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27 **IN THE UNITED STATES DISTRICT COURT**
28 **FOR THE DISTRICT OF ARIZONA**

29 Kari Lake and Mark Finchem,
30
31 Plaintiffs,

32 vs.

33 Kathleen Hobbs, et al.,
34
35 Defendants.

No. 2:22-cv-00677-JJT

MARICOPA COUNTY DEFENDANTS'
NOTICE CONCERNING THE
COURT'S QUESTION

(Honorable John J. Tuchi)

1 At the July 21, 2022 hearing, the Court asked undersigned counsel (“Mr. La Rue”) to
2 respond to Mr. Ben Cotton’s “testimony on the hardware used in Arizona to run the
3 Democracy Suite.” [MINUTE ENTRY, Doc. 78.] Mr. La Rue’s best recollection is that the
4 Court’s question, asked from the Bench, referenced “modems” or “cards” that Mr. Cotton
5 testified were included within the Dominion tabulation machines. The County’s witness,
6 Mr. Scott Jarrett, was no longer present and Mr. La Rue was uncertain of the answer but
7 offered to provide one no later than July 22, 2022. Having conferred with his client, Mr.
8 La Rue offers the following response.

9 **1. There are no modems in any of Maricopa County’s Dominion Voting Systems**
10 **Democracy Suite equipment.** Mr. Cotton stated in his Declaration that a “subset” of
11 Dominion “systems do contain wireless 802.11 modems that can connect to unauthorized
12 networks if the user has administrative access.” [Doc. 35 at 11.] It is not clear (to Mr.
13 La Rue, at least) what systems Mr. Cotton means, nor is it clear whether Mr. Cotton is
14 speaking about systems used by Maricopa County or other systems he has examined. [See
15 *id.* (stating that “[i]n all the election systems that I have examined” there has been an attempt
16 to separate the tabulation system from the voter registration system).] Regardless, there are
17 no modems in any Dominion Democracy Suite equipment used by Maricopa County.

18 **2. Maricopa County does not enable ethernet ports that are standard in Dominion**
19 **Voting Systems Democracy Suite 5-5B equipment, and also blocks access to the ports.**
20 The Dominion Voting Systems Democracy Suite 5-5B precinct-based tabulators, including
21 those used by Maricopa County, contain an ethernet port that can be programmed to allow
22 an external modem to be plugged into them. Some jurisdictions in other states use this
23 functionality to transmit tabulation results from the polling location to the central count
24 facility. For this port to work, it must be enabled. Maricopa County does not enable the
25 port. It also affixes a tamper-evident seal to the port so that it cannot be accessed.

26 **3. Although one of Maricopa County’s Dominion Voting Systems Democracy**
27 **Suite 5-5B adjudication stations contained a second hard drive, it created no risk of**
28 **Internet connectivity; further, that adjudication station is no longer used by Maricopa**

1 **County.** Prior to this lawsuit, Mr. Cotton participated in Cyber Ninjas’ examination of
2 Maricopa County’s 2020 general election, including the Dominion Democracy Suite
3 equipment the County had used. Mr. Cotton and his company, CyFIR, provided analysis
4 that was included in a report issued by Cyber Ninjas. The Cyber Ninjas’ report is not part
5 of the record, but it is discussed in Doc. 29-14, *Correcting the Record*, which was Exhibit
6 13 in support of Maricopa County’s Motion to Dismiss. In it, Mr. Cotton alleged that one
7 of Maricopa County’s adjudication stations might have internet connectivity. Mr. La Rue is
8 uncertain whether Mr. Cotton has testified to that possibility in this lawsuit, but if so Mr.
9 La Rue’s response is as follows.

10 “Adjudication stations” are used by bi-partisan teams to adjudicate ballots that for
11 various reasons cannot be read by the tabulation equipment. Mr. Cotton noted that one of
12 the County’s adjudication stations contained a second hard drive and speculated that this
13 might allow internet access. [Doc. 29-14 at 45.] However, the County had already learned
14 about the presence of the second hard drive as a result of the forensic audit it authorized in
15 February, 2021. SLI Compliance—an EAC accredited testing laboratory—found the second
16 hard drive and determined that (1) it was not plugged into the motherboard and (2) it had
17 last been used on July 31, 2019, which was prior to Maricopa County acquiring the
18 equipment. [*Id.*] These findings were significant. First, because the second hard drive was
19 not plugged into the motherboard, it could not act as a “jump box” for internet connectivity.
20 [*Id.*] Second, because it had last been used (and so, had last been plugged into the
21 motherboard) prior to Maricopa County’s acquisition of the equipment, it had never posed
22 any risk of internet connectivity while in the County’s possession. [*Id.*] Regardless, this
23 particular adjudication station, containing a second hard drive, is no longer used by Maricopa
24 County.

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RESPECTFULLY SUBMITTED this 22nd day of July, 2022.

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CERTIFICATE OF SERVICE

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I hereby certify that on July 22, 2022, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrants on record.

/s/ J. Christiansen

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