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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

**SECRETARY OF STATE AND
MARICOPA COUNTY DEFENDANTS'
JOINT NOTICE OF SUPPLEMENTAL
AUTHORITY**

1 Defendants Arizona Secretary of State Katie Hobbs (the “Secretary”) and the
2 Maricopa County Board of Supervisors jointly submit this Notice of Supplemental Authority
3 in Support of the Secretary’s Motion to Strike the Declarations of Ben Cotton and Douglas
4 Logan and the Motion in Limine to Exclude their Testimony. [See Doc. 74; see also Doc.
5 75 (Maricopa County Joinder in Motion to Strike)] Specifically, the Secretary and the
6 Maricopa County Defendants request to supplement the record with the results of the
7 Arizona Attorney General’s investigation of the Cyber Ninjas’ allegations about deceased
8 voters, which establish that Cotton and Logan are not qualified to serve as experts about the
9 administration of Arizona elections because of the unreliability of their work. See Fed. R.
10 Evid. 702.

11 On August 1, 2022, Arizona Attorney General Mark Brnovich sent a letter to Arizona
12 Senate President Karen Fann about the Attorney General’s investigation of certain
13 allegations made by Plaintiffs’ witnesses Logan and Cotton in their report to the Arizona
14 Senate arising out of the “audit” of the 2020 general election results in Maricopa County.
15 [See Ex. 1] In particular, the “audit” report asserted that “it was found that 282 individuals
16 who were flagged as deceased prior to October 5, 2020, voted in the election.” See Cyber
17 Ninjas’ Report, Vol. III, § 5.6.6, available at:
18 [https://www.azsenaterepublicans.com/files/ugd/2f3470_d36cb5eaca56435d84171b4fe7ee](https://www.azsenaterepublicans.com/files/ugd/2f3470_d36cb5eaca56435d84171b4fe7ee6919.pdf)
19 [6919.pdf](https://www.azsenaterepublicans.com/files/ugd/2f3470_d36cb5eaca56435d84171b4fe7ee6919.pdf). Yet “[a]fter spending hundreds of hours reviewing these allegations, [the Attorney
20 General’s] investigators were able to determine that only one of the 282 individuals on the
21 list was deceased at the time of the election. All other persons listed as deceased were found
22 to be current voters.” [Ex. 1]¹

23 This comes as no surprise to the Maricopa County Defendants, whose own review of
24 allegedly deceased voters showed far fewer possible instances of a ballot being processed
25 and counted for a voter who passed away before the election than the 282 voters the Cyber

26 _____
27 ¹ It is not clear from the Attorney General’s letter whether the one deceased voter died
28 between the start of early voting on October 5, 2020 and election day on November 3, 2020,
or if that one vote represented someone other than the deceased voter completing the
deceased voter’s ballot.

1 Ninjas identified. [See Doc. 29-14, Maricopa County, Correcting the Record, at 61-62] The
 2 Attorney General’s investigation of potentially deceased voters proves that Logan’s and
 3 Cotton’s work product lacks the rigor required of an admissible expert opinion. Though
 4 whether deceased voters cast ballots in Maricopa County in 2020 is not before this Court,
 5 the Cyber Ninjas’ analysis of such voters as part of their “audit” of Maricopa County’s 2020
 6 General Election has been so thoroughly debunked by the Attorney General’s investigation
 7 that it casts significant doubt over all of Logan’s and Cotton’s other conclusions.

8 The results of the Attorney General’s investigation further prove that Logan’s and
 9 Cotton’s analysis of Maricopa County’s election administration is unreliable, because it is
 10 based on “unsupported speculation which is no more than unreliable ipse dixit guesswork.”
 11 *Friend v. Time Mfg. Co.*, 422 F. Supp. 2d 1079, 1080 (D. Ariz. 2005) (citing *General Electric*
 12 *Co. v. Joiner*, 522 U.S. 136, 146 (1997) and *Domingo ex rel. Domingo v. T.K.*, 289 F.3d 600,
 13 607 (9th Cir. 2002)). The Cyber Ninjas’ error rate of 99.65% “is the antithesis of the
 14 scientifically reliable expert opinion admissible under *Daubert* and Rule 702.” *Cabrera v.*
 15 *Cordis Corp.*, 134 F.3d 1418, 1423 (9th Cir. 1998). As a result, the Court should strike
 16 Logan’s and Cotton’s declarations and exclude their testimony from the preliminary
 17 injunction hearing.

18 RESPECTFULLY SUBMITTED this 2nd day of August, 2022.

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CERTIFICATE OF SERVICE

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I hereby certify that on August 2, 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/ Veronica Sisneros

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