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9 SUPERIOR COURT OF ARIZONA

10 COUNTY OF MARICOPA

11 Citizens Clean Elections Commission,

12 Plaintiff,

13 v.

14 Melody Jennings and John Doe Defendants 1–
15 10,

16 Defendants.

No.

VERIFIED COMPLAINT

**[Temporary Restraining
Order/Preliminary Injunction]**

17 Plaintiff Citizens Clean Elections Commission (“Clean Elections”) for its
18 complaint against Defendants Melody Jennings and John Does 1–10 (collectively,
19 “Clean Elections USA”) alleges, on knowledge of its own actions and otherwise upon
20 information belief, as follows:

21 **PARTIES**

22 1. This action arises out of Clean Elections USA’s unauthorized use of the
23 mark CLEAN ELECTIONS within and in connection with Arizona.

24 2. Plaintiff Citizens Clean Elections Commission (“Clean Elections”) is a
25 non-partisan Arizona state agency established by A.R.S. § 16-955 to implement the
26 Citizens Clean Elections Act, A.R.S. §§ 16-940 to -941, which, among other things,
27 requires that it provide voter education. In fulfilling this responsibility, Clean Elections
28

1 has a comprehensive education program to ensure that Arizonans have accurate
2 information about voting and elections in this State.

3 3. On information and belief, Defendant Melody Jennings is the founder of
4 Clean Elections USA. She has appeared on numerous podcasts, shows, websites, and
5 social media platforms using the mark CLEAN ELECTIONS USA to recruit members
6 in Arizona and around the country. Clean Elections USA claims to be a grassroots
7 organization with members in Arizona. On information and belief, Clean Elections
8 USA is an unincorporated organization without a legal status. Defendants John Does
9 1–10 are members of the Clean Elections USA organization who monitored and
10 continue to monitor ballot boxes in Maricopa County as part of Clean Elections USA’s
11 Drop Box Initiative 2022.

12 4. On information and belief, Jennings and others acting under the banner
13 of Clean Elections USA recruited and continue to recruit members to serve as ballot
14 drop box monitors in Arizona and across the country. The Clean Elections USA ballot
15 drop box monitors watch, photograph, and video record voters that use state of Arizona
16 drop boxes to return their ballots.

17 5. On information and belief, in posts on social media and in interviews,
18 Defendant Melody Jennings, as the founder of Clean Elections USA, recognizes and
19 claims responsibility for the ballot box monitors in Arizona.

20 6. Defendant Melody Jennings has published blog posts, web pages, and
21 social media posts, and has appeared on audio and video media platforms in connection
22 with Arizona election-related content, all using the mark CLEAN ELECTIONS USA
23 in connection with Arizona election-related content.

24 **JURISDICTION AND VENUE**

25 7. The Court has personal jurisdiction over Melody Jennings because she
26 caused and will continue to cause harm against Clean Elections in this state.

27 8. The Court has personal jurisdiction over Melody Jennings because she
28 has purposefully directed her conduct at the state of Arizona by publishing blog posts

1 under the name Clean Elections USA describing alleged voter fraud in Maricopa
2 County,¹ and by recruiting and organizing groups of volunteers to monitor ballot drop
3 boxes in Arizona in an effort dubbed “Drop Box Initiative 2022” using the name Clean
4 Elections USA.

5 9. The Court has personal jurisdiction over John Does 1–10 because, on
6 information and belief, they reside in Arizona and they have caused tortious injury in
7 this state.

8 10. The Court has subject matter jurisdiction under the Arizona Constitution
9 Article VI, § 14.

10 11. Venue is proper in this Court under A.R.S. § 12-401.

11 **FACTUAL BACKGROUND**

12 **A. Clean Elections has a long-established and identifiable mark.**

13 1. Clean Elections was established in 1999 following voter approval of an
14 initiative creating the Citizens Clean Elections Act, A.R.S. §§ 16-940 to -941. Clean
15 Elections uses the mark CLEAN ELECTIONS.

16 2. Clean Elections develops and implements a comprehensive voter
17 education program, enforces campaign finance requirements, implements a public
18 campaign funding program for state races and conducts related audits. Each election
19 cycle, Clean Elections produces a voter education guide that it prints and mails to every
20 household in the state where a registered voter resides. Clean Elections also sponsors
21 candidate debates that are on prime-time television and online.

22 3. Clean Elections has nearly 38,000 followers across its social media
23 platforms. On its social media platforms, it provides information about voting in
24 Arizona elections.

25 4. Clean Elections comprises five commissioners and its staff. It maintains
26 a website, blog, and social media sites, hires auditors, hosts public meetings, has a

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28 ¹ Blog post available at: <https://cleanelectionsvsusa.org/10-ways-the-election-was-rigged-in-maricopa-county/>

1 budget, writes and pays to distribute its voter education guide, and participates in
2 commerce as a provider of election information.

3 5. Clean Elections uses the CLEAN ELECTIONS mark in connection with
4 its printing and distribution of election materials, advertisement of its debates, provision
5 of limited public campaign funds to qualified candidates through its Clean Funding
6 program, and other instances in commerce in connection with election-related
7 activities.

8 6. Clean Elections and the CLEAN ELECTIONS mark is a trusted source
9 of accurate information about voting in Arizona elections. Clean Elections endeavors
10 to ensure that the public can rely on the accuracy of the information that it provides. It
11 also endeavors to broadly disseminate its information to communicate with voters
12 throughout Arizona.

13 7. Clean Elections has used the CLEAN ELECTIONS mark continually
14 since at least 1999.

15 8. As a result of its widespread, continuous, and exclusive use of the
16 CLEAN ELECTIONS mark to identify its services and Clean Elections as their source,
17 Clean Elections owns valid and subsisting common law rights to the CLEAN
18 ELECTIONS mark.

19 9. The CLEAN ELECTIONS mark is distinctive to its consuming public—
20 voters in the state of Arizona.

21 10. Clean Elections has expended substantial time, money, and resources
22 planning and developing its election material and services that are distributed under the
23 CLEAN ELECTIONS mark, including through its website, voter education pamphlet,
24 sponsored debates and other sources.

25 11. As the result of Clean Election's expenditures and efforts, the CLEAN
26 ELECTIONS mark has come to signify the high quality and accuracy of the services
27 designated by the CLEAN ELECTIONS mark, which has acquired distinction,
28 reputation, and goodwill belonging exclusively to Clean Elections.

1 **B. Clean Elections USA entered the Arizona election information market to**
2 **encroach on Clean Election’s mark.**

3 12. On information and belief, Clean Elections USA was founded in May
4 2022, and began using the mark CLEAN ELECTIONS USA at that time without Clean
5 Election’s authorization and after Clean Elections acquired protectable exclusive rights
6 in its CLEAN ELECTIONS mark.

7 13. Clean Elections USA uses the CLEAN ELECTIONS USA mark on its
8 website, blog, social media pages, and other platforms in connection with election-
9 related activities.

10 14. On information and belief, in July 2022, Clean Elections USA and
11 Melody Jennings began organizing “Drop Box Initiative 2022,” where members would
12 monitor ballot drop boxes and the voters who use them. Since October 17, 2022,
13 members of Clean Elections USA have gathered at several ballot drop boxes in
14 Maricopa County.

15 15. On October 19, 2022, a group of ballot monitors at a drop box outside the
16 Maricopa County Election Headquarters informed reporters that they were members of
17 Clean Elections USA and referenced the CLEAN ELECTIONS USA mark.² On
18 information and belief, members continue to inform the public and media that they are
19 with Clean Elections USA and continue to use the CLEAN ELECTIONS USA mark.

20 16. On information and belief, Melody Jennings registered and uses the
21 domain cleanelectionsusa.org. On that domain, Jennings uses the CLEAN
22 ELECTIONS USA mark in connection with content related to election activities in
23 Arizona. On information and belief, Clean Elections USA has marketed and promoted
24 its election activities under the infringing mark through radio, social media, television,
25 and other forms of media.

26
27 ² See
28 <https://twitter.com/NicoleSGrigg/status/1582904476393820160?s=20&t=Xkv015mUIIbTfxU-Rk5aAw>.

1 17. Clean Elections provides the public with accurate and verified election
2 information. People acting under the banner of Clean Elections USA often provide
3 information that does not appear to be verified.

4 18. Voters have been, and will continue to be, confused by Clean Elections
5 USA's use of the mark. Clean Elections has received several calls, emails, and reports
6 from the public indicating that they thought Clean Elections was monitoring the drop
7 boxes. Additionally, Clean Elections' social media pages, including Twitter, Facebook,
8 and Instagram, have received more than a dozen posts and comments intended for Clean
9 Elections USA.

10 19. Clean Elections sent a cease-and-desist letter to Melody Jennings on
11 October 25, 2022. Melody Jennings responded on October 28, 2022. In her response,
12 she stated: "I do not have any qualms with re-branding in Arizona to ensure there's no
13 unnecessary confusion among Arizona citizens. [¶] I will make sure a public
14 announcement is made tomorrow, Saturday the 29th, and I will inform Arizona folks in
15 my contact list immediately. From now on, at the national level, we will remain Clean
16 Elections USA, but in Arizona we will rebrand."

17 20. Despite that response, Melody Jennings continues to use the mark
18 CLEAN ELECTIONS USA in media reaching Arizona voters in connection with
19 discussions of Arizona election-related activities.

20 21. After October 28, 2022, Clean Elections has continued to receive reports
21 of actual confusion by members of the public on social media. Users continue to tag
22 Clean Elections instead of Clean Elections USA in their posts.

23 **C. Clean Elections USA's unauthorized use of the CLEAN ELECTIONS USA**
24 **mark infringes on Clean Election's senior CLEAN ELECTIONS mark.**

25 22. Over the last 20 years, Clean Elections has built a reputation for providing
26 accurate and nonpartisan information about elections within the state of Arizona under
27 the CLEAN ELECTIONS mark.

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1 23. By virtue of its operation in Arizona for over twenty years, Clean
2 Elections is the senior user of the CLEAN ELECTIONS mark in connection with
3 election services.

4 24. The CLEAN ELECTIONS USA mark is nearly identical to and
5 confusingly similar to the CLEAN ELECTIONS mark.

6 25. Clean Elections USA's unauthorized and infringing use of the CLEAN
7 ELECTIONS USA mark in connection with the distribution and identification of its
8 election content and activities, is likely to cause confusion, to cause mistake, and to
9 deceive voters. Likewise, Clean Elections USA's use of the mark has and is likely to
10 deceive voters into believing, mistakenly, that Clean Elections USA's information
11 originates from, is associated or affiliated with, or otherwise authorized by Clean
12 Elections.

13 26. On information and belief, Clean Elections USA's acts are willful with
14 the deliberate intent to trade on the goodwill of Clean Election's CLEAN ELECTIONS
15 mark.

16 27. Clean Elections USA's acts are causing, and unless restrained, will
17 continue to cause, damage and immediate irreparable harm to Clean Elections and to
18 its valuable reputation and goodwill with voters for which Clean Elections has no
19 adequate remedy at law.

20 28. Clean Elections is threatened with irreparable injury by Clean Elections
21 USA's use of the CLEAN ELECTIONS USA mark because: (1) it is likely and
22 imminent that the voting public will be confused about the accuracy and nonpartisan
23 nature of the information distributed by the two entities; (2) Clean Elections has no
24 adequate remedy at law due to the nature of the upcoming election; and (3) Clean
25 Elections' reputation may be irreversibly affected by Clean Elections USA's actions.

26 29. The public interest weighs in favor of injunctive relief because
27 knowledge of the source of election and voter information is integral to the democratic
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1 process and because Clean Elections USA has no legitimate interest in using the
2 reputation of a government entity to conduct its ballot box monitoring activities.

3 **COUNT I: COMMON LAW TRADEMARK VIOLATION**

4 30. Clean Elections reasserts and realleges the allegations in the foregoing
5 paragraphs as if fully set forth herein.

6 31. Clean Elections USA's unauthorized and infringing use of the CLEAN
7 ELECTIONS USA mark in connection with election-related activities is likely to cause
8 confusion, to cause mistake, or to deceive.

9 32. Clean Elections USA's unauthorized use in commerce of the CLEAN
10 ELECTIONS USA mark is likely to deceive consumers as to the source, sponsorship,
11 origin, or affiliation of Clean Elections USA's election information services, and is
12 likely to cause consumers to believe, contrary to fact, that Clean Elections USA is
13 authorized by, endorsed by, sponsored by, associated with, or affiliated with Clean
14 Elections.

15 33. On information and belief, Clean Elections USA committed the foregoing
16 acts of infringement with full knowledge of Clean Election's prior rights in the CLEAN
17 ELECTIONS mark and with the willful intent to cause confusion and trade on Clean
18 Election's goodwill.

19 34. Clean Elections USA's actions constitute common law trademark
20 infringement.

21 35. Clean Elections is entitled to injunctive relief to enjoin Clean Elections
22 USA from further unauthorized use of the infringing CLEAN ELECTIONS USA mark.

23 36. Clean Elections is also entitled to recover its reasonable attorneys' fees
24 and costs and any other common law and statutory damages, in an amount to be
25 calculated at trial, due to Clean Elections USA's unauthorized use of the infringing
26 CLEAN ELECTIONS USA mark.

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1 **PRAYER FOR RELIEF**

2 Wherefore, Plaintiff respectfully requests judgment against Defendants as
3 follows:

4 A. Grant an injunction temporarily, preliminarily, and permanently
5 enjoining Defendant, her agents, officers, directors, attorneys, successors, affiliates,
6 subsidiaries, and assigns, and all of those in active concert and participation with any
7 of the foregoing persons and entities who receive actual notice of the Court’s order by
8 personal service or otherwise commanding such people or entities to:

9 1. Immediately cease using the mark CLEAN ELECTIONS USA or
10 any other mark that incorporates the mark CLEAN ELECTIONS or is a
11 confusingly similar variation or colorable imitation of Plaintiff’s CLEAN
12 ELECTIONS mark, in connection with past, current, or future election activities
13 in Arizona when such uses are likely to reach Arizona residents. This prohibition
14 applies to social media postings, websites, email, podcasts, and other media.
15 Such an order would not preclude Ms. Jennings from communicating about
16 elections in Arizona so long as her communication does use the mark CLEAN
17 ELECTIONS USA.

18 2. Remove from the website www.cleanelectionsususa.org a blog post
19 dated June 29, 2022, titled “10+ Ways the Election was Rigged in Maricopa
20 County.” Ms. Jennings may post that information on another website or social
21 media site that does not refer to an organization or affiliated group of people or
22 entities by the name “clean elections.”

23 B. Plaintiff may in future submissions ask the Court to temporarily,
24 preliminarily, and permanently enjoin Defendant, her agents, officers, directors,
25 attorneys, successors, affiliates, subsidiaries, and assigns, and all of those in active
26 concert and participation with any of the foregoing persons and entities who receive
27 actual notice of the Court’s order by personal service or otherwise from:
28

1 1. Using the mark CLEAN ELECTIONS USA or any other mark that
2 incorporates the mark CLEAN ELECTIONS or is a confusingly similar
3 variation or colorable imitation of Plaintiff's CLEAN ELECTIONS mark;

4 2. Engaging in any activity that infringes Plaintiff's rights in its
5 CLEAN ELECTIONS mark;

6 3. Making or displaying any statement, representation, or depiction
7 that is likely to lead the public or the trade to believe that (i) Defendant's services
8 are in any manner approved, endorsed, licensed, sponsored, authorized, or
9 franchised by or associated, affiliated, or otherwise connected with Plaintiff or
10 (ii) Plaintiff's services are in any manner approved, endorsed, licensed,
11 sponsored, authorized, or franchised by or associated, affiliated, or otherwise
12 connected with Defendant;

13 4. Registering or applying to register any trademark, service mark,
14 domain name, trade name, or other source identifier or symbol of origin
15 consisting of or incorporating the mark CLEAN ELECTIONS or any other mark
16 that infringes or is likely to be confused with Plaintiff's CLEAN ELECTIONS
17 mark, or any goods or services of Plaintiff, or Plaintiff as their source; and

18 5. Aiding, assisting, or abetting any other individual or entity in
19 doing any act prohibited by sub-paragraphs 1 through 4.

20 C. Plaintiff may in future submissions ask the Court to direct Defendant to
21 immediately cease all display, distribution, marketing, advertising, promotion, sale,
22 offer for sale and/or use of any and all websites, domain names, social media accounts,
23 and other materials, physical or digital, that feature or bear any designation or mark
24 incorporating the mark CLEAN ELECTIONS or any other mark that is a counterfeit,
25 copy, simulation, confusingly similar variation, or colorable imitation of Plaintiff's
26 CLEAN ELECTIONS mark, and to direct all individuals acting in concert with
27 Defendants to cease all display, distribution, marketing, advertising, promotion, sale,
28 offer for sale and/or use of any and all websites, domain names, social media accounts,

1 and other materials, physical or digital, that feature or bear any designation or mark
2 incorporating the mark CLEAN ELECTIONS or any other mark that is a counterfeit,
3 copy, simulation, confusingly similar variation, or colorable imitation of Plaintiff's
4 CLEAN ELECTIONS mark, and to immediately remove them from public access and
5 view.

6 D. Awarding such other and further relief as the Court deems just and proper.

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8 DATED this 2nd day of November, 2022.

9 OSBORN MALEDON, P.A.

10
11 By /s/James D. Smith
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Attorneys for Plaintiff

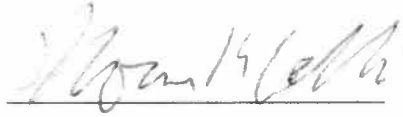
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Verification

I, Thomas M. Collins, am the Executive Director of the Arizona Citizens Clean Elections Commission and provide this verification in that role. I read the foregoing Verified Complaint and either have personal knowledge of the truth of the factual allegations or believe them to be true on information and belief.

I declare under penalty of perjury of the laws of the State of Arizona that the foregoing is true and correct.

Executed on November, 2022, at Phoenix, Arizona.



Thomas M. Collins