

SUPERIOR COURT, STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

<p>MARK BRNOVICH, in his official capacity as Arizona Attorney General; Yavapai County Republican Committee, an unincorporated association; and Demitra Manjoros, First Vice Chair of the Yavapai County Republican Committee and registered voter in Yavapai County,</p> <p style="text-align: center;">Plaintiffs</p> <p>vs.</p> <p>KATIE HOBBS, in her official capacity as Arizona Secretary of State,</p> <p style="text-align: center;">Defendant.</p>	<p>Case No. P1300CV202200269</p> <p style="text-align: center;">UNDER ADVISEMENT RULING AND ORDER RE: SPECIAL ACTION AND SUMMARY JUDGMENT</p>
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<p>HONORABLE JOHN NAPPER</p> <p>DIVISION 2</p>	<p>BY: Felicia L. Slaton, Judicial Assistant</p> <p>DATE: June 17, 2022</p>
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The Court has received and reviewed the Complaint for Special Action Relief filed by the Arizona Attorney General (“AG”), the Application for Order to Show Cause and the attached exhibits, the Answer filed by the Arizona Secretary of State (“Secretary”), the Response to Plaintiff’s Application for Order to Show Cause, and the attached exhibits. The Court has also reviewed the filing from the Arizona Governor. The Court has also reviewed the supplemental briefs filed by the parties. The Court has also reviewed all of the summary judgment pleadings initiated by the Secretary. The Court also held oral arguments on these pleadings.

The Court accepts special action jurisdiction. The Court finds the Secretary properly exercised her discretion when timely presenting a draft 2022 Elections Procedures Manual (“EMP”) to the AG and Governor. The draft certainly required editing and revision. However, the Court finds the draft was constructed in compliance with the Secretary’s duties contained A.R.S. §16-452. Accordingly, the Court denies the relief sought in the Complaint for Special Action.

Based on the findings outlined above, the Secretary’s Motion for Summary Judgment is denied.

Facts and Procedural History

Arizona statute requires an EMP to be constructed and implemented “not later than December 31 of each odd-numbered year immediately preceding the general election.” *A.R.S. §16-452(B)*. The process begins with the Secretary submitting the manual, “to the governor and the attorney general not later than October 1 of the year before each general election.” *Id.* The manual “shall be approved by the governor and attorney general” before “its issuance.” *Id.*

It is worth repeating, the Secretary's duty is to produce an EMP for the approval of the AG and the Governor. The Secretary's initial EMP submission is not finalized until it receives this approval. Historically, these three actors have worked together to prepare and finalize an agreed upon EMP. The statute builds in ample time and opportunity to iron out any and all disputes (from October 1st to December 31st). This did not happen in 2021. The parties' failure to properly work with one another to improve the Secretary's initial draft of the EMP does not mean she failed to perform a ministerial or discretionary act requiring a mandate from the Court.

The AG is rightfully concerned about the failure of the parties to comply with the timing of *A.R.S. §16-452*. The EMP was supposed to be finalized and approved by December 31, 2021. At this point in the game, there is no mechanism for the Court to assist the parties in constructing an EMP which complies with *A.R.S. §16-452* within the timelines of the statute. The Complaint was filed far too late for this to occur without disrupting elections that have already begun. It is for another Court on another day to determine whether this is a proper role for the Courts.

The failure to produce a new EMP does not leave Arizonans without guidance. The 2019 manual was properly submitted and approved by the Governor and the AG. Election officials are following the 2019 EMP while adhering to any changes occurring since its submission. As the last approved EMP, it currently remains the EMP for Arizona elections.

IT IS THEREFORE ORDERED, accepting special action jurisdiction and denying the requested relief.

IT IS FURTHER ORDERED, the Secretary's Motion for Summary Judgment is **denied**.

IT IS FURTHER ORDERED, all requests for attorneys' fees are **denied**.

IT IS FURTHER ORDERED, the Secretary shall file a form of judgment consistent with this Order within five (5) days.

DATED:


eSigned by Napper, John 06/17/2022 16:32:58 34OKUg10

HON. JOHN NAPPER

Judge of the Superior Court, Division 2

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