



Via First Class Mail Only

July 11, 2025

Executive Director
Arizona Counties Insurance Pool
1905 W. Washington Street
Suite 200
Phoenix, AZ

Michael J. Rusing
Direct Dial: (520) 529-4268
mrusing@rllaz.com

Re: Crosby adv. Cochise County

To whom it may concern:

This law firm represents Cochise County (the “County”) in connection with the Notice of Claim that has been filed by Thomas Crosby (“Supervisor Crosby”), a current member of the Cochise County Board of Supervisors. The Notice of Claim is enclosed and is largely self-explanatory. It seeks reimbursement for attorneys’ fees incurred in defending a criminal action brought by the Arizona Attorney General’s office for actions taken by Supervisor Crosby.

Cochise County would like coverage for the Notice of Claim and believe such is appropriate under various provisions of the applicable policy of insurance. Accepting the allegations that are contained therein as true, Supervisor Crosby was acting within the course and scope of his authority in undertaking the relevant actions—including votes as a supervisor—which resulted in the underlying criminal prosecution. Supervisor Crosby is seeking reimbursement on an ongoing basis for attorneys’ fees incurred in defense of that action.

It would seem that Supervisor Crosby is a named insured under the policy for actions during the course and scope of his position as supervisor, and that the criminal action was initiated against him during the applicable period of coverage. (Supervisor Crosby also maintains that he has a claim against the County by and through a claim against the former County Attorney Brian McIntyre (“McIntyre”), who Supervisor Crosby believes breached fiduciary duties, violated attorney-client privilege and committed malpractice in terms of advice given to him and information that McIntyre voluntarily divulged to the Attorney General and a Grand Jury. It is Supervisor Crosby’s belief that these actions were the genesis of, or at least a catalyst for the commencement and subsequent prosecution of the criminal claims against him. These are not subject to the current Notice of Claim but is hanging out there for your information.) Please be advised that the County was served with this Notice of Claim on June 9, 2025.

The Firm has one or more attorneys admitted to practice in Arizona, California, Colorado, New Hampshire, New Jersey, New York, and Washington, D.C.

6363 N. Swan Road, Suite 151
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We look forward to hearing from you. If you have any questions, please feel free to give us a call. If I am not available, ask for Matthew DeWeerd, an attorney in my office who is familiar with the matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael J. Rusing". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael J. Rusing

MJR\ms

Enclosure

2025.07.11.Ltr to AZ Counties Insurance Pool(63672310.2)

NOTICE OF CLAIM



Dennis I. Wilenchik
diw@wb-law.com

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June 9, 2025

RCVD COCHISE CNTY BOS
JUN 9 2025 PM 1:33

IN PERSON DELIVERY
Lmc

VIA PERSONAL SERVICE

Clerk of the Cochise County Board of Supervisors
1415 Melody Lane
Bisbee, AZ 85603

CC'd via email to:
mrusing@rllaz.com

Re: NOTICE OF CLAIM: A.R.S. 12-821.01

To whom it may concern:

I have been retained to represent TERRY THOMAS CROSBY regarding his claim against Cochise County for indemnification for legal fees expended in defending against a wrongful criminal prosecution brought against him individually, based solely on his good faith actions and legitimate actions taken in the course and scope of his employment as a County Supervisor for Cochise County.

Factual Background and Legal Basis¹ for Indemnification

On November 18, 2022, the Cochise County Board of Supervisors voted to “table accepting the [2022] election results until Monday the 28th of November, at 10:00 a.m., until such evidence about lawful certification by an accredited laboratory is presented and confirmed by persons with expertise in that field.” The meeting minutes for that date, attached here as **Exhibit 1**, clearly indicate that the Board expressed its key concern was to have an interactive presentation of evidence potentially supporting or detracting from certification of the election.

¹ Mr. Crosby may also possess a valid claim against Cochise County for indemnification of his legal expenses based on the separate grounds of the County’s vicarious liability for the County Attorney’s failure to provide any legal advice at all to the Board of Supervisors at the November 28, 2022 public meeting or in connection with the decision being made at that meeting.



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Then, prior to the November 28, 2022 Cochise County Board meeting, former Board Chairman English wrongfully structured the meeting agenda to preclude any oral presentation from experts related to the election certification. Her action marginalized the first amendment rights of the proposed presenters and the public's right to know that their Cochise County Supervisors were making an informed and accurate/valid decision to certify the 2022 election, as well as the public's right to have public meetings proceed in the manner previously voted on by a majority of the Board. *See, e.g., Hunt v. Campbell*, 19 Ariz. 254, 279 (1917) (Supreme Court agreeing with Cochise County decision not to include certain ballots in the canvass because they had no proof of origin nor proper chain of custody).

At the November 28, 2022 meeting, Mr. Crosby noted on the record that the meeting was “mis-agendized” and moved as follows: “that this item remain tabled until December 2nd. There will be a Board of Supervisors meeting agendized, including presentation and interaction between the Secretary's representative, if they so choose, up to and equal in time to that of and following these individuals... The Board of Supervisors vote on certification of the canvass will follow those conclusion statements this Friday.” The Board of Supervisors then proceeded to a vote with Mr. Crosby and Mrs. Peggy Judd voting in support of this motion. A copy of the meeting minutes from this November 28, 2022 meeting is attached as **Exhibit 2**.

This November 28, 2022 vote is the central and sole basis for the criminal charges that the Arizona attorney general has been unlawfully pursuing against Mr. Crosby. Mr. Crosby is clearly entitled to indemnification from the County for his continuing legal fees and his anticipated future legal fees in defending against this criminal matter because Mr. Crosby's actions and voting: 1) were all taken in good faith and with objectively reasonable bases, as demonstrated above; and 2) were all taken in the course and scope of his employment as a county supervisor. Under the Third Restatement of Agency § 8.14, “a principal has a duty to indemnify an agent ... when the agent suffers a loss that fairly should be borne by the principal in light of their relationship.” *In re Sky Harbor Hotel Properties, LLC*, 246 Ariz. 531, 533 (2019) (“Absent controlling authority to the contrary, [Arizona] generally follow[s] the Restatement when it sets forth sound legal policy.”).



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Every reason supports that Mr. Crosby’s defense “fairly should be borne by [Cochise County]” in these circumstances. First, Mr. Crosby had a statutory duty to canvass the election in his role as a county supervisor and possessed duties to the public to ensure all Board decisions were reached in an open fashion with the public being allowed to be heard. Second, Arizona Supreme Court precedent supports that major questions of validity of ballots/tabulation could be addressed by county supervisors before certifying the canvass. *Campbell*, 19 Ariz. at 279. Third and finally, Mr. Crosby did nothing outside the scope of his employment as a County supervisor—all he did was propose a motion and cast a vote, both of which are clearly within the scope of his employment as an elected county official, and involved him addressing circumstances thrust upon him at the last minute which were beyond his control (*i.e.*, Chairman English’s wrong agenda). Accordingly, there is a sound legal basis for Mr. Crosby’s claim for indemnification against Cochise County here.

Moreover, because Mr. Crosby’s damages, in the form of legal fees expended, are continuing and future oriented and yet to be incurred, Mr. Crosby cannot possibly have “realize[d] he [] has been damaged”—in the past tense—in the meaning of A.R.S. 12-821.01(B). Therefore, this notice of claim is timely².

Damages

Mr. Crosby has thus far incurred \$263,146.25 in legal fees and \$3,847.38 in legal costs in defending himself in the aforementioned criminal case. He anticipates incurring an additional \$50,000.00 to \$200,000.00 in fees and costs that will be incurred to continue defending the case through trial and any post-trial proceedings and to appeal any judgment against him if he were to lose at trial.

Accordingly, Mr. Crosby hereby demands payment in the amount of \$300,000.00 to settle the aforementioned indemnification and other claims.

² In addition, any claim asserted by Mr. Crosby against Cochise County for indemnification could not possibly have been addressed by a disinterested quorum of the Cochise County Board of Supervisors so long as Mrs. Judd was a Board Member. Therefore, because the claim could not possibly have been addressed until on or after Mrs. Judd left office on or around December 31, 2024, that is another reason that this notice of claim is clearly timely, being filed within six months of Mrs. Judd leaving office.



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Thank you for your attention to this matter. Please do not hesitate to contact me directly to discuss this further.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Dennis I. Wilenchik', written in a cursive style.

Dennis I. Wilenchik, Esq.

Attachments as stated above.

RCVD COCHISE CNTY BOS
JUN 9 2025 PM 1:34
IN-PERSON Delivery
RML

EXHIBIT A



**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
SPECIAL MEETING HELD ON
FRIDAY, NOVEMBER 18, 2022**

A special meeting of the Cochise County Board of Supervisors was held on Friday, November 18, 2022 at 4:00 p.m. in the Board of Supervisors' Hearing Room, 1415 Melody Lane, Building G, Bisbee, Arizona.

Present: Ann English, Chairman; Peggy Judd, Vice-Chairman, telephonic; Tom Crosby, Supervisor

Staff Present: Richard G. Karwaczka, County Administrator
Sharon Gilman, Deputy County Administrator
Brian McIntyre, County Attorney
Christine Roberts, Chief Civil Deputy County Attorney
Tim Mattix, Clerk of the Board

Attendees: Jacqui Clay, School Superintendent
Lisa Marra, Elections Director

Chairman English called the meeting to order at 4:00 p.m.

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING

ACTION

Board of Supervisors

1. Accept the elections results certified and submitted by the Cochise County Elections Department as the official canvass for the General Election held on November 8, 2022.

Supervisor Crosby made a motion to accept the election results certified and submitted by the Cochise County Elections Department as the official canvass for the General Election held on November 8, 2022. Vice-Chairman Judd seconded the motion.

Ms. Marra reviewed the purpose of the canvass, which is to determine accuracy in results and that the election was conducted within the guidelines in the Arizona Revised Statutes. She reviewed various highlights and statistics from the election: election program testing; Logic & Accuracy Testing (L&A Test); number of registered voters; turnout percentages; early voters by mail and in-person; emergency voting; and, the number of voters who voted on Election Day. 550 voters in the Willcox and

Douglas Active Management Area (AMA) elections were mailed an incorrect ballot style due to human error in the County Recorder's Office; these voters were sent the correct ballot. 413 voters returned the corrected ballot; 56 did not, and their ballots were adjudicated by the early boards to ensure the voters were not disenfranchised on the races they were legally allowed to vote. She reviewed the hand count process, which had equal representation by both political parties and found no discrepancies.

Ms. Marra summarized the candidates and ballot measures, and reviewed the training conducted for all poll and board workers. The Secretary of State will conduct the statewide canvass on December 5, 2022; one automatic recount is expected to occur in mid-December.

The Board thanked Ms. Marra and held their comments until the end.

Chairman English read the following names of individuals who requested their names to be read in opposition to the item: Kevin O'Brien; June O'Brien; Ella Roberts; and, Jenny Walston.

Chairman English read the following names of individuals who requested their names to be read in favor of the item: Douglas Whitney; Deborah Anbinder; Helen Snyder; Alice Wakefield; Diane Davidson; Marjorie Murphey; Henry Camacho; Carolyn Nordstrom; Robert Rodrigues; Barbara Alice Miller; Peter M Waser; Chris Dietz; Christine Rhodes; and, Ronnie.

Randall Limbach was called upon but ceded his time to Daniel Wood.

Radford Hyde discussed reasons for his opposition to accepting the election results.

Jeanne Benda Whitney discussed reasons for her support of accepting the election results.

Kara Harris was called upon but ceded her time to Daniel Wood.

Elisabeth Tyndall discussed reasons for her support of accepting the election results.

Sidonia Lisa Glenn was called upon but did not speak.

Jeff Sturges discussed reasons for his support of accepting the election results.

Jennifer Angell was called upon but did not speak.

Shari Arnold was called upon but did not speak.

Chelle Holloman discussed reasons for her opposition to accepting the election results.

Allison Morse discussed reasons for her support of accepting the election results.

Alex Gulotta discussed reasons for his support of accepting the election results.

Leslie Himes was called upon but ceded her time to Brian Steiner.

Oscar Cancio was called upon but did not speak.

Marco Villalobos was called upon but did not speak.

Erik Villa was called upon but did not speak.

Brian Steiner discussed reasons for his opposition to accepting the election results and detailed reasons for his concern with the certification of voting machines.

Gisela Aaron was called upon but ceded her time to Paul Rice.

Paul Rice discussed reasons for his opposition to accepting the election results and detailed reasons for his concern with the certification of voting machines.

Daniel Wood discussed reasons for his concern with Mr. McIntyre and his opposition to accepting the election results and ceded remaining time to Paul Rice.

Rodolfo Valencia was called upon but did not speak.

Gisela Aaron was called upon but ceded her time to Paul Rice.

Renata Dany discussed reasons for her opposition to accept the election results.

Robert McCormick was called upon but ceded his time to Paul Rice.

Kathryn Wilson was called upon but ceded her time to Paul Rice.

James Robert Wilson was called upon but ceded his time to Paul Rice.

John Moss was called upon but ceded his time to Paul Rice.

Jean Giuffrida was called upon but ceded her time to Paul Rice.

Henry Conroy discussed reasons for his opposition to accepting the election results.

Paul Rice continued to detail reasons for his concern with the certification of voting machines.

Jill Lynn Vanden Heuvel was called upon but ceded her time to Brian Steiner.

Chris Jones discussed reasons for her opposition to accepting the election results.

Sarah Mae Pacheco discussed reasons for her support of accepting the election results.

Kathleen Wiora O'Brien discussed reasons for her opposition to accepting the election results.

Philip O'Brien discussed reasons for his opposition to accept the election results and ceded remaining time to Brian Steiner.

Richard Cisar was called upon but did not speak.

Ed Krieger was called upon but ceded his time to Brian Steiner.

Pamela Gravely was called upon but ceded her time to Brian Steiner.

Joseph Patterson discussed reasons for his opposition to accepting the election

results.

Gwynn Patterson discussed reasons for her opposition to accepting the election results.

Hoang Quan discussed reasons for his opposition to accepting the election results.

Huong Quan Nguyen was called upon but ceded her time to Hoang Quan.

Hoang Quan continued to discuss reasons for his opposition to accepting the election results.

Tuong-Ai Nguyen was called upon but ceded his time to Daniel Wood.

Tamara Birch discussed reasons for her support of accepting the election results.

Joe Clifton discussed reasons for his opposition to accepting the election results.

Brian Steiner continued to detail reasons for his concern with the certification of voting machines.

The meeting recessed at 5:51 p.m. The meeting reconvened at 6:01 p.m. All Supervisors were present (Judd telephonically).

Brian Steiner continued to detail reasons for his concern with the certification of voting machines..

Daniel Wood continued to discuss reasons for his opposition to accepting the election results.

Kori Lorick, State Elections Director speaking on behalf of the Secretary of State, responded to concerns regarding the certification of voting machines.

Supervisor Crosby discussed information Mr. Rice requested from the Secretary of State's Office, and asked how it would impact the Board's certification.

Vice-Chairman Judd expressed concerns regarding the accreditation of voting machines, and stated her support of a 100% hand count, which would have backed up the election results. She supports gathering more information regarding accreditation. She recognized those in attendance.

Supervisor Crosby stated that he has no reason to think the County's 2020 election was dishonest. While he does not know, he suspects that voting machines can be hacked. A hand count would have confirmed the results provided by Ms. Marra. The Board attempted everything they could think of to confirm the accuracy of the voting machines. He recognized those in attendance. He stated his opinion that if there is proof that the machines are lawfully accredited, the election results should be accepted. If they have not been lawfully certified, the results cannot be accepted.

Supervisor Crosby made a motion to table accepting the election results until such evidence about the lawful certification and accreditation by a laboratory is presented and confirmed by persons with expertise in that field.

Chairman English stated that she understood Ms. Lorick's previous comments as meaning that today's primary presenters had presented the same information to the

Supreme Court and were turned down. In response to the Board, Ms. Lorick stated that a case filed with the Arizona Supreme Court earlier this year raised questions about the accreditation of the lab. The labs have been properly accredited the entire time and the election equipment is properly certified. Supervisor Crosby stated that the opposing viewpoint was not allowed and requested that both sides be allowed to speak.

Ms. Roberts stated that there is a motion on the floor that has not been seconded; conversation is continuing without there being a second. Chairman English stated that there was not a second and the Board is back to original motion. Discussion ensued regarding the ability of the speakers to respond to the information from Ms. Lorick.

Supervisor Crosby appealed the decision of the Chair to not allow the presenters to present. Chairman English stated that all presenters had the opportunity to present.

Vice-Chairman Judd asked that the motion be repeated. Supervisor Crosby repeated the motion as follows: table accepting the election results until such evidence about lawful certification by an accredited laboratory is presented and confirmed by persons with expertise in that field.

Vice-Chairman Judd stated that there was not a time certain in the motion and an item cannot be tabled without a time certain. In response to Vice-Chairman Judd, Ms. Roberts stated that Monday, November 28, 2022 is the last day to certify the election results.

Supervisor Crosby restated the motion as follows: table accepting the election results until Monday the 28th of November, until such evidence about lawful certification by an accredited laboratory is presented and confirmed by persons with expertise in that field. Vice-Chairman Judd seconded the motion.

Chairman English requested clarification on who will decide that the information is correct. Supervisor Crosby stated that the Board will decide. In response to Chairman English, Supervisor Crosby confirmed that information will be provided directly to the Board. Supervisor Crosby stated that three presenters tonight have quite a bit of information, and confirmed that he will consider them the experts in the field. Chairman English requested that Ms. Lorick provide the requested information to the Clerk of the Board. Supervisor Crosby clarified that it will be made public and Chairman English confirmed.

In response to the Board, Ms. Lorick confirmed her understanding of the request and stated that she also provided information to Vice-Chairman Judd today. Vice-Chairman Judd stated that the information did not address whether SLI Compliance was accredited at the time, and requested to see the letter from the federal government stating that SLI was always in compliance.

Chairman English requested the meeting time be included in the motion.

Supervisor Crosby restated the motion as follows: table accepting the election results until Monday the 28th of November, at 10:00 a.m., until such evidence about lawful certification by an accredited laboratory is presented and confirmed by persons with expertise in that field. Vice-Chairman Judd seconded the motion.

Chairman English called for the vote and it was approved 2-1 (English opposed).

Chairman English adjourned the meeting at 6:31 p.m.

APPROVED:

Ann English, Chairman

ATTEST:

Tim Mattix, Clerk of the Board

RCVD COCHISE CNTY BOS
JUN 9 2025 PM 1:34

IN PERSON DELIVERY
DMR

EXHIBIT B



**PROCEEDINGS OF THE COCHISE COUNTY BOARD OF SUPERVISORS
SPECIAL MEETING HELD ON
MONDAY, NOVEMBER 28, 2022**

A special meeting of the Cochise County Board of Supervisors was held on Monday, November 28, 2022 at 10:00 a.m. in the Board of Supervisors' Hearing Room, 1415 Melody Lane, Building G, Bisbee, Arizona.

Present: Ann English, Chairman; Peggy Judd, Vice-Chairman, telephonic; Tom Crosby, Supervisor

Staff Present: Richard G. Karwaczka, County Administrator
Sharon Gilman, Deputy County Administrator
Brian McIntyre, County Attorney
Kris Carlson, Civil Deputy County Attorney
Tim Mattix, Clerk of the Board

Attendees: Lisa Marra, Elections Director

Chairman English called the meeting to order at 10:00 a.m.

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING

ACTION

Board of Supervisors

1. [Item tabled from the November 18, 2022 Special Meeting] Accept the elections results certified and submitted by the Cochise County Elections Department as the official canvass for the General Election held on November 8, 2022.

Supervisor Crosby made a motion to remove agenda item 1 from the table. Chairman English seconded the motion.

Supervisor Crosby stated his opinion that the meeting is mis-agendized as it should have provided for interaction between subject matter experts on voting machines and representatives from the Secretary of State's Office (Secretary). He reviewed a letter he sent to the Secretary, and stated that the group Paul Rice, et al., has the opinion that the Secretary has not been responsive in providing proof of lawful accreditation of voting machine laboratories. He stated his opinion that the lack of response seems to suggest an inability to provide the requested proof. The stipulation of proof and confirmation was included in the motion to table at the last meeting (November 18, 2022).

Supervisor Crosby made a motion that this item remain tabled until December 2nd. There will be a Board of Supervisors meeting agendaized, including presentation and interaction between the Secretary's representative, if they so choose, up to and equal in time to that of and following these individuals that so choose for 12 minutes each: Paul Rice; Michael Schafer; Daniel Wood; Brian Stein; Daniel LaChance; Hoang Quan; in no particular order, and able to yield time to one another. After a recess, both sides will have up to 30 minutes to interact and then there will be one 12-minute conclusion by the Secretary's representatives, and one of the same time by Paul Rice et al. group. The Board of Supervisors vote on certification of the canvass will follow those conclusion statements this Friday. Vice-Chairman Judd seconded the motion.

Chairman English stated her opinion that there is no reason to delay. Everyone was heard from more than once regarding their feelings about the certification of the voting machines. The Board was presented with the materials requested at the last meeting. She feels that the Board has the information necessary for the non-discretionary duty to certify the results.

Chairman English called for the vote and it was approved 2-1 (English opposed).

Supervisor Crosby stated that there needed to be a vote on the original motion. Discussion ensued.

Chairman English called for the vote on the original motion, to remove the item from the table and it failed 1-2 (Crosby and Judd opposed).

Chairman English adjourned the meeting at 10:09 a.m.

APPROVED:

Ann English, Chairman

ATTEST:

Tim Mattix, Clerk of the Board