

Date 11/09/2016 Time 16:08:59

Description	Amount
CASE# CV2016-016945	
CIVIL NEW COMPLAINT	319.00
TOTAL AMOUNT	319.00
Receipt# 25575682	

1 William T. Luzader (No. 025607)
 2 Luzader Law PLLC
 3 1430 E. Missouri Ave., Suite B-275
 4 Phoenix, AZ 85014
 5 (602) 714-3050
 (602) 714-3051 fax
 will@luzaderlaw.com

6 Attorney for Plaintiffs

7
 8 SUPERIOR COURT OF ARIZONA
 9 MARICOPA COUNTY

10
 11 **Judicial Watch, Inc.; and Russell
 Pearce,**

12 Plaintiffs,

13
 14 v.

15 **Office of the Arizona Attorney
 16 General Mark Brnovich,**

17 Defendant.
 18

Case No.

CV 2016-016945

Complaint

(Statutory Special Action)

19 For their complaint in this special action against defendant Office of
 20 Arizona Attorney General Mark Brnovich to compel compliance with the
 21 Arizona Public Records Law, A.R.S. § 39-121 *et seq.*, plaintiffs Judicial Watch,
 22 Inc. and Russell Pearce allege as follows:

23 **PARTIES, JURISDICTION, AND VENUE**

24 1. Plaintiff Judicial Watch, Inc. ("Judicial Watch") is a not-for-profit,
 25 educational foundation that seeks to promote integrity, transparency, and

1 accountability in government. In furtherance of its public interest mission,
2 Judicial Watch regularly requests access to public records of federal, state, and
3 local government agencies and officials and disseminates its findings to the
4 public.

5 2. Plaintiff Russell Pearce is a citizen of Arizona, former President of the
6 Arizona Senate, and the chief legislative sponsor of the Arizona law known as
7 “S.B. 1070.”

8 3. Defendant Office of Arizona Attorney General (“Defendant”) is the
9 office of the Attorney General Mark Brnovich, the chief legal officer of the State
10 of Arizona.

11 4. The Court has jurisdiction over this action under A.R.S. § 39-121.02
12 and Rule 4(a), Arizona Rules of Procedure for Special Actions.

13 5. Venue is proper under A.R.S. § 12-401 and Rule 4(b), Arizona Rules
14 of Procedure for Special Actions.

15 GENERAL ALLEGATIONS

16 6. On or before September 15, 2016, Defendant entered into a “Joint
17 Case Disposition” on behalf of the State of Arizona in *Valle del Sol v. Whiting*,
18 Case No. CV-10-01061-PHX-SRB (D. Ariz.). The plaintiffs in *Valle del Sol v.*
19 *Whiting* were challenging various provisions of S.B. 1070.

20 7. The Joint Case Disposition was submitted to the court in *Valle del Sol*
21 *v. Whiting* purportedly for the purpose of resolving the remaining issues in that
22 litigation. Among the unusual provisions of the Joint Case Disposition was a
23 provision in which Defendant agreed to issue an “Informal Attorney General
24 Opinion.” This “informal” opinion ostensibly sets forth the Attorney General’s
25 interpretation of the meaning of certain sections of S.B. 1070.

1 8. By a letter dated September 20, 2016, Plaintiffs requested that
2 Defendant provide access to certain records concerning or relating to the Joint
3 Case Disposition.

4 9. Plaintiffs' public-records request specifically sought copies of the
5 following public records:

6 **Communications, correspondence, and contacts between the**
7 **Arizona Attorney General's Office and counsel for plaintiffs in**
8 ***Valle del Sol, et al. v. Whiting, et al.*, Case No. CV-10-1061-PHX-**
9 **SRB (D. Ariz.) concerning or relating to the Joint Case**
10 **Disposition submitted to the court on September 15, 2016. Such**
11 **records include, but are not limited to, records of discussions**
12 **resulting in the agreement to submit to the court the Joint Case**
13 **Disposition.**

14 10. By an email message on that same day, Defendant acknowledged
15 receipt of Plaintiffs' request.

16 11. Under A.R.S. § 39-121.01(D)(1), Defendant was required to promptly
17 furnish copies of responsive records.

18 12. As of the date of this Special Action, Defendant has not responded to
19 Plaintiffs' request. Defendant has failed to furnish any records responsive to
20 Plaintiffs' request or demonstrate that responsive records are exempt from
21 production. Nor has Defendant indicated whether or when any responsive
22 records will be furnished. In sum, Defendant continues to deny Plaintiffs access
23 to the requested records. *See* A.R.S. § 39-121.01(E).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CLAIM FOR RELIEF
(Violation of Arizona Public Records Law—
Failure to Produce or Provide Access)

13. Plaintiffs incorporate all foregoing allegations in this paragraph.

14. Defendant has violated the Arizona Public Records Law by failing to provide access to the requested records.

15. Plaintiffs are being irreparably harmed by reason of Defendant's violation of the Arizona Public Records Law, and Plaintiffs will continue to be irreparably harmed unless Defendant is compelled to comply with the requirements of the Arizona Public Records Law.

WHEREFORE, plaintiffs Judicial Watch and Russell Pearce pray for relief and judgment against defendant Office of Arizona Attorney General Mark Brnovich as follows:

A. For an order compelling Defendant to immediately furnish copies of the requested public records;

B. For an award damages, costs, and attorney's fees as allowed by A.R.S. § 39-121.02 and Rule 4(g), Arizona Rules of Procedure for Special Actions; and

C. For any other relief the Court deems necessary, just, and proper under these circumstances.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Dated: November 9, 2016

Respectfully submitted,



William T. Luzader
Luzader Law PLLC
1430 E. Missouri Ave., Suite B-275
Phoenix, AZ 85014
Attorney for Plaintiffs