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7 *Attorney for Plaintiff*

8 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**

9 **IN AND FOR THE COUNTY OF MARICOPA**

10	<b>JUDICIAL WATCH, INC.</b>	)	Case No. <u>CV 2024-028791</u>
11	<b>Plaintiff,</b>	)	<b>COMPLAINT FOR SPECIAL ACTION</b>
12	<b>v.</b>	)	<b>(A.R.S. § 39-121, et seq.)</b>
13	<b>STEPHEN RICHER, in his official capacity</b>	)	<b>(Statutory Special Action)</b>
14	<b>as Maricopa County Recorder,</b>	)	<b>Tier 1</b>
15	<b>Defendant.</b>	)	
16	_____	)	

17 Plaintiff Judicial Watch, Inc. brings this special action against Defendant Stephen Richer  
18 in his official capacity as Maricopa County Recorder to compel compliance with the Arizona  
19 Public Records Law, A.R.S. §§ 39-121, et seq. As grounds therefor, Plaintiff alleges as follows:

1 **PARTIES**

2 1. Plaintiff Judicial Watch, Inc. (“Plaintiff”) is a not-for-profit, educational  
3 organization incorporated under the laws of the District of Columbia and headquartered at 425  
4 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency,  
5 accountability, and integrity in government and fidelity to the rule of law. As part of its mission,  
6 Plaintiff regularly requests records from federal, state, and local governments pursuant to open  
7 records laws. Plaintiff analyzes the responses and disseminates its findings and the requested  
8 records to the American public to inform them about “what their government is up to.”

9 2. Defendant Stephen Richer (“Defendant”) is the Maricopa County Recorder, an  
10 “officer” as that term is defined in A.R.S. § 39-121.01(A)(1). Defendant has possession, custody,  
11 and control of records to which Plaintiff seeks access.

12 **JURISDICTION AND VENUE**

13 3. This Court has jurisdiction over this matter pursuant to A.R.S. § 39-121.02 and  
14 Rule 4(a) of the Arizona Rules of Procedure for Special Actions.

15 4. Venue is proper in this Court under Rule 4(b) of the Arizona Rules of Procedure  
16 for Special Actions. Defendant and the public records at issue are located within the County of  
17 Maricopa and the events giving rise to Plaintiff’s claim occurred in the County of Maricopa.

18 **GENERAL ALLEGATIONS**

19 5. On March 23, 2024, an article from *AZ Free News* reported that “[p]ublic records  
20 revealed that Maricopa County Recorder Stephen Richer tasked staff with compiling articles and  
21 online content pertaining to his personal defamation lawsuit against Kari Lake – Senate

1 candidate and 2022 gubernatorial candidate – as well as topics of personal political interest.”  
2 [https://azfreenews.com/2024/03/maricopa-county-recorder-had-staff-compile-news-on-his-  
3 personal-defamation-lawsuit-against-kari-lake/](https://azfreenews.com/2024/03/maricopa-county-recorder-had-staff-compile-news-on-his-<br/>3 personal-defamation-lawsuit-against-kari-lake/).

4 6. On March 25, 2024, Plaintiff sent Defendant by both certified mail and email a  
5 request asking Defendant to produce the following public records pursuant to the Arizona Public  
6 Records Law, A.R.S. §§ 39-121, *et seq*:

7 1. Any documents, to include but not limited to emails, memos,  
8 orders, notes, and/or letters, directing, requesting, and/or  
9 approving the utilization of Maricopa County Recorder Office  
10 (MCRO) staff, vendors, and/or resources to search for,  
11 acquire, and/or compile information concerning the  
12 aforementioned personal defamation lawsuit involving Kari  
13 Lake.

14 2. Any documents/information utilized and/or submitted to the  
15 Court(s) in official litigation proceedings regarding the  
16 aforementioned personal defamation lawsuit involving Kari  
17 Lake, such documents/information acquired by MCRO staff,  
18 vendors, and/or resources.

19 3. Any documents, to include but not limited to timesheets,  
20 invoices, and/or receipts, indicating MCRO costs and/or  
21 expenses related to obtaining, utilizing, and/or submitting all

1 information in the aforementioned personal defamation  
2 lawsuit involving Kari Lake.

3 4. Any documents addressing 1<sup>st</sup> Amendment rights and/or free  
4 speech, to include but not limited to submitted articles, op  
5 eds, and/or speeches, generated by Mr. Richer and/or MCRO  
6 staff.

7 5. Any MCRO policies, rules, procedures, and/or operations  
8 orders addressing:

9 a. Conflict of interest

10 b. Using County/Office resources for personal use

11 6. Any documents indicating current MCRO employees from  
12 former Senator McSally's office.

13 7. The time frame of the request was identified as “January 1, 2022, to the  
14 completion of this request.” The request also noted Plaintiff’s willingness to accept “rolling  
15 production” of the requested records to facilitate a timelier response.

16 8. A true and correct copy of Plaintiff's public records request is attached as **Exhibit**  
17 **A**. A true and correct copy of the certified mail receipt for the mailing of Plaintiff's records  
18 request to Defendant is attached as **Exhibit B**. A true and correct copy of the email sending  
19 Plaintiff's records request to Defendant is attached as **Exhibit C**.

20 9. Plaintiff's certified mail was never returned to sender as undelivered, and HubSpot  
21 email tracking software indicates that as of August 21, 2024, Plaintiff's email to Defendant

1 containing Plaintiff's records request had been opened after it was sent. A true and correct copy  
2 of the HubSpot email tracking report for Plaintiff's email to Defendant containing Plaintiff's  
3 records request is attached as **Exhibit D**.

4 10. Plaintiff never received any communication from Defendant acknowledging  
5 receipt of Plaintiff's records request.

6 11. On September 19, 2024, Plaintiff contacted the Maricopa County Recorder's  
7 Office via the "STAR call center" phone number located on the office's "contact us" webpage  
8 (phone number (602) 506-3535) to inquire about the status of Defendant's receipt and processing  
9 of Plaintiff's records request.

10 12. Even after contacting the Maricopa County Recorder's Office, Plaintiff as of the  
11 date of this Complaint has still received no communication from Defendant acknowledging that  
12 Plaintiff's records request was received.

13 13. As of the date of this Complaint, after over 6 months, Defendant has failed to (i)  
14 adequately search for and promptly furnish documents in response to Plaintiff's request; (ii)  
15 indicate when or even whether responsive records will be provided; and (iii) provide any  
16 justification for withholding responsive public records. Pursuant to A.R.S. § 39.121.01(E),  
17 Defendant's failure to promptly respond to Plaintiff's records request means that access to the  
18 requested records is deemed to be denied by Defendant.

19

20

21

1 **COUNT ONE**

2 **(Violation of Arizona Public Records Law, A.R.S. §§ 39-121, et seq. – Failure to furnish**  
3 **responsive public records)**

4 14. Plaintiff realleges and incorporates by reference paragraphs 1 through 13 as if  
5 fully stated herein.

6 15. Arizona’s Public Records Law requires public officers and public bodies to  
7 maintain all records reasonably necessary or appropriate to maintain an accurate knowledge of  
8 their official activities and activities supported by public money. A.R.S. § 39-121.01(B).

9 16. Arizona’s Public Records Law grants every person the right to examine or be  
10 promptly furnished with copies of public records. A.R.S. §§ 39-121 and 39-121.01(D). A  
11 presumption in favor of disclosure applies to all public records. To discharge their duties under  
12 the Public Records Law, a public officer must adequately search for and promptly furnish  
13 responsive public records, unless the officer can present evidence demonstrating that an  
14 exception to disclosure applies.

15 17. Access to a public record is deemed denied if the custodian fails to promptly  
16 respond to a request for production of a public record. A.R.S. § 39-121.01(E).

17 18. Plaintiff has a right to inspect and obtain copies of the public records requested on  
18 March 25, 2024 (Exhibit A), unless Defendant can present evidence justifying nondisclosure.

19 19. Defendant has violated Arizona’s Public Records Law by failing for over 6 months  
20 to adequately search for and promptly furnish the public records requested on March 25, 2024  
21 (Exhibit A) to Plaintiff.

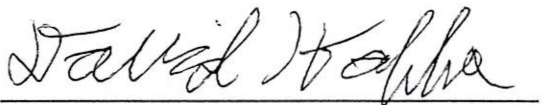


1 B. Permanently enjoining Defendant from continuing to fail to adequately  
2 search for all such public records, and from continuing to withhold any  
3 such public records unless an exception to disclosure supported by evidence  
4 applies;

5 C. Awarding attorney's fees and other legal costs reasonably incurred by  
6 Plaintiff in this action pursuant to A.R.S. § 39-121.02(B) and Rule 4(g) of  
7 the Arizona Rules of Procedure for Special Actions; and

8 D. Granting Plaintiff such other and further relief as the Court deems just and  
9 proper.  
10

11 **RESPECTFULLY SUBMITTED** on October 11, 2024.

12  
13 

14 David J. Hoffa, #038052

15 c/o Mark Spencer

16 P.O. Box 30042

17 Phoenix, AZ 85046

18 (989) 627-7757

19 davjhoffa@gmail.com

20 *Attorney for Plaintiff*  
21



**EXHIBIT A  
TO COMPLAINT**



**Judicial  
Watch**<sup>®</sup>  
*Because no one  
is above the law!*

March 25, 2024

CERTIFIED MAIL

Stephen Richer  
Maricopa County Recorder  
111 S. Third Ave.  
Phoenix AZ 85003

Re: **Records under Public Records Law**  
**A.R.S. § 39-101 through 39-221**

Mr. Richer;

On or about March 23, 2024, *AZFree News* published an online article which reported that, “Public records revealed that Maricopa County Recorder Stephen Richer tasked staff with compiling articles and online content pertaining to his personal defamation lawsuit against Kari Lake — Senate candidate and 2022 gubernatorial candidate — as well as topics of personal political interest.” The aforementioned personal lawsuit was referred to in numerous publications on or about June 22, 2023 (ex. *NBC News - Arizona Republican election official sues Kari Lake for defamation*)



<https://azfreenews.com/2024/03/maricopa-county-recorder-had-staff-compile-news-on-his-personal-defamation-lawsuit-against-kari-lake/>

Pursuant to the provisions of the Arizona Public Records Law (*APRL*), A.R.S. §39-101 through §39-221, and unless otherwise noted, within the date range of January 1, 2022, to the completion of this request, please provide copies of:

1. Any documents, to include but not limited to emails, memos, orders, notes, and/or letters, directing, requesting, and/or approving the utilization of Maricopa County Recorder Office (MCRO) staff, vendors, and/or resources to search for, acquire, and/or compile information concerning the aforementioned personal defamation lawsuit involving Kari Lake.
2. Any documents/information utilized and/or submitted to the Court(s) in official litigation proceedings regarding the aforementioned personal defamation lawsuit

involving Kari Lake, such documents/information acquired by MCRO staff, vendors, and/or resources.

3. Any documents, to include but not limited to timesheets, invoices, and/or receipts, indicating MCRO costs and/or expenses related to obtaining, utilizing, and/or submitting all information in the aforementioned personal defamation lawsuit involving Kari Lake.
4. Any documents addressing 1<sup>st</sup> Amendment rights and/or free speech, to include but not limited to submitted articles, op eds, and/or speeches, generated by Mr. Richer and/or MCRO staff.
5. Any MCRO policies, rules, procedures, and/or operations orders addressing:
  - a. Conflict of interest
  - b. Using County/Office resources for personal use
6. Any documents indicating current MCRO employees from former Senator McSally's office.

These records are considered public under A.R.S. §39-101 through §39-221. For purpose of this request the term "record" shall mean: (1) any written, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, telegrams, teletypes, facsimiles, papers, forms, records, telephone messages, diaries, schedules, calendars, chronological data, minutes, books, reports, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, check, statistics, surveys, affidavits, contracts, agreements, transcripts, magazine or newspaper articles, or press releases, (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail, meaning any electronically transmitted text or graphic communication created upon and transmitted or received by any computer or other electronic device, and all materials stored on compact disk, computer disk, diskette, hard drive, server, or tape; (3) any audio, aural, visual, or video records, recordings, or representations of any kind, including without limitation all cassette tapes, compact disks, digital video disks, microfiche, microfilm, motion pictures, pictures, photographs, or videotapes; (4) any graphic materials and data compilations from which information can be obtained; (5) any materials using other means of preserving thought or expression; and (6) any tangible things from which data or information can be obtained, processed recorded, or transcribed. The term "record" also shall mean any drafts, alterations, amendments, changes, or modifications of or to any of the foregoing.


Pursuant to A.R.S. §39-121.01.D.1, records must be furnished promptly. We look forward to your prompt response. Any response or records that can be delivered via e-mail attachments are certainly acceptable. Additionally, all responsive records in an electronic format ("PDF" is preferred) is appreciated. We also are willing to accept a "rolling production" of responsive records if it will facilitate a more timely production.

If any responsive record or portion thereof is claimed to be exempt from production, please provide sufficient identifying information with respect to each allegedly exempt record or portion thereof to allow us to assess the propriety of the claimed exemption (*A.R.S. §39-121.01.D.2.*) Additionally, any reasonably segregable portion of a record otherwise exempt from disclosure is required to be made available after deletion of the portions that are exempted by law.

Finally, the information sought is for non-commercial purposes. Please be advised that if the records are not provided to our office or if we do not hear from the MCRO we will assume that the MCRO is refusing to comply with our Public Records Request. If you do not understand this request or any portion thereof, or if you feel you require clarification of this request or any portion thereof, please contact us immediately at 602.510.7875 or [mspencer@judicialwatch.org](mailto:m Spencer@judicialwatch.org). The local Arizona address is:

Judicial Watch Inc.  
PO Box 30042  
Phoenix, AZ 85046

Sincerely,



MARK SPENCER  
Southwest Projects Coordinator  
Judicial Watch, Inc.

**EXHIBIT B  
TO COMPLAINT**

U.S. Postal Service™  
**CERTIFIED MAIL® RECEIPT**  
Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®.

OFFICIAL USE

Certified Mail Fee

\$ 4.40

Extra Services & Fees (check box, add fee as appropriate)

- |  |          |
|--|----------|
| <input type="checkbox"/> Return Receipt (hardcopy)           | \$ _____ |
| <input type="checkbox"/> Return Receipt (electronic)         | \$ _____ |
| <input type="checkbox"/> Certified Mail Restricted Delivery  | \$ _____ |
| <input type="checkbox"/> Adult Signature Required            | \$ _____ |
| <input type="checkbox"/> Adult Signature Restricted Delivery | \$ _____ |

Postage

\$ 68

Total Postage and Fees

\$ 5.08

Sent To

Stephen Fisher

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

KAREN'S HALL  
MAR 25 2024  
Postmark Here  
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9589 0710 5270 0496 8178 68

## Certified Mail service provides the following benefits:

- A receipt (this portion of the Certified Mail label).
- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.

### Important Reminders:

- You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service® or Priority Mail® service.
- Certified Mail service is *not* available for international mail.
- Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:

Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your mailpiece;

for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.

Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.

Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).

Adult signature restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).

- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

**IMPORTANT: Save this receipt for your records.**

**EXHIBIT C  
TO COMPLAINT**



## Judicial Watch Public Records Request - MCRO Staff Resources



Mark Spencer

To Recorder@nisc.maricopa.gov

Bcc 24434728@bcc.hubspot.com

 You forwarded this message on 9/9/2024 2:16 PM.



Out of courtesy the attached JW PRR is being sent to your office via USPS certified mail.

Mark Spencer  
Southwest Projects Coordinator  
Judicial Watch, Inc.



**EXHIBIT D  
TO COMPLAINT**

**Judicial Watch Public Records Request - MCRO Staff Resources**

**Mark Spencer**

to Recorder@risc.maricopa.gov

- ✓ Opens: 18 Clicks...
- Opened  
Aug 21, 2024 at 4:22 PM MST
- Opened  
Jun 18, 2024 at 4:31 PM MST
- Opened  
Apr 4, 2024 at 6:23 PM MST
- Opened  
Mar 26, 2024 at 3:20 PM MST
- Opened  
Mar 25, 2024 at 7:27 PM MST
- Opened  
Mar 25, 2024 at 5:00 PM MST
- Opened  
Mar 25, 2024 at 3:39 PM MST
- Opened  
Mar 25, 2024 at 3:04 PM MST
- Opened  
Mar 25, 2024 at 2:28 PM MST
- Opened  
Mar 25, 2024 at 2:25 PM MST
- Opened  
Mar 25, 2024 at 2:21 PM MST
- Opened  
Mar 25, 2024 at 2:16 PM MST
- Opened  
Mar 25, 2024 at 2:12 PM MST
- Opened  
Mar 25, 2024 at 2:09 PM MST
- Opened  
Mar 25, 2024 at 2:06 PM MST
- Opened  
Mar 25, 2024 at 2:02 PM MST
- Opened  
Mar 25, 2024 at 1:58 PM MST
- Opened  
Mar 25, 2024 at 9:52 AM MST
- Sent  
Mar 25, 2024 at 9:52 AM MST

Out of courtesy the attached JW PRR is being sent to your office via USPS certified mail.

Mark Spencer  
Southwest Projects Coordinator  
Judicial Watch, Inc.

