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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

KARI LAKE,

Contestant/Petitioner,

vs.

KATIE HOBBS, personally as Contestee
and in her official capacity as Secretary
of State; STEPHEN RICHER, in his

No. CV2022-095403

**MARICOPA COUNTY'S RESPONSE TO
PETITIONER'S AMENDED VERIFIED
PETITION TO INSPECT BALLOTS
PURSUANT TO A.R.S. § 16-677**

(Expedited Election Matter)

1 official capacity as Maricopa County
2 Recorder; BILL GATES; CLINT
3 HICKMAN; JACK SELLERS;
4 THOMAS GALVIN; and STEVE
5 GALLARDO, in their capacity as
6 members of the Maricopa County Board
7 of Supervisors; SCOTT JARRETT, in his
8 official capacity as Maricopa County
9 Director of Elections; and the
10 MARICOPA COUNTY BOARD OF
11 SUPERVISORS,

(Honorable Peter Thompson)

Defendants.

Introduction and Background

12 On December 9, 2022, Plaintiff Kari Lake filed her Complaint in Special Action and
13 Verified Statement of Election Contest Pursuant to A.R.S. § 16-672 (the “Complaint”). On
14 December 13, 2022, Plaintiff filed a separate Verified Petition to Inspect Ballots Pursuant to
15 A.R.S. § 16-677 (the “Petition”) requesting inspection of the ballots tabulated by Maricopa
16 County in the 2022 General Election. On December 14, 2022 at 12:16:03 PM, Maricopa
17 County filed its Response to Petitioner’s Verified Petition to Inspect Ballots Pursuant to
18 A.R.S. § 16-677 (the “Response”) requesting the Court deny Plaintiff’s Petition. Mere
19 seconds later at 12:17:42 PM, Plaintiff filed her Verified Amended Petition to Inspect Ballots
20 Pursuant to A.R.S. § 16-677 (the “Amended Petition”). The Amended Petition expands the
21 ballot inspection request to include “(iii) . . . 50 [ballot] envelopes for early ballots case in
22 the 2022 general election; and (iv) . . . 50 early vote ballots that were marked as spoiled on
23 Election Day from six separate batches chosen by Plaintiff’s representatives.” (Amended
24 Petition at 2). Maricopa County files its Response to Petitioner’s Amended Verified Petition
25 to Inspect Ballots Pursuant to A.R.S. § 16-677 (the “Amended Response”) to address the
26 additional ballot requests.

Argument

27 Maricopa County incorporates by reference the arguments sets forth in its Response.
28 Plaintiff’s Amended Petition requests the Court allow it to inspect “50 [ballot]
envelopes.” It bears repeating that “[e]lection contests are purely statutory.” *Grounds v.*

1 *Lawe*, 67 Ariz. 176, 186 (1948), quoting *McCall v. City of Tombstone*, 21 Ariz. 161, 185
2 (1919). Consequently, election contests are “dependent upon statutory provisions for their
3 conduct.” *Fish v. Redeker*, 2 Ariz. App. 602, 605 (1966); *Grounds* 67 Ariz. 184. A.R.S. §
4 16-677 is unequivocally clear in what it allows a party to inspect – ballots. Plaintiff requests
5 an order to inspect ballot envelopes pursuant to a statute that does not allow her to conduct
6 such an examination. The Legislature has deemed such conduct inappropriate in election
7 contests and the Court is without statutory authority to permit such an inspection. The Court
8 must deny this inspection request.

9 The basis for denial of Plaintiff’s new request, item “(iv)”, is set forth in Maricopa
10 County’s Response to the Petition to Inspect Ballots. As explained therein, spoiled ballots
11 are unrelated to the Counts in Plaintiff’s Complaint and cannot assist her in preparation for
12 trial.

13 Because Plaintiff’s Amended Petition fails to satisfy A.R.S. § 16-677’s requirements
14 that inspection must be necessary to Plaintiff’s preparation for trial and the inspection request
15 includes information outside the bounds of the controlling statute, this Court should deny
16 the Petition.

17 Conclusion

18 For the foregoing reasons in Maricopa County’s Response and Amended Response.
19 this Court should deny the Plaintiff’s Amended Petition.

20 RESPECTFULLY SUBMITTED this 14th day of December, 2022.

21 RACHEL H. MITCHELL
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ORIGINAL of the foregoing E-FILED
this 14th day of December 2022 with
AZTURBOCOURT, and copies e-served / emailed to:

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MARICOPA COUNTY SUPERIOR COURT
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