

1 K. Scott McCoy, #019536  
2 MCCOY LAW GROUP, PLLC  
3 14500 N. Northsight Blvd., Suite 216  
4 Scottsdale, Arizona 85260  
5 (602)265-0094  
6 smccoy@mlawaz.com  
7 Attorney for Plaintiff

FILED PINAL COUNTY  
SUPERIOR COURT  
CHAD A. ROCHE  
DEC 26 2012

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

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

10 GARRETT M. POWELL, a qualified elector )  
11 of Pinal County, State of Arizona, )

Case No.: *WJ* 01203407

12 Plaintiff,

**VERIFIED COMPLAINT FOR  
SPECIAL ACTION AND  
APPLICATION FOR PRELIMINARY  
AND PERMANENT INJUNCTION**

13 vs.

14 MARTIN E. SCHMIDT, an individual; )  
15 PINAL COUNTY BOARD OF )  
16 SUPERVISORS, in their official capacity; )  
17 LAURA DEAN-LYTLE, in her official )  
18 capacity as County Recorder for Pinal County; )  
19 REMILE S. MILLER, in her official capacity )  
20 as Clerk for the City of Casa Grande )

Priority Election Case (A.R.S. §16-351;  
Action Challenging Candidate Nomination  
Petition)

21 Defendants.

GILBERTO V. FIGUEROA

22 The Plaintiff, GARRETT M. POWELL, by and through his attorney undersigned, for  
23 his Special Complaint, pursuant to the *Arizona Rules of Procedure for Special Actions*, alleges  
24 as follows:

25 **PARTIES, JURISDICTION AND VENUE**

1. This Court has jurisdiction to hear and determine this Special Action Complaint  
and to grant the relief requested by virtue of Article VI, Section 18 of the Arizona Constitution;  
Rule 4, Rules of Procedure for Special Actions; and A.R.S. §16-351.

2. Plaintiff brings this Special Action pursuant to Arizona Rules of Procedure for  
Special Actions, A.R.S. §§12-1801 and 12-2021, et seq. and A.R.S. §16-351.

1           3.       Plaintiff is a citizen of the State of Arizona and of the United States of America  
2 and is a qualified elector residing at and duly registered to vote in Pinal County and qualified to  
3 vote for City Council in the City of Casa Grande, Arizona.

4           4.       Defendant Martin Schmidt resides in Pinal County, Arizona, and is seeking the  
5 office of Casa Grande City Council, City of Casa Grande, Arizona.

6           5.       Defendant Pinal County Board of Supervisors is the governing body of Pinal  
7 County. The members of the Pinal County Board of Supervisors hold offices that exist pursuant  
8 to Article 12, Section 3, Constitution of Arizona and have powers and duties relating to  
9 elections pursuant to A.R.S. §§11-251, et seq., and 16-301, et seq. The Pinal County Board of  
10 Supervisors is named as an indispensable party pursuant to A.R.S. §16-351.

11           6.       Defendant Laura Dean-Lytle is the County Recorder for Pinal County. The  
12 County Recorder exists pursuant to Article 12, Section 3, Constitution of Arizona and has  
13 powers and duties relating to elections pursuant to A.R.S. §§16-120, et seq., and 16-131, et seq.  
14 and 16-161, et seq. The County Recorder maintains voter registration records of the electors in  
15 Pinal County and the Board of Supervisors has delegated to her certain of its duties relating to  
16 elections subject to the Board's oversight. The Pinal County Recorder is named as an  
17 indispensable party pursuant to A.R.S. §16-351.

18           7.       Defendant Remile S. Miller is the Clerk for the City of Casa Grande, Arizona.  
19 Casa Grande, Arizona is city within Pinal County, Arizona. Defendant Miller is the officer with  
20 whom nominating petitions are filed by persons seeking the office of Casa Grande, Arizona  
21 City Council. The Clerk of the City of Casa Grande, Arizona is named as an indispensable  
22 party pursuant to A.R.S. §16-351.

23           8.       In any action challenging a nomination petition, A.R.S. §16-351 requires the  
24 officer with whom the petitions are required to be filed and the Board of Supervisors and the  
25 recorder for each county responsible for preparing the ballots that contain the challenged  
candidate's name to be named as defendants together with the candidate whose petition is the  
subject of the challenge.

**COUNT ONE**

**(Insufficient Signatures)**

9.       Paragraphs 1-8 are incorporated herein by reference.

1           10.     On or about December 12, 2012, Defendant Martin Schmidt filed election  
2 papers, to include a nomination petition, with the Clerk of the City of Casa Grande seeking to  
3 have his name placed on the ballot for the office of Casa Grande City Council, City of Casa  
4 Grande, Arizona. Defendant Schmidt's nomination petition as set forth on Exhibit A contains a  
5 purported 207 eligible signatures of qualified electors from the City of Casa Grande, Arizona.

6           11.     Pursuant to A.R.S. §16-322(A)(8), the nominating petition of a candidate for the  
7 office of Casa Grande City Council shall be signed by a number of qualified electors who are  
8 qualified to vote for the candidate whose nomination petition they are signing equal to at least  
9 five per cent and not more than ten per cent of the designated party vote in the city, except that  
10 a city that chooses to hold nonpartisan elections may by ordinance provide that the minimum  
11 number of signatures required for the candidate be one thousand signatures or five per cent of  
12 the vote in the city, whichever is less, but not more than ten per cent of the vote in the city.

13           12.     The total minimum number of signatures of qualified electors in the City of  
14 Casa Grande, Arizona required on nomination petitions for a candidate for Casa Grande City  
15 Council is 171.

16           13.     The 207 signatures filed by Defendant Schmidt were compared to the voter  
17 registration records for the City of Casa Grande, Arizona, resulting in this Complaint.

18           14.     On information and belief, 101 of Defendant Schmidt's signatures are invalid for  
19 the reasons set forth in Exhibit B, by petition page and line number, for grounds including that  
20 the signatures are from individuals not registered and that persons signed whose voter  
21 registration address is outside of the corporate limits of the City of Casa Grande.

22           15.     Accordingly, Defendant Schmidt filed fewer valid signatures than is  
23 required by A.R.S. §16-322(A)(8) to qualify as a candidate for the May 12, 2013 primary  
24 election ballot for the office of Casa Grande City Council, City of Casa Grande, Arizona.

25           16.     The invalid signatures Plaintiff complains of as to Defendant Schmidt were  
verified by checking each signature against the most up to date voter rolls maintained by the  
Pinal County Recorder. See Exhibit C.

          17.     If the Defendants County Board of Supervisors and County Recorder are  
allowed to cause Defendant Schmidt's name to be printed on the early ballots, regular ballots  
and sample ballots of the primary election, irreparable harm will result to Plaintiff and all  
electors of the City of Casa Grande and the State of Arizona. Invalid ballots will be prepared,

1 campaigns of other candidates will be adversely affected and an invalid election would be  
2 conducted.

3 18. Unless restrained by this Court, the government defendants will cause early,  
4 regular and sample ballots to be printed listing Defendant Schmidt's names as a candidate for  
5 the office of Casa Grande City Council, City of Casa Grande, Arizona. Printing such ballots  
6 will render this and every other Court unable to provide the remedies to which Plaintiff is  
7 entitled.

8 19. No adequate remedy exists at law for the violations of law alleged in the  
9 preceding paragraphs that would prevent the impending printing of the Primary election ballots  
10 listing Defendant Schmidt as a candidate for the office of Casa Grande City Council, City of  
11 Casa Grande, Arizona.

#### 12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for relief as follows:

14 A. That this Court bring this matter on for hearing on an expedited basis pursuant  
15 to A.R.S. §16-351 and render a decision within ten (10) days of the filing of this Complaint;

16 B. That the Court order Defendants to appear and show cause why the government  
17 Defendants should not be preliminarily and permanently enjoined from printing the names of  
18 Defendant Schmidt on the 2013 primary election early, regular and sample ballots as candidate  
19 for the office of Casa Grande City Council, City of Casa Grande, Arizona.

20 C. That after a hearing, the Court preliminarily and permanently enjoin the Pinal  
21 County Board of Supervisors and the Pinal County Recorder and their agents from allowing  
22 Defendant Schmidt's name to be placed or printed on the 2013 primary election early, regular  
23 and sample ballots as a candidate for the office of Casa Grande City Council, City of Casa  
24 Grande, Arizona;

25 D. That Defendant Schmidt be enjoined from filing and the government Defendants  
be enjoined from accepting any nominating paper of Defendant Schmidt seeking to qualify as  
write-in candidates in either the 2013 primary or general elections as a candidate for the office  
of Casa Grande City Council, City of Casa Grande, Arizona, pursuant to A.R.S. §16-312(E)(2)  
and (3);

E. That the Court issue its findings of fact and conclusions of law pursuant to Rule  
52(a), Arizona Rules of Civil Procedure; and

1  
2 F. That the Court grant such other relief that is just and proper.

3 RESPECTFULLY SUBMITTED this 19<sup>th</sup> day of December, 2012.  
4

5 McCOY LAW GROUP, PLLC

6 By: 

7 K. Scott McCoy  
8 Attorney for Plaintiff  
9

10 Original filed and copies of the  
11 foregoing mailed this 26<sup>th</sup> day of  
December, 2012 to:

12 Pinal County Superior Court  
13 971 Jason Lopez Circle  
Building A  
14 Florence, Arizona 85132

15 Office of the Pinal County Attorney  
30 N. Florence Street  
16 Building D  
Florence, Arizona 85132

17 Clerk of the Pinal County Board of Supervisors  
18 Sheri Cluff  
135 North Pinal Street  
19 Florence, Arizona 85132

20 Hon. Laura Dean-Lytle  
Pinal County Recorder  
21 31 North Pinal Street  
Building E  
22 Florence, Arizona 85132

23 Brett Wallace  
Office of the Casa Grande City Attorney  
24 510 East Florence Boulevard  
Casa Grande, Arizona 85122  
25

1 Hon. Remile S. Miller  
2 Clerk, City of Casa Grande  
3 510 East Florence Boulevard  
4 Casa Grande, Arizona 85122

5 Martin E. Schmidt  
6 2392 East Rosario Mission Drive  
7 Casa Grande, Arizona 85194

8 By: \_\_\_\_\_  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

VERIFICATION

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

GARRETT M. POWELL, being first duly sworn upon his oath, deposes and states:

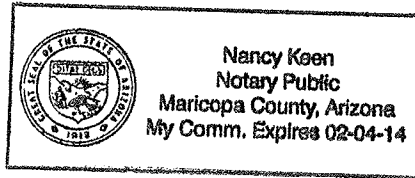
I have read the foregoing Verified Complaint for Special Action and Application for Preliminary and Permanent Injunction and know the contents thereof; that the same are true and correct to the best of my knowledge except for those matters alleged upon information and belief, and as to those, I believe them to be true.

*Garrett Powell*  
GARRETT M. POWELL

SUBSCRIBED AND SWORN TO before me by GAREETT M. POWELL on December 19, 2012.

*Nancy Keen*  
Notary Public

My commission expires:



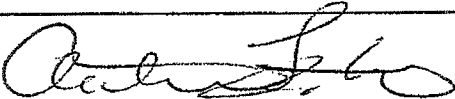
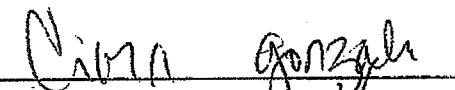




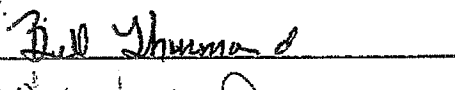
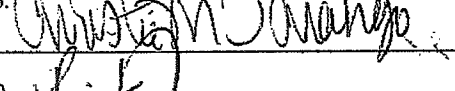

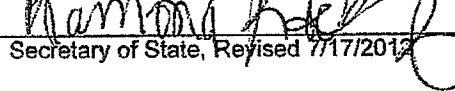
# **EXHIBIT A**



### Nonpartisan Nomination Petition

Put optional photo  
here

I, the undersigned, a qualified elector of the county of Pinal, state of Arizona, and of City of Casa Grande (here name political division or district from which the nomination is sought) hereby nominate Martin E. Schmidt who resides at 2392 E. Rosario Mission Drive in the county of Pinal for the office of Casa Grande Council Member to be voted at the Primary election to be held March 12, 2013, and hereby declare that I am qualified to vote for this office and that I have not signed and will not sign any nomination petitions for more persons than the number of candidates necessary to fill such office at the next ensuing election. I further declare that if I choose to use a post office box address on this petition, my residence address has not changed since I last reported it to the county recorder for purposes of updating my voter registration file.

Signature	Printed name	Actual residence address, description of place of residence, or Arizona post office box address, city or town	Date of signing
1. 	Autumn Firestine	1382 E. Jardin Dr. Casa Grande, AZ 85122	12-12-12
2. 	Ciara Gonzales	177A N Terrace Circle	12-12-12
3. 	Sallie McKerney	651 W. Lueby Penny	12-12-12
4. 	Cheryl Steehan	808 E. Shadow Cir	12-12-12
5. 	Kimberly Walker	911 N Park Ave	12-12-12
6. 	Clarissa Ochoa	444 E Silver Reef Rd	12/12/12
7. 	Bill Thummond	Po Box 211 Coolidge AZ 85129	12/12/12
8. 	Christie Tarango	665 W Kingman Loop CG AZ 85122	12/12/12
9. 	Lewis Pettman	1314 E 10th Plc.	12/12/12
10. 	Ramona Rodriguez	1650 N Kadota Ave	12-12-12

Put optional photo here

Nonpartisan Nomination Petition

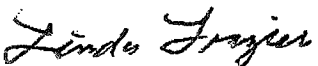



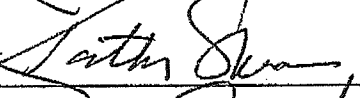
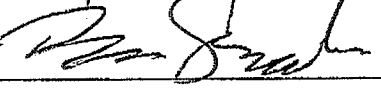
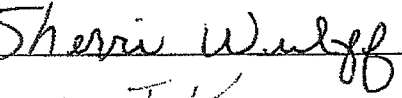
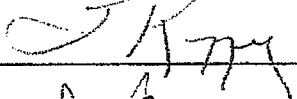
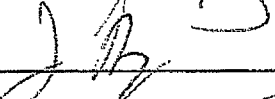
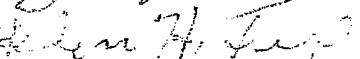
I, the undersigned, a qualified elector of the county of Pinal, state of Arizona, and of City of Casa Grande (here name political division or district from which the nomination is sought) hereby nominate Martin E. Schmidt who resides at 2392 E. Rosario Mission Drive in the county of Pinal for the office of Casa Grande Council Member to be voted at the Primary election to be held March 12, 2013 and hereby declare that I am qualified to vote for this office and that I have not signed and will not sign any nomination petitions for more persons than the number of candidates necessary to fill such office at the next ensuing election. I further declare that if I choose to use a post office box address on this petition, my residence address has not changed since I last reported it to the county recorder for purposes of updating my voter registration file.

Signature	Printed name	Actual residence address, description of place of residence, or Arizona post office box address, city or town	Date of signing
1. <i>Lazette H. Selan</i>	Lazette H. Selan	2651 E. Golden Trail, Casa Grande, AZ 85194	Nov 17, 2012
2. <i>Robert W. Serdina</i>	ROBERT W SERDINA	2651 E GOLDEN TRAIL CASA GRANDE, AZ 85194	11-14-12
3. <i>Rita D Keller</i>	Rita D Keller	2509 E Julest Rd Casa AZ 85194	11-19-12
4. <i>Suzanne Lancaster</i>	SUZANNE LANCASTER	2626 E SAN SIMEON DR CASA GRANDE AZ 85194	11-19-12
5. <i>Elizabeth Seaman</i>	ELIZABETH SEAMAN	2634 E. SAN SIMEON DR. CASA GRANDE, AZ 85194	11-19-12
6. <i>Gary Seaman</i>	GARY SEAMAN	2634 E SAN SIMEON DR Casa Grande, AZ 85194	11-19-12
7. <i>Frank Lancaster</i>	Frank Lancaster	2626 E. San Simeon Dr., Casa Grande	11-19-12
8. <i>Javier Perez</i>	Javier Perez	6339 N Lakeshore Dr CG	12-9-12
9. <i>Janette Aguirre</i>	Janette Aguirre	10711 West Wren Dr. Arizona City	12-10-12
10. <i>Jesus Guerrero</i>	Jesus Guerrero	701 N. A St. Eloy, AZ	12/10/12

### Nonpartisan Nomination Petition

Put optional photo here

I, the undersigned, a qualified elector of the county of Pinal, state of Arizona, and of City of Casa Grande (here name political division or district from which the nomination is sought) hereby nominate Martin E. Schmidt who resides at 2392 E. Rosario Mission Drive in the county of Pinal for the office of Casa Grande Council Member to be voted at the Primary election to be held March 12, 2013 and hereby declare that I am qualified to vote for this office and that I have not signed and will not sign any nomination petitions for more persons than the number of candidates necessary to fill such office at the next ensuing election. I further declare that if I choose to use a post office box address on this petition, my residence address has not changed since I last reported it to the county recorder for purposes of updating my voter registration file.

Signature	Printed name	Actual residence address, description of place of residence, or Arizona post office box address, city or town	Date of signing
1. 	Linda Grayler	P.O. Box 10908 Casa Grande 85130	12/12
2. 	Sarah Brewer	1024 Desert Willow St. Casa Grande 85122	12/12/12
3. 	Sarah Brewer	1024 Desert Willow St. CG 85122	12/12/12
4. 	Marcus Cepeda	1617 Luster 85122	12/12/12
5. 	KATHY STINAIDO	1634 KRYSOAL ST. CG 85122	12/12/12
6. 	RICK STINAIDO	1634 KRYSOAL ST. CG 85122	12/12/12
7. 	Sherri Wulff	504 N. CAMERON AVE CG. 85122	12/12/12
8. 	Jenny Keppy	5386 No Scotts d. H. E Rd	12/12
9. 	Jan Kury	36535 v 5th Rd ch	
10. 	Helen H. Gife	1771 E McWhorter Blvd Apt 804	12-12-12

**Nonpartisan Nomination Petition**

Put optional photo here

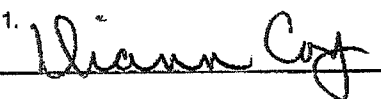
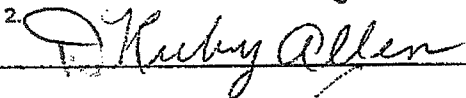
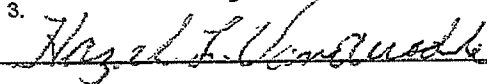
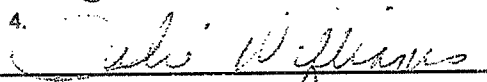
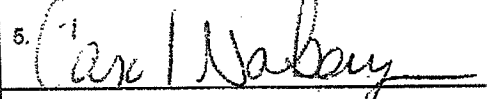
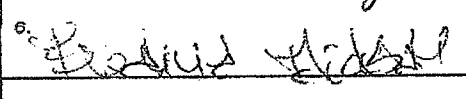
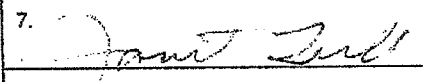
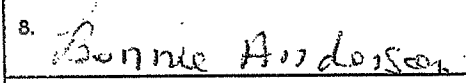
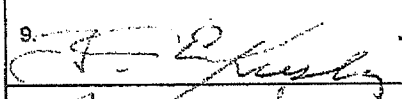

I, the undersigned, a qualified elector of the county of Pinal, state of Arizona, and of City of Casa Grande (here name political division or district from which the nomination is sought) hereby nominate Martin E. Schmidt who resides at 2392 E. Rosario Mission Drive in the county of Pinal for the office of Casa Grande Council Member to be voted at the Primary election to be held March 12, 2013, and hereby declare that I am qualified to vote for this office and that I have not signed and will not sign any nomination petitions for more persons than the number of candidates necessary to fill such office at the next ensuing election. I further declare that if I choose to use a post office box address on this petition, my residence address has not changed since I last reported it to the county recorder for purposes of updating my voter registration file.

Signature	Printed name	Actual residence address, description of place of residence, or Arizona post office box address, city or town	Date of signing
1. <i>Cynthia Marcel</i>	Cynthia Marcel	2345 E ALIDA AVE CASA GRANDE AZ 85194	12/12/12
2. <i>Samantha Hays</i>	Samantha Hays	1642 S QUARTER LN ARIZONA CITY AZ 85123	12/12/12
3. <i>Rommel Nabayan</i>	Rommel Nabayan	10880 N. PALM BLVD CASA GRANDE AZ 85122	12/12/12
4. <i>Amber Dickson</i>	Amber Dickson	635 W. DUNN ST CASA GRANDE AZ 85122	12/12/12
5. <i>Arthur Anderson</i>	ARTHUR ANDERSON	3855 N. KOOTENAI CT 85122	12/12/12
6. <i>Bridgette Silas</i>	Bridgette Silas	410 E. 3 <sup>rd</sup> ST. E/AY, AZ 85131	12-12-12
7. <i>Brett Wilson</i>	Brett Wilson	1131 9th St Casa Grande	12/12/12
8.			
9.			
10.			

### Nonpartisan Nomination Petition

Put optional photo  
here

I, the undersigned, a qualified elector of the county of Pinal, state of Arizona, and of City of Casa Grande (here name political division or district from which the nomination is sought) hereby nominate Martin E. Schmidt who resides at 2392 E. Rosario Mission Drive in the county of Pinal for the office of Casa Grande Council Member to be voted at the Primary election to be held March 12, 2013, and hereby declare that I am qualified to vote for this office and that I have not signed and will not sign any nomination petitions for more persons than the number of candidates necessary to fill such office at the next ensuing election. I further declare that if I choose to use a post office box address on this petition, my residence address has not changed since I last reported it to the county recorder for purposes of updating my voter registration file.

Signature	Printed name	Actual residence address, description of place of residence, or Arizona post office box address, city or town	Date of signing
	Diann Cox	1588 E. Earl Dr., Casa Grande AZ	12-11-12
	Ruby Allen	504 N. Cameron Ave. Casa Grande	12-12-12
	HAZEL L. VANAUSDIE	1171 E. MUMFORD BLVD	12-12-12
	Julie Williams	P.O. Box 12497 Casa Grande	12-12-12
	Carol Nabaya	10880 N. Fabbale Rd Casa Grande	12-12-12
	Brauna Dickson	1326 W. Orchid St. Casa Grande	12-12-12
	Janet Sull	33247 W. TV401, Casa Grande	12-13-12
	Bonnie Anderson	3835 N. Kootenai Ct.	12-12-12
	John Keeshing	126 E. Date Ave. C.G.	12-12-12
	Quinter Bahrz	2484 E. Espada Trl	12/12/12