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8	Facsimile: (612) 355-4101	
9	OLSEN LAW, P.C.	
10	Kurt Olsen (D.C. Bar No. 445279)* 1250 Connecticut Ave., NW, Suite 700	A
11	Washington, DC 20036 Telephone: (202) 408-7025	T.COM
12	ko@olsenlawpc.com	<u> </u>
13	Alan M. Dershowitz (MA Bar No. 121200)*	
14	1575 Massachusetts Ävenue	
15	1250 Connecticut Ave., NW, Suite 700 Washington, DC 20036 Telephone: (202) 408-7025 ko@olsenlawpc.com Alan M. Dershowitz (MA Bar No. 121200)* 1575 Massachusetts Avenue Cambridge, MA 02138 * Admitted <i>Pro Hac Vice</i>	
16	Alan M. Dershowitz (MA Bar No. 121200)* 1575 Massachusetts Avenue Cambridge, MA 02138 * Admitted Pro Hac Vice Attorneys for Plaintiffs	
17	(RIEW)	
18	UNITED STATES DIST DISTRICT OF A	FRICT COURT RIZONA
19		
20	Kari Lake; Mark Finchem,	No. 22-cv-00677-JJT (Honorable John J. Tuchi
21	Plaintiffs, v.	
22		
23	Kathleen Hobbs, as Arizona Secretary of State; Bill Gates; Clint Hickman; Jack Sellers;	
24	Thomas Galvin; and Steve Gallardo, in their	Second Declaration of Benjamin R. Cotton
25	capacity as members of the Maricopa County Board of Supervisors; Rex Scott; Matt Heinz;	J. J
26	Sharon Bronson; Steve Christy; Adelita Grijalva, in their capacity as members of the	
27	Pima County Board of Supervisors,	
28	Defendants	

- I, Benjamin R. Cotton, hereby declare under the penalty of perjury, and state the following in response to Maricopa County's filing, Dkt. No. 82 ("Maricopa Notice"):
- 1. I examined the election computer system used by Maricopa County during the November 2020 general election. In my testimony in this matter, I stated that there were wireless 802.11 modems present in the Maricopa system that could be used to connect to unauthorized networks. Those modems are a component of the integrated Network Interface Card which is soldered into the motherboards of the Election Management System (EMS) client workstations and the ballot adjudication workstations, each of which were networked to the central EMS computer server that reported the final vote tallies. My testimony about the 802.11 wireless modems at the July 21 hearing was not describing Maricopa's voter registration computers, but rather the EMS connected computers. I have not seen nor heard any report or statement from a technical computer expert or cybersecurity expert that disputes the presence of these modems on the EMS client workstations and ballot adjudication workstations which, according to the Dell setup manual for the Dell 3431 computers at issue here, are enabled by default.
- 2. I saw, during my examination of the Maricopa County Democracy Suite 5.5-B equipment, that the EMS server and all connected Dell workstations had open ports that would permit USB devices, including USB based WIFI modems, access through them to the EMS server and other election systems components connected to the EMS server. Paragraph 2 of the Maricopa Notice narrowly limits its statements about the ports to the Democracy Suite "tabulators." The Maricopa Notice does not dispute the presence of open ports on the EMS server and connected workstations. I have photographs of the open ports on the EMS server and connected workstations. The Maricopa Notice's narrow limitation of its statements to the "tabulators" follows the same approach at the hearing used by Scott Jarrett in his testimony concerning the changing of passwords, which was limited to the password protection procedures on the Maricopa tabulators. Mr. Jarrett's testimony did not dispute that the administrator password on the Maricopa EMS server or the computers that connected to the EMS server had never been changed. This

is a very important distinction. The administrator password on the EMS server gives a user access to change any other password on the EMS server and change configurations on any of the connected workstations. My examination of the system showed the EMS passwords were weak, were the same password for all accounts and never been changed. I have not seen any report or statement from a technical computer or cybersecurity expert, which Mr. Jarrett is not, that disputes that the user and <u>administrator</u> passwords on the Maricopa <u>EMS server and all connected computers</u> had never been changed.

- 3. Regarding the second hard drive on one of the Maricopa Adjudication Computers: Maricopa County's previous reports from the Pro V&V and SLI audits of the EMS system did not mention a second hard drive in any of the units. Here the County acknowledges that the second drive existed. The presence of a second hard drive was an improper configuration that should have invalidated any certification of the system. The second drive further shows that Maricopa County's cybersecurity practices for managing the hardware on its Democracy Suite system are inadequate to prevent the appearance of unauthorized or uncertified hardware that presents a security risk. It is egregious that the County allowed the hard drive to improperly remain in the adjudication server. The Maricopa Notice says that the second drive created no risk of internet connectivity, but this assertion does not change the fact that Internet connectivity in the adjudication and EMS client systems could have in fact been established through the wireless modems present on the motherboards of those units or on USB devices if not properly disabled and monitored. Even if the county later stopped using the unit with the second hard drive, that does not eliminate the fact that it was used in the November 2020 general election.
- 4. At the hearing, Mr. Jarrett testified that Maricopa County did not provide Windows logs and daily ballot image backups from the 2020 election, because such materials were not requested. The attached subpoena (Ex. V) and request for information (Ex. W) show that this is again incorrect. These items were demanded from Maricopa County in connection with my review of the Maricopa Democracy Suite system. These attachments are true and correct copies of the respective subpoena and request for information.

EXHIBIT V

Exhibit A

ARIZONA SENATE

Fifty-Fifth Arizona Legislature First Regular Session

Senate Judiciary Committee

SUBPOENA DUCES TECUM

TO: The Maricopa County Board of Supervisors

YOU ARE COMMANDED TO APPEAR at the time, date and place set forth below to provide testimony concerning the items set forth in Exhibit A attached hereto. You must designate one or more of your officers, agents or representatives who consent to testify on your behalf about the same.

Date & Time:

January 13, 2021 at 9:00 a.m.

Place:

Arizona Senate

Arizona State Capitol

1700 West Washington Street

Phoenix, Arizona 85007

You or your representative must also produce, and permit inspection, testing or sampling of the items set forth in Exhibit A at the date, time and location set forth above.

FAILURE TO COMPLY WITH THIS SUBPOENA MAY CONSTITUTE CONTEMPT OF THE LEGISLATURE, PURSUANT TO A.R.S. § 41-1153

Executed this 12th day of January, 2021.

Karen Fann, President of the Arizona Senate

Warren Petersen, Chairman Senate Judiciary Committee

EXHIBIT A

For the November 2020 general election in Maricopa County, Arizona:

- 1. The ballot tabulation and processing equipment from each polling place and tabulation center.
- 2. The software for the equipment described above and the election management system used.
- 3. Hardware and Forensic Images of Election Servers, Desktops, Removable Media (such as thumb drives, USB, memory cards, PCMIA cards, Compact Flash, CD/DVD etc.) used to transfer ballots to tabulation centers from voting locations and to load software/programming.
- 4. Election Log Files, in XML, EML, JSON, DVD and XSLT formats, and any other election files and logs for the:
 - Tabulators
 - Result Pair Resolution
 - Result Files
 - Provisional Votes
 - RTMLogs
 - SQL Database Files
 - Signature Checking & Sorting Machine
 - 5. Election Settings
 - · Rejected Ballots Report by Reason Code
 - 6. Accounts and Tokens
 - Username & Passwords (Applications, Operation Systems)
 - Encryption Passwords (Bitlocker, Veracrypt, Etc)
 - Security Tokens (iButton, Yubikey, SmartCard, Etc)
 - 7. Windows Server & Desktop
 - Windows software log
 - Windows event log and Access logs
 - Network logs
 - FTP Transfer Points Log
 - Usernames & Passwords
 - Application specific usernames and passwords (Election Software, Database Access)
 - 8. Dominion Equipment
 - The Administrator & Audit logs for the EMS Election Event Designer (EED) and EMS Results Tally & Reporting (RTR) Client Applications.
 - 9. Dominion Network

- Identity of each person accessing the domain name Admin.enr.dominionvoting.com and *. dominionvoting.com domains.
- Windows security log of the server that is hosted at Admin.enr.dominionvoting.com
- Internal admin.enr.dominionvoting.com logs
- 10. Election Systems & Software (ESS) Specific
 - The Administrator & Audit logs for the Electionware election management system, Ballot on Demand - BOD printing system, DS200 scanner and tabulator, DS450 scanner and tabulator, DS850 scanner and tabulator, and Voting Systems (ExpressPoll, ExpressVote, ExpressVote XL).

11. Voter rolls

- Database of voter rolls
- Forensic image of computers/devices used to work with voter rolls
- Copy of media device used to transfer voter rolls
- 12. Daily and cumulative voter records for those who voted, with sufficient information to determine for each voter:
 - Name and voter registration address;
 - Mailing address
 - Date of birth;
 - Voter ID number;
 - Manner of voting (e.g., early by mail, early in-person, in-person on Election Day)
 - Voting location (if applicable)
 - Date voted
 - Political party affiliation (if applicable);
 - Early ballot request date (if applicable)
 - Early ballot sent date (if applicable)
 - Voted early ballot return or receipt date (if applicable)
 - Ballot canceled date (if applicable)
 - Image of ballot envelope or pollbook entry in .RAW, HTML, XHTML, SVG, or other format
- 13. Access or control of ALL routers, tabulators or combinations thereof, used in connection with the administration of the 2020 election, and the public IP of the router.
 - 14. Voter Rally Paper Rolls, Test Ballots, Ballot Test Matrix.
- 15. Access to all original, paper ballots (including but not limited to early ballots, Election Day ballots, and provisional ballots).
- 16. Each original, unique native electronic image of each early ballot cast, with the original associated metadata (multiple ballot images <u>may not</u> be combined into a single file and no metadata associated the original electronic ballot image shall be deleted, removed or altered).

- 17. Each image of each early ballot cast in (a) TIFF format, (b) PDF format, and (c) JPG format (multiple ballot images **may not** be combined into a single file).
- 18. From the Dominion electronic election management system, each of the following must be provided as (a) an XML file, (b) a JSON file, and (c) a TXT file:
 - Dominion Electronic Cast Vote Record
 - Ballot Images Raw Images
 - Ballot Images Ballot Audit and Review
 - Early Ballot Report
 - Provisional Ballot Report
 - Conditional Voter Registration Ballot Report
 - Cast Vote Record (raw data) JSON
 - ImageCast Central Logs
 - Ballot Scanning/Tabulation Machine Logs
 - Ballot Scanning/Tabulating Machine Tape

Any electronically stored information contained in this Exhibit A shall be electronically uploaded to one or more computer drives supplied by the Senate Judiciary Committee or its agents.

ARIZONA SENATE

Fifty-Fifth Arizona Legislature First Regular Session

Senate Judiciary Committee

SUBPOENA DUCES TECUM

TO: Stephen Richer, Maricopa County Recorder

YOU ARE COMMANDED TO APPEAR at the time, date and place set forth below to provide testimony concerning the items set forth in Exhibit A attached hereto. You must designate one or more of your officers, agents or representatives who consent to testify on your behalf about the same.

Date & Time:

January 13, 2021 at 9:00 a.m.

Place:

Arizona Senate

Arizona State Capitol

1700 West Washington Street

Phoenix, Arizona 85007

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Karen Fann, President of the Arizona Senate

Warren Petersen, Chairman Senate Judiciary Committee

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 - Signature Checking & Sorting Machine
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 - · Rejected Ballots Report by Reason Code
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ARIZONA SENATE

Fifty-Fifth Arizona Legislature First Regular Session

Senate Judiciary Committee

SUBPOENA DUCES TECUM

TO: John M. Allen, Maricopa County Treasurer

YOU ARE COMMANDED TO APPEAR at the time, date and place set forth below to provide testimony concerning the items set forth in Exhibit A attached hereto. You must designate one or more of your officers, agents or representatives who consent to testify on your behalf about the same.

Date & Time:

January 13, 2021 at 9:00 a.m.

Place:

Arizona Senate

Arizona State Capitol

1700 West Washington Street

Phoenix, Arizona 85007

You or your representative must also produce, and permit inspection, testing or sampling of the items set forth in Exhibit A at the date, time and location set forth above.

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Executed this 12th day of January, 2021.

Karen Fann, President of the Arizona Senate

Warren Petersen, Chairman Senate Judiciary Committee

EXHIBIT A

For the November 2020 general election in Maricopa County, Arizona:

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Any electronically stored information contained in this Exhibit A shall be electronically uploaded to one or more computer drives supplied by the Senate Judiciary Committee or its agents.

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Senate Judiciary Comn

Restriction

EXHIBITO W

KAREN FANN SENATE PRESIDENT FIFTY-FIFTH LEGISLATURE 1700 WEST WASHINGTON, SENATE PHOENIX, ARIZONA 85007-2844 PHONE: (602) 926-5874 TOLL FREE: 1-800-352-8404 kfann@azleg.gov DISTRICT 1



COMMITTEES: Rules, Chairman

Arizona State Senate

May 12, 2021

Maricopa Board of Supervisors c/o Chairman Jack Sellers 301 West Jefferson Street, #10 Phoenix, Arizona 85003

Dear Chairman Sellers:

I am writing to seek your assistance and cooperation in the resolution of three (3) serious issues that have arisen in the course of the Senate's ongoing audit of the returns of the November 3, 2020 general election in Maricopa County.

I. Ongoing Non-Compliance with the Legislative Subpoenas

The first issue concerns Maricopa County's apparent intent to renege on its previous commitment to comply fully with the legislative subpoenas issued on January 13, 2021, which, as you know, Judge Thomason found were valid and enforceable.

To date, attorneys for Maricopa County have refused to produce virtual images of routers used in connection with the general election, relying on a conclusory and unsupported assertion that providing the routers would somehow "endanger the lives of law enforcement officers, their operations, or the protected health information and personal data of Maricopa County's citizens." If true, the fact that Maricopa County stores on its routers substantial quantities of citizens' and employees' highly sensitive personal information is an alarming indictment of the County's lax data security practices, rather than of the legislative subpoenas. Similarly, the County's assertion that producing the internet routers for inspection would cost up to \$6,000,000 seems at odds with Deputy County Attorney Joseph La Rue's prior representation to Audit Liaison Ken Bennett that the routers already had been disconnected from the County's network and were prepared for imminent delivery to the Senate.

Nevertheless, in an effort to resolve the dispute regarding production of the routers, we propose that agents of CyFIR, an experienced digital forensics firm and subcontractor of Cyber Ninjas, review virtual images of the relevant routers in Maricopa County facilities and in the presence of representatives of the Maricopa County Sheriff's Office. Such an arrangement would permit Maricopa County to retain custody and monitor the review of router data, while ensuring that the Senate may access the information it requires—and to which it is constitutionally entitled—to successfully complete its audit. The Senate has no interest in viewing or taking possession of any information that is unrelated to the administration of the 2020 general election.

Separately, Maricopa County has refused to provide the passwords necessary to access vote tabulation devices. Its attorneys' insistence that the County does not have custody or control of this information is belied by the County's conduct of its own audits, which, if they were as comprehensive as they purported to be, almost certainly would have entailed use of the passwords to examine the tabulation devices, and it strains credulity to posit that the County has no contractual right to obtain (*i.e.*, control of) password information from Dominion.

II. Chain of Custody and Ballot Organization Anomalies

As the audit has progressed, the Senate's contractors have become aware of apparent omissions, inconsistencies, and anomalies relating to Maricopa County's handling, organization, and storage of ballots. We hope you can assist us in understanding these issues, including specifically the following:

- 1. The County has not provided any chain-of-custody documentation for the ballots. Does such documentation exist, and if so, will it be produced?
- 2. The bags in which the ballots were stored are not sealed, although the audit team has found at the bottom of many boxes cut seals of the type that would have sealed a ballot bag. Why were these seals placed at the bottom of the boxes?
- 3. Batches within a box are frequently separated by only a divider without any indication of the corresponding batch numbers. In some cases, the batch dividers are missing altogether. This lack of organization has significantly complicated and delayed the audit team's ballot processing efforts. What are the County's procedures for sorting, organizing, and packaging ballot batches?
- 4. Most of the ballot boxes were sealed merely with regular tape and not secured by any kind of tamper-evident seal. Is that the County's customary practice for storing ballots?
- 5. The audit team has encountered a significant number of instances in which there is a disparity between the actual number of ballots contained in a batch and the total denoted on the pink report slip accompanying the batch. In most of these instances, the total on the pink report slip is greater than the number of ballots in the batch, although there are a few instances in which the total is lower. What are the reasons for these discrepancies? For your reference, please see several illustrative (*i.e.*, not comprehensive) examples in the table below:

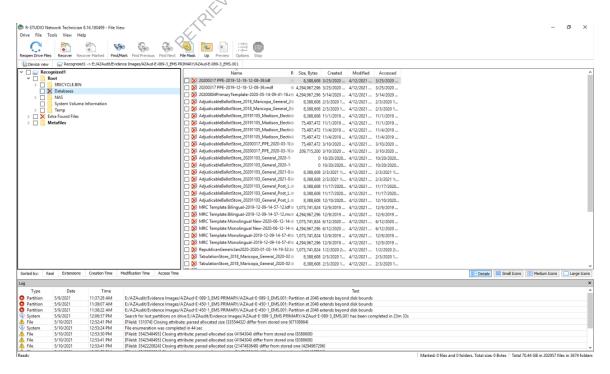
Pallet	Ballot Type	Batch	Pink Slip Total	Actual Total	Discrepancy
5	EV	2104	200	198	-2
5	EV	9276	200	165	-35
15	EV	9278	200	187	-13
15	EV	1643	200	218	18
7	EV	6359	197	187	-10

For your convenience, images of the corresponding pink report slips are attached in **Exhibit A**.

III. Deleted Databases

We have recently discovered that the entire "Database" directory from the D drive of the machine "EMSPrimary" has been deleted. This removes election related details that appear to have been covered by the subpoena. In addition, the main database for the Election Management System (EMS) Software, "Results Tally and Reporting," is not located anywhere on the EMSPrimary machine, even though all of the EMS Clients reference that machine as the location of the database. This suggests that the main database for all election related data for the November 2020 General Election has been removed. Can you please advise as to why these folders were deleted, and whether there are any backups that may contain the deleted folders?

The image below shows the location of the files known to be deleted. In addition, the main database for "Results Tally and Reporting" is not present.



* * *

I am hopeful that we can constructively resolve these issues and questions without recourse to additional subpoenas or other compulsory process. To that end, I invite you and any other officers or employees of Maricopa County (to include officials in the Elections Department) who possess knowledge or information concerning the matters set forth above to a meeting at the Arizona State Capitol on <u>Tuesday</u>, <u>May 18</u>, <u>2021 at 1:00 p.m.</u> in Hearing Room 109. Chairman Petersen, former Secretary Bennett and I will attend the meeting, which will be live-streamed to the public.

Please let me know at your earliest convenience whether you accept my invitation and, if so, which Maricopa County personnel will attend.

Thank you for your cooperation on these important issues of public concern.

Respectfully,

Serator Karen Fann, President

Arizona State Senate

Exhibit A

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4	Total to TABULATION	50	50	50	50	200
E. Damaged B Torn or cut not visible, stain overla tape, etc. F. Erroneous B Alternate F Printt, Prec Color DOEs information	, sticky, timing marks spill that results in a apping timing marks,	Column	PEICATION PER AF PRECINCT/DI	DUPLICE FIDAVIT ENVEL	Total # of balk ATED on line OPE PARTY	
ask for assi Why would I ru G. Multiple Bo Ask for as contains n	stant. eject something? ullots: sistance if afficavit nultiple ballors.	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	REJECTED		otal # of ballo EFECTED on lin	
	t: contained no ballot or ot from current elect					

EARLY VOTIN REPOR	IG PRIMARY	Election	Date E	GALON E	Towns. Tray#	
	SEQ: Column:	1 - (7)	51-100 B	/ <i>V</i> /-/ <i>G</i>)	/(/-2/) D	Combined Totals (A-D)
1	Total # of AFFIDAVITS	<i>50</i>	50	50	500	200
2	Total REJECTED	-6-	-6-	0	t)	to
w Ballots	Total to DUPLICATION	4	1	0	12	M
4	Total to TABULATION	50	49	50	48	114.7
not visil stain ov tape, et F. Erroneou Alterna Print), F Color Dinforma does no	cut, sticky, timing mari ble, spill that results in a verlapping timing marks to.	a P	PRECINCT/DI	FIDAVIT ENVEL ST COLOR WHIT VILLE COLOR WHIT VILLE COLOR VILLE C	PARTY	Reason Selow E F
G. Multiple Ask for contain H. Insuffici Affiday	r assistance if afficiacit ns multiple ballots.	r	REJECTED		otal # of ballots EJECTED on line	

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