

1 Thomas C. Horne, Esq. SBA 002951  
2 **HORNE SLATON, PLLC**  
3 6720 North Scottsdale Road, Suite 285  
4 Scottsdale, AZ 85253  
5 Tel: (480) 483-2178  
6 Fax: (480) 367-0691  
7 Email: Horne@HorneSlaton.com  
8 *Attorneys for Plaintiff*

9  
10 **ARIZONA SUPERIOR COURT**  
11 **MARICOPA COUNTY**

12 **DONALD M. SHOOTER, an**  
13 **individual,**

14 Plaintiff,

15 vs.

16 **STATE OF ARIZONA; KIRK and**  
17 **JANAE ADAMS, husband and wife;**  
18 **JAVAN "J.D." and HOLLY**  
19 **MESNARD, husband and wife,**

20 Defendant.

21 **NO.**

22 **COMPLAINT**

23 **Civil Rights Violation, Including**  
24 **Violation of 42 U.S.C. §1983,**  
25 **Defamation, False Light Invasion of**  
26 **Privacy, and Aiding and Abetting**  
27 **and Conspiracy, and Wrongful**  
28 **Termination**

**JURY TRIAL DEMANDED**

Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. Plaintiff Donald Shooter was a member of the Arizona House of Representatives, or at other times was a member of the Arizona Senate, and was for a time Chairman of the Senate Appropriations Committee, Chairman of the House Appropriations Committee and Chairman of the Joint Legislative Budget Committee.

2. During all times relevant, Defendant Kirk Adams was Chief of Staff to

1 the Governor of Arizona.

2 3. During all times relevant Defendant Javen Mesnard was Speaker of the  
3 Arizona House of Representatives.

4 4. The actions of Adams and Mesnard were for the benefit of their respective  
5 marital communities consisting of themselves and their respective wives..  
6

7 5. Jurisdiction and venue are proper in Maricopa County.  
8

9 **I. FACTUAL PREDICATE TO CLAIMS INCLUDING DEFENDANTS’  
10 CORRUPT MOTIVES FOR THE VIOLATION OF CIVIL RIGHTS,  
11 DEFAMATION, AND FALSE LIGHT, INVASION OF PRIVACY AND  
12 CONSPIRACY (AND PUBLIC RECORDS REQUEST VIOLATIONS?)**

13 **A. Donald Shooter Begins His Investigation Into Rigged Bids and  
14 Wasteful Spending**

15 6. In his position as Chairman of the Senate Appropriations Committee, Mr.  
16 Shooter began to discover questionable practices related to State expenditures on  
17 technology.

18 7. Senator Shooter learned of a significant investment in Hewlett Packard  
19 for the Arizona Department of Administration data center, initiated and led by Aaron  
20 Sandeen, the former Arizona State CIO. Senator Shooter was told that this purchase  
21 was undertaken at the same time that Mr. Sandeen was purportedly serving as a  
22 member on a Hewlett Packard National Advisory Board.  
23

24 8. Another example was relayed to Senator Shooter by Henry Darwin, the  
25 Governor’s Chief of Operations about his experience while serving in his prior role as  
26 the Arizona Director of the Department of Environmental Quality (“DEQ”).  
27  
28

1           9.     Mr. Darwin told Senator Shooter, in the presence of another witness, that  
2 Mr. Sandeen, when serving as CIO for the State, required DEQ to select a vendor the  
3 agency did not want to use, at a cost of an additional two million dollars to DEQ, a  
4 vendor which Mr. Darwin alleged, then became a client shortly after Sandeen stopped  
5 working for the state.  
6

7           10.    These alleged incidents greatly troubled Senator Shooter.  
8

9           11.    Senator Shooter’s concerns were magnified when he learned of the  
10 state’s use of “Competition not Practicable” or “Sole Source” contracts for large  
11 technology purchases. These are contracts where the State does not engage in a  
12 competitive bidding process, but rather chooses a vendor because the product is so  
13 unique, so rare that if the state attempted a competitive bid process, only that  
14 “sole”/one vendor could respond. Often, because there is no competition, that vendor  
15 is able to dictate many of the contract terms including price and service level  
16 agreements.  
17

18           12.    One example of such a no-bid, sole source contract uncovered by Senator  
19 Shooter was for “general cloud services” or cloud data storage, which the state entered  
20 into with Amazon Web Services (“AWS”) in March 2017 (and remains in effect as of  
21 this filing).  
22

23           13.    Sole source, defined in A.R.S. §41-2536, allows the State to award a  
24 contract without competition only if the director of the Department of Administration  
25 determines in writing that there is only one source for the required product or service.  
26  
27  
28

1 That statute requires that sole source procurement “shall be avoided, except when no  
2 reasonable alternative sources exist.”

3 14. “General cloud services” are provided by numerous companies including  
4 those based in Arizona, employing Arizona workers and therefore a competitive  
5 bidding process was required; Amazon Web Services is not the sole provider of  
6 general cloud services.  
7

8  
9 15. In fact, AWS is perceived as on the high end of the cost spectrum and for  
10 the difficulty and prohibitive costs clients face when attempting to withdraw data  
11 stored with AWS.  
12

13 16. Senator Shooter discovered evidence of additional no-bid contracts to  
14 buy technology products and services. Curiously, there was little or no effort to level  
15 the playing field.  
16

17 17. Instead, Senator Shooter found a concerted effort at the Department of  
18 Administration to direct work to specific, high priced, out-of-state companies by  
19 avoiding competition at the expense of Arizona workers and employers, and to the  
20 detriment of Arizona taxpayers.  
21

22 18. Senator Shooter’s proposed solution was simple: permit qualified  
23 vendors the opportunity to fairly compete.  
24

25 **B. Shooter Tries to Address Concerns Over Wasteful Government**  
26 **Spending**  
27  
28

1           19. In 2016, Senator Shooter introduced SB1434, with the goal of  
2 encouraging state agencies to migrate to the cloud and modernize technology systems.

3           20. In preparing SB1434, Senator Shooter met with representatives from  
4 Amazon, Dell, and Google, all recognized leaders in the technology industry. The bill  
5 included an oversight provision which would have required a state agency, when  
6 investing in an IT project anticipated to cost more than \$2.5 million, request at least  
7 two bids prior to entering into a contract. Agencies did not have to obtain two bids,  
8 just request them.  
9

10           21. Throughout the 2016 legislative session, Senator Shooter worked with  
11 representatives of the Governor's Office including the Governor's Deputy Chief of  
12 Operations as well as the state's Chief Information Officer (CIO) Morgan Reed to  
13 modify and refine the bill.  
14

15           22. Through the course of these revisions, SB 1434 was amended to require  
16 the state Department of Administration (DOA) to report to JLBC how many bids were  
17 received, after a large technology purchase had been made. DOA was also to report  
18 the rationale for the selection of the bid that was chosen.  
19

20           23. Despite assurances that he had addressed every issue of concern to the  
21 Governor's staff and despite the benefit to Arizona taxpayers, SB1434 was promptly  
22 vetoed.  
23  
24  
25  
26  
27  
28

1           24. Senator Shooter introduced the bill again the next session and  
2 notwithstanding attempts to work with the State CIO Morgan Reed, he was informed  
3 by representatives of the Governor's Office that it would again be vetoed.  
4

5           25. Senator Shooter was frustrated that he could not find common ground  
6 with representatives of the Governor's Office to create consistent transparency and  
7 competition.  
8

9           26. It must be noted that Mr. Shooter does not believe nor has he found any  
10 evidence that Governor Ducey was in anyway involved in or aware of Mr. Shooter's  
11 concerns and the related conduct of Adams and Mesnard and others as detailed herein.  
12

13           27. Senator Shooter continued his efforts despite harassment from  
14 defendants.  
15

16           28. These incidents of harassment occurred consistently within days of  
17 directly communicating opposition to uncompetitive procurement practices to the  
18 Governor's Chief of Staff Kirk Adams.  
19

20           29. For example, in the midst of the legislative session and five days after  
21 warning the Governor's Chief of Staff Kirk Adams and other high-level Governor  
22 staff members that he would not tolerate the state entering into and maintaining multi-  
23 million dollar contracts without competition, Senator Shooter was surveilled and  
24 followed by a private investigator.  
25  
26  
27  
28

1           30.    After realizing that a stranger was following his every move including to  
2 following him home, Senator Shooter sought intervention from the Arizona  
3 Department of Public Safety (DPS) out of concern for his safety and that of his family.  
4

5           31.    DPS identified the person surveilling him as a private investigator and  
6 made contact with the P.I. who told DPS to speak with his attorney. The P.I.'s attorney  
7 confirmed that the P.I. was conducting surveillance.  
8

9           32.    Each time that Mr. Shooter voiced his objections to the Governor's Chief  
10 of Staff Kirk Adams, within days, Dennis Welch, a local television reporter would  
11 show up at the Legislature with a camera man and aggressively follow and film Mr.  
12 Shooter, then run a story derisive of Mr. Shooter.  
13

14           33.    The timing of Welch's appearances was so consistent, that Mr. Shooter  
15 suspected collaboration between Mr. Welch and Mr. Adams.  
16

17           34.    In the summer of 2017, in his capacity as Chairman of the Joint  
18 Legislative Budget Committee (JLBC), Mr. Shooter was instrumental to enabling the  
19 AZ Department of Administration proceed with the purchase of software for its  
20 agency that would provide robust auditing of procurement services provided by the  
21 agency.  
22

23           35.    Representative Shooter was told by the Arizona Department of  
24 Administration's Director at the time, Craig Brown, that permitting the state's  
25 conversion from its existing procurement software vendor, Periscope to an alternative  
26 procurement software vendor called Valuea, via a new competitively bid contract,  
27  
28

1 would stop some of the current, questionable and problematic practices at the  
2 Department.

3         36. The existing procurement software company at the time, Periscope, lost  
4 its contract with the state following Representative Shooter's efforts in the committee  
5 he chaired (JLBC).

6  
7         37. Periscope was represented by Axiom, a lobbying firm that subcontracted  
8 lobbying duties with Brian Townsend, who, until recently, had worked for Kirk  
9 Adams in the Governor's Office. Also of significance, Brian Townsend was  
10 Representative Michelle Ugenti-Rita's fiancé.  
11

12  
13         38. The state's transition from Periscope, the existing software procurement  
14 company Ugenti-Rita's fiancé Brian Townsend represented, to another company,  
15 ended the multi-year, multi-million dollar important and lucrative contract for  
16 Periscope.  
17

18         39. Almost immediately thereafter, Representative Ugenti-Rita's fiancé  
19 Brian Townsend's representation of Periscope was terminated.  
20

21         40. Just as Mr. Shooter escalated his efforts, the retaliation escalated  
22 following a private meeting, November 2, 2017.  
23

24         41. In that November 2, 2017 meeting between then Representative Shooter  
25 and the Governor's Chief of Staff Kirk Adams, Representative Shooter point blank  
26 told Adams that he planned to use his subpoena power, granted to him as Chair of the  
27 House Appropriations Committee, to gain additional insight into the irregularities in  
28



1 the procurement process at the start of the next legislative session unless there was  
2 some movement to address the continued improper use of expensive, no bid contracts.  
3 Mr. Shooter explained however, he'd much prefer the Governor's Office "clean-up  
4 their own house".  
5

6 42. This was Mr. Shooter's twentieth and final attempt to push the  
7 Governor's Office to address brazen procurement process deficiencies without having  
8 to issue subpoenas and conduct hearings.  
9

10 43. If it was not clear before, it was made clear in that meeting: Mr. Shooter  
11 was never going to stop his efforts to bring state procurement, and the procurement  
12 no-bid process to light and obtain systemic reforms to require competition.  
13

14 44. At or around the time of Mr. Shooter's expulsion, the director of  
15 procurement at the Arizona Department of Administration was terminated.  
16

17 45. Kirk Adams, as confirmed directly by media, leaked an internal  
18 memorandum from DOA addressed to Adams detailing alleged issues relating to  
19 Ashoke Seth's job performance prior to the state's termination of Seth's employment.  
20

21 46. This internal memorandum was disclosed in direct contravention of the  
22 state's human resource practices, which prohibits such public disclosure.  
23

24 47. The memo was never included in Ashoke Seth's personnel file and  
25 Ashoke was never made aware of the memo prior to its public release nor provided  
26 the opportunity to refute its assertions, contrary to state personnel practices.  
27  
28

1           48. Ashoke Seth filed for protection under the state’s whistle blower status  
2 and detailed “mismanagement, abuse of authority, a gross waste of monies and a  
3 violation of laws” by representatives of the Arizona Department of Administration  
4 citing several questionable technology contracts.

6           49. Seth’s claims were supported by other DOA employees including but not  
7 limited to the former DOA director Craig Brown.

9           50. Ashoke Seth’s whistle blower claim did not prevail yet many of the facts  
10 he described relating to technology contracts and questionable payments were not  
11 disputed.

13           51. Similarly, following the expulsion of Mr. Shooter, Mr. Shooter received  
14 an anonymous, extremely well researched and verifiable set of documents that  
15 contained previously unknown details of alleged corruption and criminal conduct  
16 involving technology contracts at DOA.

18           52. In the cover page of the letter from the anonymous source to Mr. Shooter,  
19 the source encouraged Mr. Shooter to continue his efforts to expose the corruption  
20 and hoped the enclosed, additional documentation of specific no-bid contracts and the  
21 activities undertaken by alleged criminal actors would be the proof Mr. Shooter  
22 needed to put a stop to the corruption.

25           53. This anonymous letter and the enclosed supporting documentation was  
26 also received by an attorney for Mr. Shooter, Kraig Marton.

27           **C. Early Efforts to Discredit Representative Shooter**  
28

1           54. On November 7, 2017, five days after Representative Shooter’s meeting  
2 with Kirk Adams, Dennis Welch interviewed Brian Townsend’s fiancé  
3 Representative Michelle Ugenti-Rita.  
4

5           55. Welch collaborated with Ugenti-Rita and promoted and broadcast his  
6 television interview with her that misconstrued Ugenti-Rita’s past friendship with  
7 Representative Shooter, as the basis for allegations of past sexual harrassment by  
8 Representative Shooter.  
9

10           56. Brian Townsend was not only Michelle Ugenti-Rita’s fiancé, he had  
11 recently worked for Kirk Adams in the Governor’s Office and was also Kirk Adams’  
12 former Senior Policy Adviser when Adams previously served as Speaker of the House.  
13

14           57. Upon information, these actions were taken at the direction of Adams in  
15 a further and intensified attempt to dissuade Representative Shooter from his efforts  
16 to bring fair dealing and transparency to the state procurement processes.  
17

18           58. Soon after Representative Ugenti-Rita’s media interview, the Speaker  
19 began the process, in coordination with Adams and another member of the Governor’s  
20 Office, of inhibiting and discrediting Representative Shooter.  
21

22           59. All activities of Mesnard, described below, were a result of his agreement  
23 with Adams and another member of the Governor’s Office.  
24

25           60. Within days of Representative Ugenti-Rita’s allegations, the Speaker  
26 began pressuring Representative Shooter to resign despite the fact that Representative  
27  
28

1 Shooter would shortly face the voters of his district in an election that was only months  
2 away.

3 61. The Speaker's requests for resignation made clear that he was not an  
4 impartial arbiter.  
5

6 **D. Representative Shooter Asks for An Ethics Investigation**

7 62. With nothing to hide and in furtherance of his priority of transparency,  
8 on November 8, 2017, Representative Shooter asked for a complete investigation into  
9 the allegations against him.  
10

11 63. At the same time, Representative Shooter asked the House to investigate  
12 allegations that had surfaced concerning malfeasance and sexual misconduct by  
13 Representative Ugenti-Rita.  
14

15 64. Mr. Shooter believed that once complete, the investigative report would  
16 be turned over to the Ethics Committee whose members had not publicly or privately  
17 weighed in. The House Ethics Committee was, without exception the tradition as well  
18 as the parliamentary and procedural norm and expectation for all such matters.  
19

20 To be clear, it is the Constitutional right of every state legislature and Congress to  
21 expel an elected member of its chamber. But it is also clear, that such a vote cannot  
22 and must not occur without the elected member afforded due process. In fact, on  
23 January 28, 2019, representative Kelly Townsend, the representative who actually  
24 made the motion to expel Representative Shooter, stated on the Floor of the House  
25 "in retrospect it was the wrong process" to remove Representative Shooter without an  
26  
27  
28

1 ethics hearing. Exhibit 9. Other Representatives made similar statements.

2           65. Those two principles are not in conflict and are, in fact, complementary.  
3           “Procedural due process rules are meant to protect persons not from the deprivation,  
4           but from the mistaken or unjustified deprivation of life, liberty, or property.” *Carey*  
5           *v. Piphus*, 435 U.S. 247, 259 (1978).” Representative Shooter alleged violations of  
6           law and existing House policy by Representative Ugenti-Rita when she repeatedly  
7           sexually harassed a direct subordinate.  
8

9  
10           66. Mr. Shooter also alleged that Representative Ugenti-Rita, while married,  
11           carried on an affair with an additional subordinate House staff member.  
12

13           67. Mr. Shooter requested the House complete a thorough investigation into  
14           those allegations, as well as Ugenti-Rita’s allegations against him.  
15

16           68. Instead of the never deviated from tradition that was the parliamentary  
17           and procedural norm and expectation of an investigation by the House Ethics  
18           Committee, the Speaker appointed a hand-selected committee *of his staff* to  
19           investigate the allegations regarding the two House members, Shooter and Ugenti-  
20           Rita.  
21

22           69. The Speaker then suspended Representative Shooter from his position as  
23           Chairman of the House Appropriations Committee.  
24

25           70. In a news release, Mesnard announced that he had suspended  
26           Representative Shooter from his responsibilities as Chairman of the House  
27           Appropriations Committee. Mesnard rationalized “I don’t believe he [Shooter] can  
28

1 properly fulfill his obligations as Chairman of the House Appropriations Committee  
2 until the investigation is concluded.”

3 71. The effect of this reprisal was to immediately eliminate Mr. Shooter’s  
4 authority to issue subpoenas.  
5

6 72. On or about November 15, 2017, that House investigative team,  
7 comprised only of staff members selected by the Speaker, retained the private law  
8 firm of Sherman and Howard as independent investigators to conduct the  
9 investigation.  
10

11 73. Sherman & Howard was hired to conduct a factual investigation.  
12

13 74. Sherman & Howard was paid by taxpayer dollars to investigate, not  
14 litigate allegations of sexual misconduct.

15 75. Sherman & Howard has refused to provide a copy of the retainer  
16 agreement or documents setting forth their relationship despite requests from multiple  
17 parties including Mr. Shooter.  
18

19 76. Despite the fact that Representative Ugenti-Rita was subject to the House  
20 independent investigation, and despite the fact that she served as Chair of the House  
21 Ways and Means Committee, Mesnard refused to apply the same standard to both  
22 members investigation and suspend Representative Ugenti-Rita from her position as  
23 Chair of her Committee or return Representative Shooter to his chairmanship.  
24

25 77. Further demonstrating the disparate treatment applied throughout the  
26 investigation, unlike his treatment of Shooter, Mesnard indicated that making any pre-  
27  
28

1 determinations before the investigation of Ugenti-Rita was complete would be  
2 premature.

3         78. Privately and repeatedly, Speaker Mesnard requested Representative  
4 Shooter resign.  
5

6         79. Contrary to the Speaker's assertion that it would be premature to reach  
7 any conclusions prior to the conclusion of the investigation, by his actions, he made  
8 clear that he was biased by pronouncing Representative Shooter unable to serve as a  
9 committee chair yet not applying the same procedure to Representative Ugenti with  
10 respect to her chairmanship.  
11

12         80. Mesnard further determined that the investigation was insufficient to  
13 taint Representative Ugenti-Rita in any way, despite a written request made public by  
14 members of his caucus asking that he treat members consistently. He did not intervere  
15 with Ugenti-Rita's continued chairmanship of her committee.  
16  
17

18         81. The disparate and preferential treatment of Representative Ugenti-Rita  
19 was steadfast throughout the investigation.  
20

21         82. Another example of Mesnard's bias against Representative Shooter and  
22 the special treatment of Ugenti-Rita related to Mesnard's decision to pay a "capped"  
23 amount of the attorneys' fees for the three legislators under investigation. (Soon after  
24 claims against Representatives Ugenti and Shooter were made, an ethics complaint  
25 which included allegations of sexual misconduct, was filed against Representative  
26  
27  
28

1 Rebecca Rios making her the third legislator under investigation by the independent  
2 investigator).

3 83. The Speaker contacted Representative Shooter and informed him of his  
4 decision to pay a portion of all three legislators' attorneys' fees then immediately  
5 requested Representative Shooter not accept the offer.  
6

7 84. All three legislators submitted invoices from their attorneys, each in  
8 excess of the capped fee amount. Notably, the Speaker paid 25% more to the attorney  
9 representing Representative Ugenti-Rita than Mr. Shooter's or Ms. Rios's.  
10

11 **E. Representative Shooter Responds To His Wrongful Chairmanship**  
12 **Removal**

13 85. Representative Shooter attempted to redress this disparate treatment on  
14 his own. He hired counsel Daniel Pasternak to request a fair process.  
15

16 86. Mr. Pasternak contacted the investigator, Craig Morgan, via letter dated  
17 January 4, 2018 to urge that Representative Shooter be returned to his position as  
18 Committee Chair.  
19

20 87. Representative Shooter was attempting to ensure that the procedures  
21 were evenly applied.  
22

23 88. Pasternak encouraged the Speaker to treat both Ugenti-Rita and Shooter  
24 consistently by allowing them to both retain their positions as chair of their respective  
25 committees.  
26



1 89. Mesnard’s response in a letter contained one word: “No” with no  
2 explanation.

3 **F. Mesnard Changes The Rules**

4 90. The House has long had policies regarding equal treatment in the  
5 workplace. Yet, the Speaker created a substantially more restrictive policy which he  
6 directed to only be applied to Representative Shooter.  
7

8 91. Mesnard’s policy, created at the time Ugenti-Rita made allegations of  
9 sexual harassment, was never voted on and remains unadopted by the elected members  
10 of the House though, was required to be voted on and adopted before applying to any  
11 elected members under House Rule.  
12

13 92. The Speaker lacked the authority and violated the House Rules when he  
14 unilaterally created a separate policy that he applied to only one of three members  
15 accused and investigated, in the same month by the same independent investigator,  
16 for misconduct.  
17

18 93. This separate policy was provided by the Speaker to the House’s  
19 independent investigator to assess allegations against Representative Shooter.  
20

21 94. This policy (which is referred to in the independent investigators’ report  
22 as “the Policy”) was created, adopted in November 2017 and enforced, unilaterally by  
23 the Speaker. The Speaker lacked the authority to unilaterally adopt a new policy for  
24 elected members of the House under existing House Rules.  
25  
26  
27  
28

1           95.    The new, proposed policy was announced only after Ugenti posted  
2 allegations on Facebook.

3           96.    In the history of the United States, all serious allegations of misconduct  
4 against a member of the Arizona Legislature, by tradition as well as parliamentary and  
5 procedural expectations, have been handled by a committee of elected peers such as a  
6 “Special Committee” or an Ethics Committee (with one exception described below  
7 that took place during the Civil War for United States senators who abandoned the  
8 senate and joined the rival, Confederate government that was at war with the United  
9 States).

10           97.   No Legislature in Arizona history, has attempted the expulsion of a  
11 member without convening a special or ethics committee consisting of elected  
12 members.

13           98.   No Legislature in Arizona, has expelled a member without providing this  
14 and other basic elements of fair disciplinary processes.

15           99.   Based on exhaustive research, it is alleged that there has not been one  
16 expulsion of an elected member by a state legislature *in the history of the United States*  
17 prior to Representative Shooter’s, without the involvement of a chamber’s special  
18 committee (known throughout the history of the states and the United States Congress)  
19 by a variety of names such as the “Select Committee”, “Conduct Committee”, “Ethics  
20 Committee”, “Standards & Official Conduct” and “Special Privilege & Election  
21 Committee) consisting of elected members, not members of hand-picked staff under  
22  
23  
24  
25  
26  
27  
28

1 the employ of the Speaker, as was the case in Representative Shooter's expulsion  
2 process. One notable exception was during the Civil War when Congressional  
3 members did not return to Congress and instead joined the Confederate government.  
4 Given their abandonment of their duties in Congress to serve a rival government, at  
5 war with the United States and their failure to personally appear in Congress, a  
6 committee hearing was not necessary. These extraordinary facts have no similarity to  
7 the circumstances that were used to justify Mr. Shooter's removal from office.  
8  
9

10 100. Had the House Ethics Committee evaluated the allegations against  
11 Representative Shooter, applying the existing House rules and the existing House and  
12 Senate policies, the allegations against Representative Shooter would have been  
13 measured against entirely different policies and the outcome would have been entirely  
14 different.  
15  
16

17 101. Such was the outcome for Representative Rebecca Rios who was alleged  
18 to have engaged in sexual relations with a young House staff member before being  
19 discovered by another staff member in the basement of the House which was reported  
20 to the representatives of the Speaker's office at the time and led to the staffer's  
21 dismissal from employment in the House.  
22  
23

24 102. Although direct information provided in a briefing during the transition  
25 from the previous speaker to Mesnard giving Mesnard first-hand knowledge and also  
26 known first-hand by another member of House leadership, Kelly Townsend when  
27 Mesnard was speaker, the complaint was dismissed.  
28

1           103. The Rios dismissal letter cites a lack of first-hand knowledge as well as  
2 a finding that the issue does not amount to a violation of law, rule or policy.

3           104. A.R.S. §38-519 establishes an Ethics Committee for each legislative  
4 body, comprised of five Members appointed (in the House) by the Speaker.

5           105. The House Ethics Committee is to investigate complaints and charges  
6 against members of the House, and “if necessary report the results of the investigation  
7 to [its house] with recommendations for further action.”  
8

9           106. This Ethics Committee (and prior to its formation in the Arizona  
10 Legislature, the “Special Committee”) has in Arizona presided over every serious  
11 allegation of misconduct by a member, including after legislators (during AZScam in  
12 1991) who were videotaped accepting and, in one case even counting the money for,  
13 bribes and whose bank accounts had already been confiscated in a separate, yet related  
14 civil racketeering lawsuit.  
15  
16

17           107. Even the AzScam legislators required basic due process which included  
18 the opportunity for a hearing which Mr. Shooter was intentionally deprived of.  
19

20           108. The *Arizona Capitol Times* wrote, in a retrospective article printed  
21 9/19/2011, “The ethics trial format [for Walker and Higuera] was fairly simple and  
22 was set to feature opening arguments from opposing sides, the presentation of  
23 witnesses and documents, cross-examinations and follow-up questions from the  
24 special prosecutor. Committee members were allowed to question witnesses”.  
25  
26

27           109. A second example involves Jesus “Chuy” Higuera (1991).  
28

1           110. Mr. Higuera resigned in the midst of the House Ethics Committee  
2 investigation. The House Ethics Committee investigation was conducted  
3 simultaneously with the Senate Ethics Committee investigation into Senator Carolyn  
4 Walker.  
5

6           111. A third example is Sue Laybe (1991).

7           112. Ms. Laybe resigned on the third day of her House Ethics Committee  
8 hearing into her role in “AZScam”.  
9

10           113. A fourth example is Senator Scott Bundgaard (2012) which occurred  
11 while Ugenti-Rita, Mesnard and Shooter all served in the Legislature and thereby  
12 reinforced House and Senate historical precedent while all three legislators personally  
13 observed legislators’ rights to due process.  
14

15           114. Mr. Bundgaard resigned, following witness testimony, a few hours after  
16 the start of the Ethics Committee hearing.  
17

18           115. A fifth and the most recent example, again occurred while Ugenti-Rita,  
19 Mesnard and Shooter all served in the Legislature is Representative Daniel Patterson  
20 (2012).  
21

22           116. The Ethics Committee’s Investigative Report made clear “the Chairman  
23 [of Ethics] shall review and distribute a copy of each complaint and supporting  
24 documentation to all Members of the Committee and to the Member who is the subject  
25 of the complaint. The Member who is the subject of the complaint shall have the  
26 opportunity to respond to the complaint in writing”. *Emphasis added*  
27  
28

1           117. After the House Ethics Committee recommended expulsion but before a  
2 floor vote by all legislators, Mr. Patterson resigned.

3           118. By serving in the legislature at the time during which allegations of  
4 misconduct were investigated and required an Ethics Hearing in a committee of  
5 elected peers, the historical norm was modeled for Mesnard, Ugenti-Rita and Shooter  
6 and reinforced expectations of due process.  
7

8           119. This process is affirmed by the National Council of State Legislatures  
9 (NCSL) which extensively tracks state legislatures, in “Inside the Legislative  
10 Process”, a nationally-recognized publication and research tool which collects  
11 responses to comprehensive surveys of legislative clerks and secretaries of all 50 state  
12 legislatures, “Modern court cases establish that a legislator who is subject to  
13 disciplinary proceedings has the right to due process”.  
14

15           120. For the first time in the Arizona Legislature’s history, rather than  
16 convene the Ethics (or Special) Committee to evaluate conduct complaints against  
17 members Representative Shooter and Representative Ugenti-Rita, the Speaker  
18 appointed a “special investigation team” consisting only of his staff and not of elected  
19 members/peers as was required by tradition as well as the parliamentary and  
20 procedural norms and expectations. At the direction of Mesnard, his staff member  
21 team promptly hired Sherman & Howard to conduct an independent investigation.  
22

23           121. Representative Shooter never requested that the House *hire* outside  
24 counsel to conduct an investigation.  
25  
26  
27  
28

1           122. Representative Shooter did not request Sherman & Howard determine  
2 whether the allegations were true. At all times, Mr. Shooter expected the evidence to  
3 be thoroughly evaluated by his elected peers with his opportunity to address each  
4 allegation in the Ethics Committee.  
5

6  
7           123. The Speaker of the Arizona House of Representatives does not have the  
8 authority to:

9           ○ Unilaterally create a new sexual harassment policy for elected members  
10 without a vote of the elected members;  
11

12           ○ Direct that a new, “zero-tolerance”, subjective policy enforced in direct  
13 contravention of House Rules and be enforced **retroactively** on any elected member  
14 for alleged offenses, many of which were alleged to have occurred seven years prior;  
15

16           ○ Direct the use of two distinct and vastly inconsistent policy standards  
17 simultaneously to elected members to members under investigation at the same time  
18 by the same investigator;  
19

20           ○ Cause the independent investigators’ report to **omit material and**  
21 **exculpatory testimony and evidence** relating to independently corroborated, serious  
22 allegations of sexual misconduct by Ugenti-Rita, Mr. Shooter’s accuser;  
23

24           ○ Compel the members of the House to vote for its first expulsion in 70  
25 years only four days after the release of the investigators’ report without providing Mr.  
26 Shooter the opportunity to respond in writing nor the opportunity to meaningfully  
27  
28

1 defend himself in a hearing before his peers. Mr. Shooter was assured both orally and  
2 in writing during the investigation and on the day the report was made available to the  
3 public that he was entitled to five days to provide a written response to the investigative  
4 report. The investigative report contains multiple factual errors and amounts to an  
5 outline of allegations of facts, only the first step in a fair process. Four days after  
6 Mesnard's release of the report, Mesnard concluded Mr. Shooter should be sentenced  
7 to expulsion and offered the motion to expel. This conduct is evidence of Mesnard's  
8 unambiguous intention to preclude Mr. Shooter from the opportunity to raise these  
9 consequential issues *until after he had been expelled* which is the purpose of this  
10 complaint.  
11  
12

13  
14 124. The Policy enforced on Representative Shooter, commonly referred to as  
15 the "zero tolerance policy" was created *and effective November 2017* and as of the  
16 date of this filing still may not be enforced on **any legislative member** without a vote  
17 to adopt the policy.  
18

19 125. For the zero tolerance, subjective, retroactive policy to be enforced on  
20 legislative members, a vote by the legislative members approving the policy was  
21 required. Yet no such vote on the policy ever took place.  
22

23 126. The independent investigators were directed to impose Mesnard's newly  
24 created, illegitimate policy, retroactively, to form conclusions about violations of this  
25 new, unauthorized policy.  
26  
27  
28



1 127. As stated in page six of the report, “the investigation was conducted in  
2 light of the House’s very expansive zero tolerance Policy, as opposed to whether  
3 someone might be able to state and prove a claim for workplace harassment,  
4 discrimination or hostile work environment in a court or administrative proceeding”  
5 yet, again, the speaker lacked the authority to create and require a new policy be  
6 applied on a member without the prior approval of the legislative membership.  
7  
8

9 128. No explanation has been given for considering alleged conduct from  
10 prior legislative terms, most alleged to have occurred while Representative Shooter  
11 was serving in the Senate, using rules only created after the allegations were made and  
12 which, again, were never authorized by elected members of the House as was  
13 expressly required for enforcement, according to existing House Rule.  
14

15 129. The selective enforcement of Mesnard’s unauthorized, newly created  
16 policy combined with the intentional exclusion of exculpatory evidence directly  
17 resulted in the conclusions by the independent investigators, using employment law  
18 terminology yet with an infinitely lower, subjective standard than would be applied  
19 under employment law, that Mr. Shooter’s conduct (without the opportunity to  
20 address factual and legal inaccuracies as promised and required) created a “hostile  
21 work environment”, was the core rationale used to justify his expulsion.  
22  
23  
24

25 130. Moreover, if Mesnard’s newly created policy had been applied to  
26 Mesnard’s own conduct, he would have been in direct violation of his retroactive  
27 policy. Mesnard commenced a romantic relationship with a state agency’s “legislative  
28

1 liaison” at the time she was lobbying him. He voted on her legislation without recusing  
2 himself on votes affecting her agency. On more than one occasion, Mesnard  
3 accompanied his paramour to hearings and sat with her in the audience, visible to all  
4 legislative members of the committees, when his paramour testified on legislation  
5 affecting her agency.  
6

7           131. If the existing, appropriate House and Senate policies at the time had  
8 been applied, which evaluated conduct using the employment law legal standard, Mr.  
9 Shooter would have been found to have made offensive attempts at humor, in  
10 instances one time in front of separate individuals, but not to have created a hostile  
11 work environment.  
12  
13

14           132. Without due process, Mr. Shooter’s peer legislators were denied the time,  
15 opportunity and information to objectively evaluate the facts, evidence and  
16 appropriate policies nor hear Mr. Shooter’s responses and rebuttals.  
17

18           133. These breaches of specific House Rules and parliamentary and  
19 procedural tradition and expectations violated the basic rights owed to Mr. Shooter,  
20 as a citizen, and as a duly-elected member of the Arizona House of Representatives  
21 and owed to the people of his legislative district who elected him.  
22

23           134. These extraordinary measures were undertaken to prevent Representative  
24 Shooter from issuing subpoenas and thereby making evident, high-level corruption.  
25  
26  
27  
28

1           **G.    Independent Investigator’s Report was Materially Modified**

2           135. The independent investigators’ report contains voluminous discussion  
3 regarding various allegations against Representative Shooter. In fact, some 65 pages  
4 of the 75 pages of the investigative report were dedicated to the investigation into  
5 claims made against Mr. Shooter, including interviews with numerous witnesses and  
6 in some instances, where their allegations were found to be demonstrably false.  
7

8           136. According to the report, a majority of the claims against Mr. Shooter were  
9 found not to constitute sexual harassment even under the Speaker’s specially created,  
10 strict “zero tolerance” standard.  
11

12           137. By contrast, the report contains only a page and a half directed to  
13 allegations against Representative Ugenti-Rita and concludes, without facts or  
14 analysis, that there is “no credible evidence” that she violated the Policy.  
15  
16

17           138. This finding, despite the fact that a known victim of repeated sexual  
18 harassment by Representative Ugenti-Rita came forward to the independent  
19 investigators and provided her testimony, physical evidence and corroborating,  
20 contemporaneous witnesses to the sexual harassment is dubious.  
21

22           139. The testimony and evidence of sexual misconduct by Ugenti-Rita was far  
23 more egregious than any allegation against Mr. Shooter yet were intentionally excluded  
24 from the final and public report.  
25  
26  
27  
28

1 140. The Speaker caused the credible testimony of Ugenti-Rita's victim and  
2 her two corroborating, contemporaneous witnesses as well as the physical evidence to  
3 be excluded from the publicly released version of the report.  
4

5 141. There was no attempt to discipline or otherwise censure Representative  
6 Ugenti-Rita, as the Speaker's objective was, in concert with the Governor's Chief of  
7 Staff Kirk Adams, in collaboration with another member of the Governor's staff, only  
8 to end Representative Shooter's attempts to uncover evidence of corruption related to  
9 high priced no-bid contracts and other non-competitive procurement processes.  
10

11 **H. The Independent Investigator's Report Was Not Independent**  
12

13 142. At the conclusion of the independent investigation, the results were  
14 initially withheld from the public and Mr. Shooter. The Speaker received a copy of the  
15 independent investigator's report approximately nine days before he released the  
16 version of the report he deemed final to the public.  
17

18 143. The direct testimony of a victim of sexual harassment by Representative  
19 Ugenti-Rita and supporting witness testimony and evidence were intentionally  
20 excluded from the report that was released to Mr. Shooter and the public.  
21

22 144. When witnesses were interviewed by the independent investigators  
23 Morgan and Hesketh, witnesses were told expressly, that their statements and the  
24 information obtained in their interviews were not protected.  
25  
26  
27  
28

1 145. There are numerous citations in the report to interviews with anonymous  
2 “Interviewees” and to notes, photos, and other evidence that have never been provided  
3 to Representative Shooter despite repeated requests.  
4

5 146. The decision to exclude exculpatory witness testimony and related  
6 evidence had a deleterious impact on Representative Shooter’s ability to respond to the  
7 charges and to challenge the credibility of his accuser, Representative Ugenti-Rita.  
8

9 147. The Speaker has refused to release evidence, obtained and documented by  
10 the independent investigator, of wrong doing by Ugenti-Rita despite the fact that the  
11 investigation and evidence was obtained on behalf of the House of Representatives  
12 with the use of Arizona tax dollars in an effort for alleged transparency and fairness to  
13 the public. To date, Mesnard has authorized payments totaling over \$250,000 to the  
14 investigators to meet with witnesses, document, make revisions and now recent efforts  
15 to stymie requests for the release of all relevant and materially related testimony.  
16  
17

18 148. Considerable information was not available to the general public or to  
19 members of the House of Representatives at the time that the report was released.  
20 Material information was not made available to House members at the time of  
21 Mesnard’s motion and the House vote to remove Representative Shooter from elected  
22 office.  
23  
24

25 149. A month after the vote to expel Mr. Shooter, Mesnard, after repeated  
26 requests by media under public records law, released an additional 340 pages of  
27  
28

1 documents, related solely to the investigation of Mr. Shooter yet nothing related to  
2 claims against Representative Ugenti-Rita (on March 16, 2018).

3           150. The victim testimony, testimony from two additional, contemporaneous  
4 witnesses and physical evidence, obtained by the independent investigator, that directly  
5 relates to the credibility of Ugenti-Rita who announced on Facebook and on television  
6 that she was victimized, and on information, exculpatory information known to the  
7 independent investigators was (and remains) hidden from the public intentionally so as  
8 to not impede the plan set in motion to destroy his reputation and immediately expel  
9 Representative Shooter.  
10

11  
12           151. Though, Mr. Shooter is aware that the investigation received or had access  
13 to photographs of a private nature, at no time has he sought to obtain such photographs  
14 nor make the photographs public.  
15

16  
17           152. Although, according to the Report, there were “interviews with over 40  
18 individuals” (p. 3 of the report), the House and Sherman & Howard has refused to  
19 provide even the identity of those witnesses.  
20

21           153. Mr. Shooter does not seek to require the victim of sexual harassment by  
22 Ugenti-Rita to again provide her testimony when the victim already provided her  
23 detailed testimony to Sherman & Howard investigators which was documented. Mr.  
24 Shooter seeks to spare the victim and her corroborating, contemporaneous witnesses  
25 from the need to come forward and present testimony a second time. Mr. Shooter has  
26 demonstrated this priority to spare this victim from having to once again present  
27  
28

1 testimony by requesting, repeatedly the House and Sherman & Howard to admit the  
2 existence of witnesses against Ugenti-Rita that were excluded from the report and to  
3 provide the witnesses statements as given to the independent investigators.

4 Furthermore, Mr. Shooter does not wish to make their identities public without their  
5 express permission.  
6

7           154. When interviewed by the *Phoenix Business Journal* in April 2018 about  
8 his work investigating sexual harassment claims, including the Shooter & Ugenti  
9 investigation, the lead investigator for the House, Craig Morgan of Sherman &  
10 Howard advised “. . . the most important part of harassment investigations is  
11 getting to the truth and having due process for all involved. That means taking  
12 allegations seriously and dealing with them accordingly, if true.”  
13

14           155. “To find the truth was the most important thing,” Morgan said of the  
15 Shooter investigation.  
16

17           156. Mr. Shooter is in agreement with Mr. Morgan’s recommendations and  
18 therefore seeks due process, requests that Ugenti-Rita’s victim’s allegations are taken  
19 seriously and dealt with accordingly. This can only be achieved by the full and open  
20 disclosure of the sexual harassment and true victimization of Ugenti-Rita’s direct  
21 subordinate, a young staff member formerly under Ugenti-Rita’s direction in the  
22 Arizona House of Representatives.  
23  
24  
25  
26  
27  
28

1 **II. GENERAL LEGAL BASES FOR SHOOTER’S CLAIMS**

2 157. Mr. Shooter has been damaged by the actions and inactions of the  
3 Defendants. He has suffered violations of his Constitutional rights and has been the  
4 victim of common law torts. His constitutional rights under both the United States  
5 and Arizona constitutions have been violated. His rights to due process, equal  
6 protection, and to confront and cross examine his accusers were breached.  
7

8  
9 158. The Arizona violations include the failure to provide due process as  
10 required under the Arizona Constitution. Representative Shooter was discriminated  
11 against when Mesnard unilaterally, retroactively and without authority applied a “zero  
12 tolerance” subjective policy solely to Mr. Shooter, a violation also of House Rules  
13 which necessitated members to vote on the adoption of the “zero-tolerance” policy.  
14 Speaker Mesnard intentionally violated House Rules when he submitted the specially  
15 constructed, never adopted policy to be applied retroactively. This is evidenced by the  
16 fact that after Mr. Shooter’s expulsion, Mesnard failed to seek nor obtain the approval  
17 of members to adopt any Code of Conduct, let alone the subjective, “zero-tolerance”,  
18 retroactive policy he created then claimed was violated which required that Mr.  
19 Shooter be expelled from office.  
20  
21  
22

23 159. The allegations against Representative Shooter were made at the time  
24 Mesnard introduced a proposed policy for members and which will never be voted on  
25 let alone adopted by the legislative members which was required under House Rule.  
26  
27  
28



1           160. It is a violation of Representative Shooter’s Constitutional rights for  
2 Mesnard to create a new, unadopted policy to apply to alleged actions dating back as  
3 far as 2011.  
4

5           161. The same factual predicate outlined above is evidence that Mesnard, in  
6 his leadership position acted in concert to violate Representative Shooter’s due  
7 process rights and to deny him the privileges and immunities granted to him as a  
8 citizen of both Arizona and the United States.  
9

10           162. Representative Shooter’s right to due process includes the Constitutional  
11 right to examine his accusers and confront the witnesses against him.  
12

13           163. Although the expulsion of Representative Shooter is not a judicial  
14 proceeding, the House vote to expel him was to deprive him of his seat in the House  
15 of Representatives, which was a property right to which he was deprived without due  
16 process of law.  
17

18           164. The entire removal process was undertaken without the protections of  
19 the traditional Ethics Committee or any of the rights the Courts find so important.  
20

21           165. At a bare minimum, Representative Shooter should have been provided  
22 access to the complete investigative file including the investigators’ notes describing  
23 the testimony of material witnesses so that he could properly mount a defense to the  
24 allegations raised against him. He should, at the very least, have had timely access to  
25 the information in order to question the bias, interest, and motive of his accusers.  
26  
27  
28

1           166. He was denied that right by Mesnard’s decision to release only the  
2 redacted 82 page report. Representative Shooter was wrongfully terminated from his  
3 position as Representative of legislative district 13.  
4

5           167. Expulsion from a state legislature without due process is an important  
6 and ripe issue for Arizona’s Courts. Just a little over a month after the Arizona Speaker  
7 bypassed long established procedural and parliamentary norms and expectations for a  
8 fair disciplinary process and Representative Shooter became the first state legislator  
9 in the United States to be expelled without the matter considered by an ethics or  
10 special committee of his peers, Colorado followed suit and expelled a lawmaker also  
11 without first providing the protections required for due process.  
12  
13

14           168. Notably, the legislature requires a committee hearing before a bill may  
15 progress to a floor vote. It seems a minimal expectation that before a legislator is  
16 expelled from office, a hearing is first necessitated.  
17

18           169. To be clear, it is the Constitutional right of every state legislature and  
19 Congress to expel an elected member of its chamber. But it is also clear, that such a  
20 vote cannot and must not occur without the elected member afforded some due  
21 process. Those two principles are not in conflict and are, in fact, complementary.  
22 “Procedural due process rules are meant to protect persons not from the deprivation,  
23 but from the mistaken or unjustified deprivation of life, liberty, or property.” *Carey v.*  
24 *Piphus*, 435 U.S. 247, 259 (1978).”  
25  
26  
27  
28

1 170. It is a fundamental American principle, embraced to distinguish our  
2 system of justice from a monarchy. At its core, due process is notice and an  
3 opportunity to be heard by an impartial tribunal.  
4

5 171. Procedural rules “minimize substantively unfair or mistaken deprivations  
6 of life, liberty, or property by enabling persons to contest the basis upon which a State  
7 proposes to deprive them of protected interests. *Fuentes v. Shevin*, supra, 407 U.S. 67,  
8 81 (1972).  
9

10 172. In *United States v. Ballin*, 144 U.S. 1, 5 (1892) the Supreme Court held  
11 that, while the House’s rulemaking power was broad, in exercising that power, the  
12 House “may not by its rules ignore constitutional restraints or violate fundamental  
13 rights. It would seem that the same limit may be applicable to the expulsion power”.  
14  
15

### 16 **ADDITIONAL LEGAL BASES OF THE CLAIMS**

17 173. There is no question that the Supreme Court can and will intervene when  
18 other branches of state government act improperly. In the case of *Arizona Indep.*  
19 *Redistricting Comm'n v. Brewer*, 229 Ariz. 347, 275 P.3d 1267 (2012), the Court found  
20 the governor did not have the power to remove a member of the Independent  
21 Redistricting Commission. In doing so, the Court made some applicable observations:  
22  
23

24 The gubernatorial removal power derives from the Constitution,  
25 not statute. That fact, however, does not alter or lessen a court's  
26 power to review whether removal of an independent  
27 commissioner meets constitutional requirements” (229 Ariz. at  
28 354, 275 P.3d at 1274)

1           174. Well-established legal principles exist to guide us in determining whether  
2 the Governor's removal of Mathis meets constitutional requirements, without  
3 'substituting our subjective judgment' on facts or on the nature and severity of Mathis's  
4 alleged wrongs." (229 Ariz. at 354, 275 P.3d at 1274).

6           175. "The requirement of two-thirds Senate concurrence is a significant check  
7 on the governor's removal power and poses a potentially formidable hurdle to curb  
8 abuse of executive discretion. \*353 \*\*1273 But the absence in Section 1(10) of the  
9 other procedural and substantive safeguards found in Article 8 distinguishes the  
10 Senate's role under Section 1(10) from its role in an impeachment." (229 Ariz. at 352–  
11 53, 275 P.3d at 1272–73).

14           176. "To determine whether a branch of state government has exceeded the  
15 powers granted by the Arizona Constitution requires that we construe the language of  
16 the constitution and declare what the constitution requires. The interpretation of the  
17 laws is the proper and peculiar province of the courts and a constitution is and must be  
18 regarded by the judges as fundamental law. It is emphatically the province and duty of  
19 the judicial department to say what the law is." (229 Ariz. at 355, 275 P.3d at  
20 1275)(internal cites and punctuation omitted).

23           177. Although the expulsion of Representative Shooter is not a judicial  
24 proceeding, the clear intent of the House vote to expel him was to deprive him of his  
25 seat in the Arizona House of Representatives. As the Supreme Court said in *Greene v.*  
26 *McElroy*, 360 U.S. 474, 496— 497 (1959):  
27  
28

1 Certain principles have remained relatively immutable in our  
2 jurisprudence. One of these is that where governmental action  
3 seriously injures an individual, and the reasonableness of the  
4 action depends on fact findings, the evidence used to prove the  
5 Government's case must be disclosed to the individual so that he  
6 has an opportunity to show that it is untrue. While this is  
7 important in the case of documentary evidence, it is even more  
8 important where the evidence consists of the testimony of  
9 individuals whose memory might be faulty or who, in fact, might  
10 be perjurers or persons motivated by malice, vindictiveness,  
11 intolerance, prejudice, or jealousy. We have formalized these  
12 protections in the requirements of confrontation and cross-  
13 examination. They have ancient roots. They find expression in  
14 the Sixth Amendment. This Court has been zealous to protect  
15 these rights from erosion. In January 2018, the Congressional  
16 Research Service published “Expulsion of Members from  
17 Congress: Legal Authority and Historical Practice”. The authors  
18 note that there are very few court decisions on the use of the  
19 Constitution’s Expulsion Clause.

14 178. When considering this issue, due to the lack of specific judicial guidance,  
15 the Congressional Research Service asserts there is strong legal precedent to look to  
16 historical instances of the exercise of its power to interpret and guide the proper uses  
17 and constraints of the Expulsion Clause. <https://fas.org/sgp/crs/misc/R45078.pdf>.

### 20 **COUNT ONE**

#### 21 **(Violation of Civil Rights and Aiding and Abetting And** 22 **Conspiracy to Violate Civil Rights)**

23 179. The actors, described above, were acting, singularly or in concert, under  
24 color of state law.  
25  
26  
27  
28

1 180. Pursuant to 42 USC §1983 the coordination and actions taken and taken  
2 in concert by the Speaker and Adams, and the unconstitutional implementation of  
3 policies of the State constitute a violation of that Federal law.  
4

5 181. Section 1983 provides that no person acting under color of state law may  
6 act to deprive another of the rights and privileges granted to them under the laws of  
7 either Arizona or the United States Constitution.  
8

9 182. The actions of defendants deprived Shooter of his rights to due process  
10 and equal protection.  
11

12 183. The actions detailed above are sufficient to establish a violation of 42  
13 USC § 1983 and entitle Representative Shooter to his actual damages in an amount to  
14 be proven at trial.  
15

16 184. The actions taken to expel Representative Shooter deprived him of a  
17 protected liberty interest. Representative Shooter lost his seat and was defamed at the  
18 same time. An individual who is terminated by the government has a protected liberty  
19 interest that is compensable if that individual is libeled at the same time. *Montoya v.*  
20 *Law Enforcement Merit System Counsel*, 148 Ariz. 108, 713 P.2d 309 (1985).  
21

22 185. Defendants aided and abetted each other and conspired to deprive Mr.  
23 Shooter of the his constitutional rights.  
24

25 **COUNT TWO**

26 **(Defamation and Aiding and Abetting, and Conspiracy to**  
27 **Commit Defamation)**  
28

1 186. The allegations and opinions against Shooter which were evaluated  
2 applying a bogus policy, applied retroactively, and without the opportunity to respond  
3 to the investigators' report are defamatory and were publicly disseminated in the  
4 independent investigators' report and repeated as fact in the media. This report  
5 includes salacious information some of which even the independent investigator found  
6 not relevant. For example, on a number of the charges the independent investigator's  
7 report found that there was no credible evidence, and yet the House based its decision  
8 to expel Representative Shooter in part on the information contained in independent  
9 investigators' report.  
10  
11

12  
13 187. On information and belief, Defendants made defamatory statements to  
14 the press outside of legislative proceedings.  
15

16 188. Upon information, Defendants knew that the statements they were  
17 making were false or they acted in reckless disregard of the truth.  
18

19 189. Defendants are liable for this defamation, aiding and abetting and  
20 conspiracy to commit defamation.  
21

22 190. The State is liable under the doctrine of Respondeat Superior.  
23

### **COUNT THREE**

#### **(False Light Invasion Of Privacy and Aiding and Abetting, and Conspiracy to Commit False Light Invasion Of Privacy)**

24  
25  
26 191. The allegations presented in the independent investigators' report, and  
27 the intentional suppression of exculpatory information (which was suppressed at the  
28

1 direction of Speaker Mesnard), and Defendants' statements to the press, place  
2 Representative Shooter in a false light.

3 192. Defendants are liable for this false light invasion of privacy and aiding  
4 and abetting and conspiracy to commit false light invasion of privacy. The State is  
5 liable under the doctrine of Respondeat Superior.  
6

7 **COUNT FOUR**

8 **(Wrongful Termination)**

9  
10 193. Representative Shooter was wrongfully terminated from his position of  
11 Representative of legislative district 13, resulting in loss of salary, fringe benefits,  
12 position, and most important, reputation. All defendants are liable for this wrongful  
13 termination.  
14

15 Therefore, Plaintiff prays for damages against Defendants, and each of them, in  
16 a reasonable amount, for attorneys' fees, for costs incurred, for us and for such other  
17 and further relief as the court deems proper.  
18

19 **DEMAND FOR JURY TRIAL**

20  
21 Plaintiff hereby demands a jury trial on all issues.  
22

23 **THEREFORE**, Plaintiff prays that this Court:

24 (a) Enter judgment against the defendants and each of them;

25 (b) Enter a declaratory judgment declaring the acts of the defendant to be a  
26 violation of plaintiff's constitutional rights to freedom of speech, equal protection, and  
27  
28



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  
26  
27  
28

due process and rights to public records;

(c) Award plaintiff all damages, costs, interest and reasonable attorneys' fees for this action pursuant to 42 U.S.C. §1988 and other relevant statutes; and,

(d) Order such other and further relief as the Court deems just and proper under the circumstances.

**DATED** January 29, 2019.

**HORNE SLATON, PLLC**

By: \_\_\_\_\_  
Thomas C. Horne, Esq.  
*Attorneys for Plaintiff*