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16 **IN THE UNITED STATES DISTRICT COURT**  
17 **FOR THE DISTRICT OF ARIZONA**

18 DINA GALASSINI,  
19 Plaintiff,  
20 v.  
21 TOWN OF FOUNTAIN HILLS,  
22 ARIZONA; BEVELYN BENDER in  
23 her official capacity as Town Clerk of  
24 Fountain Hills, Arizona; and  
25 ANDREW MCGUIRE in his official  
26 capacity as Town Attorney of Fountain  
27 Hills, Arizona,  
28 Defendants.

Civil Action No. \_\_\_\_\_-PHX-\_\_\_\_

**MOTION FOR TEMPORARY  
RESTRAINING ORDER AND/OR  
PRELIMINARY INJUNCTION AND  
MEMORANDUM OF LAW IN  
SUPPORT**

**ORAL ARGUMENT REQUESTED**

Assigned to the Honorable \_\_\_\_\_

26 Plaintiff hereby moves this Court for a Temporary Restraining Order and/or  
27 Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65(a), (b), and (c)  
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1 against Arizona campaign-finance laws that, as applied by the Town of Fountain Hills,  
2 Arizona, act as an unconstitutional prior restraint on First Amendment rights. Because  
3 this case involves the loss of First Amendment rights before an election, it presents an  
4 emergency and should be heard as soon as possible.  
5

6 Plaintiff Dina Galassini wishes to associate informally with others to speak out  
7 against a bond issue currently being voted upon in the Town of Fountain Hills, Arizona.  
8 The balloting is entirely by mail and all ballots are due no later than 7 pm on November  
9 8, 2011. Earlier this month, Ms. Galassini wrote an email to 23 acquaintances asking  
10 them to help her speak out against the bond issue. She presented her reasons for  
11 opposing the bond and urged the recipients to speak out against it as well and to join her  
12 in two public protests on October 19th and 22nd. *See* Verified Compl. For Declaratory  
13 & Injunctive Relief (hereinafter “Compl.”), Ex. A at 3-4. On October 12, 2011, Ms.  
14 Galassini received a letter from the Town Clerk informing her that her activities make  
15 her a “political committee” under Arizona law. The letter stated that “[i]n order to  
16 comply with the law a Statement of Organization must be filed in the office of the Town  
17 Clerk prior to **any** electioneering taking place. I would strongly encourage you to cease  
18 any campaign related activities until the requirements of the law have been met.” *Id.* at  
19 1 (emphasis in original).  
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24 Ms. Galassini simply wishes to speak out against the bond issue with friends and  
25 neighbors. She is not attempting to organize a formal committee to raise and spend  
26 funds. Yet, as the Town Clerk informed her, Arizona law still requires her to organize a  
27 formal political committee and to comply with laws that one state court has described as  
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1 “so confusing that they set a trap” for those, who, like Ms. Galassini, are trying to  
2 exercise their rights. *Van Riper v. Threadgill*, 905 P.2d 589, 591 (Ariz. Ct. App. 1995).

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4 As a result of the Town’s actions, Ms. Galassini canceled her protests and ceased  
5 her efforts to convince others to join her in speaking out against the bond issue.

6 However, she would like to reschedule one or more protests as soon as possible and to  
7 continue her efforts to associate with her friends and neighbors in opposing the proposed  
8 bond. Ms. Galassini has already suffered irreparable harm and will continue to suffer  
9 irreparable harm if a temporary restraining order does not issue.  
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11 Accordingly, as more fully set forth below, Plaintiff requests that this Court issue  
12 a temporary restraining order and/or preliminary injunction preventing the Town of  
13 Fountain Hills from requiring Ms. Gallasini to register as a political committee or to file  
14 campaign-finance forms under the relevant statutes in order to continue speaking and  
15 organizing with others to oppose the bond issue. As set forth more fully in the attached  
16 written certification, pursuant to Rule 65(b)(1)(B) of the Federal Rules of Civil  
17 Procedure and Local Rule 65.1.1, counsel for Plaintiff has attempted to give notice of  
18 this motion to Defendants and further notice should not be required.  
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21 **STATEMENT OF FACTS**

22  
23 Dina Galassini is a resident of the Town of Fountain Hills, Arizona, and an  
24 outspoken opponent of government waste, high taxes, and increased public debt.  
25 Compl. ¶ 12. On October 6, 2011, Ms. Galassini sent an email to 23 acquaintances  
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1 explaining her opposition to the town bond issue currently on the November ballot<sup>1</sup> and  
2 asking them to attend two rallies opposing it on October 19th and 22nd. Compl. ¶¶ 14-  
3 15. She did not request that recipients raise or spend any money or otherwise organize  
4 themselves into any sort of committee. She simply made her case against the bond issue  
5 and asked the recipients to join her in opposing it and to attend her protests. She had  
6 printed up signs opposing the bond and she asked recipients to bring their own signs to  
7 the protest. She asked recipients to write letters to the local newspaper and to others and  
8 otherwise to speak out against the bond issue, and to respond to her with any further  
9 thoughts on the matter. She even asked recipients to be sensitive to others' privacy  
10 when responding.

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14 Ms. Galassini's email found its way to the Town Clerk. Under Arizona law, state  
15 campaign-finance laws cover local elections, and as to those elections the laws are  
16 exclusively enforced by local officials—in this case, the Town Clerk. *See* Ariz. Rev.  
17 Stat. §§ 16-916(A)(3), -924. On October 12, 2011, the clerk sent Ms. Galassini a letter  
18 stating that an email had come to the Clerk's attention "calling for organized action by  
19 numerous individuals regarding the November 8, 2011 bond issue." Compl. ¶ 16 & Ex.  
20 A at 1. The letter informed Ms. Galassini that although an individual acting alone is not  
21 a "political committee" under Arizona law, "if any additional person or persons join the  
22 effort . . . begun by an individual, the association of persons has become a 'political  
23 committee.'" Compl. Ex. A. The clerk then stated that such a group must file a  
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<sup>1</sup> *See* November 8, 2011 Special Election Information, Town of Fountain Hills, Ariz.,  
<http://www.fh.az.gov/nov-8-2011-special-election.aspx> (last visited Oct. 26, 2011).

1 statement of organization before, among other things, “distributing [any] literature.” *Id.*  
2 The clerk informed Ms. Galasini that her group was subject to all the laws and  
3 regulations that apply to political committees. As such, according to the Clerk, “In order  
4 to comply with the law, a Statement of Organization must be filed in the office of the  
5 Town Clerk prior to **any** electioneering taking place. I would strongly encourage you to  
6 cease any campaign related activities until the requirements of the law have been met.”  
7  
8 *Id.* (emphasis in original).  
9

10 The clerk’s conclusion that Ms. Galassini’s activities trigger the political-  
11 committee laws comports with Arizona’s campaign-finance statutes. The statute, on its  
12 face, defines a political committee as, among other things, “an association or  
13 combination of persons that is organized, conducted or combined for the purpose of  
14 influencing the result of any election.” Ariz. Rev. Stat. §16-901(19). Plaintiff is aware  
15 of only one Arizona state-court decision that interprets the definition of “political  
16 committee,” and that case concluded that the definition is so broad that it “applies to  
17 informal ad hoc groups.” *Van Riper v. Threadgill*, 905 P.2d 589, 592 (Ariz. Ct. App.  
18 1995).  
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21 Under Arizona law, those who meet the definition of political committee must  
22 file one of two types of registration forms with the relevant filing officer—here, the  
23 Town Clerk<sup>2</sup>—*before*, among other things, “distributing any campaign literature.”  
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26 <sup>2</sup> Ariz. Rev. Stat. § 16-916(A)(3) provides that “political committees supporting or  
27 opposing . . . questions and propositions appearing on a city or town election ballot”  
28 must file their mandatory statements, designations and reports with “the city or town  
clerk.” See also Town Clerk’s Office Department Description, Town of Fountain Hills,

1 Ariz. Rev. Stat. § 16-902.01(A). If they intend to “accept contributions or make  
2 expenditures of more than [\$500]” they must file a statement of organization and then  
3 comply with the other requirements for political committees. *Id.* If they intend to  
4 “accept contributions or make expenditures of [\$500] or less” they must file a statement  
5 of exemption certifying their intent not to exceed the \$500 threshold. *Id.*

7           The terms “contribution” and “expenditure” are defined extremely broadly to  
8 include not only raising and spending money, but accepting or distributing “anything of  
9 value” made for “the purpose of influencing an election,” including an election  
10 involving a ballot question or proposition such as the town bond issue. Ariz. Rev. Stat.  
11 §§ 16-901(5) (definition of contribution), 16-901.8 (definition of expenditure). There is  
12 no exemption for things like emails, signs, or any the materials necessary to create signs  
13 of the type that Dina printed for her protests. *See* Ariz. Rev. Stat. §§ 16-901(5)(b)  
14 (setting forth exclusive list of exceptions to broad definition of contribution), 16-  
15 901(8)(a)-(e) (setting forth exclusive list of exceptions to broad definition of  
16 expenditure).<sup>3</sup>

17           Under these statutes, as the clerk’s letter recognized, were Ms. Galassini and  
18 others to attend a protest of the bond issue, or otherwise to engage in collective effort  
19 against it, they would be a “political committee” because they would have combined for  
20 the purpose of influencing the outcome of an election on a ballot proposition. *See*

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Ariz., <http://www.fh.az.gov/dept-town-clerk.aspx> (“the Town Clerk facilitates municipal  
elections in accordance with statutory requirements”) (last visited Oct. 26, 2011).

<sup>3</sup> Because homemade signs are not exempt from the campaign-finance laws, such signs  
must also contain a mandatory “paid for” disclaimer, identifying the “political  
committee” responsible for the advertisement. *See* Ariz. Rev. Stat. § 16-912.01(A), (J).

1 Compl. Ex. A. Moreover, because they intend to contribute something of value to that  
2 effort—namely, signs, emails, and any other “campaign materials” they may use to  
3 disseminate their views—they would be required to either register as a “political  
4 committee” or file an exemption form prior to engaging in any collective efforts. *See*  
5 *Ariz. Rev. Stat. § 16-902.01(A)*.

7           The Town Clerk’s letter did not provide any additional information about the  
8 legal obligations of political committees in Arizona. It simply informed Ms. Galassini  
9 that legal requirements existed and instructed her to “cease any campaign related  
10 activities” and contact the Town Clerk’s office “to schedule an appointment to meet with  
11 staff so that we can provide you with the necessary forms to be filed and informational  
12 materials that will assist you.” Compl. Ex. A.

15           In addition to the registration requirement, even political committees that intend  
16 to spend \$500 or less must appoint a treasurer and a chairman, who may not be the same  
17 person. *Ariz. Rev. Stat. § 16-902(A)*. They must keep detailed records of all activities.  
18 *Id. § 16-904(F)*. And, it appears (although it is not clear) that they must designate a bank  
19 at which they will open a committee account. *Id. § 16-902(C)*. They must comply with  
20 these requirements prior to engaging in any activities intended to influence the outcome  
21 of an election. *Id. § 16-902.01(A)*. Any signs they produce must contain the statement  
22 “paid for by,” followed by the name of the committee as it appears on the exemption  
23 statement. *Id. § 16-912.01(A), (J)*. Even to cease operations, they must file a notice of  
24 termination and “shall pay a civil penalty of one hundred dollars” if they fail to do so.  
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1 *Id.* § 16-904(F)(2)-(3). Committees that intend to spend more than \$500 must comply  
2 with even more regulations. *See, e.g., Id.* § 16-913.  
3

4 Ms. Galassini was shocked when she received the clerk's letter. She emailed the  
5 clerk on October 17, 2001 asking for clarification. "Would people be joining me be why  
6 I have to register as an organization? This is all so confusing to me." Compl. ¶ 21 &  
7 Ex. C. The clerk replied by asking Ms. Galassini to call her. Ms. Galassini preferred to  
8 keep the correspondence in writing, whereupon the clerk finally stated, "I'm not sure  
9 what more information I can provide other than the statute in the previous email. I'm  
10 not an attorney and therefore, cannot provide legal advice." Compl. Ex. C.  
11

12 Ms. Galassini canceled her protests on October 19th and 22nd, concerned that any  
13 further activities opposing the bond issue would render her a political committee or  
14 violate the law. Compl. ¶ 24. However, she would very much like to hold one or more  
15 protests between now and November 8th and would like to continue speaking out  
16 against the bond issue—through emails, signs, letters, and other means—both  
17 individually and with others. Compl. ¶ 25. Ms. Galassini knows of at least one other  
18 resident of Fountain Hills, Linda Claffey, who had planned to join Ms. Galassini's  
19 efforts to oppose the bond issue and attend her protests. Compl. ¶ 28. Schedule  
20 permitting, Ms. Claffey will attend one or more protests Ms. Galassini organizes  
21 between now and the November 8th deadline. *Id.*  
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25 Ms. Galassini estimates that the value of her emails, signs, and other materials she  
26 has used to promote her views amount to far less than \$500. Compl. ¶ 59. She does not  
27 know the amounts of money others with whom she has communicated may have spent to  
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1 promote their views or what it would cost them to make signs or write letters so they can  
2 speak, along with her, in opposition to the bond issue, at a protest or otherwise. *Id.* She  
3 does not believe that those amounts come to more than \$500, or would if she held her  
4 protests, but she could not certify that that is true, as the political-committee exemption  
5 option under Ariz. Rev. Stat. § 16-902.01(A) requires. Ms. Galassini wishes to join with  
6 others and speak out against the town bond issue. She does not wish to take the helm of  
7 a formal political committee and carefully track every activity of those with whom she  
8 associates to determine whether their value amounts to more or less than \$500. Compl.  
9 ¶¶ 53, 56.

### 12 **ARGUMENT**

13  
14 The requirement that Ms. Galassini register with the Town, fill out an  
15 “exemption” form, and comply with other legal requirements for political committees  
16 simply to join with others to speak out against the bond issue is a classic prior restraint  
17 on speech. *See Watchtower Bible & Tract Soc’y of N.Y., Inc. v. Vill. of Stratton*, 536  
18 U.S. 150, 165-66 (2002). The Town lacks any legitimate justification for requiring Ms.  
19 Galassini to comply with this provision, much less for requiring her to make an  
20 appointment at the Town Clerk’s convenience and visit their offices in order to fill out  
21 forms and be apprised of her alleged “obligations” before speaking. Under the First  
22 Amendment, Americans are not required to keep governments apprised of their political  
23 activities lest they cross some arbitrary spending threshold without a bureaucrat’s  
24 permission.  
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1           The Town’s actions have already irreparably injured Ms. Galassini in that she has  
2 been forced to cancel the protests she wished to hold on October 19th and 22nd, and she  
3 has ceased discussing the bond issue with her friends and neighbors for fear of violating  
4 the law. With each passing day, the November 8th deadline for mail-in ballots  
5 approaches, and fewer and fewer voters exist whose minds can be changed before they  
6 vote.  
7

8           The standard for temporary restraining orders and preliminary injunctions is well  
9 established. Plaintiff must show (1) a strong likelihood of success on the merits, (2) the  
10 possibility of irreparable injury, (3) that the balance of hardships favors the plaintiff, and  
11 (4) the public interest will be advanced. *Save our Sonoran, Inc. v. Flowers*, 408 F.3d  
12 1113, 1120 (9th Cir. 2005). Ms. Galassini easily meets this standard.  
13  
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15 **I. PLAINTIFF IS LIKELY TO SUCCEED ON THE MERITS BECAUSE**  
16 **THE POLITICAL-COMMITTEE REQUIREMENT AS APPLIED TO**  
17 **HER IS A PRIOR RESTRAINT ON SPEECH THAT LACKS ANY**  
18 **LEGITIMATE JUSTIFICATION WHATSOEVER.**

19           The Supreme Court has long recognized that political speech, such as Ms.  
20 Galassini’s, is at the very core of the First Amendment’s protections. *E.g. Buckley v.*  
21 *Valeo*, 424 U.S. 1, 15 (1976) (“The First Amendment protects political association as  
22 well as political expression.”); *McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 347  
23 (1995) (“The principles enunciated in *Buckley* extend equally to issue-based  
24 elections . . .”). As a result, laws that restrict or burden such speech are presumptively  
25 unconstitutional, and the government bears the burden of justifying them. *FEC v. Wisc.*  
26 *Right to Life (WRTL II)*, 551 U.S. 449, 464 (2007); *Thalheimer v. City of San Diego*, 645  
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1 F.3d 1109, 1116 (9th Cir. 2011) (holding that where a motion for injunctive relief  
2 implicates the First Amendment, “the moving party bears the initial burden of making a  
3 colorable claim that its First Amendment rights have been infringed, or are threatened  
4 with infringement, at which point the burden shifts to the government to justify the  
5 restriction”).

6  
7 Equally clear under Supreme Court precedent is that prior restraints—laws  
8 requiring permits, licenses, or other official permission to speak—are among the most  
9 problematic of all speech restrictions. *See, e.g., Thomas v. Collins*, 323 U.S. 516, 539  
10 (1945) (stating that “[a]s a matter of principle a requirement of registration in order to  
11 make a public speech would seem generally incompatible with [the] exercise” of First  
12 Amendment rights). Indeed, preventing prior restraints is a large part of why the First  
13 Amendment exists. *See Citizens United v. FEC*, 130 S. Ct. 876, 896 (2010).

14  
15 The laws at issue here exhibits both vices in one package: They require Ms.  
16 Galassini to register with the Town and, at a minimum, fill out an exemption form,  
17 before—in the Town Clerk’s words—“**any** electioneering taking place.” Compl. Ex. A  
18 (emphasis in original); Ariz. Rev. Stat. § 16-902.01(A). Ms. Galassini’s alternative,  
19 according to the Town Clerk, was to “cease any campaign related activities.” Compl.  
20 Ex. A. In short: She could schedule an appointment, physically visit the Clerk’s office  
21 at their convenience, or she could stop talking, associating with others, and engaging  
22 advocacy on an important local issue within weeks of the election. As the Supreme  
23 Court noted in *Citizens United*, laws such as these can “function as the equivalent of a  
24 prior restraint by giving the [government] power analogous to licensing laws  
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1 implemented in 16th- and 17th-century England, laws and governmental practices of the  
2 sort that the First Amendment was drawn to prohibit.” 130 S. Ct. at 896.

3  
4 Like all campaign-finance laws, Arizona’s provisions for political committees are  
5 lengthy and exceedingly complicated. *See Van Riper*, 905 P.2d at 591 (noting that the  
6 statutes and forms governing political committees in Arizona “are so confusing that they  
7 set a trap for those who are trying to exercise their right to seek a referendum”).

8  
9 Predictably, when Ms. Galassini asked for help, the Town Clerk’s response was that that  
10 she could provide none, because “I’m not an attorney and therefore, cannot provide legal  
11 advice.” Compl. Ex. C. Yet, as the Supreme Court stated in *Citizens United*: “The First  
12 Amendment does not permit laws that force speakers to retain a campaign finance  
13 attorney . . . or seek declaratory rulings before discussing the most salient political issues  
14 of our day.” *Id.* at 889.

15  
16 Supreme Court precedent makes clear that governments may not impose even  
17 ministerial restrictions on individuals who simply wish to speak out about public issues.  
18 In *Watchtower Bible*, the Court struck down a local ordinance that required door-to-door  
19 solicitors to register with the town and obtain a permit. 536 U.S. at 165. The law  
20 applied to a Jehovah’s Witness group that wished to distribute pamphlets to town  
21 residents. Even though permits cost nothing and were routinely granted, the Court  
22 struck down the ordinance as a prior restraint. As the Court stated,

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25 It is offensive—not only to the values protected by the First Amendment,  
26 but to the very notion of a free society—that in the context of everyday  
27 public discourse, a citizen must first inform the government of her desire  
28 to speak to her neighbors and then obtain a permit to do so. Even if the  
issuance of permits . . . is a ministerial task . . . a law requiring a permit to

1 engage in such speech constitutes a dramatic departure from our national  
2 heritage and constitutional tradition.

3 *Id.* at 165-66.

4 In-person communication and the distribution of literature, noted the Court, is an  
5 important means of disseminating opinions, especially to the “poorly financed causes” of  
6 ordinary Americans. *Id.* at 162-63 (internal quotation marks omitted). A registration  
7 requirement impedes the “free and unhampered” distribution of such speech. *Id.* at 162.  
8 Among other things, registration requirements threaten privacy rights and prevent  
9 spontaneous speech: “A person who made a decision on a holiday or a weekend to take  
10 an active part in a political campaign could not begin to pass out handbills until after he  
11 or she obtained the required permit.” *Id.* at 167.

12 The Town has no legitimate interest in requiring Ms. Galassini to register or file  
13 an exemption form in order to speak to her friends and neighbors and join with them in a  
14 peaceful protest about a bond issue. While the Supreme Court and the Ninth Circuit  
15 have upheld certain campaign-finance laws, an essential premise of those cases is that  
16 the regulated activities at least involve the *financing* of campaigns. *See, e.g., Canyon*  
17 *Ferry Rd. Baptist Church of East Helena, Inc. v. Unsworth*, 556 F.3d 1021, 1032-33 (9th  
18 Cir. 2009) (holding that a state’s interest in disclosure laws are limited to those who  
19 finance campaigns). Whether and to what extent restrictions on campaign financing are  
20 constitutional, the simple fact of this case is that Ms. Galassini is not trying to finance a  
21 campaign. She simply wants to speak to and with others against a local bond issue. The  
22 fact that the materials she and others will use—things like emails, signs, letters, and  
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1 flyers—have a monetary value does not authorize the Town to regulate the exercise of  
2 her First Amendment rights. *See id.* at 1034 (holding unconstitutional a disclosure  
3 requirement that applied to small in-kind expenditures in connection with a ballot issue).  
4

5 In sum, the definition of political committee and the registration, exemption and  
6 other requirements contained in Ariz. Rev. Stat. §§ 16-901(19), -902, -902.01(A), -904, -  
7 912.01(A) & (J), and -924 impose a substantial burden on Ms. Galassini’s First  
8 Amendment rights and amount to an unconstitutional prior restraint.  
9

10 **II. THE DEFINITION OF POLITICAL COMMITTEE AND THE**  
11 **REGISTRATION AND EXEMPTION PROVISIONS OF ARIZ. REV.**  
12 **STAT. § 16-902.01 HAVE CAUSED AND WILL CONTINUE TO CAUSE**  
13 **PLAINTIFF IRREPARABLE HARM.**

14 “The loss of First Amendment freedoms, for even minimal periods of time,  
15 unquestionably constitutes irreparable injury.” *Thalheimer*, 645 F.3d at 1128 (quotation  
16 marks, citations and alterations omitted). This harm is “particularly irreparable” where a  
17 plaintiff seeks to engage in political speech, as timing is crucial in politics and a delay of  
18 even a day or two may be intolerable. *Id.*

19 Ms. Galassini has already been forced to cancel two protests of the bond issue  
20 and to stop speaking to her friends and neighbors about any collective efforts to  
21 convince voters to oppose it. She is not an experienced political operative and only  
22 recently learned that the campaign-finance laws apply to ballot issues such as the bond  
23 issue. The campaign-finance laws are extremely complicated and confusing. *See Van*  
24 *Riper*, 905 P.2d at 591. To add insult to injury, Ms. Galassini must schedule an  
25 appointment to visit the clerk’s office—which is closed on Fridays and weekends—so  
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1 she can receive the forms with which she must comply. Compl. Ex. A; *see* Town of  
2 Fountain Hills website, <http://www.fh.az.gov/home.aspx> (listing office hours for town  
3 hall as Monday to Thursday, 7:00 a.m. to 6:00 p.m.) (last visited Oct. 26, 2011).  
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5 Ms. Galassini has neither the time nor the expertise to comply with the political-  
6 committee requirements, visit the clerks office, or track the value of signs, printers,  
7 emails, or letters of anyone with whom she associates to ensure that they do not end up  
8 spending more than \$500 on their collective efforts. She is not a lawyer and cannot  
9 afford to hire one simply to engage with others to speak out against the bond issue.  
10 Compl. ¶ 55. As noted above, the bond issue is an entirely mail-in election, and ballots  
11 are due by November 8, 2011. Every day that passes makes it less likely that Ms.  
12 Galassini and her friends will be able to speak to voters before they mail in their ballots.  
13 *Cf. Citizens United*, 130 S. Ct. at 895 (“It is well known that the public begins to  
14 concentrate on elections only in the weeks immediately before they are held. There are  
15 short timeframes in which speech can have influence.”).  
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19 **III. THE BALANCE OF EQUITIES AND THE PUBLIC INTEREST FAVOR A**  
20 **TEMPORARY RESTRAINING ORDER AND INJUNCTION.**

21 The Town will suffer no injury or hardship whatsoever from a temporary  
22 restraining order or injunction. As discussed above, the Town has no legitimate interest  
23 in requiring Ms. Galassini or others to register as a political committee or file an  
24 exemption form simply because the means they use to disseminate their speech might  
25 end up being valued at more than \$500. The government’s interests in campaign-finance  
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1 laws do not extend to keeping track of all political activities. *See Canyon Ferry*, 556  
2 F.3d at 1032-33.

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4 Moreover, it is well-established that allowing enforcement of unconstitutional  
5 laws does not advance the public interest. “Curtailling constitutionally protected speech  
6 will not advance the public interest, and neither the Government nor the public generally  
7 can claim an interest in the enforcement of an unconstitutional law.” *ACLU v. Reno*, 217  
8 F.3d 162, 180-81 (3d Cir. 2000), *vacated on other grounds, Ashcroft v. ACLU*, 535 U.S.  
9 564 (2002); *see also Scott v. Roberts*, 612 F.3d 1279, 1297 (11th Cir. 2010) (stating that  
10 “the public . . . has no interest in enforcing an unconstitutional law”). Accordingly, the  
11 balance of equities and the public interest favor a temporary restraining order and  
12 preliminary injunction.  
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14

### 15 CONCLUSION

16 Plaintiff requests that the Court enter a temporary restraining order and/or  
17 preliminary injunction prohibiting Defendants from requiring Ms. Galassini and others  
18 associating with her to register as a political committee and/or file an exemption form  
19 under Ariz. Rev. Stat. §§ 16-901(19) and 16-902.01(A) and to comply with the  
20 requirements for political committees contained in Ariz. Rev. Stat. §§ 16-902, -904, -  
21 912.01(A) & (J), and -924 so she may speak and associate with others and hold her  
22 protests between now and November 8, 2011.  
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25 Plaintiff also respectfully requests that this Court waive the bond requirement of  
26 Federal Rule of Civil Procedure 65(c) because this is a public-interest lawsuit with no  
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1 risk of financial loss to the Town of Fountain Hills. *See, e.g., Conn. Gen. Life Ins. Co. v.*  
2 *New Images of Beverly Hills*, 321 F.3d 878, 882 (9th Cir. 2003).

3  
4 Respectfully submitted this 26th day of October, 2011.

5 **INSTITUTE FOR JUSTICE**

6  
7 By: /s/ Paul V. Avelar  
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22 \*Application for Admission Pro Hac Vice to be  
23 Filed.

24  
25  
26  
27  
28 *Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 26th day of October, 2011, a true and correct copy of the foregoing Motion for Temporary Injunction and/or Preliminary Injunction and Memorandum of Law In Support was sent via third party process server to the following Defendants:

Town of Fountain Hills, Arizona  
16705 East Avenue of the Fountains  
Fountain Hills, AZ 85268  
Tel: (480) 816-5100

Bevelyn J. Bender, in her official capacity as Town Clerk of Fountain Hills, Arizona  
16705 East Avenue of the Fountains  
Fountain Hills, AZ 85268  
Tel: (480) 816-5115

Andrew McGuire, in his official capacity as Town Attorney of Fountain Hills, Arizona  
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/s/ Paul V. Avelar  
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**INSTITUTE FOR JUSTICE**

Attorney for Plaintiffs