ARIZONA COURT OF APPEALS
DIVISION ONE

JUSTIN HEAP, Plaintiff/Appellee, v. THOMAS GALVIN, et al., Defendants/Appellants, and MARK STEWART, Defendant/Appellee.	)	No. 1 CA-CV-26-0446 Maricopa County Superior Court Case Nos.: CV2025-020621

MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE HELEN PURCELL

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* *Application for Pro Hac Vice Forthcoming*

Attorneys for Amicus Curiae Helen Purcell

Former Maricopa County Recorder Helen Purcell respectfully moves this Court, pursuant to Rule 16 of the Arizona Rules of Civil Appellate Procedure, for leave to file the accompanying *Brief of Amicus Curiae* in support of Appellants' Emergency Motion for a Stay Pending Appeal (attached as **Exhibit 1**).

Appellants, the Maricopa County Board of Supervisors, through Supervisors Kate Brophy McGee, Thomas Galvin, Debbie Lesko, and Steve Gallardo, do not object to Ms. Purcell filing an amicus brief in this matter. Counsel for Appellee, County Recorder Justin Heap, indicated that he would consent only "if all parties stipulate that Recorder Heap will have seven days to file a response" to Ms. Purcell's amicus brief. Because the parties have not yet agreed upon such a stipulation, Ms. Purcell files this Motion for Leave.

INTEREST OF AMICUS CURIAE

Helen Purcell served as the Maricopa County Recorder from 1988 to 2017 — a tenure spanning nearly three decades. During that time, the Board of Supervisors delegated its election administration duties to the Recorder, consolidating oversight of the full range of election functions — from voter registration and early ballot distribution

through Election Day operations and tabulation — under Ms. Purcell. That arrangement was not compelled by statute but reflected the Board's discretionary judgment that consolidation under a cooperative and experienced Recorder served the interests of the county and its voters. Ms. Purcell administered these functions across presidential, midterm, primary, special, and jurisdictional election cycles, as the county's registered voter population grew from approximately one million to well over two million.

Ms. Purcell is a long-time Republican. Her interest in this matter is not motivated by partisan considerations. It is motivated by her direct, firsthand knowledge of how election administration in Maricopa County has functioned under Arizona law for decades, and her keen awareness — from planning and implementing many significant changes to election procedures during her tenure — of the time and effort required to implement such changes while still ensuring orderly election administration.

Indeed, Ms. Purcell was the named petitioner in the landmark case *Purcell v. Gonzalez*, 549 U.S. 1 (2006), in which the U.S. Supreme Court articulated what is now known as the "*Purcell* principle" — that

courts should be reluctant to alter election administration too close to an election, due to the risk of voter confusion and administrative chaos. Accordingly, Ms. Purcell possesses extraordinary expertise and experience in the administration of elections in Arizona and Maricopa County, and has a significant interest in this important case. Ms. Purcell's experience informs her concern that the trial court's ruling — if allowed to take effect at this stage in the election calendar — will cause significant and unnecessary burdens and disruptions to the administration of elections not only in Maricopa County but statewide.

REASONS AN AMICUS BRIEF IS DESIRABLE

Under Arizona's Rules of Civil Appellate Procedure, amicus briefs may be filed where a court determines that amici "can provide information, perspective, or argument that can help the appellate court beyond the help that the parties' lawyers provide." Ariz. R. Civ. App. P. 16(b)(l)(C)(iii). Ms. Purcell's perspective is uniquely suited to assist this Court for several reasons.

First, she can provide the Court with a practical, ground-level account of how the statutory division of labor between the Recorder and the Board of Supervisors has operated in Arizona and Maricopa County

over the course of decades. The legal dispute before this Court turns on: (1) the meaning of A.R.S. § 11-601(2) and whether it requires the Board to give the Recorder "custody and control" of IT systems, and (2) the phrase "county recorder or other officer in charge of elections" as it appears throughout Title 16. While the parties have ably briefed the textual and doctrinal arguments, Ms. Purcell can speak from experience to how the statutory provisions were understood and applied by the officials who actually administered elections under it.

Second, counsel for the proposed *amicus* has read the relevant motion and opposition and Ms. Purcell offers a perspective that is distinct from either party's position. As a former Recorder, she can explain, based on her experience, why the trial court's interpretations are inconsistent with historical practice—and why the operational consequences of the ruling are particularly problematic when imposed on the timeline contemplated by the order.

Third, Ms. Purcell can address the specific operational disruptions identified in the Board's motion—including the transfer of IT resources, bifurcation of authority at Election Day voting locations, and ambiguities

in chain-of-custody protocols—from the perspective of an official who managed these resources and processes firsthand.

The proposed amicus brief will not unduly delay proceedings. Ms. Purcell is prepared to file the proposed brief simultaneously with this motion, and the brief is focused on the practical consequences of the trial court's order rather than duplicating the parties' legal arguments.

CONCLUSION

For the foregoing reasons, Ms. Purcell respectfully requests that this Court grant leave to file the accompanying brief of amicus curiae.

RESPECTFULLY SUBMITTED this 1st day of June, 2026.

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By: /s/ Sambo (Bo) Dul
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Attorneys for Amicus Curiae Helen Purcell

EXHIBIT 1

ARIZONA COURT OF APPEALS
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BRIEF OF AMICUS CURIAE HELEN PURCELL IN SUPPORT OF THE MARICOPA COUNTY BOARD OF SUPERVISORS

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INTRODUCTION

Amicus curiae Helen Purcell — who served as the Maricopa County Recorder for seven terms, spanning nearly three decades — urges this Court to grant the Board of Supervisors' Emergency Motion for a Stay Pending Appeal. Early voting for the July 21, 2026 Primary Election begins in less than a month, and ballots must be sent to military and overseas voters in less than a week. The trial court's order mandates an immediate and potentially sweeping redistribution of election administration responsibilities and IT resources between the Recorder and the Board. It does so based on statutory constructions that, as *amicus* can attest from firsthand experience, are at odds with how elections have actually been administered in Arizona for decades.

Whatever the correct interpretation of the disputed statutory provisions may ultimately be, now is not the time to attempt significant changes to election operations in Arizona's largest county. Arizona courts evaluate stay motions on a sliding scale that weighs likelihood of success on the merits against the magnitude of irreparable harm. Here, both factors favor a stay — but the harm side of the scale is dispositive on its own.

The *Purcell* principle also counsels courts against restructuring election administration on the eve of an election, and the Arizona Supreme Court has repeatedly recognized that principle. The risks here are not speculative: the trial court's order would require changes to, among other things, IT infrastructure, ballot chain of custody procedures, and tabulation processes that cannot be accomplished in mere weeks without creating unnecessary risks of error, confusion, and harm to voters. And the implications extend beyond Maricopa County — the statutes at issue govern all fifteen Arizona counties, each of which has developed its own allocation of responsibilities.

Regardless of which party bears more responsibility for the current dispute and regardless of the ultimate outcome on the merits of the parties' competing positions, the county's voters — and voters across Arizona — have a paramount interest in elections administered under stable, well-planned procedures, not procedures reshuffled weeks before a statewide election. This Court should preserve the status quo while it considers the merits of this appeal.

INTEREST OF AMICUS CURIAE

Helen Purcell served as the Maricopa County Recorder from 1988 to 2017 — a tenure spanning nearly three decades. During that time, the Board of Supervisors delegated its election administration duties to the Recorder, consolidating oversight of the full range of election functions — from voter registration and early ballot distribution through Election Day operations and tabulation — under Ms. Purcell. That arrangement was not compelled by statute but reflected the Board's discretionary judgment that consolidation under a cooperative and experienced Recorder served the interests of the county and its voters. Ms. Purcell administered these functions across presidential, midterm, primary, special, and jurisdictional election cycles, as the county's registered voter population grew from approximately one million to well over two million.

Ms. Purcell is a long-time Republican. Her interest in this matter is not motivated by partisan considerations. It is motivated by her direct, firsthand knowledge of how election administration in Maricopa County has functioned under Arizona law for decades, and her keen awareness — from planning and implementing many significant changes to election procedures during her tenure — of the time and effort required to

implement such changes while still ensuring orderly election administration.

Ms. Purcell was the named petitioner in the landmark case *Purcell v. Gonzalez*, 549 U.S. 1 (2006), in which the U.S. Supreme Court articulated what is now known as the "*Purcell* principle" — that courts should be reluctant to alter election administration too close to an election, due to the risk of voter confusion and administrative chaos. Ms. Purcell's experience informs her concern that the trial court's ruling — if allowed to take effect at this stage in the election calendar — will cause significant and unnecessary burdens and disruptions to the administration of elections not only in Maricopa County but statewide.

BACKGROUND

Election administration in Arizona has long functioned as a cooperative enterprise between two county offices with distinct but interdependent responsibilities. Declaration of Helen Purcell ("Purcell Decl.") ¶ 3.

Under Arizona law, the Recorder oversees voter registration, the distribution and receipt of early ballots, verification of early ballot affidavit signatures, and the operation of in-person early voting locations.

Purcell Decl. ¶ 4; A.R.S. §§ 16-120, 16-134, 16-165, 16-166, 16-542, 16-544; State of Arizona, Elections Procedures Manual (2025) ("2025 EPM") at Ch. 1 (passim), 60-77 (early voting), 81-83 (on-site early voting), 100-01 (ballot-by-mail).

The Board of Supervisors, acting through its appointed Elections Director and the Elections Department, handles the drawing of precinct boundaries, the selection and equipping of Election Day voting locations, the appointment of poll workers, the tabulation of all ballots (whether cast early or on Election Day), and the official canvass. Purcell Decl. ¶ 5; A.R.S. §§ 16-411, 16-510, 16-511, 16-531, 16-532, 16-621, 16-642; 2025 EPM at 141-44 (precinct boundaries and voting locations), 147–48 (poll worker appointment), 196-97 (voting location setup), 225 (tabulation at central counting place), 276-78 (canvass).

Critically, these two domains are not separate silos, but are operationally intertwined. In Maricopa County, for example, the Recorder's signature verification operations depend on the same voter registration database that the Elections Department uses to sync e-pollbooks, draw precinct maps, and verify poll worker eligibility. Appendix in Support of Appellants' Motion for a Stay Pending Appeal

("APP") at 263–69 (11/3 Tr. 52:3–58:15 (Jarrett)); Purcell Decl. ¶ 6. The Board's central counting facility receives early ballots after they have cleared the Recorder's signature verification process. *Id.* The early voting period and Election Day are part of a single continuum, and smooth elections require constant coordination between the two offices. *Id.*

During Ms. Purcell's nearly three-decade tenure, the Board delegated leadership and oversight of its election administration functions to her office, consolidating oversight in one official. *Id*. ¶ 8. But consolidation did not mean unilateral control. Ms. Purcell regularly presented the Board with proposals, including on matters requiring Board input or approval — such as the number and locations of early voting sites and Election Day polling places, project timelines, and staffing plans — and she and the Board reached final decisions together. *Id*. ¶ 9.

Other counties made different choices. Some adopted the same consolidated approach as Maricopa County, at least for periods of time. *Id* ¶ 10. Other county boards retained its election duties or delegated only some of them to the Recorder. *Id.* Still others shifted allocations over time as circumstances changed. *Id.*

But across all of these arrangements, a constant pattern held: the allocation of responsibilities followed the established domains of each office: the Recorder exercised authority directly over functions within the Recorder's primary sphere (such as voter registration and early ballot signature verification), while the Elections Director served as the "officer in charge" for functions within the Board's primary sphere (such as Election Day operations, ballot tabulation, and jurisdictional elections). *Id.* ¶ 11. This functional allocation — flexible enough to accommodate the varying arrangements of Arizona's fifteen counties and the evolution within counties over time — reflected a cooperative understanding, grounded in decades of practice, that the phrase "county recorder or other office in charge of elections" permitted local variation, not a rigid assignment of exclusive authority to one office over another. *Id.* ¶ 12.

While Arizona's election officials are no strangers to tensions and disputes over lines of authority, the current unfortunate breakdown in cooperation between the Maricopa County Recorder and the Board of Supervisors is unprecedented and has necessitated court intervention to try to find clear lines in statutes that, based on amicus's firsthand knowledge and experience, were not always written to impose such clear

or rigid lines. *Id.* ¶ 16. Regardless of which party bears more responsibility for the current impasse, however, the voters of Maricopa County did not create this crisis and should not bear its consequences.

ARGUMENT

I. The Operational Realities of Election Administration Require a Stay.

A. *The sliding scale standard supports a stay.*

Arizona courts evaluate stay motions under the same four-factor framework that governs preliminary injunctions: (1) likelihood of success on the merits; (2) irreparable harm absent a stay; (3) balance of harms favoring the movant; and (4) public interest in granting relief. *Ariz. Pres. Found. v. Pima Cmty. Coll. Dist. Bd.*, 259 Ariz. 539, ¶ 12 (App. 2025) (citing *Smith v. Ariz. Citizens Clean Elections Comm'n*, 212 Ariz. 407 (2006)); see also *Nken v. Holder*, 556 U.S. 418, 434-35 (2009) (identifying the first two factors as "most critical" and noting that the balance-of-harms and public-interest inquiries merge when the government is a party). These factors operate on a sliding scale: "[t]he greater and less reparable the harm, the less the showing of a strong likelihood of success on the merits need be." *Smith*, 212 Ariz. at 411, ¶ 10.

Here, the sliding scale tilts decisively toward a stay. As explained in Section II below, there is at minimum a substantial likelihood that the trial court's statutory interpretations are incorrect. But even setting the merits aside, the potential irreparable harms from immediate enforcement are overwhelming. Arizona is weeks from the beginning of the voting period for the primary election, and ballots must be sent to military and overseas voters in less than a week. Purcell Decl. ¶ 29; A.R.S. §§ 16-542(C), 16-543(A). Much of the preparation for this election cycle is already complete and cannot be undone or redone on the trial court's timeline. The injunction would unsettle those preparations, introduce new command-and-control disputes into an already fractious relationship between county officers, and increase the likelihood of administrative errors on the eve of a statewide election.

The risks of voter confusion, administrative error, and damage to public confidence in election outcomes far outweigh any conceivable harm from maintaining the status quo for the duration of this appeal. Recorder Heap's claim that the "true" status quo is not the arrangement in place immediately before the trial court's ruling, but the pre-October 2024 arrangement, doesn't change the calculus. Appellee's Response in

Opposition to Appellants' Emergency Motion for a Stay Pending Appeal ("Opp.") at 17-19. The immediate operational reality is that this election has been planned and prepared under the current, pre-ruling allocation of responsibilities. Disrupting that allocation now — on the eve of the primary election — harms voters regardless of whether Recorder Heap's argument is correct.

The public interest factor does not ask which party created the problem; it asks whether the public is better served by stability or by court-ordered changes weeks before an election. In weighing the balance of harms, this Court should look past the parties' mutual recriminations and focus on the third parties who will be impacted but have no voice in this proceeding: the voters and poll workers who must navigate whatever system is in place for the upcoming primary and general elections.

B. ***Arizona's Purcell analog supports a stay.***

Even if the standard stay factors left room for doubt — and they do not — Arizona's analog to the Purcell principle would resolve that doubt in favor of a stay. The Arizona Supreme Court has repeatedly recognized that courts must exercise heightened caution before ordering injunctive relief that could disrupt the administration of an approaching election.

In *Fontes v. Lewis*, the Court affirmed the denial of preliminary injunctive relief because the requested relief was "impractical[], if not imprudent" at that late date in the election cycle, endorsing the trial court's conclusion that granting relief would create an "unacceptable risk of chaos, uncertainty, and confusion." No. CV-24-0251, 2024 WL 4625950, at *1 (Ariz. Oct. 25, 2024) (cited pursuant to Ariz. R. Sup. Ct. 111(c)). The Court grounded that conclusion in *Purcell v. Gonzalez*, characterizing it as "recognizing that courts will generally refrain from altering election procedures on the eve of an election." *Id*. at 2.

The same principle led the Court to deny relief in *Richer v. Fontes* because "there is so little time remaining before the beginning of the 2024 General Election." No. CV-24-0221, 2024 WL 4299099, at *3 (Ariz. Sept. 20, 2024) (cited pursuant to Ariz. R. Sup. Ct. 111(c)).

The Recorder argues that the Purcell principle is merely a federalism doctrine inapplicable in state court. Opp. at 22-23. But the Arizona Supreme Court has applied Purcell's reasoning without any such limitation, recognizing that the risks of election-eve restructuring are operational, not jurisdictional. *See Fontes*, 2024 WL 4625950, at *2

(applying the Purcell principle as a matter of prudential judicial restraint, not federal-state comity).

The facts here are at least as compelling as those in *Fontes* and *Richer*. The trial court's injunction does not merely alter a discrete election procedure — it purports to impose an immediate and far-reaching redistribution of authority, including over ballot chain of custody, tabulation, and IT infrastructure across two county offices that are, as of today, in active conflict. The poll worker manual for the July 2026 primary has already been finalized. Equipment procurement for the 2026 election cycle is closed. *See* APP276, ¶¶ 28-29. Forcing these changes on an already-locked-down election calendar does not vindicate any right the Recorder presently lacks — it manufactures significant operational challenges in service of legal theories that this Court has yet to review or validate. That is precisely what Purcell and its Arizona analog forbid.

Courts apply the *Purcell* principle not to reward or punish litigants, but to shield voters from the operational fallout of last-minute changes to election procedures. This Court should do so here.

C. The trial court's order cannot be implemented in this timeframe without creating unnecessary risks to the upcoming election.

From Ms. Purcell's experience administering elections in Maricopa County, successful election administration requires months of preparation. Purcell Dec. ¶ 28. Poll worker manuals must be written, reviewed, and finalized well in advance. *Id.* Thousands of temporary workers must be recruited and trained. *Id.* Equipment must be tested, programmed, and deployed. *Id.* Ballot styles — which in Maricopa County can number in the tens of thousands — must be designed, proofed, and printed. *Id.* These processes are sequential and interdependent: delays or disruptions at any stage cascade forward. *Id.*

Changing the authority structure and operational protocols at this stage — with early voting beginning in less than a month, and ballots being sent to military and overseas voters in less than a week — is not a matter of adjusting a few lines in a process manual. *Id* ¶ 29. It requires rewriting training materials, retraining workers, reconfiguring reporting chains, and potentially reprogramming tabulation systems. *Id.* In Ms. Purcell's experience, these are not tasks that can be effectively or reliably accomplished in the time available. *Id*.

The risks are concrete and immediate, as the following examples illustrate.

1. Custody and Control of IT Systems

During Ms. Purcell's tenure, she oversaw the development of an integrated IT system supporting all election-related functions. *Id.* ¶ 17. That system was housed in her office with the Board's approval, since the Elections Department also relied upon it. *Id.* Ms. Purcell and the Board did not contemplate segregating the system based on each office's statutory responsibilities, or duplicating portions of it to enable separate "custody and control" over the Recorder versus the Board's functions. *Id.* Instead, both offices worked toward a common goal of creating an IT system that would support all election-related functions in the county effectively and economically. *Id.* And the Recorder's Office routinely shared infrastructure, systems, and personnel with other county departments without any understanding that this compromised the Recorder's statutory authority or independence. *Id.* ¶ 18.

The trial court's order requires the Board either to transfer this integrated system — including portions the Elections Department needs for its own statutory functions — to a newly elected Recorder with no

experience managing it, or to duplicate the entire system at a cost of potentially tens of millions of dollars, within weeks. *See* APP007, 016-17, 305-07 (Second Declaration of Zach Schira). Based on her experience administering elections in Maricopa County and overseeing the development and operation of the IT systems, Ms. Purcell believes neither option is feasible on the trial court's timeline without creating unnecessary risks to the upcoming election. Purcell Decl. ¶ 19.

2. On-Site Early Ballot Tabulation

The 2026 election cycle will be the first time Maricopa County implements on-site tabulation of early ballots at Election Day voting locations under A.R.S. §§ 16-579.01 and 16-579.02. Under the trial court's interpretation of "county recorder or other officer in charge of elections," the Recorder or his designee would control this new process, while the Board's approximately 4,000 poll workers — who are appointed, trained, and supervised by the Board — would control all other Election Day operations in the same physical location. This would create two chains of command within a single voting location. It is unclear who would direct a poll worker when a voter presents an early ballot — the Board, which appointed and trained the worker, or the Recorder, who claims authority

over on-site tabulation. *See* Appellants' Emergency Motion for a Stay Pending Appeal ("Emergency Mot.") at 33-34; APP274-76 (Fourth Declaration of Scott Jarrett).

A related difficulty involves the canvass. A.R.S. § 16-579.01(B)(3) provides that the "county recorder or other officer in charge of elections" must "[c]ategorize and tally separately in the official canvass" electors whose early ballots are tabulated on-site. But the functionality needed to perform that tally is programmed at the central counting facility as part of the Board's election preparation processes. APP275-76, ¶¶ 24-25. If only the Recorder or his designee can canvass these ballots, it is difficult to see how the Board could fulfill its own statutory obligation to prepare a complete, county-wide canvass. *See* A.R.S. §§ 16-642, 16-645.

In amicus's experience, poll worker training is already intensive, and even experienced poll workers occasionally struggle with the complexity of Election Day procedures. Purcell Decl. ¶ 22. Introducing a second reporting authority within the same location would significantly increase the risk of confusion and error — particularly for a first-ever procedure that the county has never before attempted. *Id.*

3. Chain of Custody

Chain of custody is central to election integrity and public confidence. Maintaining an unbroken, well-documented chain requires that the office responsible for chain-of-custody recordkeeping at each stage be the same office that actually has physical custody of the ballots and equipment at that stage. *Id.* ¶ 23. That is how chain of custody has always worked in practice — and the trial court's interpretation makes no sense against this operational reality. *Id.*

Under longstanding practice, chain-of-custody responsibility tracks physical custody, which shifts between the two offices at defined points in the election process. *Id.* ¶ 24. The Board has authority over Election Day ballots from start to finish — from printing and delivery to polling locations through transport to the central counting facility and completion of tabulation. A.R.S. §§ 16-503, 16-509, 16-564, 16-608(A), 16-621(A). The Recorder oversees early and mail ballots during the early voting period, including distribution to voters, receipt of returned ballots, and signature verification. A.R.S. §§ 16-542, 16-545, 16-547, 16-548, 16-550. Once the Recorder completes signature verification, however, the verified early ballots are transferred to the central counting facility for

tabulation — at which point physical custody, and with it chain-of-custody responsibility, shifts to the Elections Director. APP271-73 (Fourth Declaration of Scott Jarrett); Purcell Decl. ¶ 24.

As for voting and tabulation equipment, it is the Board that procures, programs, deploys, and maintains it. A.R.S. §§ 16-447, 16-511; APP275-76, ¶¶ 24-25. Unless the Board delegates its authority over election equipment, the Recorder does not have custody of tabulation equipment, and it would make little sense to assign the Recorder recordkeeping responsibility for equipment that is at all times in the Board's possession and control. Purcell Decl. ¶ 25.

Yet A.R.S. § 16-621(E) assigns to "the county recorder or other officer in charge of elections" the obligation to "maintain records that record the chain of custody for all election equipment and ballots during early voting through the completion of provisional voting tabulation." Under the trial court's blanket construction, this provision would vest the entire recordkeeping obligation in the Recorder alone — even though the Board has physical custody of the ballots and equipment for the majority of the relevant period and the Board's appointees are the ones actually

performing many of the tasks the records are meant to document. APP271-73 (Fourth Declaration of Scott Jarrett).

This reading is difficult to square with either the statute's text or its operational context. Read in light of the surrounding provisions in Title 16 — which assign the Board responsibility for Election Day ballot security, transport, and tabulation — § 16-621(E) is more naturally understood as contemplating that chain-of-custody recordkeeping responsibility follows physical custody: the Recorder maintains records for the phases in which the Recorder has custody (early voting, signature verification), and the "other officer in charge of elections" — the Board's Elections Director — maintains records for the phases in which the Board has custody (Election Day operations, transport, tabulation). Purcell Decl. ¶ 26. That is how the provision has been understood and applied in practice. *Id*.

In amicus's experience, the transitional points between these phases are precisely where errors and documentation gaps are most likely to occur. *Id.* ¶ 27. Assigning one office responsibility for maintaining chain of custody records when a different office is actually performing the underlying tasks is impractical at best, and at worst risks

the kind of documentation gaps and disputes that chain of custody procedures are designed to prevent. *Id*.

D. The statewide implications of the trial court's order further support a stay.

The trial court's blanket constructions do not apply only to Maricopa County. A.R.S. § 11-601(2)'s requirement that the Board fund county officers' "necessary expenses" applies to all fifteen Arizona counties. And the phrase "county recorder or other officer in charge of elections" appears in statutes that govern all fifteen counties, each of which has developed its own allocation of responsibilities between the Recorder and the Board. *See* Purcell Decl. ¶¶ 10-12 (describing variation across counties). A ruling that the phrase carries a single meaning in every instance — and that the Recorder must have "custody and control" of any IT system on which the Recorder's office relies — would unsettle those arrangements statewide.

Allowing the trial court's ruling to take effect could potentially prompt demands for IT system transfers, authority reshuffling, and operational changes in counties that have administered elections without conflict for years — and would do so on the eve of a statewide primary election affecting every county in Arizona. Preserving the status quo

while this Court considers the merits would avoid not only the disruptions detailed above in Maricopa County, but also the cascading uncertainty that the trial court's ruling creates for election administrators across the state.

II. The Trial Court's Statutory Interpretations Are Inconsistent with the Statutory Text, Context, and Purpose and Are Departures from Settled Practice.

A. A.R.S. § 11-601(2) does not require the Board to give the Recorder "custody and control" of IT systems.

The trial court held that the Board's obligation under A.R.S. § 11-601(2) to fund the Recorder's "necessary expenses" encompasses not just the provision of funding and access, but requires the transfer of "custody and control" over IT systems and personnel. APP016-17. As the Board explains, his construction finds no support in the statutory text, which speaks of financing expenses — not of transferring proprietary control over shared county infrastructure. Emergency Mot. at 13-18.

This construction is also inconsistent with how the statute has been understood and applied in practice. Based on her firsthand experience administering elections under the very statutory scheme the trial court has now re-cast, Ms. Purcell can attest that the Recorder's functions were never premised on exclusive proprietary control over shared county

infrastructure. Throughout her tenure, the Recorder's Office routinely shared IT systems, databases, and personnel with other county departments — and this arrangement never compromised any office's ability to perform its statutory duties or its independence. The relevant question was always functional: could each office access and use the systems necessary to carry out its responsibilities? It was not: did each have "custody and control" over those systems? Purcell Decl. ¶ 18.

The trial court's "custody and control" standard, taken to its logical conclusion, would be unworkable for the Arizona counties where election administration is not consolidated under one official. *Id.* ¶ 20. Many county IT systems — including voter registration systems — are, in operational reality, shared across county functions. If the "custody and control" principle is the law, it would require either an unwieldy siloing of integrated systems or the costly duplication of infrastructure that multiple offices depend on. *Id*.

Moreover, even the Secretary of State's systems that the Maricopa County Recorder's Office interfaces with (and that most other Arizona counties use directly for voter registration purposes) are not in the Recorder's "custody and control." *Id*. Yet no one has ever suggested the

Recorder cannot fulfill his statutory duties as a result. Amicus's decades of actual election administration experience demonstrates that the trial court's "custody and control" requirement is neither necessary nor workable.

Amicus agrees with the Board's argument — that § 11-601(2)'s requirement that the Board "finance necessary expenses" does not require it to "transfer custody and control" of the voter registration IT system to the Recorder. But amicus adds a distinct and complementary point: the statute, properly understood in light of how elections are actually administered, doesn't contemplate the "custody and control" standard the trial court has imposed. Purcell Decl. ¶ 21. The Board explains why the trial court's ruling is unsupported by the statutory text; *amicus's* experience demonstrates the ruling is also incongruent with how election administration operates on the ground.

B. "County recorder or other officer in charge of elections" does not mean "county recorder or his designee" in every instance.

The trial court held that whenever a statute in Title 16 assigns a function to "the county recorder or other officer in charge of elections," that function belongs presumptively to the Recorder, who may then

permit another officer to carry it out. APP017-18. As the parties have noted, the phrase appears over a hundred times in Title 16, spanning provisions that address subjects as varied as voter registration, petition signature verification, Election Day operations, ballot tabulation, chain of custody, and jurisdictional elections. The trial court's construction assigns a single meaning to the phrase in every one of these instances.

The Arizona Supreme Court has repeatedly stated that statutes should be construed sensibly to avoid "absurd conclusions," and that where statutory language is ambiguous, courts should examine "the rule's historical background, its spirit and purpose, and the effects and consequences of competing interpretations." *City of Chandler v. Roosevelt Water Conservation Dist.*, 587 P.3d 1271, 1276 (Ariz. 2026) (quoting *Planned Parenthood Ariz., Inc. v. Mayes*, 257 Ariz. 137, 142 ¶ 17 (2024)); *see also Aros v. Beneficial Arizona, Inc.*, 194 Ariz. 62, 66 (1999) (en banc) ("When an ambiguity exists, [] we attempt to determine legislative intent by interpreting the statute as a whole, and consider 'the statute's context, subject matter, historical background, effects and consequences, and spirit and purpose.'" (quoting *Zamora v. Reinstein*, 185 Ariz. 272, 275 (1996)).

The statutory phrase at issue is ambiguous in two critical respects: it does not specify who qualifies as the "officer in charge of elections" for any given provision, and it does not establish which of the two — the Recorder or the other officer — has primary authority if they disagree. The trial court resolved both ambiguities by imposing a blanket hierarchy that the text does not require: the Recorder controls every function where that office is named, and the "other officer" serves only at the Recorder's discretion. That construction disregards the historical and operational context against which these statutes were enacted, and — as shown below — would produce results the Legislature could not have intended, stripping away the flexibility the Legislature built into the statutory scheme.

Ms. Purcell can attest, from nearly thirty years of experience, that this blanket construction is inconsistent with how election administration has actually operated in Arizona. In practice, the allocation of responsibility between the Recorder and the Board for functions assigned to "the county recorder or other officer in charge of elections" followed the established domains of each office.

- For functions within the Recorder's primary sphere — such as voter registration and early ballot signature verification — the Recorder exercised authority directly.
- For functions within the Board's primary sphere — such as Election Day operations, ballot tabulation, and jurisdictional elections — the Board's Elections Director served as the "officer in charge."
- And some functions, like chain of custody documentation discussed in Section I(C)(3) above, are performed by both the Recorder and the Elections Directors in fulfilling their respective duties in different parts of the interconnected process.

Purcell Decl. ¶ 13. This allocation — flexible enough to accommodate the varying arrangements of all fifteen Arizona counties — reflected a shared understanding that the phrase was a drafting device permitting local variation, not a rigid assignment of exclusive authority to one office. *Id.* ¶ 12.

Ms. Purcell's experience with the legislative process buttresses this understanding. Throughout her decades of service, amicus participated frequently in discussions with lawmakers, other county recorders,

election officials, the Arizona Association of Counties, and the County Supervisors Association about election-related legislation, and her understanding was that the goal was to draft statutory provisions in a way that would preserve flexibility for different jurisdictions to reach different arrangements for how responsibilities should be allocated. *Id.* ¶ 14. Consistent with the statutes' silence on these issues, she does not recall any discussion contemplating the possibility that a board of supervisors and a recorder would be unable to reach an agreement, how the law should address such disagreement, or who would have primary authority in those circumstances. *Id.* ¶ 15.

The consequences of the trial court's contrary reading reinforce its likely error. As the examples in Section I(C) illustrate, imposing a single meaning on the phrase across over a hundred provisions produces results that are not merely impractical but absurd — including assigning the Recorder chain of custody recordkeeping responsibility for processes the Board's appointees actually perform and creating dual chains of command at voting locations for a first-ever tabulation procedure. These results strongly suggest that the phrase does not carry a fixed meaning across Title 16, but rather takes its meaning from the surrounding

statutory context and the settled operational practices against which the Legislature enacted each provision.[1]

The alternative — that the Legislature intended every one of these statutory references to vest exclusive authority in the Recorder regardless of which office has historically performed the function, which office controls the relevant personnel and equipment, and how other provisions in Title 16 allocate the underlying responsibility — is not a plausible account of legislative intent. It is the inevitable consequence of attempting to impose a blanket rule on a phrase that requires provision-by-provision analysis, informed by the statutory context and the longstanding administrative practice that informed the Legislature's enactment of each provision.

The current breakdown in cooperation between the Recorder and the Board has necessitated court intervention to find clear lines in statutes that, based on Ms. Purcell's firsthand experience, were not

[1] Indeed, if "'a literal (interpretation) of the language leads to a result which produces an absurdity,'" courts "'construe the act, if possible, so that it is a reasonable and workable law.'" *City of Phoenix v. Superior Ct. In & For Maricopa Cnty.*, 101 Ariz. 265, 267 (1966) (quoting *Garrison v. Luke*, 52 Ariz. 50, 56 (1938)).

intended to impose such rigid lines in every instance. But the solution is not to force a uniform meaning onto a phrase that the Legislature used as a flexible drafting device across over a hundred different provisions — and certainly not on an emergency timeline, less than a month before early voting begins for a statewide election and less than a week before ballots must be sent to military and overseas voters. The proper course is to preserve the status quo while this Court undertakes the more nuanced analysis the statutes require.

CONCLUSION

For these reasons, amicus curiae Helen Purcell respectfully urges this Court to grant the Board of Supervisors' Emergency Motion for a Stay Pending Appeal and preserve the existing operational framework for the administration of the 2026 elections while this appeal is resolved.

RESPECTFULLY SUBMITTED this 1st day of June, 2026.

COPPERSMITH BROCKELMAN PLC

By: /s/ Sambo (Bo) Dul
Sambo (Bo) Dul

STATES UNITED DEMOCRACY CENTER
Judy Shih*

* *Pro Hac Vice Application Forthcoming*

Attorneys for Amicus Curiae Helen Purcell

ARIZONA COURT OF APPEALS
DIVISION ONE

JUSTIN HEAP, Plaintiff/Appellee, v. THOMAS GALVIN, et al., Defendants/Appellants, and MARK STEWART, Defendant/Appellee.	)	No. 1 CA-CV-26-0446 Maricopa County Superior Court Case Nos.: CV2025-020621

DECLARATION OF HELEN PURCELL

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* *Application for Pro Hac Vice Forthcoming*

Attorneys for Amicus Curiae Helen Purcell

I, Helen Purcell, declare as follows:

1. I am over 18 years of age, and am competent to testify in this matter. I make this declaration based on my own personal knowledge. I submit this declaration with my amicus curiae brief in support of the Maricopa County Board of Supervisors.

2. I am a long-time member of the Republican Party. My interest in this matter is not motivated by partisan considerations. It is motivated by my direct, firsthand knowledge of how election administration in Maricopa County has functioned under Arizona law for decades, and my awareness — from planning and implementing many significant changes to election procedures during my tenure — of the time and effort required to implement such changes while still ensuring an orderly election administration.

Roles of the Recorder and Board of Supervisors in Elections

3. Election administration in Arizona has long functioned as a cooperative enterprise between two county offices with distinct but interdependent responsibilities.

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4. By statute, the Recorder oversees voter registration, the distribution and receipt of early ballots, verification of early ballot affidavit signatures, and the operation of in-person early voting locations.

5. Similarly, the Board of Supervisors, acting through its appointed Elections Director and the Elections Department, is charged with the drawing of precinct boundaries, the selection and equipping of Election Day voting locations, the appointment of poll workers, the tabulation of all ballots (whether cast early or on Election Day), and the official canvass.

6. Critically, these two domains are not separate silos, but are operationally intertwined. In Maricopa County, for example, the Recorder's signature verification operations depend on the same voter registration database that the Elections Department uses to sync e-pollbooks, draw precinct maps, and verify poll worker eligibility. The central counting facility receives early ballots after they have cleared the Recorder's signature verification process. The early voting period and Election Day are part of a single continuum, and smooth elections require constant coordination between the two offices.

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Overview of Amicus' Experience as Maricopa County Recorder

7. I served as the Maricopa County Recorder from January 1, 1989, to December 31, 2016.

8. During that time, the Board of Supervisors ("Board") delegated much of its election administration authority duties to the Recorder, meaning that I hired and supervised the Elections Director, and as a result I oversaw the full range of election functions — from voter registration and early ballot distribution through Election Day operations and tabulation. I administered these functions across presidential, midterm, primary, special, and jurisdictional election cycles, as the county's registered voter population grew from approximately one million to well over two million.

9. That consolidation did not mean unilateral control, however. I regularly presented the Board with proposals, including on matters requiring Board input or approval — such as the number and locations of early voting sites and Election Day polling places, project timelines, and staffing plans — and the Board and I reached final decisions together. This arrangement was not compelled by statute but instead reflected the Board's discretionary judgment that consolidation served

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the interests of the county and its voters, especially as I gained experience in the role and maintained a good working relationship with the Board.

10. Other counties made different choices. Some adopted the same consolidated approach as Maricopa County, at least for periods of time. Other county boards retained its election duties or delegated only some of them to the Recorder. Still others shifted allocations over time as circumstances changed.

11. In all of these arrangements, a constant pattern held: the allocation of responsibilities followed the established domains of each office: the Recorder exercised authority directly over functions within the Recorder's primary sphere (such as voter registration and early ballot signature verification), while the Elections Director served as the "officer in charge" for functions within the Board's primary sphere (such as Election Day operations, ballot tabulation, and jurisdictional elections).

12. This functional allocation — flexible enough to accommodate the varying arrangements of Arizona's fifteen counties and the evolution within counties over time — reflected a cooperative understanding, grounded in decades of practice, that the phrase "county recorder or other

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office in charge of elections" permitted local variation, not a rigid assignment of exclusive authority to one office over another.

13. Thus, in practice, the allocation of responsibility between the Recorder and the Board for functions assigned to "the county recorder or other officer in charge of elections" followed the established domains of each office:

- For functions within the Recorder's primary sphere — such as voter registration and early ballot signature verification — the Recorder exercised authority directly.
- For functions within the Board's primary sphere — such as Election Day operations, ballot tabulation, and jurisdictional elections — the Elections Director served as the "officer in charge."
- And some functions, like chain of custody documentation, are performed by both the Recorder and the Elections Directors in fulfilling their respective duties in different parts of the interconnected process.

14. During my time in office I participated frequently in discussions with lawmakers, other county recorders, election officials, the

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Arizona Association of Counties, and the County Supervisors Association about election-related legislation, and my understanding was that our goal was to draft statutory provisions in a way that would preserve flexibility for different jurisdictions to reach different arrangements for how responsibilities should be allocated.

15. I do not recall any discussion contemplating the possibility that a board of supervisors and a recorder would be unable to reach an agreement, how the law should address such disagreement, or who would have primary authority in those circumstances.

16. While Arizona's election officials are no strangers to tensions and disputes over lines of authority, the current unfortunate breakdown in cooperation between the Maricopa County Recorder and the Board of Supervisors is unprecedented and has necessitated court intervention to try to find clear lines in statutes that, in my experience, were not always written to impose such clear or rigid lines.

Experience Managing Elections-related Systems and Processes

17. As Recorder, I oversaw the development of an integrated IT system supporting all election-related functions. That system was housed in my office with the Board's approval, since the Elections Department

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also relied upon it. We never contemplated segregating the system based on each office's statutory responsibilities, or duplicating portions of it to enable separate "custody and control" over the Recorder versus the Board's functions. Instead, both offices worked toward a common goal of creating an IT system that would support all election-related functions in the county effectively and economically.

18. The Recorder's Office also routinely shared infrastructure, systems, and personnel with other county departments without any understanding that this compromised anyone's statutory authority or independence. The relevant question was always functional: could all offices access and use the systems necessary to carry out their responsibilities? It was not: did each have "custody and control" over those systems?

19. I understand that the injunction order requires the Board to either turn the entirety of the IT system over to the current Recorder, including the portions the Elections Department relies upon to perform its functions, or to create a duplicate system for the Recorder's use. Based on my experience administering elections in Maricopa County and overseeing the development and operation of the IT systems supporting

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the county's election functions, neither option is feasible on the trial court's timeline without creating unnecessary risks to the upcoming election.

20. In addition, the trial court's "custody and control" standard, taken to its logical conclusion, would be unworkable for the Arizona counties where election administration is not consolidated under one official if any disagreement arose between the offices. Many county IT systems — including voter registration systems — are shared across county functions. Moreover, even the Secretary of State's systems that the Maricopa County Recorder's Office interfaces with (and that most other Arizona counties use directly for voter registration purposes) are not in the Recorder's "custody and control."

21. If the "custody and control" principle is the law, it would require either an unwieldy siloing of integrated systems or the costly duplication of infrastructure that multiple offices depend on. The statute, properly understood in light of how elections are actually administered, doesn't contemplate the "custody and control" standard the trial court has imposed.

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22. My experience also suggests that the non-IT-related changes that the injunction requires raise similar concerns. For instance, the Recorder's desire to split control over polling place activities on Election Day in connection with on-site ballot tabulation is troubling. Poll worker training is already intensive, and even experienced poll workers occasionally struggle with the complexity of Election Day procedures. Introducing a second reporting authority within the same location would significantly increase the risk of confusion and error — particularly for a first-ever procedure that the county has never before attempted.

23. Any dispute involving authority over chain of custody raises similar issues. Chain of custody is central to election integrity and public confidence. Maintaining an unbroken, well-documented chain requires that the office responsible for chain-of-custody recordkeeping at each stage be the same office that actually has physical custody of the ballots and equipment at that stage. That is how chain of custody has always worked in practice — and the trial court's interpretation makes no sense against this operational reality.

24. Under longstanding practice, chain-of-custody responsibility tracks physical custody, which shifts between the two offices at defined

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points in the election process. The Elections Director oversees Election Day ballots from start to finish — from printing and delivery to polling locations through transport to the central counting facility and completion of tabulation. The Recorder oversees early and mail ballots during the early voting period, including distribution to voters, receipt of returned ballots, and signature verification. Once the Recorder completes signature verification, however, the verified early ballots are transferred to the central counting facility for tabulation — at which point physical custody, and with it, chain-of-custody responsibility, shifts to the Elections Director.

25. As for voting and tabulation equipment, it is the Board that procures, programs, deploys, and maintains it. Unless the Board delegates its authority over election equipment, the Recorder does not have custody of tabulation equipment, and it would make little sense to assign that office responsibility for equipment that is at all times in the Board's possession and control.

26. A reading of A.R.S. § 16-621(E) that assigns to "the county recorder or other officer in charge of elections" the obligation to generate records documenting "chain of custody for all election equipment and

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ballots during early voting through the completion of provisional voting tabulation" is difficult to square with how chain of custody operates in practice. Chain-of-custody recordkeeping responsibility most naturally follows physical custody: the Recorder maintains records for the phases in which the Recorder has custody (early voting, signature verification), and the "other officer in charge of elections" — the Board's Elections Director — maintains records for the phases in which the Board has custody (Election Day operations, transport, tabulation). That is how the provision has been understood and applied in practice.

27. In my experience, the transitional points between these phases are precisely where errors and documentation gaps are most likely to occur. Assigning one office responsibility for maintaining chain of custody records when a different office is actually performing the underlying tasks most of the time is impractical at best, and at worst risks the kind of documentation gaps and disputes that chain of custody procedures are designed to prevent.

Election Administration Requires Advance Planning and the Orchestration of Multiple Functions and Processes

28. Successful election administration requires months of preparation. Poll worker manuals must be written, reviewed, and

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finalized well in advance. Thousands of temporary workers must be recruited and trained. Equipment must be tested, programmed, and deployed. Ballot styles — which in Maricopa County can number in the tens of thousands — must be designed, proofed, and printed. These processes are sequential and interdependent: delays or disruptions at any stage cascade forward.

29. Changing the authority structure and operational protocols at this stage — with early voting beginning in less than a month, and ballots being sent to military and overseas voters in less than a week — is not a matter of adjusting a few lines in a process manual. It requires rewriting training materials, retraining workers, reconfiguring reporting chains, and potentially reprogramming tabulation systems. In my experience, these are not tasks that can be effectively or reliably accomplished in the time available.

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

DATED this 1st day of June, 2026, in Maricopa County, Arizona.

Signed by:
By Helen Purcell
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Helen Purcell