

1 Jonathan Riches (025712)
2 John Thorpe (034901)
3 **Scharf-Norton Center for Constitutional Litigation at the**
4 **GOLDWATER INSTITUTE**
5 500 E. Coronado Rd.
6 Phoenix, Arizona 85004
7 (602) 462-5000
8 litigation@goldwaterinstitute.org
9 *Attorneys for Plaintiff*

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN AND FOR THE COUNTY OF GILA**

9 DEBORAH ROSE,

10 Plaintiff,

11 vs.

12 TOWN OF PAYSON; CHRIS HIGGINS, in
13 his official capacity as Mayor of the Town of
14 Payson; BARBARA UNDERWOOD, in her
15 official capacity as Vice-Mayor of the Town
16 of Payson; BRETT FLAHERTY, in his
17 official capacity as a Council Member of the
18 Town of Payson; JOEL MONA, in his
19 official capacity as a Council Member of the
20 Town of Payson; SCOTT NOSSEK, in his
21 official capacity as a Council Member of the
22 Town of Payson; JOLYNN SCHINSTOCK,
23 in her official capacity as a Council Member
24 of the Town of Payson; SUZY TUBBS-
25 AVAKIAN, in her official capacity as a
26 Council Member of the Town of Payson; and
27 TROY SMITH, in his official capacity as the
28 Town Manager of the Town of Payson,

Defendants.

Case No.

**[PROPOSED] ORDER GRANTING
MOTION FOR TEMPORARY
RESTRAINING ORDER**

23 Upon consideration of Plaintiff's Application for a Temporary Restraining Order
24 (with Notice) and Motion for a Preliminary Injunction, this Court finds that Plaintiff has
25 demonstrated a need for preliminary injunctive relief in this case. Plaintiff is likely to
26 prevail on the merits because Payson Town Ordinance No. 3409 ("Ordinance") violates
27 A.R.S. § 19-142(B) and unlawfully abridges the right of referendum under article IV, part
28 1, section 1 of the Arizona Constitution. Because the Ordinance results in a constitutional

1 violation, Plaintiff will suffer irreparable harm if the Ordinance is implemented. The
2 balance of hardships and the public interest also weigh strongly in favor of enjoining the
3 Ordinance because Plaintiff and other residents would suffer a denial of their right to
4 organize and vote in a referendum if the Ordinance is implemented.

5 Accordingly, IT IS ORDERED granting a Temporary Restraining Order
6 prohibiting Defendants from taking any action to enforce or implement Payson Town
7 Ordinance No. 3409, and/or from proceeding in any way with the transactions authorized
8 or contemplated in that ordinance.

9 IT IS FURTHER ORDERED that because this case is brought in the public
10 interest, no bond is required.

11 IT IS FURTHER ORDERED setting a hearing on Plaintiffs' request for a
12 preliminary injunction in Courtroom ____, of the _____ Court Building on
13 the ___ day of _____, 2024, at _____ [a.m./p.m].

14 ENTERED this ___ day of _____, 2024.

15
16
17
18
19
20
21
22
23
24
25
26
27
28

Judge of the Gila County Superior Court