

November 16, 2014

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## VIA ELECTRONIC MAIL

Sharon Bronson, Chair  
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### Re: Canvass of the November 4, 2014 Election

Dear Chairwoman Bronson, Vice Chair Elías, and Supervisors Carroll, Miller, and Valadez:

I am counsel to the Ron Barber for Congress campaign. I write to request that the canvass of the November 4, 2014 general election be postponed until a special session held Monday, November 24, 2014.

As I'm sure you will remember, in 2012, the Pima County Board of Supervisors held its canvass of the general election on the last day possible under A.R.S. § 16-642, November 26, 2012, during a special meeting. That scheduling allowed the elections department, the Board, and the public to review the election and canvass the results thoroughly and in a way that assured public confidence in the result.

The 2014 general election has generated an historically close result in the election for the Second Congressional District and one that is likely to result in an automatic recount under Arizona law. According to the unofficial preliminary results, only 161 votes separate the two candidates. In 2012, fifteen times that number separated the two candidates. Yet the canvass for the 2014 general election is currently scheduled to occur on this Tuesday, November 18, 2014, almost a full week in advance of the statutory deadline for certification.

Under the circumstances, I would respectfully suggest that the timetable for the canvass of the election ought not be *accelerated* from the Board's historical practice and a brief continuance would be appropriate to ensure public confidence in the result.

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Accordingly, I request, on behalf of the Barber campaign and consistent with the Board's precedent, that the canvass of the 2014 general election be continued to Monday, November 24, 2014.

Thank you for your consideration of this request.

Very truly yours,

*/s/ Daniel C. Barr*

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November 18, 2014

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**VIA HAND-DELIVERY**

Sharon Bronson, Chair  
Richard Elías, Vice Chair  
Ray Carroll  
Ally Miller  
Ramón Valadez  
Pima County Board of Supervisors

**Re: Errors in the Rejection of Early and Provisional Ballots**

Dear Members of the Pima County Board of Supervisors:

We write on behalf of the Ron Barber for Congress campaign to request that you (the "Board") count the ballots of the voters identified in this letter and the enclosed declarations and include the votes reflected on those ballots in the Pima County certification of the 2014 General Election. As you will see from the enclosed declarations, all of these individuals were at the time they cast their ballots citizens of the United States and the State of Arizona, were lawfully registered to vote, and cast their ballots in accordance with state or federal law and, in many cases, as directed by Arizona election officials. Yet their ballots remain, for a variety of reasons, uncounted.

As I'm sure you know, A.R.S. § 16-646 requires you to mail to the Secretary of State a "certified permanent copy of the official canvass" of the General Election results, which will be maintained and preserved "as a permanent public record." With all due respect, the certified copy of the canvass will not be true, accurate, and complete unless you address, and count, the ballots of the voters who have submitted the enclosed declarations.

It is especially important to conduct a thorough canvass this year. The election for United States House of Representatives in Arizona's second congressional district was extraordinarily close, with the initial returns indicating that Martha McSally leads Ron Barber by a razor-thin margin of 161 votes—less than one-tenth of one percent of the votes cast in the election. As a result, if the Board certifies the canvass without correcting all of the errors in the vote count, there is a real possibility that the election for Arizona's second congressional district will be improperly certified for the wrong candidate.

As this letter and the attached declarations establish, there have been numerous errors in the vote count. In particular, this letter discusses the types, and provides examples, of errors that have been made and explains why certain votes should be counted. The declarations attached to this letter provide detail regarding the circumstances of eligible, registered voters whose votes

have not been counted. In light of these errors, and the likelihood that other errors have been made that can easily be remedied, the Board should delay certification of the canvass and count the ballots that were cast by the declarants and any other individuals whose votes were improperly rejected.

The errors described in the attached declarations fall into several different categories and we continue to receive reports every day of additional instances we are investigating and will forward to your attention as soon as we are able.

**A. Updated Addresses Not Included on Voter Rolls**

At least two ballots were improperly rejected where voters updated their voting address at the Motor Vehicles Department (“MVD”) prior to Election Day but were required to cast provisional ballots because their names were not included on the voter rolls for their new precincts. Marni Gould, a registered Arizona voter since January, recently moved and updated her voter registration address at the MVD. Decl. of Marni L. Gould ¶¶ 1-2. However, upon appearing in person to vote at the correct polling place for her new address, Ms. Gould was informed that she was not on the voter roll. *Id.* ¶ 3. Ms. Gould asked that the County Recorder be contacted to verify the correct voting location, but the Recorder was unavailable. *Id.* Ms. Gould then left the proper location to attempt to vote at her old polling place. *Id.* While en route to the old location, Ms. Gould reached the County Recorder, who told her to return to the polling place she had just left and instructed that Ms. Gould’s ballot would count when the address was verified. *Id.* Now, Ms. Gould’s provisional ballot has apparently been rejected. *Id.* ¶ 5.

August D. Ench, who has been registered to vote in Arizona since 2004, also updated his voter registration address at the MVD prior to Election Day. Decl. of August D. Ench ¶¶ 1-2. The MVD provided Mr. Ench with paperwork confirming his voting address change and listing his new voting location. *Id.* ¶ 2. Nonetheless, when Mr. Ench appeared at that location to vote, he was told he was not on the list of registered voters. *Id.* ¶ 3. The poll workers instructed Mr. Ench to vote a provisional ballot and assured Mr. Ench his provisional ballot would be counted. *Id.* Now, Mr. Ench’s provisional ballot has apparently been rejected. *Id.* ¶ 5.

By updating their registrations and voting in the precinct for their new addresses, Ms. Gould and Mr. Ench fully complied with the requirements of Arizona law. Their votes plainly should be counted.<sup>1</sup>

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<sup>1</sup> As both of these voters followed directions provided to them (in Ench’s case by poll workers, and in Gould’s case by the Recorder’s office) and Ench was informed that his provisional ballot would be counted, Ench Decl. ¶¶ 3-4; Gould Decl. ¶¶ 3-4, their ballots should have been counted even if they had not voted in their assigned precinct. *See Northeast Ohio Coalition for Homeless*

**B. Move Within Pima County**

To the extent that any of the declarants' ballots were rejected because they had moved within Pima County but had not updated their residence prior to Election Day, the ballots of those declarants should be counted. Arizona law is clear that "[a]n elector who moves from the address at which he is registered to another address within the same county and who fails to notify the county recorder of the change of address before the date of an election shall be permitted to correct the voter registration records at the appropriate polling place for the voter's new address," A.R.S. § 16-135(B); that after presenting identification and affirming the new residence address in writing, the voter "shall be permitted to vote a provisional ballot," *id.*; and that if the voter's signature does not appear on the signature roster for that election in the precinct in which the voter was listed (i.e., where the voter previously resided) and there is no record of the voter having voted early for that election, "the provisional ballot shall be counted," A.R.S. § 16-135(D). Thus, if a voter who moved within Pima County was at the correct polling location, her signature will not appear on the signature roster in another precinct, and she did not vote early, her vote should be counted.

**C. Early Ballot Never Received or Cast**

Other provisional ballots were improperly rejected where a voter requested but did not receive or did not cast an early ballot. For example, Nancy Sue Cox, who has been registered to vote in Arizona since 1990, requested an early ballot but did not receive one. Decl. of Nancy Sue Cox ¶¶ 1-3. On Election Day, after first stopping at two incorrect polling locations, she finally arrived at the correct polling location and submitted a provisional ballot. *Id.* ¶ 4. Her ballot should have been, but was not, counted. *Id.* ¶ 5.

Arizona law provides that "[a]ny qualified elector who is listed as having applied for an early ballot but who states that the elector has not voted and will not vote an early ballot for this election or surrenders the early ballot to the precinct inspector on election day, shall be allowed to vote" a provisional ballot. A.R.S. § 16-579(B). "[I]f there is no indication that the voter voted an early ballot, the provisional ballot envelope shall be opened and the ballot shall be counted." *Id.* § 16-584(D); accord Ariz. Sec'y of State, Election Procedures Manual at 185 (2014) ("Manual") (provisional ballot shall be counted if (1) the registration of the voter is verified and

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*v. Husted*, 696 F.3d 580, 584, 588, 593, 597 (6th Cir. 2012) (per curiam) (finding a likely equal protection violation and upholding the portion of a preliminary injunction requiring Ohio to count ballots cast in the wrong precinct due to the failure of poll workers to comply with their statutory duty to direct voters to the correct precinct).

the voter is eligible to vote in the precinct, (2) the voter's signature does not appear on any other signature roster for that election, and (3) there is no record that the voter voted early for that election); *see also id.* § 16-579(B) (individual who meets requirements of § 16-579(B) "shall be allowed to vote pursuant to the procedure set forth in section 16-584"). As this language makes clear, Arizona law requires that Ms. Cox's ballot and the ballots of similarly situated declarants be counted.<sup>2</sup>

#### **D. "Signature Mismatches"**

Dozens of early ballots have been improperly rejected based on a determination that the voter's signature on the affidavit on the early ballot envelope did not match the signature on the voter's registration form. For example, Roma Page, a registered voter in Arizona since 1985, submitted an early ballot in this election. *See* Decl. of Roma R. Page ¶¶ 1-2. As required, she signed the back of the envelope when she submitted the ballot. *Id.* ¶ 4. Ms. Page was later informed that her ballot was not counted because her signature did not match the signature on her registration card. *Id.* ¶ 5. Ms. Roma was born in 1919 and has been registered to vote since she was 21 years old. ¶¶ 1, 6. Like many older voters, her signature has changed with age. *Id.* ¶ 4. She called the Pima County Recorder's office to ensure that her ballot was counted, but they neither returned her call, or counted her ballot. *Id.* ¶ 4.

The ballots submitted by Ms. Page and similarly situated declarants must be counted for at least three reasons.

*First*, where there has been a determination of a "signature mismatch," the Manual—which "has the force and effect of law," *Gonzalez v. Arizona*, 677 F.3d 383, 397 (9th Cir. 2012) (citing A.R.S. § 16-452), *aff'd sub nom. Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013)—requires that the voter be allowed to explain "that he or she did vote the ballot and . . . why the signatures do not match." Manual at 167. Because no deadline has been set by Arizona law for the submission of such an explanation, the Board should find that the attached declarations from voters whose ballots were rejected based on a signature-mismatch determination constitute explanations that require that the declarants' votes to be counted.

*Second*, these votes should be counted pursuant to the Arizona Constitution. As noted, Article 2, Section 21, of the state constitution provides that "all elections shall be free and equal" and guarantees that "no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage." Here, the ballots at issue were cast by Arizonans who are

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<sup>2</sup> Even if it did not, refusing to count ballots in these circumstances would be arbitrary and result in disparate treatment between this class and other classes of voters without a rational basis, in violation of both the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution and Article 2, Section 21, of the Arizona Constitution.

registered to vote and complied with the state's requirements for submission of early ballots. The voters who cast these ballots, in other words, took every step they were required to take for their early ballots to be counted. Refusing to count such voters' ballots under these circumstances—that is, where such voters have undertaken the same steps as early ballot voters whose ballots have been counted—would constitute an interference with the free exercise of the right of suffrage and violate the constitutional guarantee of elections that are “free and equal.”

*Third*, the votes at issue should be counted because a failure to count those votes would constitute an undue burden on the right to vote in violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. In determining whether a challenged electoral practice unduly burdens the right to vote, a court would “weigh the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate against the precise interests put forward by the State as justifications for the burden imposed by its rule, taking into consideration the extent to which those interests make it necessary to burden the plaintiff's rights.” *Burdick v. Takushi*, 504 U.S. 428, 434 (1992) (quotation omitted). The Supreme Court has explained that, “[h]owever slight th[e] burden may appear, . . . it must be justified by relevant and legitimate state interests sufficiently weighty to justify the limitation.” *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 191 (2008) (Stevens, J., controlling opinion) (internal quotation marks omitted).

Here, the Board will severely burden the right to vote if it does not count the ballots at issue: it will disenfranchise every voter whose ballot was excluded based on a determination of a signature mismatch. On the other side of the ledger, there is at best a nominal administrative benefit—the Board will need to take no further action—in disenfranchising these voters. Plainly, that “state interest” (if it can be properly termed a legitimate “state interest” at all) is outweighed by the interest in counting lawfully cast ballots. The Equal Protection Clause therefore requires that these votes be counted.

#### **E. Unsigned Early Vote and Provisional Ballots**

Pima County has informed the Ron Barber for Congress campaign that a number of early ballots were rejected because they were not signed. These ballots also should be counted. While the Manual does not provide a means of curing unsigned early ballots, there is no rational basis for permitting ballots to be cured where a signature-mismatch determination has been made but not where a ballot is unsigned. Indeed, the purpose of the signature requirement—to confirm that early ballots are submitted by the correct voter—is clearly served when the voter to whom the early ballot was sent confirms that he or she cast the ballot at issue. Moreover, refusing to count unsigned early ballots where voters come forward to cure their ballots would unduly burden the right to vote and violate Article 2, Section 21, of the Arizona Constitution for the same reasons that refusing to count cured signature-mismatch ballots would. Thus, in order to avoid treating voters differently without a rational basis and unduly burdening the right to vote in

violation of the Equal Protection Clause and Article 2, Section 21, of the Arizona Constitution, the Board should count the ballots of any voters who failed to sign their early vote ballots and cure that issue by confirming that they in fact had submitted the early ballot that had been sent to them.

At least some unsigned provisional ballots should be counted as well. Elle Grace Troutman, who has been registered to vote in Arizona since 2000, legally changed her name in September 2014 but received a mail-in ballot that had her previous name associated with it. Decl. of Elle Grace Troutman ¶¶ 1-2. On Election Day, Ms. Troutman went to the polls and was directed to fill out a provisional ballot. After she filled out the ballot, the poll worker looked over the ballot, said that things appeared to be in order, and indicated that Ms. Troutman's provisional ballot would be counted. *Id.* ¶¶ 3-5. The poll worker did not point out to her that she had not signed the provisional ballot. *Id.* ¶ 4. Her vote was not counted. *Id.* ¶ 6. Under these circumstances, where poll worker error causes a voter to cast (or contributes to a voter's casting) a ballot that may not be counted, the ballot should be counted pursuant to the Equal Protection Clause, for the reasons set forth in the following section. Thus, to the extent that provisional ballots submitted by the declarants were not signed due, at least in part, to poll worker error, those ballots should be counted.

#### **F. Out-of-Precinct Provisional Ballots**

The votes of many eligible, registered voters were rejected because they were not cast in the voters' assigned precincts. For example, Josh Adam Cohen has been registered to vote in Arizona since 2008. Decl. of Josh Adam Cohen ¶ 1. In January 2014, Mr. Cohen moved and had the address on his driver's license changed. *Id.* ¶ 2. He did not know that he also needed to change his address for purposes of his voter registration. *Id.* On Election Day, Mr. Cohen went to the polling location for his previous address. *Id.* ¶ 3. He informed the poll worker that he had moved, and the poll worker instructed him to vote a provisional ballot. *Id.* The poll worker did not direct Mr. Cohen to the correct polling location. *Id.* ¶ 5. Mr. Cohen was assured that his vote would be counted; it was not. *Id.* ¶¶ 4, 6.

Micah Tordsen, a registered Arizona voter since 2002, arrived on Election Day at the same polling place at which he had voted in the 2012 General Election. Decl. of Micah Tordsen ¶¶ 1-2. He was told by the poll worker that he was at the wrong polling location but was never directed to the correct polling location. *Id.* ¶ 2. Instead, he was told to complete a provisional ballot. *Id.* He was assured that his vote would be counted; it was not. *Id.* ¶ 2-3.

Sita Adhikari faced a similar problem. Adhikari became a U.S. citizen in 2013, and this was the first U.S. election in which Adhikari had ever voted. Decl. of Sita M. Adhikari ¶ 2. On Election Day, Adhikari arrived at what Adhikari believed to be the proper polling location. *Id.* ¶ 3. A poll worker stated that Adhikari was not on the voter list but did not suggest that Adhikari

was at the wrong polling place and did not direct Adhikari to a different polling place. *Id.* ¶¶ 4-5. Rather, Adhikari was told to cast a provisional ballot; it was not counted. *Id.* ¶ 6. The decisions not to count the votes of Cohen, Tordsen, Adhikari, and all other declarants whose ballots were cast in a precinct other than their assigned precinct were in error. Those ballots should be counted.

In *Northeast Ohio Coalition for Homeless v. Husted*, 696 F.3d 580 (6th Cir. 2012) (“*NEOCH*”) (per curiam), the United States Court of Appeals for the Sixth Circuit, which found that the plaintiffs had shown a likely equal protection violation, upheld the portion of a preliminary injunction requiring Ohio to count ballots cast in the wrong precinct due to the failure of poll workers to comply with their statutory duty to direct voters to the correct precinct. *Id.* at 584, 588, 593, 597. Arizona law provides that “[i]f the registrant indicates that the registrant lives at a new residence, the election official *shall direct the registrant to the polling place for the new address.*” A.R.S. § 16-583(A) (emphasis added). Thus, provisional ballots cast by voters such as Mr. Cohen who moved but were not directed to their new polling places should be counted. Further, some of the voters whose ballots are at issue here were provided with misleading or confusing information, and none of these voters were directed to their assigned polling location. *See, e.g.*, Decl. of Micah Tordsen; Decl. of Sita M. Adhikari. Given that these voters’ difficulties could easily have been avoided if poll workers told the voters that their votes would not count and directed voters to their assigned polling location, the Board should follow the reasoning of *NEOCH*, find that the disenfranchisement of these voters would constitute an undue burden on the right to vote, and count all of the declarants’ out-of-precinct ballots at issue or, in the alternative, count the out-of-precinct ballots cast by voters to whom misleading or confusing instructions were provided and voters who moved to a new residence but were not directed to the polling place for that address.

The out-of-precinct ballots should also be counted under the Help America Vote Act (“HAVA”). In relevant part, that law states that “[i]f the appropriate State or local election official to whom the [provisional] ballot or voter information is transmitted . . . determines that the individual is *eligible* under State law to vote, the individual’s provisional ballot *shall be counted* as a vote in that election in accordance with State law.” 52 U.S.C. § 21082(a)(4) (emphases added). Because all of the out-of-precinct ballots at issue were cast by voters who are eligible to vote under state law, *e.g.*, Cohen Decl. ¶ 1, the plain language of 52 U.S.C. § 21082(a)(4) indicates that these votes shall be counted.

The out-of-precinct ballots should be counted pursuant to Section 2 of the Voting Rights Act (“VRA”) as well. Section 2(a) of the VRA prohibits states from imposing any standard, practice, or procedure that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color.” 52 U.S.C. § 10301(a). A violation of Section 2(a) “is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally

open to participation” by members of a protected class, “in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *Id.* § 10301(b). Proving a Section 2 violation requires a showing only of discriminatory results, not discriminatory intent; however, “proof of causal connection between the challenged voting practice and a prohibited discriminatory result is crucial.” *Gonzalez v. Arizona*, 677 F.3d at 405.

A refusal to count out-of-precinct ballots cast in Arizona, including in Arizona’s second congressional district, would violate Section 2 of the VRA. As even a cursory review of the voters who will be disenfranchised in this election by a refusal to count out-of-precinct ballots demonstrates, this rule will disproportionately burden Latino voters. Arizona has an unfortunate history of discrimination against Latinos, and the lingering effects of that discrimination continue to be felt by Latinos in Arizona to this day. Those effects of discrimination interact with the refusal to count out-of-precinct ballots to burden Latino voters disproportionately—again, as demonstrated by a review of the list of ballots that were not counted because they were not cast in a voter’s assigned precinct. This disproportionate impact, in turn, results in Latinos in Arizona having less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The refusal to count out-of-precinct ballots therefore appears to violate Section 2 of the VRA.

#### **G. One Spouse’s Vote Counted and One Did Not**

In at least two instances, the vote of one spouse was counted while the vote of the other spouse was rejected. Elizabeth J. Jesukaitis, for example, and her husband moved a year prior to the 2014 General Election and they both contacted the Pima County Elections Department to update their voter registration information. Decl. of Elizabeth J. Jesukaitis ¶ 1. On Election Day, Ms. Jesukaitis and her husband each went to the polling location for their new address to vote, and both she and her husband were told that their names were not on the voter list. *Id.* ¶ 2. They each voted a provisional ballot and were told it would be counted. *Id.* The ballot cast by her husband was counted; the ballot cast by Ms. Jesukaitis was not. *Id.* ¶ 4.

Thelma T. Nathanson, who has been registered to vote in Arizona since 1992, had a similar experience. Decl. of Thelma T. Nathanson ¶ 1. On Election Day, Ms. Nathanson’s husband went to vote at their polling location before she did. *Id.* ¶ 3. He was originally told that his name was not on the voter list, but he noticed that it was there, right next to his wife’s name, and he was then permitted to vote a regular ballot. *Id.* When Ms. Nathanson arrived at the same polling location just 40 minutes later, she was told that her name was not on the voter list. *Id.* ¶ 5. She was instructed to vote a provisional ballot and assured that her vote would be counted; it was not. *Id.* ¶¶ 6, 8.

Given that in each case the spouses were registered at the *same* address and voted at the *same* polling location, there is no justification for counting one spouse's ballot but not the other's. Arizona law plainly cannot justify two different outcomes based on the same set of relevant facts, and disenfranchising voters based on such arbitrary, irrational action would violate the Equal Protection Clause and Article 2, Section 21, of the Arizona Constitution even if it did. Accordingly, the Board should count the ballots of both Ms. Jesukaitis and Ms. Nathanson.

#### **H. Original Ballot Was Spoiled But Provisional Ballot Was Not Counted**

Ari Lev Ginsburg's ballot was improperly rejected as well. Mr. Ginsburg, a registered voter in Pima County, was originally given a regular ballot when he arrived at his polling location on Election Day. Decl. of Ari Lev Ginsburg ¶¶ 1, 3. When he spoiled his ballot, he requested a new one and was given a provisional ballot by a poll worker. *Id.* ¶ 3. Although he was assured that his ballot would be counted, it was not. *Id.* ¶¶ 4-5.

Arizona law clearly provides that "[i]f an elector spoils a ballot, the elector shall return the ballot and receive another ballot." Manual at 143. "Up to two additional ballots may be issued." *Id.* In other words, Mr. Ginsburg should have been given a regular ballot when his first ballot was spoiled—he was not even required to vote a provisional ballot, because there is no question that a voter who spoils a ballot is entitled to vote with an unspoiled ballot. Mr. Ginsburg's ballot therefore clearly should be counted.

#### **I. Early Ballots Submitted at Purportedly Incorrect Polling Places**

To the extent that any of the declarants submitted early ballots that were rejected because they were submitted at purportedly incorrect polling places, those ballots should be counted so long as they were submitted at a polling place in the voter's county of residence. Arizona law is clear that a voter who has requested and received an early vote ballot may mark the ballot and return it to "*any* polling place in the county . . . ." A.R.S. § 16-548(A) (emphasis added). Likewise, the Manual states that "after voting the early ballot in accordance with the instructions provided by the County Recorder, the voter must . . . deposit it at *any* polling place within the county of residence. . . ." Manual at 59 (emphasis in original). Significantly, Arizona law does *not* require early ballots to be returned to a polling place within the voter's congressional district. Thus, as long as a voter returns an early ballot to a polling place in his county of residence by the required deadline, his vote must be counted.

#### **J. Provisional Ballots Rejected For Reason That Was Not Specified**

Pima County has provided the Ron Barber for Congress campaign with no explanation beyond "[n]ot specified" for the rejection of many provisional ballots. Clearly, *some* reason

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must be provided for disenfranchising the voters who cast these ballots. Unless such a reason is provided, these ballots must be counted.

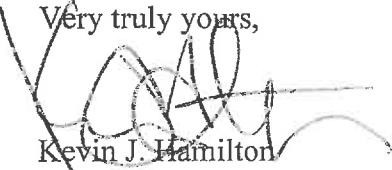
### CONCLUSION

Arizona, like most states, relies on temporary help and volunteers to run its polling places on Election Day. Those people work hard and long hours and deserve our respect and thanks. But they sometimes make mistakes. Indeed, no election is perfect or error free, as Brad Nelson, Pima County's Elections Director, testified last week in Pima County Superior Court. The canvassing process is designed to catch clerical or poll worker error to ensure that every properly cast ballot is counted and no registered Arizona voter is disenfranchised because of administrative error. Public confidence in the election system, indeed, depends on that careful scrutiny.

In the declarations that follow, you'll see that there are more than 130 ballots cast by properly registered Arizona voters that remain to be counted. These Arizona voters were lawfully registered to vote, and cast their ballots in accordance with state or federal law and, in many cases, as directed by Arizona election officials.

On behalf of the Ron Barber for Congress campaign, we respectfully request that you count these ballots and include them in the Pima County certification of the results of the 2014 General Election.

Very truly yours,



Kevin J. Hamilton  
Ezra W. Reese

CC: Chuck Huckelberry  
Pima County Administrator

Barbara LaWall  
Pima County Attorney

Eric H. Spencer  
Snell & Wilmer  
Counsel to Martha McSally