

**ARIZONA COURT OF APPEALS
DIVISION ONE**

ARIZONA REPUBLICAN PARTY,
a recognized political party; *et al.*;

Appellants,

v.

KATIE HOBBS, in her official
capacity as Arizona Secretary of
State; *et al.*;

Appellees.

THE ARIZONA DEMOCRATIC PARTY;
et al.;

Defendants-in-Intervention Below.

No. 1 CA-CV-22-0388

Mohave County Superior Court
No. CV-2022-00594

MOTION FOR A PROCEDURAL ORDER
(Expedited Briefing Schedule)

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Appellants, pursuant to Arizona Rules of Civil Appellate Procedure 3, 5(b), and 6(b), respectfully request an order expediting review of this appeal and as good cause therefor state:

1. This appeal concerns the constitutionality of Arizona's post-1991 no-excuse mail-in voting system as applied to the upcoming general election scheduled for November 8, 2022. The published deadline for voter registration is October 11, 2022. Early voting, including by mail, begins on October 12, 2022. The first day to request one-time ballots-by-mail is August 7, 2022 and the deadline to do so is October 28, 2022.¹

2. Appellants, Plaintiffs below, urge that Arizona's post-1991 no-excuse mail-in voting violates various portions of the Arizona Constitution. These include the secrecy-in-voting requirement of article 7, section 1, which was meant to preserve the integrity of the Australian ballot system as adopted by the Arizona Territorial Legislature in 1891. *See* 1891 Terr. Sess. Laws no. 64.²

3. Appellants, Plaintiffs below, thus seek declaratory and injunctive relief, *inter alia*, prohibiting no-excuse mail-in voting from being utilized in the upcoming 2022 general election.

4. The requested relief will require changes to the administration of the upcoming general election to comply with the Arizona Constitution. The Secretary of State and county election supervisors will need adequate time to prepare.

5. Accordingly, Appellants respectfully urge that the court order an expedited briefing schedule, with any briefing and oral argument completed no later than **August 1, 2022**. This does not create a hardship for the parties, as they have

¹ Ariz. Sec'y of State, *Elections Calendar & Upcoming Events, 2022 Elections*, <https://azsos.gov/elections/elections-calendar-upcoming-events>; Ariz. Sec'y of State, *Voting by Mail: How to Get a Ballot-by-Mail*, <https://azsos.gov/votbymail>.

² Available at <https://azmemory.azlibrary.gov/digital/collection/lawsession/id/2606/rec/2>.

already extensively briefed these issues, first in the Arizona Supreme Court when Appellants sought original jurisdiction of their case on February 25, 2022, and then in the Mohave County Superior Court when Appellants refiled their case in that court on May 17, 2022.

6. “[A]n appellate court—to expedite its decision or for other good cause—may suspend any provision of these Rules in a particular case...and may order such proceedings as the court directs.” Ariz. R. Civ. App. P. 3(a). As well, “[a]n appellate court for good cause may shorten or extend the time for doing any act required by these Rules, a court order, or an applicable statute.” Ariz. R. Civ. App. P. 5(b). Alternatively, this request is made pursuant to Ariz. R. Civ. App. P. 29(b) (“The Court of Appeals may enter an order designating an appeal ‘accelerated’ by stipulation or by motion”).³

7. This is a motion for a procedural order, as it “does not substantially affect the rights of the parties or the ultimate disposition of the appeal.” Ariz. R. Civ. App. P. 6(b)(1).

8. Pursuant to Rule 6(b)(1)(B), the undersigned⁴ has attempted to confer via email with counsel for Appellees. Secretary Hobbs indicated her objection along with the various non-nominal county recorders currently represented by the Maricopa County Attorney’s office.⁵ As of 3:19 PM on June 29, 2022, no other party had stated a position.

³ The request for an order under Ariz. R. Civ. App. P. 29(b) is made in the alternative because undersigned counsel construes Rule 29(b)(2) as indicating that Rule 29 orders apply only to consideration after an appeal is already briefed and therefore is at issue. However, this Court’s Order dated June 29, 2022 indicates that it may construe the rule differently and therefore might be of the opinion that Rule 29 is the appropriate mechanism to make this request.

⁴ Roger Strassburg reached out to confer at the request of undersigned counsel.

⁵ Specifically, the Maricopa, Coconino, Gila, Greenlee, Navajo, and Pima County Recordors. Mr. LaRue wished us to note as follows: “[W]e oppose the Motion to

WHEREFORE, based on the foregoing, Appellants respectfully ask that this Court enter an order expediting the schedule for briefs and any oral argument in this case.

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Expedite, and that we request that the Court set a briefing schedule to allow us to submit a Response in Opposition to your clients' Motion.”

RESPECTFULLY SUBMITTED this 29th day of June 2022.

Davillier Law Group, LLC

By /s/ Alexander Kolodin

Alexander Kolodin

Veronica Lucero

Roger Strassburg

Arno Naeckel

Attorneys for Appellants

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CERTIFICATE OF COMPLIANCE

Pursuant to Arizona Rules of Civil Appellate Procedure Rule 4, the undersigned counsel certifies that the Motion for a Procedural Order is double spaced and uses a proportionately spaced typeface (i.e., 14-point Times New Roman) and does not exceed an average of 280 words per page according to the word-count function of Microsoft Word.

RESPECTFULLY SUBMITTED this 29th day of June 2022.

Davillier Law Group, LLC

By /s/ Alexander Kolodin

Alexander Kolodin

Veronica Lucero

Roger Strassburg

Arno Naeckel

Attorneys for Appellants