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COPY

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CHRIS DEROSE, CLERK
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IN THE SUPERIOR COURT OF MARICOPA COUNTY

IN AND FOR THE STATE OF ARIZONA

MARK BRNOVICH, a married man;

Plaintiff,

v.

CLEAN ENERGY FOR A HEALTHY
ARIZONA, LLC, an Arizona limited liability
company, CLEAN ENERGY FOR A
HEALTHY ARIZONA COMMITTEE,
DARRYL TATTRIE, JESSICA GRENNAN,
ALEJANDRA GOMEZ, and TOM STEYER;

Defendants.

Case No.: CV 2018-013379

COMPLAINT

(Jury Trial Demanded)

Plaintiff Mark Brnovich, by and through counsel undersigned, hereby files his Complaint against Clean Energy for a Healthy Arizona, LLC, Clean Energy for a Healthy Arizona Committee, Darryl Tattrie, Jessica Grennan, Alejandra Gomez, and Tom Steyer (collectively "Clean Energy for a Healthy Arizona" or "Defendants"), and hereby alleges as follows:

1 6. On information and belief, the monies referenced by Defendants may have been
2 donated to the Republican Attorney General's Association which is an independent expenditure
3 committee, which by law cannot coordinate with, or otherwise involve a candidate directly.

4 7. Moreover, the changes made by the Attorney General's Office to the language of
5 the description of Proposition 127 were not made to benefit APS, or anyone else, rather Mark
6 Brnovich exercised his duty as Arizona Attorney General to assure that the descriptions of ballot
7 measures are fair and accurate, and provide necessary and appropriate information to the voting
8 public, ensuring that voters of all persuasions are able to understand what a "yes" or "no" vote
9 could accomplish.

10 8. Indeed, contrary to Defendants assertions, Attorney General Mark Brnovich had
11 no communications with APS regarding Proposition 127, never intended to do anything by any
12 informational language to help steer the election and did not act for APS in relation to
13 Proposition 127. Any reference to the contrary in ads being put out are blatantly false and
14 maliciously concocted solely for partisan purposes.

15 9. Tellingly, the Secretary of State's Office actually wanted to include language that
16 Proposition 127 would result in a required increase of **317%** in retail energy sales from
17 renewable sources. Attorney General Mark Brnovich properly refused to include this language
18 due to the fact that his office believed that this language was in essence, "redundant and appears
19 to be designed to shock voters as a separate, dramatic increase". That is, Attorney General Mark
20 Brnovich refused to include language proffered by the Secretary of State's Office which was
21 seemingly designed to shock voters against its passage.

22 10. Further, the Attorney General's Office had communications with Defendants
23 Lawyer prior to the official language being finalized, *not* APS, Pinnacle West, or any
24 representative of those organizations.

25 11. Attorney General Mark Brnovich has always been transparent with Defendants
26 and their Lawyer regarding the ballot language used in relation to Proposition 127.

1 12. The Attorney General even considered language/modifications proposed by
2 Defendants Lawyer.

3 13. Specifically, Defendants, through their attorney, claimed that the final description
4 must include the removal of the phrase “irrespective of cost to consumers” and “neither pre-
5 1997 hydropower nor any nuclear generation counts for this percentage”.

6 14. Defendants threatened to sue if these changes were not made.

7 15. In response to these concerns, the then Acting Division Chief, Brunn (Beau)
8 Roysden, explained that Ariz.Rev.Stat. § 19-125 *requires* that the ballot describe “the essential
9 change in existing law”.

10 16. The existing renewable energy plan was established after consideration of the cost
11 to consumers, while the initiative seeks to establish a constitutional mandate to use a certain
12 amount of eligible renewable energy that applies irrespective of the cost to consumer. As such,
13 the fact that the ballot initiative creates mandates irrespective of the cost to consumers is, by
14 definition, an essential change in existing law that was required to be described pursuant to
15 statute.

16 17. Moreover, the Arizona courts require that the language not be false or clearly
17 misleading. In light of this, and the fact that the initiative limits the definition of what
18 constitutes renewable, it was necessary to make clear that certain sources of energy would not
19 constitute renewable energy under the ballot initiative.

20 18. All of this was done in a purely objective manner as one would expect from the
21 Attorney General’s Office.

22 19. Tellingly, Defendants response did not even address, let alone contest, the fact that
23 the “irrespective of the cost to consumers” language reflected a change in the existing law.
24 Instead, Defendants only contended that it somehow implied that there would be a cost.

25 20. That is, Defendants effectively conceded that this phrase described a change in the
26 existing law, and was therefore required to be included by Ariz.Rev.Stat. § 19-125.

1 21. Similarly, Defendants, through their attorney, conceded that a definition of what
2 constituted “renewable” energy under the ballot initiative was necessary.

3 22. Having been apprised of Defendants concerns and their failure to explain why
4 either phrase was not in fact necessary and required by law, the Attorney General’s Office
5 informed Defendants that the language would not be removed.

6 23. Unsurprisingly, given Defendants tacit admissions that the phrases were not
7 violative of any law and were required to be within the description, they never followed through
8 with the threat of litigation.

9 24. Instead, they purposefully and maliciously ran attack ads in multiple mediums
10 falsely claiming that Attorney General Mark Brnovich “rigged” or “manipulated” the election.

11 25. On or before October 17, 2018, Clean Energy for a Healthy Arizona released and
12 caused to be published on numerous occasions and via numerous sources—including—web-
13 based and television mediums and radio advertisements false statements to the public about the
14 Plaintiff, including a video which can be found at:

15 <https://www.youtube.com/watch?v=Knn8lgRAoXw>.

16 26. The video, as do the other ads, contains the following erroneous statements which
17 were known to be false and which should have been known by Defendants to be false, including
18 after demand for the removal was rejected:

- 19 a. Arizona’s Attorney General is supposed to protect consumers. But after APS
20 spent over 400 grand [onscreen “APS GAVE \$425,000 TO HELP ELECT
21 BRNOVICH”] to elect Mark Brnovich he rigged official ballot language [on
22 screen “MANIPULATING THE WORDING ... IN FAVOR OF APS”] to help
23 APS block affordable solar, raise your bills, and protect their profit.
- 24 b. Its corruption as usual for APS [onscreen “MARK BRNOVICH CORRUPTION
25 AS USUAL FOR APS”].
26

1 c. The FBI confirmed it launched an investigation into campaign spending linked to
2 APS.

3 d. Say no to corruption and higher bills [onscreen "NO ON BRNOVICH"] vote no
4 on Brnovich and yes on Prop 127.

5 27. The statement "they spent over 400,000 dollars to elect Mark Brnovich attorney
6 general" is also clearly false and misleading and beyond conclusory. The "contributions" by
7 APS referenced by Defendants were, at best, to an independent expenditure committee that
8 cannot legally be controlled by or have any involvement by or with the candidate as the
9 Defendants knew. However, what is also clear is that the Defendants are clearly trying to elect
10 Brnovich's opponent by wrongfully linking Brnovich to APS, and clearly inferring he had
11 changed certain language in the materials explaining the Proposition for APS' sole benefit, and
12 not based on his Office's best judgement of what the public should be informed of as a synopsis
13 of the Proposition and its effect.

14 28. The phrase "he rigged official ballot language" is patently false. The term "rig" in
15 any form—especially when used in the context of elections given current political events and
16 particularly accompanied by the term "corruption" or "bought-off"—means to any normal
17 person, illegally and wrongfully interfering with the process of an election. As you are well
18 aware, nothing of the sort occurred here and given the Attorney General's official
19 responsibilities it is defamation per se. General Brnovich unequivocally did not have any
20 communications or coordination with APS regarding Proposition 127, never intended to do
21 anything by any informational language to help steer the election and did not act for APS in
22 relation to Proposition 127. Any reference to the contrary in ads being put out are blatantly false
23 and maliciously concocted solely for partisan purposes.

24 29. The onscreen phrase "manipulating the wording in favor of APS" is false. The
25 term "manipulate" means to influence a person or situation unfairly or unscrupulously.
26 Brnovich did not "manipulate" the wording but rather exercised his duty as Arizona attorney

1 general to assure that the descriptions of ballot measures are fair and accurate and provide
2 necessary and appropriate information to the voting public, ensuring that voters of all
3 persuasions are able to understand what a “yes” or “no” vote accomplishes.

4 30. The phrase “to help APS block affordable solar, raise your bills, and protect their
5 profit” is false. General Brnovich unequivocally did not have any communications or
6 coordination with APS regarding Proposition 127, never intended to do anything by any
7 informational language to help steer the election and did not act for APS in relation to
8 Proposition 127. Further, the Arizona Corporation Commission is tasked with setting “just and
9 reasonable” rates in relation to APS. As such, unlike a non-regulated company, APS does not
10 control its rates or fees, rather, APS’s rates and fees are set by the Arizona Corporation
11 Commission. The profits of APS are set by the Arizona Corporation Commission in its rate
12 making authority. *See e.g., Scates v. Arizona Corp. Comm'n*, 118 Ariz. 531, 534, 578 P.2d 612,
13 615 (Ct. App. 1978) (“Thus, the rates established by the Commission should meet the overall
14 operating costs of the utility ***and produce a reasonable rate of return***. It is equally clear that the
15 ***rates cannot be considered just and reasonable if they fail to produce a reasonable rate of***
16 ***return*** or if they produce revenue which exceeds a reasonable rate of return.” (emphasis added)).

17 31. The phrases “Its corruption as usual for APS [onscreen “MARK BRNOVICH
18 CORRUPTION AS USUAL FOR APS”] followed by “the FBI confirmed it launched an
19 investigation into campaign spending linked to APS” and “say no to corruption and higher bills
20 [onscreen “NO ON BRNOVICH”] vote no on Brnovich” are false. While the FBI may have
21 investigated into campaign spending linked to APS, this has absolutely nothing to do with
22 Brnovich and should not be linked to him in any way to be fair or honest. Further, the statement
23 is patently misleading as even the investigation that did occur (relating to Gary Pierce, Sherry
24 Pierce, Jim Norton, and Johnson Utilities) resulted in a mistrial and the FBI dropping the
25 charges.

26

1 32. On or before October 3, 2018, Clean Energy for a Healthy Arizona released and
2 caused to be published on numerous occasions and via numerous sources—including—web-
3 based and television mediums and radio advertisements false statements to the public about the
4 Plaintiff including a video which can be found at:

5 <https://twitter.com/CleanHealthyAZ/status/1047622330413998080>.

6 33. The video, as do the other ads, contains the following erroneous statements which
7 were known to be false and which should have been known by Defendants to be false, including
8 after demand for the removal was rejected:

- 9 a. While APS raised your rates and fees they spent over \$400,000 dollars to elect
10 Mark Brnovich attorney general.
- 11 b. So when Prop 127, the clean energy ballot measure threatened APS's profits
12 Brnovich bailed them out.
- 13 c. Manipulating the wording on the clean energy ballot initiative in favor of APS.
- 14 d. Arizona's top election officials called it eye-brow raising.
- 15 e. You can call it corrupt.
- 16 f. To clean up Arizona and lower costs vote no on Brnovich and yes on 127.

17 34. In addition, Defendants have stated on numerous ads run on television and/or
18 radio and print ads that Brnovich "rigged the system to protect their profits at our expense".
19 Brnovich did not "rig" any system or manipulate ballot language as claimed to protect anyone's
20 profits at the expense of anyone else. All these statements are verifiably and demonstrably false
21 and/or misleading and place the Attorney General Brnovich in a false light at a minimum, and
22 really had nothing to do with Proposition 127 and were designed solely or in prominent part to
23 assist Plaintiff's opponent and to avoid campaign finance laws.

24 35. Brnovich did not alter the description of the energy renewable initiative,
25 Proposition 127, to include the phrase "irrespective of cost to consumers" for APS' benefit, and
26 had no intention that it would use this language to help APS to convince voters to reject the

1 Proposition, and is not responsible for such use. In fact, any language changed was made by an
2 Assistant Arizona Attorney General who heads up the Civil Division and was not done for any
3 partisan purpose of the Attorney General. The language used is the language decided on to
4 necessarily explain the ballot measure's effect. The statement by Defendants that "APS raised
5 your rates and fees" is not only false and misleading, but really has nothing to do with the
6 statements and connection to Brnovich. The Arizona Corporation Commission is tasked with
7 setting "just and reasonable" rates in relation to APS. As such, unlike a non-regulated company,
8 APS does not control its rates or fees, rather, APS's rates and fees are set by the Arizona
9 Corporation Commission so the statement is purposefully misleading and false and tied to
10 Attorney General Brnovich in bad faith and to be malicious.

11 36. The statement "they spent over 400,000 dollars to elect Mark Brnovich attorney
12 general" is also clearly false and misleading and beyond conclusory. The "contributions" by
13 APS referenced by Defendants were to an independent expenditure committee that cannot
14 legally be controlled by or have any involvement by or with the candidate as the Defendants
15 knew. However, what is also clear is that the Defendants are clearly trying to elect Brnovich's
16 opponent by wrongfully linking Brnovich to APS, and clearly inferring he had changed certain
17 language in the materials explaining the Proposition for APS' sole benefit, and not based on his
18 Office's best judgement of what the public should be informed of as a synopsis of the
19 Proposition and its effect.

20 37. The statement "Prop 127 the clean energy ballot measure threatened APS's
21 profits" is also known to be false and misleading. Again, the profits of APS are set by the
22 Arizona Corporation Commission in its rate making authority and not by APS. *See e.g., Scates*
23 *v. Arizona Corp. Comm'n*, 118 Ariz. 531, 534, 578 P.2d 612, 615 (Ct. App. 1978) ("Thus, the
24 rates established by the Commission should meet the overall operating costs of the utility *and*
25 *produce a reasonable rate of return*. It is equally clear that the *rates cannot be considered just*
26

1 *and reasonable if they fail to produce a reasonable rate of return* or if they produce revenue
2 which exceeds a reasonable rate of return.” (emphasis added)).

3 38. The statement “Brnovich bailed them out” is incredibly false and misleading and
4 cast as are the other false statements as facts. The colloquially “bailed them out” language
5 means to get someone or something out of trouble. Brnovich has taken no steps in furtherance
6 of APS to get them out of some legal or other trouble, but rather, through his Office as Chief
7 Law Enforcement Officer of the State, exercised his duty as Arizona Attorney general to assure
8 that the descriptions of ballot measures are fair and accurate, and provide necessary and
9 appropriate information to the voting public, ensuring that voters of all persuasions are able to
10 understand what a “yes” or “no” vote could accomplish. Moreover, the election has not
11 occurred and as such no action could have gotten someone or something, including APS, out of
12 any supposed trouble.

13 39. The statement “[m]anipulating the wording on the clean energy ballot initiative in
14 favor of APS” is also false and misleading. The term “manipulate” means to influence a person
15 or situation unfairly or unscrupulously. Brnovich did nothing to “manipulate” the wording, but
16 rather exercised his duty as Arizona attorney general to assure that the descriptions of ballot
17 measures are fair and accurate and provide necessary and appropriate information to the voting
18 public, ensuring that voters of all persuasions are able to understand what a “yes” or “no” vote
19 accomplishes. This is a practice his Office and persons working there do as part of their official
20 responsibilities.

21 40. The statement “Arizona’s top election officials called it eye-brow raising” is false
22 and misleading. First, there were no top election officials that said this at all. The statement was
23 allegedly made by a single individual, one Eric Spencer, a lawyer who works at the Secretary of
24 State’s Office in an e mail that was apparently leaked to the public or press. As such, Defendant
25 Clean Energy for a Healthy Arizona’s statement’s use of pluralization is patently false.
26 Moreover, Eric Spencer himself actually wanted to include language that Proposition 127 would

1 result in a required increase of 317% in retail energy sales from renewable sources. Attorney
2 General Mark Brnovich properly refused to include this language due to the fact that his office
3 believed that this language was in essence, “redundant and appears to be designed to shock
4 voters as a separate, dramatic increase”. Thus, Eric Spencer’s “eye-brow raising” comment
5 clearly contradict his own suggested language for the description of Proposition 127—which
6 again was designed to shock voters against its passage.

7 41. The knowingly coy statement “[y]ou can call it corrupt” is false and misleading.
8 This phrase clearly implies that the speaker has knowledge of facts that would constitute
9 “corruption” but then disingenuously leaves it to the hearer to call it the same. “Corruption” is a
10 showing of a willingness to act dishonestly in return for money or personal gain. Such a
11 suggestion is patently false and there are no facts to support such an absurd contention.
12 Brnovich’s actions were the exact opposite of corrupt as he acted, pursuant to his duty as
13 attorney general, to assure that the descriptions of ballot measures are fair and accurate and
14 provide necessary and appropriate information to the voting public, ensuring that voters of all
15 persuasions are able to understand what a “yes” or “no” vote accomplishes.

16 42. The statement “[t]o clean up Arizona and lower costs vote no on Brnovich and yes
17 on 127” is also false and misleading in that voting no on Brnovich in no way cleans up Arizona
18 or lowers any costs for voters at all.

19 43. On or before October 11, 2018, Clean Energy for a Healthy Arizona released and
20 caused to be published on numerous occasions and via numerous sources—including—web-
21 based and radio mediums—further audio advertisements which can be found at:

22 [https://www.azcentral.com/story/opinion/op-ed/laurieroberts/2018/10/11/prop-](https://www.azcentral.com/story/opinion/op-ed/laurieroberts/2018/10/11/prop-127-attacking-mark-brnovich-helping-aps-he-deserves/1603053002/)
23 [127-attacking-mark-brnovich-helping-aps-he-deserves/1603053002/.](https://www.azcentral.com/story/opinion/op-ed/laurieroberts/2018/10/11/prop-127-attacking-mark-brnovich-helping-aps-he-deserves/1603053002/)

24 44. The audio advertisement contains the following statements:

25 a. It’s called a cash cow.
26

- 1 b. For big utility company APS raising rates and fees on Arizona customers grows
2 their profits.
- 3 c. So APS buys off Arizona politicians.
- 4 d. The FBI confirmed it launched an investigation into campaign spending linked to
5 APS.
- 6 e. And politicians help APS in return.
- 7 f. APS gave over 400,000 dollars to help Mark Brnovich become attorney general.
8 And another 400 grand to Governor Ducey.
- 9 g. So when the affordable clean energy measure, Prop 127 threatened APS's profits
10 Brnovich stepped in and altered its official ballot label.
- 11 h. Manipulating the wording in favor of APS.
- 12 i. The state's top election officials called it eye-brow raising.
- 13 j. APS would call it a return on investment.
- 14 k. If you want to clean up corruption and bring down energy bills vote no on
15 Brnovich and Ducey. Vote yes on Prop 127.

16 45. These statements are verifiably and demonstrably false and misleading and
17 defamatory and defamatory per se, and placed Plaintiff in a false light.

18 46. The statement "[f]or big utility company APS raising rates and fees on Arizona
19 customers grows their profits" is purposefully and maliciously false and misleading. The profits
20 of APS are set by the Arizona Corporation Commission in its rate making authority. *See e.g.,*
21 *Scates v. Arizona Corp. Comm'n*, 118 Ariz. 531, 534, 578 P.2d 612, 615 (Ct. App. 1978) ("Thus,
22 the rates established by the Commission should meet the overall operating costs of the utility
23 **and produce a reasonable rate of return.** It is equally clear that the **rates cannot be considered**
24 **just and reasonable if they fail to produce a reasonable rate of return** or if they produce
25 revenue which exceeds a reasonable rate of return." (emphasis added)).
26

1 47. The statement “[s]o APS buys off Arizona politicians” is false and misleading and
2 clearly in light of all other statements intended to clearly reflect on the Plaintiff without naming
3 him directly. The colloquially “buys off” is a synonym for the word “bribe” and suggests the
4 commission of a crime. Such a contention is patently false and defamatory per se.

5 48. The statement “[t]he FBI confirmed it launched an investigation into campaign
6 spending linked to APS” is false and misleading and again communicated to somehow leave the
7 false impression that Brnovich is somehow tied into some kind of FBI investigation, which is
8 defamatory per se. While the FBI may have investigated into campaign spending linked to APS,
9 this has absolutely nothing to do with Brnovich and should not be linked to him in any way to be
10 fair or honest. Its placement in a context to suggest that the FBI is investigating Mark Brnovich,
11 is false. Further, the statement is patently misleading as even the investigation that did occur
12 (relating to Gary Pierce, Sherry Pierce, Jim Norton, and Johnson Utilities) resulted in a mistrial
13 and the FBI dropping the charges.

14 49. The statement “APS gave over 400,000 dollars to help Mark Brnovich become
15 attorney general” is beyond false and misleading and malicious as well as the others herein. The
16 contributions by APS referenced by Defendants were to an independent expenditure committee
17 that cannot legally be controlled by or have any involvement by or with the candidate as
18 Defendants know.

19 50. The statement “Prop 127 threatened APS’s profits” is also false and misleading.
20 Again, the profits of APS are set by the Arizona Corporation Commission in its rate making
21 authority. *See e.g., Scates v. Arizona Corp. Comm'n*, 118 Ariz. 531, 534, 578 P.2d 612, 615 (Ct.
22 App. 1978) (“Thus, the rates established by the Commission should meet the overall operating
23 costs of the utility **and produce a reasonable rate of return**. It is equally clear that the **rates**
24 **cannot be considered just and reasonable if they fail to produce a reasonable rate of return** or
25 if they produce revenue which exceeds a reasonable rate of return.” (emphasis added)).
26

1 51. The statement “Brnovich stepped in and altered its official ballot label” is false
2 and misleading. The phrase “stepped in and altered” in the context of this statement insinuates a
3 wrongful action. This is false. Brnovich did not act in any wrongful way or act beyond the duty
4 he is actually entrusted with as part of his official responsibilities. Brnovich exercised his duty
5 as Arizona attorney general to assure that the descriptions of ballot measures are fair and
6 accurate and provide necessary and appropriate information to the voting public, ensuring that
7 voters of all persuasions are able to understand what a “yes” or “no” vote accomplishes. There is
8 no basis to disparage these activities entrusted to the Attorney General as if he intervened on
9 APS’ behalf to alter language to benefit it, when, in fact, others in the Attorney General’s Office
10 believed the language had not fully reflected the actual truth, and acted for the public’s benefit
11 not APS, who did not contribute \$425,000 to Brnovich as has been falsely and misleadingly
12 claimed.

13 52. The statement “altered its official ballot label” is also false and misleading. The
14 “ballot label” was not altered as if it were final. Rather, Brnovich exercised his duty as Arizona
15 Attorney General, through officials in his Office charged with these responsibilities, to assure
16 that the descriptions of ballot measures are fair and accurate and provide necessary and
17 appropriate information to the voting public before receipt and to not simply accept what the
18 Secretary of State’s election director dictates, ensuring that voters of all persuasions are able to
19 understand what a “yes” or “no” vote actually may accomplish and the obvious risks attendant
20 to the vote.

21 53. The statement “[m]anipulating the wording in favor of APS” is false and
22 misleading. As described herein, the wording does not favor APS and was not intended for that
23 purpose by the Attorney General’s Office. There was no “manipulation” of any wording as the
24 connotation of that word implies. There was language added that was deemed necessary to
25 properly convey the effects of the Proposition. Moreover, the term “manipulate” means to
26 influence a person or situation unfairly or unscrupulously. Brnovich did not “manipulate” the

1 wording but rather exercised his duty as Arizona attorney general to assure that the descriptions
2 of ballot measures are fair and accurate and provide necessary and appropriate information to
3 the voting public, ensuring that voters of all persuasions are able to understand what a “yes” or
4 “no” vote accomplishes.

5 54. The statement “[t]he state’s top election officials called it eye-brow raising” is
6 false and misleading. The statement was allegedly made by a single individual, one Eric
7 Spencer, whose e mail was leaked to the public or press to imply some wrongful conduct based
8 on questionable motives of all involved as stated earlier herein. As such, Defendant Clean
9 Energy for a Healthy Arizona’s statement’s use of pluralization is patently false.

10 55. Moreover, the statement was made by one Eric Spencer who himself actually
11 wanted to include language that Proposition 127 would result in a required increase of 317% in
12 retail energy sales from renewable sources. Attorney General Mark Brnovich properly refused
13 to include this language due to the fact that his office believed that this language was in essence,
14 “redundant and appears to be designed to shock voters as a separate, dramatic increase”. Thus,
15 Eric Spencer’s “eye-brow raising” comment clearly contradict his own suggested language for
16 the description of Proposition 127—which again was designed to shock voters against its
17 passage.

18 56. The statement “APS would call it a return on investment” is false and misleading.
19 Defendants have no doubt no idea what APS would call this at all. It is believed they would not
20 say this at all because it is patently false. The phrase “return on investment” indicates that APS
21 invested something in expectation of return. That would be false. As alleged herein, APS has
22 never “invested” in Brnovich. Moreover, Brnovich has never given APS anything. Rather,
23 Brnovich exercised his duty as Arizona attorney general to assure that the *descriptions* of ballot
24 measures are fair and accurate and provide necessary and appropriate information to the voting
25 public, ensuring that voters of all persuasions are able to understand what a “yes” or “no” vote
26 accomplishes.

1 57. The statement “[i]f you want to clean up corruption and bring down energy bills
2 vote no on Brnovich” is false and misleading. This statement claims that Clean Energy for a
3 Healthy Arizona has evidence or factual basis to claim that Brnovich is “corrupt”. “Corruption”
4 is a showing of a willingness to act dishonestly in return for money or personal gain. Such a
5 suggestion is patently false and there are no facts to support such an absurd contention.
6 Brnovich’s actions were the exact opposite of corrupt as he acted, pursuant to his duty as
7 attorney general, to assure that the descriptions of ballot measures are fair and accurate and
8 provide necessary and appropriate information to the voting public, ensuring that voters of all
9 persuasions are able to understand what a “yes” or “no” vote accomplishes.

10 58. The same falsehoods found in these ads are also found on
11 <https://www.apscorruption.com> which is paid for by Clean Energy for a Healthy Arizona. A
12 simple “google” search of the phrase “attorney general”—with no modifiers or additional
13 language—returns as a first “result” a paid google ad for <https://www.apscorruption.com>.

14 59. As alleged herein, the entire content of Clean Energy for a Healthy Arizona’s
15 advertisements are entirely false and misleading and purposefully and maliciously designed to
16 place Brnovich in a false light in a vicious and hurtful manner beyond the pale of a civilized
17 society.

18 60. These false and misleading publications, which falsely accuse Brnovich (an
19 attorney and elected public servant as corrupt) impeach the honesty, integrity and reputation of
20 Brnovich. “In Arizona, a publication which impeaches the honesty, integrity or reputation of a
21 person is libelous per se” *Peagler v. Phoenix Newspapers, Inc.*, 114 Ariz. 309, 316 (1977);
22 *Kinsey v. Real Detective Pub. Co.*, 52 Ariz. 353 (1938); *See also*, PROSSER ON TORTS § 112, at
23 757-64 (4TH ED.1971); RESTATEMENT OF TORTS § 569, comment E; and is actionable without
24 proof of special damages because damages are presumed, *Ilitzky v. Goodman*, 57 Ariz. 216
25 (1941); *Central Arizona Light & Power Co. v. Akers*, 45 Ariz. 526 (1935).

26 . . .

1 **PARTIES**

2 61. Plaintiff Mark Brnovich is the Arizona Attorney General, is a citizen of the United
3 States and resident of the City of Phoenix in the state of Arizona. He is a married man with
4 children.

5 62. Defendant Clean Energy for a Healthy Arizona, LLC is an Arizona limited
6 liability company

7 63. Defendant Clean Energy for a Healthy Arizona is a Committee formed in the State
8 of Arizona for the purpose of an Initiative Petition. The Arizona Committee ID No. for Clean
9 Energy for a Healthy Arizona is 2018-00444.

10 64. Defendant Darryl Tattrie is the Treasure of Clean Energy for a Healthy Arizona
11 Committee and a member of Clean Energy for a Healthy Arizona, LLC.

12 65. Defendant Alejandra Gomez is the Chairperson of the Clean Energy for a Healthy
13 Arizona Committee.

14 66. Defendant Jessica Grennan is a member of Clean Energy for a Healthy Arizona,
15 LLC.

16 67. Defendant Tom Steyer is a liberal activist and fundraiser who upon information
17 and belief is a large donor to Clean Energy for a Healthy Arizona who contributed to, approved,
18 and funded the false and misleading advertisements that are the subject of this Complaint.

19 **JURISDICTION AND VENUE**

20 68. This Court has jurisdiction pursuant to Ariz.Const.Art. VI § 14 and Ariz.Rev.Stat.
21 §§ 12-123, 12-1801, and 12-1831. This Court is an appropriate venue as the actions complained
22 of where purposefully directed at and occurred in Maricopa County. Ariz.Rev.Stat. § 12-401.

23
24 **COUNT ONE**
(DEFAMATION AND DEFAMATION PER SE)

25 69. Brnovich incorporates by this reference all allegations of this Complaint as if fully
26 set forth herein.

1 70. The advertisements alleged herein, when read or heard in context have the natural
2 and probable effect of bringing Brnovich into disrepute, contempt and ridicule, and impeach
3 Brnovich's honesty, integrity, virtue, and reputation in the mind of the average reader or hearer.

4 71. As alleged herein, the advertisements contain numerous false and defamatory
5 statements of fact of and concerning Brnovich.

6 72. As alleged herein, these statements are patently false and misleading and
7 purposefully malicious by clear and convincing evidence and were made within the past year.
8 The false and derogatory statements go to the very heart of Plaintiff's business calling and
9 occupation and profession and were designed by evil individuals to cause evil results and were
10 purposeful and intended to cause embarrassment and shame with a conscious disregard for the
11 effect of these malicious statements or were made purposefully or recklessly and warrant
12 punitive damages to deter such horrendous conduct in the future as to Plaintiff or others.

13 73. Given the fact that every statement contained in the advertisements is false and
14 misleading based upon readily available information Defendants knew that the statements were
15 false or acted in reckless disregard of whether the statement was true or false. Indeed,
16 Defendants knowledge of the fact that their statements were and are false is clear as Defendants
17 were put on notice of the defamatory nature of their attack ads by letter dated October 22, 2018
18 and they have failed to respond or take any action to cease their defamatory actions. As such, by
19 at least this date Defendants undeniably had knowledge that the allegations contained in their
20 attack ads (and as alleged herein) were and are false.

21 74. As alleged herein, these false and defamatory statements have been published to
22 thousands, if not millions, of Arizona citizens through the use of web-based, televised, and radio
23 transmission.

24 75. The statements have caused Brnovich damage in an amount to be proven at trial
25 but in excess of the jurisdictional limits of this Court.
26

1 76. Moreover, “[i]n Arizona, a publication which impeaches the honesty, integrity or
2 reputation of a person is libelous per se” *Peagler v. Phoenix Newspapers, Inc.*, 114 Ariz. 309,
3 316 (1977); *Kinsey v. Real Detective Pub. Co.*, 52 Ariz. 353 (1938); *See also*, PROSSER ON
4 TORTS § 112, at 757-64 (4TH ED.1971); RESTATEMENT OF TORTS § 569, comment E; and is
5 actionable without proof of special damages because damages are presumed, *Ilitzky v.*
6 *Goodman*, 57 Ariz. 216 (1941); *Central Arizona Light & Power Co. v. Akers*, 45 Ariz. 526
7 (1935).

8 77. The statements made by Defendants have been repeated by third parties causing
9 further damage to Brnovich. It was reasonably expected, if not intended, that such repetition
10 would occur and as such Defendants are liable for the remarks of those third persons.

11
12 **COUNT TWO**
(AIDING AND ABETTING)

13 78. Plaintiff incorporates by reference as though fully set forth herein all prior
14 allegations set forth above.

15 79. All defendants named are jointly and severally liable for the acts of each other as
16 they all substantially encouraged, aided and abetted one another in a conspiracy they formed to
17 scheme to defame Plaintiff and to benefit his opponent by use of defamatory statements
18 designed to harm Plaintiff and his personal and professional reputation in a smear campaign of
19 the lowest order.

20 80. Defendants directed the activities and conduct of the fictitiously named entity
21 formed to perpetrate their wrongful conduct and to wrongfully interfere in Plaintiff’s prospective
22 business and professional advantages. Defendants used the fiction of a Committee formed under
23 Title 16 of the Arizona Revised Statutes to perpetrate their wrongful activities, and to mask their
24 scheme to harm Plaintiff, and thus are all individually liable and responsible for the acts of the
25 fictitious entity as well as of each other.

26 ...

1 **REQUEST FOR RELIEF**

2 **WHEREFORE**, Plaintiffs pray for judgment against Defendants, and each of them, as
3 follows:

4 A. For damages in an amount to be proven at trial.

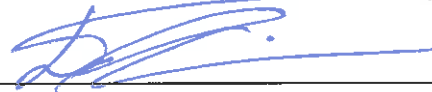
5 B. For punitive damages in an amount sufficient to punish Defendants and deter it
6 and others from emulating Defendants' conduct and for their evil minds guiding evil hands.

7 C. For costs and expenses pursuant to A.R.S. § 12-341.

8 D. For such other relief as is just and proper.

9
10 **DATED** October 24, 2018.

11 **WILENCHIK & BARTNESS, P.C.**

12 

13 _____
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Attorneys for Plaintiff

18 ORIGINAL of the foregoing filed
19 this 24th day of October, 2018, with
20 the Clerk of the Superior Court.

21 BY 
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23
24
25
26