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14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
15 **IN AND FOR THE COUNTY OF PIMA**

16 **BETH FORD**, in her official capacity as  
17 Pima County Treasurer,

18 Plaintiff,

19 vs.

20 **DEMOCRATIC PARTY OF PIMA**  
21 **COUNTY, a political organization; et al.,**

22 Defendants.

23 **PIMA COUNTY COMMITTEE OF THE**  
24 **ARIZONA LIBERTARIAN PARTY**  
**INCORPORATED, a political organization,**

25 Cross-Claimant,

26 vs.

**PIMA COUNTY,**

Cross-Defendant.

**NO. C20085016**

**DEMOCRATIC PARTY OF PIMA**  
**COUNTY'S SUPPLEMENTAL**  
**CITATION OF AUTHORITIES**

Assigned to:  
Hon. Charles Harrington



1 The defendant Democratic Party of Pima County hereby files supplemental authorities that  
2 have come to its attention since filing its Joint Opposition to Various Motions to Dismiss:

3 Ariz. Const., Art. 7, Sec. 12:

4 There shall be enacted registration and other laws to secure the purity of  
5 elections and guard against abuses of the elective franchise.

6 Ariz. Const., Art. 7, Sec. 4:

7 Electors shall in all cases, except treason, felony, or breach of the peace, be  
8 privileged from arrest during their attendance at any election and in going  
thereto and returning from.

9 Ariz. Const., Art. 7, Sec. 5:

10 No elector shall be obliged to perform military duty on the day of an election  
11 except in time of war or public danger.

12 Ariz. Const., Art. 2, Sec. 21:

13 All elections shall be free and equal, and no power, civil or military, shall at  
14 any time interfere to prevent the free exercise of the right of suffrage.

15 *The Arizona State Constitution, a Reference Guide* by John D. Leshy; p. 10, The Dominant  
16 Themes of the Arizona Constitution:

17 Perhaps the most constant thread running through the Arizona Constitution  
18 is its emphasis on democracy, on popular control expressed primarily through  
19 the electoral process. The delegates shared belief was that if its citizenry  
20 sufficiently controlled the government, social justice could be accomplished.

21  
22 Separation of Powers:

23 *Parker Ex Rel. Parker v. AIA*, 204 Ariz. 42, 47, 59 P.3d 806, 811 (2002, Div. 1):

24 Finding that the transfer rule does not violate the legislature's open  
25 enrollment policy, we also reject Parker's claim that the transfer rule violates  
26 the separation of powers provision of Arizona's constitution. *See* Ariz. Const.  
art. 3. The separation of powers doctrine "mandates that each department act  
with the powers and functions properly belonging to it and that it not

1 encroach on the power and functions delegated to the other departments.”  
2 *State v. Ramsey*, 171 Ariz. 409, 412, 831 P.2d 408, 411 (App. 1992).  
3 However, “more than one department may have a legitimate and  
constitutionally permitted involvement in the same area. *Id.* At 413, 831 P.2d  
at 412.

4 *In Re San Carlos Apache Tribe V*, 193 Ariz. 195, 211, 972 P.2d 179, 195 (1999):

5 The court of appeals has developed a test for analyzing separation of powers  
6 claims. See *J. W. Hancock Enters.*, 142 Ariz. at 405-06, 690 P.2d at 124-25.  
7 We adopted this test in *State ex rel. Woods v. Block*, finding that it provides  
8 the necessary flexibility yet still maintains the goal of the separation of  
9 powers doctrine. 189 Ariz. 269, 276, 942 P.2d 428, 435 (1997). Thus we  
10 evaluate the federal parties' article III claims using the following four factors  
as guidance: (1) the essential nature of the power exercised; (2) the  
Legislature's degree of control in exercising the power; (3) the Legislature's  
objective; and (4) the practical consequences of the action. *Id.* At 277-78, 942  
P.2d at 436-37.

11 *J. W. Hancock Enterprises v. Ariz. St. Reg.*, 142 Ariz. 400, 405, 690 P.2d 119, 124 (App. 1984):

12 Political scientists have long recognized that the separation of powers doctrine  
13 does not forbid all blending of powers, but only is intended to keep one branch  
14 of government from exercising the whole power of another branch. *E.g.*, 1 F.  
Cooper, *supra*, at 15-16; Kaufman, *The Essence of Judicial Independence*, 80  
15 Columbia L.Rev. 671, 688-90 (1980); Parker, *supra*, at 464-66. Courts today  
also recognize that absolute independence of the branches of government and  
16 complete separation of powers is impracticable. *E.g.*, *State ex rel. Schneider*  
*v. Bennett*, 219 Kan. 285, 547 P.2d 786 (1976). See also *Southwest*  
*Engineering Co. V. Ernst*, 79 Ariz. 403, 291 P.2d 764 (1955); *Batty v. Arizona*  
*State Dental Board*.

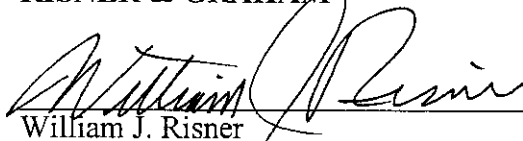
17 Examples of the blending of powers are many: administrative agencies'  
18 rulemaking power; administrative agencies' adjudicative functions; judicial  
19 rulemaking power; executive veto of legislation; impeachment and conviction  
of high government officials by the legislature. Use of the terms quasi-judicial  
20 and quasi-legislative is implicit recognition of such blending of powers. While  
some of this overlap is expressly authorized by our constitution, nevertheless,  
21 it is clear that almost every day an absolute theory of separation of powers  
would be violated. Complex modern government, however, requires such a  
22 blending of powers in order to operate with any degree of efficiency. That does  
not mean we should cast aside the doctrine of separation of powers. Rather the  
23 utility of the doctrine is preserved not by mechanistic formulas, but by ad hoc  
determinations focused on insuring sufficient checks and balance to preserve  
24 each branch's core functions.

25 ///

26 ///

1 DATED this 6th day of January 2009.

2 **RISNER & GRAHAM**

3 

4 William J. Risner  
5 Attorney for Defendant  
6 Democratic Party of Pima County

7 **COPY** of the foregoing delivered  
8 this 6th day of January 2009 to:

9 Hon. Charles Harrington  
10 **PIMA COUNTY**  
11 **SUPERIOR COURT**  
12 **DIVISION 02**  
13 110 West Congress Street  
14 Tucson, Arizona 85701

15 **COPY** of the foregoing mailed  
16 this 6th day of January 2009 to:

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