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6
7 ARIZONA SUPERIOR COURT
8 MARICOPA COUNTY

9 CARRIE GOODE, an individual;
ALEXANDER CARDONA, an
10 individual; SUZANNE DISTASO, an
individual; IRA GOODE, an individual;
11 JANA ROSE OCHS, an individual; and
DANIEL O'NEAL, an individual;

12 Plaintiffs,

13 v.

14 REP. ANDREW BIGGS, a candidate
for office; KATIE HOBBS, in her
15 official capacity as Secretary of State;
MARICOPA COUNTY BOARD OF
16 SUPERVISORS; STEPHEN RICHER,
in his official capacity as Recorder of
17 Maricopa County; PINAL COUNTY
BOARD OF SUPERVISORS; and
18 VIRGINIA ROSS, in her official
capacity as Recorder of Pinal County;

19 Defendants.
20
21

Case No.:

VERIFIED COMPLAINT

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

1 This is a challenge, pursuant to Arizona Revised Statutes, § 16-351, to the
2 candidacy of U.S. Representative Andrew Biggs who is running for re-election in
3 Congressional District 5.

4 **PARTIES, VENUE, AND JURISDICTION**

5 1. Plaintiff Carrie Goode is a qualified elector in Arizona’s 5th Congressional
6 District.

7 2. Plaintiff Alexander Cardona is a qualified elector in Arizona’s 5th
8 Congressional District.

9 3. Plaintiff Suzanne Distaso is a qualified elector in Arizona’s 5th
10 Congressional District.

11 4. Plaintiff Ira Goode is a qualified elector in Arizona’s 5th Congressional
12 District.

13 5. Plaintiff Jana Rose Ochs is a qualified elector in Arizona’s 5th
14 Congressional District.

15 6. Plaintiff Daniel O’Neal is a qualified elector in Arizona’s 5th
16 Congressional District.

17 7. Representative Andrew Biggs is a candidate for Arizona’s 5th
18 Congressional District, which is located entirely within Maricopa County. He resides in
19 Maricopa County.

20 8. Defendant Katie Hobbs is the Arizona Secretary of State, a public officer,
21 and is named as a defendant in this action in her official capacity. The Secretary of State

1 is the officer with whom the petitions are required to be filed and is named as an
2 indispensable party. A.R.S. § 16-351(C)(2).

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

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

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

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

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

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

19 INTRODUCTION

20 15. This is a candidacy challenge under Arizona Stat. § 16-351. Plaintiffs,
21 registered voters in the 5th Congressional District of Arizona, seek a permanent

1 injunction and order to show cause to remove U.S. Representative Andrew Biggs from
2 the 2022 primary ballot. This candidate should be excluded from the ballot because he is
3 not constitutionally qualified to hold the offices of U.S. Representative under the
4 Disqualification Clause, Section Three of the Fourteenth Amendment to the U.S.
5 Constitution.

6 16. The events of January 6, 2021, in which Defendant Biggs (the “candidate”)
7 engaged, amounted to an insurrection or a rebellion under Section Three: a violent,
8 coordinated effort to storm the Capitol to prevent the Vice President of the United States
9 and the United States Congress from fulfilling their constitutional roles by certifying
10 President Biden’s victory, and to illegally extend then-President Trump’s tenure in office,
11 including by illegally introducing illegitimate electors as “alternate slates” for Congress
12 to vote on.

13 17. As described below, the demonstration at the Ellipse and related march on
14 the U.S. Capitol, as well as the “Wild Protest” at the Capitol and their endorsement by
15 prominent House Members (including Biggs), Senators, and the incumbent President, led
16 directly, intentionally, and foreseeably to the insurrectionists’ violent assault on the
17 Capitol.¹

18 18. Biggs was involved in efforts to intimidate Congress and the Vice President
19 into rejecting valid electoral votes and to subvert the essential constitutional function of
20

21 ¹ 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 an orderly and peaceful transition of power. Biggs was involved in either planning the
2 attack on January 6, or, alternatively, the planning of the pre-attack demonstration and/or
3 march on the Capitol with the advance knowledge that it was substantially likely to lead
4 to the attack, and otherwise voluntarily aided the insurrection.

5 19. Biggs promoted the events of January 6 ahead of time. He coordinated
6 many of his efforts with U.S. Representative Paul Gosar and agreed with him on a plan to
7 first delegitimize, then challenge, and finally overturn the 2020 presidential election.
8 Furthermore, the planners of the “Save America” demonstration at the Ellipse in
9 Washington, D.C. on January 6 (hereafter “Ellipse Demonstration”) report that Biggs and
10 U.S. Representative Paul Gosar met with them beforehand. Gosar offered “blanket
11 pardons” to the organizers of that demonstration in connection with unrelated criminal
12 investigations. The stated goal of the organizers was to pressure Vice President Pence
13 into disregarding the electoral votes from several states and declaring Trump the winner
14 of the 2020 election. The likelihood of violence during the implementation of this plan
15 was plain to bystanders and equally or more so to those intimately involved. Before the
16 demonstration, violent groups announced they were going to attend it. Plans for
17 violence—and specifically occupying the Capitol to prevent the certification vote or
18 violently influence its outcome—were so prevalent that one reporter has remarked that
19 “[a]nyone with a Twitter account and an hour of time to kill could have warned about the
20 potential for violence on Jan. 6—and many did.” Furthermore, the insurrection was, in
21

1 part, intended to prevent the certification in order to send false electoral slates to
2 Congress.

3 20. Since the insurrection, Biggs has continued to voice his support for the
4 insurrectionists who stormed the Capitol, describing the events of the day as no more
5 than “disorderly conduct.”

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

10 **CONSTITUTIONAL AND STATUTORY BACKGROUND**

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

16 23. Arizona requires all candidates for primary election to file nomination
17 papers with the Secretary of State that, among other things, declare “[t]he candidate will
18 be qualified at the time of election to hold the office the person seeks.” Ariz. Stat. § 16-
19 311(D). 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 24. Representative Biggs took an oath to support the U.S. Constitution when he
5 was sworn in as a member of the House of Representatives in 2017 pursuant to Article VI
6 of the U.S. Constitution. He took that oath again on January 3, 2019, at the start of the
7 116th Congress, and on January 3, 2021, at the start of the 117th Congress.

8 25. After the 2020 election, Biggs worked with Gosar and others on a plan to
9 delegitimize, challenge, and ultimately overturn the results of the presidential election.

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

15 27. Gosar was a leader of this movement. He helped to organize some of the
16 earliest rallies and made contacts with a violent extremist named Ali Alexander. Gosar
17 publicly and consistently coordinated with Alexander in the weeks leading up to January
18 6.

19 28. On November 6, 2020, Gosar was already advocating illegal means to
20 overturn the election, urging the U.S. Department of Justice to seize voting machines. On
21 November 30, he advocated that Arizona withhold its electors. In late November, Gosar

1 spoke at a meeting of the “Oath Keepers” in Northern Arizona where he said, “We are in
2 a Civil War, we just haven’t started shooting yet.”

3 29. On December 7, Gosar wrote an op-ed arguing Biden’s win amounted to a
4 “coup.”

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

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

11 31. Others, however, followed Gosar’s lead and turned to extralegal plans.

12 32. They formulated an unconstitutional scheme to subvert the constitutional
13 process of counting the electoral votes in Congress, preventing President-elect Biden
14 from being sworn in as President. Leaders of this scheme—including then-President
15 Trump, certain Members of Congress, including Representatives Biggs and Gosar, and
16 others outside government—established and promoted a plan to prevent Congress from
17 certifying President-elect Biden’s victory on January 6, the day Congress counts the
18 presidential electors’ votes.

19 33. The votes of presidential electors, under the provisions of the Twelfth
20 Amendment to the U.S. Constitution and the Electoral Count Act, 3 U.S.C. §§ 15 et seq.,
21 are officially counted as follows. At 1:00 p.m. on January 6 of the year following a

1 presidential election, the U.S. Senate and the U.S. House of Representatives meet jointly
2 in the House Chamber, with the Vice President of the United States (in his capacity as
3 President of the Senate) presiding. Beginning with Alabama, and proceeding
4 alphabetically, the Vice President opens each state’s certificate of the votes of its electors,
5 and calls for objections, if any. Any objection must be filed by at least one Senator and at
6 least one Member of the House. These objections are then voted upon separately by the
7 House and Senate. 3 U.S.C. § 15; U.S. Const. amend. XII.

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

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

18 36. After the 2020 election, no lawful procedure under the Electoral Count Act
19 could prevent the counting of electoral votes from the states where President-elect Biden
20 had won the election. None of those states had submitted multiple competing electoral
21 tallies to Congress, notwithstanding attempts to create “alternate slates,” described below.

1 And, as was generally understood at the time, there were insufficient votes in the U.S.
2 House of Representatives to reject as not “regularly given” the electoral votes from any
3 state, let alone to reject enough electoral votes to change the outcome to anything other
4 than a Biden victory.

5 37. Since no lawful procedure under the Electoral Count Act could prevent the
6 counting of electoral votes from the states where President-elect Biden had won the
7 election, leaders of the scheme to subvert the counting of the votes developed stratagems
8 by which Vice President Pence would refuse to recognize the votes of electors from
9 certain states that Trump had lost, thus leading to a Trump “victory” in Congress.

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

14 39. Key leaders and participants in the larger scheme developed plans to
15 pressure or intimidate Congress and Pence into cooperating—and, if that failed, to
16 obstruct the electoral count certification.

17 40. Obstructing certification would have also delayed the process so as to
18 facilitate another strategy: to introduce fake electoral votes.

19 41. In December 2020, Trump and key allies devised a plan to create “alternate
20 slates” of electors. These “electors” met on the same day as the real electors. The
21 apparent plan was to introduce them at some point during or after January 6.

1 42. An “alternate slate” was created in Arizona. Gosar promoted the effort to
2 produce “alternate” electors. This effort to produce “alternate” electors has been
3 described in a recent brief by that congressional committee as a criminal conspiracy to
4 defraud the United States.

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

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

18 45. The organizers of the Ellipse Demonstration were in close contact with
19 several Members of Congress or their staff during this time regarding the details of the
20 demonstration, including Gosar and Biggs or their staff. Those same organizers were
21 also in touch with White House staff about the demonstration.

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

7 47. To encourage the Women for America First organizers to plan the event on
8 January 6 in Washington, D.C., Gosar assured the organizers that then-President Trump
9 would extend them “blanket pardons” in connection with unrelated criminal
10 investigations.

11 48. Organizers’ plans for January 6 also included a march on the U.S. Capitol
12 while Congress was counting electoral votes.

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

1 50. Around this time, Alexander’s allies received a permit to host a separate but
2 related protest, which Alexander labeled the “Wild Protest,” around the steps of the
3 Capitol on January 6. Sometime in late December, Alexander posted a video thanking
4 both Gosar and Biggs for their help in planning that protest. Gosar and Arizoan
5 Representative Mark Finchem were publicized as speakers at the Wild Protest.

6 51. On December 30, 2020, Alexander replied to a tweet by Representative-
7 elect Marjorie Taylor Greene, a well-known promoter of political violence, promising
8 that “1776 is *always* an option” if objections to certification were blocked. The
9 responses indicate it was understood as a call to storm the Capitol. Alexander
10 increasingly used references to “1776” between December 30 and January 6 as a call for
11 violence if Trump was not installed as president for another four years.

12 52. By this time, it was well known that events Alexander planned and
13 promoted had developed into violence. Indeed, the organizers of the Ellipse
14 Demonstration claim that they warned their congressional contacts about the possibility
15 of violence at the Wild Protest.

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

1 54. Gosar promoted the events of January 6 consistently from December 24 to
2 January 5. He consistently tagged Alexander, the organizer of the Wild Protest, in his
3 tweets about these events. Meanwhile, both Gosar and Biggs repeatedly publicized that
4 they would vote against certification.

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

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

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

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

1 58. Around 12:00 pm, then-President Trump began speaking about how “we
2 will stop the steal.”

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

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

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

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

19 63. By 1:30 p.m., law enforcement retreated as insurrectionists scaled the walls
20 of the Capitol. Many were armed with weapons, pepper spray, and tasers. Some wore full
21

1 body armor; others carried homemade shields. Many used flagpoles, signposts, or other
2 weapons to attack police officers defending the Capitol.

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

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

9 66. Over the next two hours, hundreds of insurrectionists stormed the Capitol,
10 attacking police with weapons and pyrotechnics. One police officer was crushed against a
11 door, screaming in agony as the crowd chanted “Heave, ho!” An attacker ripped off the
12 officer’s gas mask, beat his head against the door, took his baton, and hit his head with it.

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

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

17 69. They chanted “hang Mike Pence” and threatened Speaker Pelosi. H.R. Rep.
18 No. 117-2, at 16, 12-13 (2021).

19 70. They taunted a Black police officer with racial slurs for pointing out that
20 overturning the election would deprive him of *his* vote. Confederate flags and symbols of
21 white supremacist movements were widespread.

1 71. Throughout the insurrection, both Representative Biggs and Gosar
2 continued to tweet false allegations of fraud.

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

5 73. 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 74. 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 75. 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 76. Simultaneously, Gosar was tweeting a defense of his objection to the
14 certification of Biden's victory.

15 77. 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 78. 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 79. Around 4:30 p.m., insurrectionists attacked officers guarding the Capitol,
2 beating them with improvised weapons, spraying them with mace, and beating one so
3 badly he required staples.

4 80. Around 5:20 p.m., the D.C. National Guard began arriving. By 6:00 p.m.,
5 the insurrectionists had been removed from the Capitol, though some committed sporadic
6 acts of violence through the night.

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

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

12 83. Pence’s counsel ignored it. Congress was required under the Electoral
13 Count Act to debate the objections filed by Senators and Members of Congress to
14 electoral results from Arizona and Pennsylvania.

15 84. During that debate, Gosar retweeted a video of Representative Gaetz falsely
16 claiming that antifa was responsible for the violence. Despite six Senators and 121
17 Representatives (including Gosar and Biggs) voting to reject Arizona’s electoral results,
18 167 Cong. Rec. H77 (daily ed. Jan 6, 2021), and seven Senators and 138 Representatives
19 (including Gosar and Biggs) voting to reject Pennsylvania’s electoral results, *Id.* at H98,
20 Biden’s victory was ultimately certified at 3:14 a.m., January 7. 167 Cong. Rec. H114-15
21 (daily ed. Jan 6, 2021).

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

4 **Statements Since the Insurrection**

5 86. On January 12, Gosar characterized the insurrectionists as “vandals and
6 rioters.” On January 13, in the midst of Trump’s impeachment trial, Representative Biggs
7 tweeted, “Violence has been condemned, but it takes more than lip service to prevent
8 violence. It takes resisting the temptation to destroy President Trump, and a realization
9 that his removal now has the unfortunate likelihood of creating a conflagration.”

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

12 88. On May 12, 2021, both Biggs and Gosar shifted tack yet again, defending
13 the insurrectionists wholeheartedly. Furthermore, they attempted to prevent a
14 congressional investigation. During Congressional hearings, Biggs claimed there was no
15 violence, while Gosar claimed that Ashli Babbitt was “executed” and that investigating
16 the insurrection amounted to “harassing peaceful patriots.” On September 2, 2021, Biggs
17 insisted that any Member of Congress supporting an investigation of the January 6
18 insurrection should be subject to consequences.

19 89. Biggs’ and Gosar’s aforementioned actions since January 6 indicate
20 consciousness of culpability.

21

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

3 90. All preceding allegations are incorporated as if repeated herein.

4 91. Biggs swore an oath to support the U.S. Constitution as Members of
5 Congress. He is a candidate for the office of U.S. Representative, one of the covered
6 offices under Section Three of the Fourteenth Amendment.

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

11 93. The insurrectionists successfully defied the authority of the United States.

12 94. The January 6 attack meets the definition of an insurrection because the
13 insurrectionists’ goal was to overthrow or obstruct the U.S. government, “a lawfully
14 constituted regime.” *Pan Am. World Airways, Inc. v. Aetna Cas. & Sur. Co.*, 505 F.2d
15 989, 1005 (2d Cir. 1974); *Home Ins. Co. of N.Y. v. Davila*, 212 F.2d 731, 736 (1st Cir.
16 1954) (insurrectionary action must be “specifically intended to overthrow the constituted
17 government and to take possession of the inherent powers thereof”).

18 95. The demonstration was to intimidate Congress and Vice President Pence—
19 in particular, to intimidate Pence into violating the Twelfth Amendment and the Electoral
20 Count Act by ignoring the legal electoral votes for Biden. And the insurrectionists
21 mounted their violent assault on the U.S. Capitol and the government officials within for
the purpose of preventing the Vice President of the United States and the United States

1 Congress from fulfilling their constitutional roles in ensuring the peaceful transition of
2 power. As they attacked, the insurrectionists insisted that elected officials anoint their
3 preferred candidate the winner—or be murdered.

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

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

14 98. An attack on public authority need not be likely to succeed in order to
15 constitute an insurrection. *Davila*, 212 F.2d at 736 (“An insurrection aimed to accomplish
16 the overthrow of the constituted government is no less an insurrection because the
17 chances of success are forlorn.”); *In re Charge to Grand Jury*, 62 F. 828, 830 (N.D. Ill.
18 1894) (an insurrection does not require “bloodshed” or to be so large “as to insure its
19 probable success,” only that “the rising be in opposition to the execution of the laws of
20 the United States, and should be so formidable as *for the time being* to defy the authority
21 of the United States.”) (emphasis added).

1 99. The January 6 insurrectionists’ violent seizure of the House and Senate
2 Chambers and key congressional offices did, in fact, obstruct and delay this essential
3 constitutional procedure. They very nearly succeeded in achieving their aim of
4 overturning the results of the 2020 presidential election. This violent attack on the
5 political system of the United States in the heart of the nation’s capital is the paradigm of
6 insurrection.

7 100. This analysis of January 6 is consistent with the understanding of Congress,
8 the U.S. Department of Justice, and federal courts.

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

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

17 103. In court filings, the U.S. Department of Justice has characterized the attack
18 on the Capitol as “an insurrection attempting to violently overthrow the United States
19 Government.”

20 104. Judge Carl Nichols of the U.S. District Court for the District of Columbia
21 has issued a ruling in a pending case, describing the attack as an “uprising” that

1 “target[ed] a proceeding prescribed by the Constitution and established to ensure a
2 peaceful transition of power.” *United States v. Miller*, No. 21-cr-00119 (D.D.C. Dec. 21,
3 2021), ECF No. 67. <https://bit.ly/318NBmX>.

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

9 106. The elements of seditious conspiracy track the definition of insurrection
10 almost exactly. 18 U.S.C. § 2384.²

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

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

18 109. The Senate voted by unanimous consent to award a Congressional Gold
19 Medal for Capitol Police officer Eugene Goodman via a bill that categorized the January
20

21 ² Defining the crime as “conspir[ing] to overthrow, put down, or to destroy by force the
Government of the United States . . . or to oppose by force the authority thereof, or by force to prevent,
hinder, or delay the execution of any law of the United States.”

1 6 attackers as “insurrectionists.” 167 Cong. Rec. S694–95 (daily ed. Feb. 12, 2021).
2 Congress separately voted to award Congressional Gold Medals to other Capitol Police,
3 using the same “insurrectionists” language. Pub. L. No. 117-32,135 Stat. 322 (2021).

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

14 111. Representative Biggs, who was intimately involved in the plans *inside* the
15 Capitol to reject the electoral votes of several states, was engaged in, at minimum, the
16 planning and promotion of events that led to the insurrection.

17 112. To “engage” in insurrection or rebellion, one must voluntarily and
18 knowingly aid the insurrection by providing it with something useful or necessary.
19 *United States v. Powell*, 65 N.C. 709 (C.C.D.N.C. 1871) (holding that “engage” merely
20 required “a voluntary effort to assist the Insurrection . . . and to bring it to a successful
21 [from insurrectionists’ perspective] termination”); *Worthy v. Barrett*, 63 N.C. 199, 203

1 (1869) (in Section Three case, interpreting “engage” to mean “[v]oluntarily aiding the
2 rebellion, by personal service, or by contributions, other than charitable, of any thing that
3 was useful or necessary”). *Cf. Wells Fargo Bank v. Arizona Laborers, Teamsters &
4 Cement Masons Local No. 395 Pension Trust Fund*, 38 P.3d 12, 23 (Ariz. 2002) (three
5 part-test for civil accomplice liability: a legal harm, knowledge of that harm, substantial
6 assistance or encouragement).

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

14 114. The candidate’s occasional professions of denial or distancing from the
15 violence of the foot soldiers who stormed the Capitol cannot conceal the fact that the
16 candidates encouraged and helped aid the insurrection. The candidate poses precisely the
17 type of ongoing threat to the Republic that the Disqualification Clause was written to
18 guard against.

19 **REQUESTED RELIEF**

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

1 A. Candidate Biggs was involved in planning efforts to intimidate Congress
2 and the Vice President into rejecting valid electoral votes and subvert the essential
3 constitutional function of an orderly and peaceful transition of power. He was involved in
4 either planning the attack on January 6, or alternatively the planning of the pre-attack
5 Ellipse Demonstration, Wild Protest, and/or march on the Capitol, with the advance
6 knowledge that it was substantially likely to lead to the attack, and otherwise voluntarily
7 aided the insurrection.

8 B. Candidate Andrew Biggs, as a member of the U.S. House of
9 Representatives, and prior to the insurrection, took an oath of office to support the
10 Constitution of the United States;

11 C. Pursuant to Section 3 of the Fourteenth Amendment to the Constitution of
12 the United States, Candidate Biggs shall not hold any public office;

13 D. Congress has not by a vote of two-thirds of each House removed this
14 disability from Candidate Biggs;

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

17 F. Secretary Hobbs and the county defendants be ordered to exclude Biggs'
18 name from the ballot for the 2022 primary.

19 DATED this 7th of April 2022.

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* Motions for pro hac vice admission forthcoming.

VERIFICATION

I, Carrie Goode, 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.

Carrie Goode