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Attorneys for Plaintiff

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

BRIAN ANDERSON,

Plaintiff,

v.

**CITY OF PHOENIX POLICE
DEPARTMENT,**

Defendant.

**CUSTODIAN OF RECORDS OF CITY OF
PHOENIX POLICE DEPARTMENT,**

Real Party in Interest.

Case No. _____

**COMPLAINT FOR STATUTORY
SPECIAL ACTION TO SECURE
ACCESS TO PUBLIC RECORDS**

Plaintiff Brian Anderson submits this Complaint for Statutory Special Action to Secure Access to Public Records pursuant to A.R.S. § 39-121, *et seq.* (the “Arizona Public Records Law”) and Ariz. R. Special Actions 106, and allege as follows:

PARTIES

1. Plaintiff Brian Anderson (“Plaintiff” or “Anderson”) is a man residing in Maricopa County, Arizona.

2. By statute and case law, Mr. Anderson may request to examine or be furnished copies of any public record, and public officers and public bodies are required to furnish copies of such records “promptly.” *See* A.R.S. §§ 39-121.01(D)(1) and (E).

1 11. By letter dated August 28, 2024, Plaintiff’s counsel Dennis I. Wilenchik, Esq., wrote
2 to the City of Phoenix Police Department records division requesting production of the requested
3 records or a response. A copy of Mr. Wilenchik’s letter is attached hereto and incorporated herein
4 as Exhibit 2.

5 12. Defendant acknowledged receipt of such letter to Mr. Anderson *only* and indicated
6 that records would be produced by September 13, 2024.

7 13. The outstanding requested records have not been produced by the City of Phoenix
8 Police Department as of the time of filing of this Complaint.

9 **COUNT ONE**
10 **(Violation of A.R.S. §§ 39-121, et seq.)**

11 14. Anderson realleges and incorporates by reference the allegations set forth in
12 paragraphs 1 through 13 of this Complaint.

13 15. The Arizona Public Records Law further provides that “[p]ublic records and other
14 matters in the custody of any officer shall be open to inspection by any person at all times during
15 office hours.” A.R.S. § 39-121.

16 16. The records requested by Anderson are indeed “public records” within the meaning
17 of the Arizona Public Records Law. *See* A.R.S. § 39-121.01(B); *Lake v. City of Phoenix*, 222 Ari.
18 547, 549 (2009) (“Arizona law defined ‘public records’ broadly and creates a presumption
19 requiring the disclosure of public information.”).

20 17. The employment history of Tyler Kemp while employed with the City of Phoenix
21 Police Department is a matter of urgent public concern. The administration of our elections is
22 fundamental to our democracy. The public cannot properly evaluate Mr. Kemp for Sheriff for
23 Maricopa County without prompt and full access to the public records that Defendant is
24 unlawfully withholding.

25 18. By its failure to provide access to or copies of all of the requested records promptly,
26 Defendant has “denied” Anderson’s public records request, and they have done so “wrongfully.”
27 *See* A.R.S. § 39-121.01(E) and § 39-121.02(C).
28

1 I hereby certify that on this 24th day of
2 September 2024, the foregoing was filed
3 with the Clerk of the Court for the
4 Maricopa County Superior Court.

5 I further certify that a complete copy of the
6 foregoing was sent for hand-delivery via
7 process server on this 24th day of September
8 2024 upon the following:

9 City Attorney
10 Phoenix City Hall
11 200 West Washington St.
12 Phoenix, AZ 85003

13 /s/ *W. Denetsosie*
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