

1 Scott M. McNair (Complainant, Pro Se)

2 [REDACTED]

3 Phoenix, Arizona [REDACTED]

4 Telephone [REDACTED]

5 **THE MARICOPA COUNTY EMPLOYEE MERIT COMMISSION**

6  
7 Scott McNair  
(Complainant, pro se)

8 v.

9 Maricopa County,  
10 Andrew Kunasek, David Smith,  
11 Fulton Brock, Mary Rose Wilcox,  
12 Max Wilson, Don Stapley,  
13 Richard Romley, David Smith,  
14 John Doe, Jane Doe

15  
16 **I. PLEA FOR LENIENCY AND WAIVER OF FORMAL REQUIREMENTS**

17 In that the Complainant (McNair) is neither represented by counsel nor had any formal legal  
18 training, he does hereby request leniency from the Maricopa County Employee Merit Commission  
19 (Commission) for the form and content of this pleading.

20 The Complainant does hereby request that the Commission waive and/or modify any  
21 formal procedural requirements in order to insure Complainant due process and equitable justice,  
22 and to insure that a fair and just determination can be made.

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1 **I. NATURE OF COMPLAINT**

2 The Complainant alleges:

- 3 1) That on July 17 2002, the Complainant made a “public disclosure” as defined by A.R.S. §  
4 38-532 to officials of Maricopa County (County) including, but not limited to, the County  
5 Board of Supervisors, the County Attorney, the County Director of Human Resources,  
6 and the County Administrative Officer, and that such a “public disclosure” is an activity  
7 protected from retaliation by law.
- 8 2) That on or about June 4 2004, in violation of A.R.S. § 38-532, the Complainant was  
9 unlawfully denied proper consideration for employment/reemployment with the County in  
10 retaliation for his previous “public disclosure”.
- 11 3) That Andrew Kunasek, David Smith, Fulton Brock Mary Rose Wilcox, Max Wilson, Don  
12 Stapley, Richard Romley, David Smith, and/or other as yet unidentified County  
13 employees and officials may have violated A.R.S. § 38-532 by obstructing the  
14 Complainant’s right to proper consideration for employment with the County.
- 15 4) That Andrew Kunasek, David Smith, Fulton Brock Mary Rose Wilcox, Max Wilson, Don  
16 Stapley, Richard Romley, David Smith, and/or other as yet unidentified County  
17 employees and officials may have violated A.R.S. § 41-773 (A) by obstructing the  
18 Complainant’s right to proper consideration for employment with the County.
- 19 5) That Andrew Kunasek, David Smith, Fulton Brock Mary Rose Wilcox, Max Wilson, Don  
20 Stapley, Richard Romley, David Smith, and/or other as yet unidentified County  
21 employees and officials may have violated A.R.S. § 41-773 (C) by obstructing the  
22 Complainant’s right to proper consideration for employment with the County.
- 23 6) That Andrew Kunasek, David Smith, Fulton Brock Mary Rose Wilcox, Max Wilson, Don  
24 Stapley, Richard Romley, David Smith, and/or other as yet unidentified County officials

1 may have violated A.R.S. § 41-773 (D) by obstructing the Complainant's right to proper  
2 consideration for employment with the County.

3 7) That Andrew Kunasek, David Smith, Fulton Brock Mary Rose Wilcox, Max Wilson, Don  
4 Stapley, Richard Romley, David Smith, and/or other as yet unidentified County  
5 employees and officials may have violated A.R.S. § 41-772 by obstructing the  
6 Complainant's right to proper consideration for employment with the County.

7 8) That Andrew Kunasek, David Smith, Fulton Brock Mary Rose Wilcox, Max Wilson, Don  
8 Stapley, Richard Romley, David Smith, and/or other as yet unidentified County  
9 employees and officials may have violated A.R.S. § 41-772 by using their authority  
10 and/or influence to enlist others to prevent the Complainant from receiving proper  
11 consideration for employment with the County.

12 9) That Andrew Kunasek, David Smith, Fulton Brock Mary Rose Wilcox, Max Wilson, Don  
13 Stapley, Richard Romley, David Smith, and/or other as yet unidentified County  
14 employees and officials may have violated A.R.S. § 41-772 (K) by using their authority  
15 and/or influence to influence others to prevent the Complainant from receiving proper  
16 consideration for employment with the County, in retaliation for exercising his  
17 constitutional right to freedom of speech by his previous "public disclosure".

18 10) That Andrew Kunasek, David Smith, Fulton Brock Mary Rose Wilcox, Max Wilson, Don  
19 Stapley, Richard Romley, David Smith, and/or other as yet unidentified County  
20 employees and officials may have violated A.R.S. § 41-772 (K) by using their authority  
21 and/or influence to enlist/influence others to prevent the Complainant from receiving  
22 proper consideration for employment with the County, in retaliation for exercising his  
23 constitutional right to due process through his previous attempts to pursue complaints

1 and his rights as afforded by the Maricopa County Employee Merit System and the laws  
2 of the State of Arizona.

3 11) That Andrew Kunasek, David Smith, Fulton Brock Mary Rose Wilcox, Max Wilson, Don  
4 Stapley, Richard Romley, David Smith, and/or other as yet unidentified County  
5 employees and officials may have violated A.R.S. § 41-772 (K) by using their authority  
6 and/or influence to enlist others to prevent the Complainant from receiving proper  
7 consideration for employment with the County, in retaliation for exercising his  
8 constitutional right to due process through his previous attempts to pursue complaints  
9 and his rights through the State of Arizona Personnel Board.

10 12) That Andrew Kunasek, David Smith, Fulton Brock Mary Rose Wilcox, Max Wilson, Don  
11 Stapley, Richard Romley, David Smith, and/or other as yet unidentified County  
12 employees and officials may have violated A.R.S. § 41-772 (K) by using their authority  
13 and/or influence to enlist others to prevent the Complainant from receiving proper  
14 consideration for employment with the County, in retaliation for exercising his  
15 constitutional right to file complaints of sexual harassment and retaliation with Maricopa  
16 County.

17 13) That Andrew Kunasek, David Smith, Fulton Brock Mary Rose Wilcox, Max Wilson, Don  
18 Stapley, Richard Romley, David Smith, and/or other as yet unidentified County  
19 employees and officials may have violated A.R.S. § 41-772 (K) by using their authority  
20 and/or influence to enlist others to prevent the Complainant from receiving proper  
21 consideration for employment with the County, in retaliation for exercising his  
22 constitutional right to file complaints of sexual harassment and retaliation with the United  
23 States Equal Employment Opportunity Commission.

1 14) That Andrew Kunasek, David Smith, Fulton Brock Mary Rose Wilcox, Max Wilson, Don  
2 Stapley, Richard Romley, David Smith, and/or other as yet unidentified County  
3 employees and officials may have violated A.R.S. § 41-772 (K) by using their authority  
4 and/or influence to enlist others to prevent the Complainant from receiving proper  
5 consideration for employment with the County, in retaliation for exercising his  
6 constitutional right of due process by filing suit against Maricopa County and its  
7 employees in United States District Court.

8 15) That the Defendants acted with malicious intent to cause emotional and financial harm  
9 upon the Complainant.

## 10 II. JURISDICTION AND VENUE

11 The Commission has authority to hear this complaint as an “independent personnel board” as  
12 specified by A.R.S. § 38-54, and as established by resolution of the Maricopa County Board of  
13 Supervisors in accordance with the provisions of A.R.S. § 11-351 through 11-356.

14 The Commission has authority to hear this complaint as provided by Section 10 (F) of the  
15 Maricopa County Employee Merit System.

## 16 III. DEFENDANTS

- 17 1) Maricopa County,
- 18 2) Andrew Kunasek,
- 19 3) David Smith,
- 20 4) Fulton Brock,
- 21 5) Mary Rose Wilcox,
- 22 6) Max Wilson,
- 23 7) Don Stapley,
- 24 8) Richard Romley,

- 1 9) David Smith,
- 2 10) John/Jane Doe(s), persons as yet unidentified.

#### 3 IV. PRAYER FOR RELIEF

- 4 1) In accordance with A.R.S. § 38-532 (C), each Defendant and/or employee and/or  
5 former employee found guilty of committing a prohibited personnel practice shall  
6 pay to the general fund the maximum fine of five thousand dollars (\$5,000.00), for  
7 each violation.
- 8 2) In accordance with A.R.S. § 38-532 (C) and (D), each Defendant and/or employee  
9 and/or former employee found guilty of committing a prohibited personnel practice  
10 shall be immediately terminated and permanently barred from employment with  
11 the County and/or State of Arizona and all its political subdivisions.
- 12 3) In accordance with A.R.S. § 38-532 (D), the Commission shall order the  
13 Defendants to pay the Complainant all attorney fees, costs, and back pay.
- 14 4) In accordance with A.R.S. § 38-532 (D), the Commission shall order the County to  
15 immediately employ the Complainant in the position he applied for at the  
16 maximum salary for that position.
- 17 5) In accordance with A.R.S. § 38-532 (K), the Commission shall order that the  
18 County be barred from terminating the Complainant's employment for a period of  
19 no less than five years, except that the Complainant may be terminated should he  
20 commit an egregious violation of the general rules of employment with the County  
21 and/or state.
- 22 6) In accordance with A.R.S. § 38-532 (D), the Commission shall order the  
23 Defendants to pay the Complainant general and special damages in an amount  
24 no less than two hundred and fifty thousand dollars (\$250,00.00).



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ORIGINAL of the foregoing HAND DELIVERED this 14<sup>th</sup> day of JUNE 2004 to:

Maricopa County Human Resource Department

Attn: Director

301 West Jefferson

Phoenix, AZ 85003

COPY of the foregoing sent via FACSIMILE this same day to:

Maricopa County Human Resource Department

Attn: Janice Stratton, Merit System Administrator

301 West Jefferson

Phoenix, AZ 85003

602 506-3313