s victory. On that same day Gosar reported that he had spoken to
7 Pence and described him as a “true patriot” who was “fighting hard for election integrity
8 and @realDonaldTrump.”

9 60. Around this time, Alexander’s allies received a permit to host a separate but
10 related protest, which Alexander labeled the “Wild Protest,” around the steps of the
11 Capitol on January 6. Sometime in late December, Alexander posted a video thanking
12 both Gosar and U.S. Representative Andrew Biggs for their help in planning that protest.
13 Gosar and Finchem were publicized as speakers at the Wild Protest.

14 61. On December 30, 2020, Alexander replied to a tweet by Representative-
15 elect Marjorie Taylor Greene, a well-known promoter of political violence, promising
16 that “1776 is *always* an option” if objections to certification were blocked.

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

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

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

3 64. On December 22, Gosar and Biggs met with Trump and announced they
4 were working to prevent the “disenfranchisement” of Trump voters, with Gosar tweeting
5 afterwards, “sedition will be stopped.” On December 23, Gosar publicly advocated for
6 the plan to subvert the election results: Vice President Pence refusing to accept electoral
7 slates from certain states.

8 65. Gosar promoted the events of January 6 consistently from December 24 to
9 January 5. He consistently tagged Alexander, the organizer of the Wild Protest, in his
10 tweets about these events. Meanwhile, both Gosar and Biggs repeatedly publicized that
11 they would vote against certification.

12 66. At about this time, Trump and his associates in the movement to overturn
13 the 2020 election used extralegal and unlawful tactics, as Trump and Meadows attempted
14 to intimidate Georgia Secretary of State Raffensperger into fabricating votes and
15 declaring Trump the winner of Georgia’s presidential election. At the time Gosar
16 defended this blatant and unlawful attempt to “find votes” as a legitimate conversation
17 about fraud.

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

21 68. Nonetheless, Gosar continued to promote the January 6 demonstrations.

1 69. Also on January 5, Finchem spoke at a “pre-rally” organized by Alexander,
2 where Finchem made false claims of fraud.

3 **The Events of January 6, 2021**

4 70. At the Ellipse Demonstration that Gosar and Biggs had helped organize and
5 promote, speakers included Trump’s lawyer, Rudy Giuliani, who called for “trial by
6 combat,” and Rep. Mo Brooks of Alabama, who urged the crowd to “start taking down
7 names and kicking ass” and be prepared to sacrifice their “blood” and “lives” and “do
8 what it takes to fight for America” by “carry[ing] the message to Capitol Hill,” since “the
9 fight begins today.” At 11:09 a.m., Gosar tweeted support for the day’s events, tagging
10 Alexander and Finchem. At noon he tweeted, “Biden should concede. I want his
11 concession on my desk tomorrow morning. Don’t make me come over there.
12 #StopTheSteal2021 @ali.” (@ali is the Twitter handle for Ali Alexander.)

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

17 72. These “Congressmen from Arizona” referred to Gosar and Biggs, and the
18 primary purpose of his visit with them pertained to their joint efforts to overturn the
19 results of the 2020 presidential election.

20 73. Around 12:00 pm, then-President Trump began speaking about how “we
21 will stop the steal.”

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

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

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

14 77. At around that time, Trump supporters attacked police protecting the
15 barricades surrounding the Capitol. As Trump ended his speech, a large portion of the
16 crowd began their 30-minute march to the Capitol.

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

1 79. Because Gosar and Biggs had filed objections to Arizona’s slate of electors,
2 by this time the joint counting session had been suspended and the House and Senate
3 were debating the objections separately.

4 80. By 2:00 p.m., as Gosar was objecting to the certification of the Arizona
5 election results, the Capitol had been breached by insurrectionists, smashing through
6 first-floor windows.

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

10 82. An attacker ripped off the officer’s gas mask, beat his head against the
11 door, took his baton, and hit his head with it.

12 83. Another officer was pulled into a crowd, beaten and repeatedly Tased by
13 insurrectionists.

14 84. The insurrectionists demanded the arrest or murder of various other elected
15 officials who refused to participate in their attempted coup.

16 85. They chanted “hang Mike Pence” and threatened Speaker Pelosi.

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

19 87. Confederate flags and symbols of white supremacist movements were
20 widespread.

21

1 88. Throughout the insurrection, and the publicly recorded mayhem, both
2 Representative Biggs and Gosar continued to tweet false allegations of election fraud.

3 89. At 2:13 p.m., Vice President Pence was removed by the Secret Service; the
4 House adjourned at 2:20 p.m.

5 90. The insurrectionists had successfully obstructed Congress from certifying
6 the votes, temporarily blocking the peaceful transition of power from one presidential
7 administration to the next.

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

11 92. Senate staffers took the electoral college certificates with them when they
12 were evacuated, ensuring they did not fall into the hands of the insurrectionists.

13 Simultaneously, Gosar was tweeting a defense of his objection to the certification of
14 Biden's victory.

15 93. Shortly after, the House Chamber and Senate Chamber fell.
16 Insurrectionists, some carrying zip ties and tactical equipment, overtook the defenses of
17 the United States government and achieved, through force, effective control over the seat
18 of the United States Congress.

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

21

1 95. Around 4:00 p.m. Gosar posted a picture on “Parler” of insurrectionists
2 scaling the Capitol walls. Parler is a social media site that mirrors Twitter in structure and
3 functionality, but quickly became a haven for far-right users and proponents of false
4 claims of voter fraud. It was also a central node in planning the January 6 insurrection.
5 Due that central role, it was temporarily shut down after the insurrection and all posts
6 prior to the shutdown are unavailable unless they were reproduced elsewhere, as Gosar’s
7 post was. In Gosar’s Parler post with the photograph of the insurrectionists scaling the
8 Capitol walls, he wrote “Americans are upset.” An upload to Twitter of Gosar’s Parler
9 post shows that it was viewed 92,000 times in the twenty-four minutes after it was
10 posted.

11 96. At approximately the same time, however, Gosar posted an identical picture
12 on Twitter, this time with text condemning the insurrection.

13 97. Shortly after, around 4:08 p.m., Gosar retweeted a commentator arguing
14 “Biden lecturing everyone on lawlessness is pretty rich after the summer of 2020.”

15 98. Around 4:30 p.m., insurrectionists attacked officers guarding the Capitol,
16 beating them with improvised weapons, spraying them with mace, and beating one so
17 badly he required staples.

18 99. At 5:03 p.m. Gosar continued to defend the ongoing insurrection, claiming
19 that “I’m being a broken record but if the democrats [sic] actually want to uphold the rule
20 of law they would stop fighting our requests for an election audit. People want
21 transparency.”

1 100. The contemporaneous replies to Gosar’s 5:03 p.m. tweet, positive and
2 negative, show that it was understood as support for the insurrection—both from
3 supporters and opponents—notwithstanding occasional support for Gosar’s inconsistent
4 and false statements about antifa involvement. There were not any replies that indicated it
5 meant anything else.

6 101. For example, responses to Gosar’s 5:03 p.m. tweet over the next hour
7 included:

- 8 a. “if they don’t follow the law why should anyone?!”
- 9 b. “Thank you for standing up for the American people.”
- 10 c. “Thank you, @DrPaulGosar! I’m so disappointed and disgusted with
11 @Mike_Pence PLEASE hold the line for us. He promised he would but
12 apparently sold his soul to Pelosi and McConnell.”
- 13 d. “Exactly. I can take a legitimate loss. I will fight if it was stolen. Only
14 way to accomplish this. AUDIT.”
- 15 e. “An audit is the only way for peace.”
- 16 f. “Exactly. They attempt to take our lives away by stealing, lying and
17 cheating and then we are told to be peaceful. I would give my life for
18 my country.”
- 19 g. “Exactly!!! Is that so much to ask? I don’t get it!! Just let us have a
20 forensic audit and we will shut up. This is why people are so upset!”
- 21 “No Audit.....No Peace”

- 1 h. “Simple as that! No fraud, prove it.”
- 2 i. “You get it. When they shit on our constitution and tell us rules for thee
3 and not for me...something is going to break...probably the union itself
4 if the constitution means nothing”
- 5 j. “exactly!! Does the Government plan on killing everyone [sic] of us?
6 Law and Order? They broke the law and heist the election then the
7 government kills an American unarmed woman while they are locked
8 behind a door REALLY!!!”
- 9 k. “@DrPaulGosar Stand firm for what is right. The ANTIFA false flag
10 crew can’t be allowed to further the COUP attempt. As VP wouldn’t do
11 his job, need either Congress or martial law to address it.”
- 12 l. “An election audit is immensely more simple than what is currently
13 going on. You can’t ignore peoples concerns and just expect them to
14 shut up and accept it. If the election was fair, and audit will provide
15 answers.”

16 102. One minute later, at 5:04 p.m., Gosar shifted tack and became one of the
17 first elected officials to falsely claim that “antifa” was responsible for the violence. This
18 claim was widely and quickly picked up by national and local media.

19 103. Three minutes later, at 5:07 p.m., Gosar shifted tack again, retweeting a
20 since-deleted post by Finchem and writing “Is @katiehobbs satisfied with her
21

1 obstructionism now? For weeks the people have demanded transparency. Instead they got
2 lies and cover up.”

3 104. Similar to Gosar’s tweet at 5:03 p.m., the contemporaneous replies to his
4 5:07 p.m. tweet, positive and negative, show that it was understood as support for the
5 insurrection notwithstanding occasional support for Gosar’s inconsistent statements about
6 antifa involvement. There were not any replies that indicated it meant anything else.

7 105. For example, responses to Gosar’s 5:07 p.m. tweet over the next hour
8 include a call for Vice President Pence to be arrested for calling the National Guard and
9 quelling the insurrection (something Pence did not in fact do), a statement that “For the
10 first time the old guard fears the people and they are flipping out!” and thanks from a
11 supporter who argued that “stealing elections MUST be stopped!”

12 106. Around 5:20 p.m., the D.C. National Guard began arriving.

13 107. By 6:00 p.m., the insurrectionists had been removed from the Capitol,
14 though some committed sporadic acts of violence through the night.

15 108. At 6:37 p.m., Gosar again defended the insurrectionists, arguing “When
16 you engage in election fraud and then refuse to allow an audit you @hiral4congress spray
17 gasoline. This is on you. The people demand transparency.” An hour later, Gosar shifted
18 tack again, arguing at 7:58 p.m. and 8:05 p.m. that “antifa” was responsible for the
19 violence.

20 109. Vice President Pence was not able to reconvene Congress until 8:06 p.m.,
21 nearly six hours after the process had been obstructed.

1 110. At or about 9 p.m., Trump’s counsel John Eastman argued to Pence’s
2 counsel via email that Pence should refuse to certify Biden’s victory by not counting
3 certain states.

4 111. Pence’s counsel ignored it. Congress was required under the Electoral
5 Count Act to debate the objections filed by Senators and Members of Congress to
6 electoral results from Arizona and Pennsylvania.

7 112. During that debate, Gosar retweeted a video of Representative Gaetz falsely
8 claiming that antifa was responsible for the violence. Despite six Senators and 121
9 Representatives (including Gosar and Biggs) voting to reject Arizona’s electoral results,
10 167 Cong. Rec. H77 (daily ed. Jan. 6, 2021) <http://bit.ly/Jan6CongRec>, and seven
11 Senators and 138 Representatives (including Gosar and Biggs) voting to reject
12 Pennsylvania’s electoral results, Biden’s victory was ultimately certified at 3:14 a.m.,
13 January 7. 167 Cong. Rec. H114–15 (daily ed. Jan. 6, 2021) <http://bit.ly/Jan6CongRec>.

14 113. In total, five people died and over 150 police officers suffered injuries,
15 including broken bones, lacerations, and chemical burns. Four Capitol Police officers on-
16 duty during January 6 have since died by suicide.

17 **Statements Since the Insurrection**

18 114. Both Biggs and Gosar asked then-President Trump for pardons for their
19 roles in the events of January 6. They did not receive pardons.

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21

1 115. On February 26, 2021, Gosar attended a fundraising event hosted by white
2 supremacist Nick Fuentes who, at the event, described the storming of the Capitol as
3 “awesome.”

4 116. On May 12, 2021, both Gosar and Biggs shifted tack yet again, defending
5 the insurrectionists wholeheartedly. Specifically, after a fulsome public record had been
6 developed in the wake of the violence, including extensive video footage of violent
7 attacks, Gosar joined with Biggs and others and attempted to block a congressional
8 investigation into the insurrection. During Congressional hearings, Biggs claimed there
9 was no violence, while Gosar claimed that Ashli Babbitt was “executed” and that
10 investigating the insurrection amounted to “harassing peaceful patriots.” On September 2,
11 2021, Biggs insisted that any Member of Congress supporting an investigation of the
12 January 6 insurrection should be subject to consequences.

13 117. Gosar’s and Biggs’ aforementioned actions, as well as the conduct of other
14 co-conspirators, since January 6 indicate consciousness of culpability.

15 118. On February 25, 2022, Gosar sent a pre-taped speech to another event
16 organized by Nick Fuentes, who praised the attack again at the event.

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

19 119. All preceding allegations are incorporated as if repeated herein.

20 120. Gosar swore an oath to support the U.S. Constitution as a Member of
21 Congress. He is a candidate for the office of U.S. Representative, one of the covered
offices under Section Three of the Fourteenth Amendment.

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

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

6 123. The January 6 attack meets the definition of an insurrection because the
7 insurrectionists’ goal was to overthrow or obstruct the U.S. government, “a lawfully
8 constituted regime.” *Pan Am. World Airways, Inc. v. Aetna Cas. & Sur. Co.*, 505 F.2d
9 989, 1005 (2d Cir. 1974); *Home Ins. Co. of N.Y. v. Davila*, 212 F.2d 731, 736 (1st Cir.
10 1954) (insurrectionary action must be “specifically intended to overthrow the constituted
11 government and to take possession of the inherent powers thereof”).

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

20 125. This was an attack on the *United States*. The importance of counting the
21 electoral votes in our constitutional system cannot be overstated. It formalizes a deeper,

1 bedrock norm in our democracy: the peaceful transition of power. The Electoral Count
2 Act, as well as the Article II and the Twelfth Amendment, lay out the procedures for
3 counting votes; together with the Twentieth Amendment, they ensure that transition is
4 orderly and non-violent. They are essential constitutional functions of the United States
5 government. An attempt to disrupt those procedures, particularly through violence, is an
6 attack on our country itself.

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

9 127. An attack on public authority need not be likely to succeed in order to
10 constitute an insurrection. *Davila*, 212 F.2d at 736 (“An insurrection aimed to accomplish
11 the overthrow of the constituted government is no less an insurrection because the
12 chances of success are forlorn.”); *In re Charge to Grand Jury*, 62 F. 828, 830 (N.D. Ill.
13 1894) (an insurrection does not require “bloodshed” or to be so large “as to insure its
14 probable success,” only that “the rising be in opposition to the execution of the laws of
15 the United States, and should be so formidable as *for the time being* to defy the authority
16 of the United States.”) (emphasis added).

17 128. The January 6 insurrectionists’ violent seizure of the House and Senate
18 Chambers and key congressional offices did, in fact, obstruct and delay this essential
19 constitutional procedure. They very nearly succeeded in achieving their aim of
20 overturning the results of the 2020 presidential election. This violent attack on the
21

1 political system of the United States in the heart of the nation’s capital is the paradigm of
2 insurrection.

3 129. This analysis of January 6 is consistent with the understanding of Congress,
4 the U.S. Department of Justice, and federal courts.

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

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

13 132. In court filings, the U.S. Department of Justice has characterized the attack
14 on the Capitol as “an insurrection attempting to violently overthrow the United States
15 Government.” *United States v. Chansley*, No. 21-cr-00003 (D. Ariz. filed Jan. 14, 2021),
16 ECF No. 5, <https://bit.ly/3FJ1LdM>.

17 133. Judge Carl Nichols of the U.S. District Court for the District of Columbia
18 issued a ruling in a pending case, describing the attack as an “uprising” that “target[ed] a
19 proceeding prescribed by the Constitution and established to ensure a peaceful transition
20 of power.” *United States v. Miller*, No. 21-cr-00119 (D.D.C. Dec. 21, 2021), ECF No. 67,
21 <https://bit.ly/318NBmX>.

1 134. Members of the “Oath Keepers” that stormed the Capitol or organized the
2 storming have been indicted on seditious conspiracy charges. *United States v. Rhodes*,
3 No. 22-cr-00015, ECF No. 1, Indictment, at 8–32 (D.D.C. Jan 12, 2022),
4 <https://s3.documentcloud.org/documents/21178549/rhodes-complaint.pdf>.

5 135. The elements of seditious conspiracy track the definition of insurrection
6 almost exactly. 18 U.S.C. § 2384 (Defining the crime as “conspir[ing] to overthrow, put
7 down, or to destroy by force the Government of the United States . . . or to oppose by
8 force the authority thereof, or by force to prevent, hinder, or delay the execution of any
9 law of the United States.”).

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

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

17 138. The Senate voted by unanimous consent to award a Congressional Gold
18 Medal for Capitol Police officer Eugene Goodman via a bill that categorized the January
19 6 attackers as “insurrectionists.” 167 Cong. Rec. S694–95 (daily ed. Feb. 12, 2021).
20 Congress separately voted to award Congressional Gold Medals to other Capitol Police,
21 using the same “insurrectionists” language. Pub. L. No. 117-32, 135 Stat. 322 (2021).

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

11 140. Representatives Gosar and Biggs, who were intimately involved in the
12 plans *inside* the Capitol to reject the electoral votes of several states, were engaged in, at
13 minimum, the planning and promotion of events that led to the insurrection.

14 141. To “engage” in insurrection or rebellion, one must voluntarily and
15 knowingly aid the insurrection by providing it with something useful or necessary.
16 *United States v. Powell*, 65 N.C. 709 (C.C.D.N.C. 1871) (holding that “engage” merely
17 required “a voluntary effort to assist the Insurrection . . . and to bring it to a successful
18 [from insurrectionists’ perspective] termination”); *Worthy v. Barrett*, 63 N.C. 199, 203
19 (1869) (in Section Three case, interpreting “engage” to mean “[v]oluntarily aiding the
20 rebellion, by personal service, or by contributions, other than charitable, of any thing that
21 was useful or necessary”). *Cf. Wells Fargo Bank v. Arizona Laborers, Teamsters &*

1 *Cement Masons Local No. 395 Pension Trust Fund*, 38 P.3d 12, 23 (Ariz. 2002) (three
2 part-test for civil accomplice liability: a legal harm, knowledge of that harm, substantial
3 assistance or encouragement).

4 142. Representatives Gosar and Biggs did not promote the event as citizens, but
5 as a sitting members of Congress, insisting to their supporters that there was a legal route
6 to install Trump as president for another four years. They did so against a backdrop of
7 calls from groups, to forcibly prevent the certification of Biden and install Trump as
8 president for another four years. When those legal plans broke down—as they must have
9 known they would—their supporters did what he had told them for years they had to do,
10 and what they had said they would do: fight.

11 143. While violence was still ongoing, Gosar repeatedly supported and
12 attempted to publicly justify the insurrection. These posts, widely shared, aided the
13 insurrection, giving it real-time moral justification and encouragement. Furthermore, the
14 replies to those tweets show that they were understood by both his political supporters
15 and opponents as supporting the ongoing insurrection.

16 144. Gosar’s re-tweet of his video advocating for Pence to decertify certain
17 states is even more chilling. At the time of the retweet Pence had been evacuated
18 separately from the Senators and Representatives. Insurrectionists were stalking the halls
19 of Congress, looking for him. Gosar’s solution was to encourage Vice President Pence to
20 give in to their demands and overturn the election. These statements from a sitting
21

1 member of Congress both encouraged the insurrectionists that their scheme was going
2 according to plan and sought to leverage the violence to unlawfully overturn the election.

3 145. Gosar posted a picture *of the insurrection* accompanied by words of
4 encouragement to the insurrectionists—“Americans are upset.” Gosar’s statement,
5 contextually, cannot be read as anything other than encouragement. Notably, he referred
6 to the insurrectionists as “Americans.” In Gosar’s usage of social media, every reference
7 to “Americans” is a reference to his political allies and supporters. When Gosar said
8 “Americans are upset,” anyone who had listened to him for any length of time—
9 especially his supporters who were committing an insurrection as he said it—would have
10 understood he was referring to them as his *allies*. His supporters were upset and storming
11 the walls.

12 146. Gosar’s promotion of the insurrection on Parler is contrasted with both his
13 near-simultaneous Twitter post and subsequent disinformation. In the Twitter post, Gosar
14 claims that he only asked for “an audit” and that things have gotten out of hand. But, in
15 fact, Gosar claimed that Biden’s win was a “coup” and demanded his “concession
16 speech.” And later Gosar falsely claimed that violence was committed by “antifa” agents,
17 not “Americans.” Contextually, the Parler message is one of encouragement to his
18 political allies. On Twitter, a more mainstream service, he disavowed violence; on Parler,
19 populated by violent extremists, he spoke candidly to his supporters, including the
20 insurrectionists.

1 aided the insurrection. Gosar encouraged the insurrectionists even as they stormed the
2 Capitol.

3 B. Candidate Paul Gosar, as a member of the U.S. House of Representatives,
4 and prior to the insurrection, took an oath of office to support the Constitution of the
5 United States;

6 C. Pursuant to Section 3 of the Fourteenth Amendment to the Constitution of
7 the United States, Candidate Gosar shall not hold any public office;

8 D. Congress has not by a vote of two-thirds of each House removed this
9 disability from Candidate Gosar;

10 E. Pursuant to Section 16-351, Arizona Revised Statutes, subsection(B),
11 Candidate Gosar is not qualified to hold the office of U.S. Representative;

12 F. Secretary Hobbs and the county defendants be ordered to exclude Gosar's
13 name from the ballot for the 2022 primary.

14 DATED this 7th of April 2022.

15 BARTON MENDEZ SOTO PLLC

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17 _____
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21 FREE SPEECH FOR PEOPLE

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* Motions for pro hac vice admission
forthcoming.

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VERIFICATION

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

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

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

Executed this 7th day of April 2022.

Charlotte Costello