

CAUSE NO. \_\_\_\_\_

CINDY SIEGEL, A MEMBER OF THE  
 HARRIS COUNTY REPUBLICAN  
 PARTY EXECUTIVE COMMITTEE AND

*Petitioners*

V.

ISABEL LONGORIA, IN HER  
 CAPACITY AS HARRIS COUNTY  
 ELECTION ADMINISTRATOR

*Respondent*

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

\_\_\_\_ JUDICIAL DISTRICT

**APPLICATION FOR COURT TO IMPOUND ELECTION RECORDS**  
**PURSUANT TO TEXAS ELECTION CODE SECTION 66.055**

**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, Cindy Siegel, a member of the Harris County Republican Party canvassing authority and for cause of action shows the Court the following:

**PARTIES AND SERVICE**

1. Petitioner, Cindy Siegel is a natural person and a member of the canvassing authority for the Republican Party. Ms. Siegel has appeared as an individual member of the canvassing authority and may be served through her counsel of Record, Steven J Mitby, Mitby, P.L.L.C., 2700 Research Forest Drive, Suite 100, The Woodlands, Texas 77381.

2. Respondent is Isabel Longoria in her capacity as Harris County Election Administrator. Longoria may be served through personal service at 1001 Preston St, Houston, TX 77002, or wherever she may be found.

## **JURISDICTION AND VENUE**

3. Jurisdiction is proper in this court because District Courts have jurisdiction to issue writs of mandamus to public officials and Respondent is a public official. *See, Sheppard v. Thomas*, 101 S.W.3d 577, 580 (Tex. App.—Houston [1st Dist.] 2003, pet. denied), citing *Vondy v. Commissioners Court*, 620 S.W.2d 104, 109 (Tex.1981). Further, this Court is authorized to act pursuant to Tex. Elec. Code § 66.055 to impound precinct election records if the precinct returns are not turned over to the canvassing authority within 24 hours of polls closing following an election.

4. Venue is proper in this Court under Tex. Civ. Prac. & Rem. Code § 15.015 because the Respondent being sued in her capacity as an election officer of Harris County, Texas, or under Tex. Civ. Prac. & Rem. Code § 15.002 because the acts or omissions complained of herein occurred and are occurring in Harris County, Texas.

## **FACTUAL BACKGROUND**

5. Petitioner is a member of the canvassing authority for the Republican Party Primary Election. Absentee voting by mail began on January 15, 2022, live early voting began on February 14, 2022, and the Primary Election Day was March 1, 2022.

6. Respondent is the Election Administrator of Harris County and has multiple duties with respect to elections, including but not limited to providing election machinery for the primary elections and providing the central counting station and personnel for the central counting station for both parties. Respondent is also charged by law with providing the completed precinct returns to the party canvassing authority within 24 hours of polls closing on Election Day. Tex. Elec. Code § 66.053(c).

7. On Primary Election Day, the Republican Party experienced irregularities that affected votes legitimately cast by its voters. For example, some voters were able to successfully submit their votes for the first page of their ballot but were unable to submit their votes for the second page of their ballot. This irregularity is being resolved by central counting station personnel duplicating the unrecorded second pages and recording those votes into the electronic system on behalf of each affected voter.

8. The printing errors recited above are not the only issue that must be resolved by central counting station personnel. Another example is that Respondent did not properly test certain election machinery. This resulted in Respondent providing the Republican Party with inoperable scanning equipment in some voting locations. Counting station personnel will have to scan each page of these affected votes so that the votes will be counted.

9. Respondent estimates it will take 500 person hours for counting station personnel to complete the entry of ballots that were not recorded on election day due to the above errors by Respondent and other issues. Respondent has declined to engage the Early Voting Ballot Boards of both parties to handle the ballot duplication process. Respondent has also declined to commit that counting at the counting station will occur continuously until the counting is finished.

10. Texas Election Code requires that precinct returns be completed and provided to the canvassing authority within 24 hours of the polls closing on election day. Tex. Elec. Code 66.053(c). Respondent has admitted she will not complete the count by that statutory deadline. Under such circumstances, the District Court is required, on application by a member of the canvassing authority, to impound the precinct election records and “supervise the activities necessary to complete the count, prepare the precinct returns, and distribute the records.” Tex. Elec. Code § 66.055.

## REQUEST FOR WRIT OF MANDAMUS

11. The previous allegations set forth in paragraphs 1-11 are incorporated herein as if set forth in their entirety.

12. Petitioner has standing to bring this Petition for Writ of Mandamus and Application for Impoundment against Respondent. Petitioner is a member of the Republican Party Primary canvassing authority. As such, she may apply to the District Court to impound precinct election records not delivered to the canvassing authority within 24 hours of the polls closing, or 7:00 p.m. on March 2, 2022.

13. Further, Respondent should comply with Tex. Elec. Code § 65.002(c), requiring continuous counting of ballots, in order to avoid impoundment of ballots by the Court. In any case, the counting station should never be vacant and counting should never stop so that no questions arise regarding chain of custody for the ballots.

14. Mandamus is permitted against the Respondent in her role as an election official pursuant to Tex. Elec. Code § 31.130.

15. Therefore, Petitioner requests a Writ of Mandamus from this Court, directing Respondent in her capacity as County Election Administrator:

- a.** To conduct the count of votes continuously as required under Texas Elec. Code § 65.002, including by engaging additional staff and/or Party representatives, if necessary to ensure that this process continues without interruption
- b.** To have counting station personnel in the counting station for the Republican Party Primary at all times;
- c.** To make best efforts to complete the count of votes by 7:00 PM on March 2, 2022.

- d. To turn over all precinct election materials in Respondent's possession for impoundment by the Court if the precinct returns are not turned over the relevant party's Executive Committee by 7:00 PM on March 2, 2022, as provide for under Tex. Elec. Code 66.055.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED,** Petitioner requests that citation be issued, that Respondent be cited to appear and:

- a. that a writ of mandamus issue ordering Respondent:
  - 1. To conduct the count of votes continuously as required under Texas Elec. Code § 65.002, including by engaging additional staff and/or Party representatives, if necessary to ensure that this process continues without interruption
  - 2. To have counting station personnel in the counting station for the Republican Party Primary at all times;
  - 3. To make best efforts to complete the count of votes by 7:00 PM on March 2, 2022.
  - 4. To turn over all precinct election materials in Respondent's possession for impoundment by the Court if the precinct returns are not turned over the relevant party's Executive Committee by 7:00 PM on March 2, 2022, as provide for under Tex. Elec. Code 66.055.
- b. Petitioners be granted judgment for all costs of court and attorney fees; and
- e. Petitioner be granted all further relief to which Petitioners may be entitled.

Filed this 2<sup>nd</sup> day of March, 2022.

Respectfully submitted,

**MITBY, PLLC**

/s/ Steven J. Mitby

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