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6 **SUPERIOR COURT OF ARIZONA**

7 **GILA COUNTY**

8
9 TRANSPARENT PAYSON, a political committee
registered pursuant to Arizona Revised Statutes
10 Section 16-905, JEFFREY AAL individually as a
11 citizen of the Town of Payson, and in his capacity as
Chairman of Transparent Payson, KIMBERLY ANN
12 NICHOLS, individually,

13 Plaintiffs,

14 vs.

15
16 TOWN OF PAYSON, ARIZONA, a public entity,
and TRACIE BAILEY, in her official capacity as
17 Payson Town Clerk,

18 Defendants.

No. CV2023-00118

**VERIFIED ANSWER TO
COUNTERCLAIM**

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20 Plaintiffs TRANSPARENT PAYSON, JEFFREY AAL, and KIMBERLY
21 ANN NICHOLS (“Plaintiffs”) answer Defendants TOWN OF PAYSON AND
22 TRACIE BAILEY’S Counterclaim as follows.

23 **INTRODUCTION**

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25 1. Answering Paragraph 1, it states a legal conclusion to which no
response is required. To the extent a response is required Plaintiffs deny the
allegations in the paragraph.

1 2. Answering Paragraph 2, it states a legal conclusion to which no
2 response is required. To the extent a response is required Plaintiffs deny the
3 allegations in the paragraph.

4 3. Answering Paragraph 3, it states a legal conclusion to which no
5 response is required. To the extent a response is required Plaintiffs deny the
6 allegations in the paragraph.

7
8 **PARTIES**

9 4. Plaintiffs admit the allegations in Paragraph 4.

10 5. Plaintiffs admit the allegations in Paragraph 5.

11 6. Plaintiffs admit the allegations in Paragraph 6.

12 7. Plaintiffs admit the allegations in Paragraph 7.

13 **JURISDICTION**

14 8. Plaintiffs admit the allegations in Paragraph 8.

15 9. Plaintiffs admit the allegations in Paragraph 9.

16 **FACTUAL ALLEGATIONS**

17 10. Plaintiffs admit the allegations in Paragraph 10.

18 11. Answering Paragraph 11, Proposition 401 does require the Town
19 Council to refer to the voters certain measures. Plaintiffs deny the remaining
20 allegations in the paragraph and further assert that Proposition 401 speaks for
21 itself.
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1 12. Plaintiffs admit the allegations in Paragraph 12, but alleges that the
2 text of Proposition 401 was slightly different than the Town Code provision
3 quoted in Paragraph 12.

4 13. Plaintiffs admit the allegations in Paragraph 13.

5 14. Answering Paragraph 14, Proposition 402 does require the Town
6 Council to refer to the voters certain measures. Plaintiffs deny the remaining
7 allegations in the paragraph and further assert that Proposition 402 speaks for
8 itself.
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10 15. Plaintiffs admit the allegations in Paragraph 15.

11 16. Plaintiffs admit the allegations in Paragraph 16, but alleges that the
12 text of Proposition 402 was slightly different than the Town Code provision
13 quoted in Paragraph 16.
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15 17. Plaintiffs admit the allegations in Paragraph 17.

16 18. Plaintiffs deny the allegations in Paragraph 18.

17 19. Plaintiffs deny the allegations in Paragraph 19.

18 20. Plaintiffs deny the allegations in Paragraph 20.

19 21. Plaintiffs deny the allegations in Paragraph 21.

20 22. Plaintiffs deny the allegations in Paragraph 22.

21 23. Plaintiffs deny the allegations in Paragraph 23.

22 24. Plaintiffs deny the allegations in Paragraph 24.

23 25. Plaintiffs admit the allegations in Paragraph 25.

24 26. Plaintiffs admit the allegations in Paragraph 26.
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27. Answering Paragraph 27, it states a legal conclusion to which no response is required. To the extent a response is required, Plaintiffs allege that Defendants have summarized the law accurately but their legal assertion is only a summary.

28. Answering Paragraph 28, it states a legal conclusion to which no response is required. To the extent a response is required, Plaintiffs allege that Defendants have summarized the law accurately but their legal assertion is only a summary.

29. Plaintiffs deny the allegations in Paragraph 29.

30. Plaintiffs deny the allegations in Paragraph 30.

31. Plaintiffs deny the allegations in Paragraph 31.

32. Plaintiffs deny the allegations in Paragraph 32.

33. Plaintiffs deny the allegations in Paragraph 33.

34. Plaintiffs deny the allegations in Paragraph 34.

AFFIRMATIVE DEFENSES

1. Plaintiffs deny any allegations in Defendants’ counterclaim not expressly admitted herein.

2. Plaintiffs allege that Defendants counterclaim is barred by unclean hands, laches, judicial estoppel, collateral estoppel, estoppel, waiver, res judicata, issue and claim preclusion, and by the doctrine of judicial admissions made in separate legal proceedings.

1 3. Plaintiffs allege that Defendants have failed to state a claim upon
2 relief may be granted.

3 4. Plaintiffs allege that under Section 7 of Propositions 401 and 402,
4 the Town has an affirmative obligation to defend the Propositions against legal
5 attack, or to pay for such legal defense.

6 5. Plaintiffs reserve the right to identify and all further affirmative
7 defenses that may arise during the course of discovery.

8 WHEREFORE, having fully answered Defendants' counterclaim, Plaintiffs
9 request that all relief be denied and that the counterclaim be dismissed, and that
10 Plaintiffs receive an award of their reasonable attorneys' fees pursuant to the
11 private attorney general doctrine, Section 7 of Propositions 401 and 402, and as
12 otherwise allowed by law.
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17 **RESPECTFULLY SUBMITTED** this 25th day of July, 2023.

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19 By: /s/ Timothy A. La Sota
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Rule 80 Declaration

I declare under penalty of perjury of the laws of the State of Arizona that the foregoing Verified Answer to the Defendants' Counterclaim is true and correct to the best of my knowledge and belief and that this Declaration is executed by me on the 24th day of July, 2023, in Gila County, Arizona.

 7-24-2023

JEFFREY AAL

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2 I hereby certify that on July 25, 2023 I caused the foregoing document to
3 be electronically transmitted to the Clerk's Office using the CM/ECF System for
4 filing and transmittal of a Notice of Electronic Filing to the following CM/ECF
registrants, with automatic email to the Judge.

5 I hereby certify that on July 25, 2023 I emailed copies of the foregoing
6 documents to the following:

7 Jon M. Paladini
8 Justin Pierce
9 **PIERCE COLEMAN**
10 7730 E Greenway Rd Suite 105
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/s/ Timothy A. La Sota