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14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
15 **IN AND FOR THE COUNTY OF MARICOPA**

16 Kari Lake,
17 Contestant/Plaintiff,

18 **Case No. CV2022-095403**
19 **(Honorable Peter Thompson)**

20 v.

21 Katie Hobbs, personally as Contestee and
22 in her official capacity as Secretary of
23 State; Stephen Richer in his official
24 capacity as Maricopa County Recorder;
25 Bill Gates, Clint Hickman, Jack Sellers,
26 Thomas Galvin, and Steve Gallardo, in
27 their official capacities as members of the
28 Maricopa County Board of Supervisors;
29 Scott Jarrett, in his official capacity as
30 Maricopa County Director of Elections;
31 and the Maricopa County Board of
32 Supervisors,

33 **PLAINTIFF’S REPLY TO**
34 **MARICOPA COUNTY’S**
35 **OPPOSITION TO PLAINTIFF’S**
36 **VERIFIED AMENDED PETITION TO**
37 **INSPECT BALLOTS PURSUANT TO**
38 **A.R.S. § 16-677**

39 **Defendants/Contestees.**

40 Plaintiff respectfully files this reply brief in support of Plaintiff’s Verified
41 Amended Petition to Inspect Ballots Pursuant to A.R.S. § 16-677 (“Amended Petition”)

1 in reply to: Maricopa County’s response to Plaintiff’s original petition; and Maricopa
2 County’s response to Plaintiff’s amended petition.¹

3 Plaintiff filed a modest request to randomly select and inspect 50 BOD printed
4 ballots, 50 BOD printed ballots that were spoiled, 50 early vote ballots, and 50 early
5 vote ballot envelopes. The ballots are indisputably relevant to Plaintiff’s claims at trial
6 since, as explained previously, BOD printed ballots caused widespread tabulator
7 rejections at 132 out of 223 vote centers. *See, e.g.*, Complaint in Special Action and
8 Verified Statement of Election Contest Pursuant to A.R.S. § 16-672 (“Complaint”) at ¶¶
9 3, 80-11, 63-90, 100-05. Thus, ballots are directly relevant to a significant claim in this
10 election contest.

11 Defendant Maricopa County does not argue that Plaintiff’s request is unduly
12 burdensome, which it is not. Nor does it credibly argue that the BOD printed ballots are
13 not directly at issue in this case. Maricopa County’s only argument on that score is that
14 “spoiled ballots are unrelated to the Counts in Plaintiff’s Complaint and cannot assist her
15 in preparation for trial.” Maricopa County’s Response to Petitioner’s Amended Verified
16 Petition to Inspect Ballots Pursuant to A.R.S. § 16-677 at 2. Maricopa County’s
17 argument does not make sense. Spoiled ballots are ballots that were rejected by the
18 tabulator and not counted. Thus, these ballots are unquestionably relevant to Plaintiff’s
19 claims related to the tabulator breakdowns at over 59% of the vote centers in Maricopa
20 County on Election Day.

21 Further, Plaintiff’s cyber expert, Clay Parikh, noted in his expert declaration that
22 the timing marks on two BOD printed ballots, one spoiled and the other not spoiled,
23 were printed at different lengths to the paper’s edge.² Having different locations of these
24 timing marks could mislead the tabulator and cause it to malfunction and/or reject the
25

26 ¹ Maricopa County filed their original response brief a few minutes after Plaintiff filed
27 their Amended Petition necessitating a subsequent response brief.

28 ² *See* Declaration of Clay Parikh, Plaintiff’s cyber expert (“Parikh Decl.”) attached as Ex.
13 to the Olsen Declaration attached at Tab A to the Election Contest at ¶ 20.

1 ballot. Parikh Decl. ¶ 20. Given these differences in the BOD printed ballots described
2 above, which is an issue in this case, Plaintiff is entitled to inspect a select sample of all
3 ballot types to examine whether these ballot types are printed uniformly and the same
4 quality necessary to work with Maricopa County tabulators. *See, e.g., Ward v. Jackson,*
5 2020 Ariz. LEXIS 313 at *3 (AZ Dec. 8, 2020) (noting parties inspected ballots after the
6 lower court heard “credible testimony that they saw errors in which the duplicate ballot
7 did not accurately reflect the voter’s apparent intent as reflected in the original ballot” --
8 but upholding court’s refusal to allow an *additional* inspection.). An inspection of a
9 small sample from these categories of ballots is also warranted to confirm that all ballots
10 are constructed printed in the same format in accordance with A.R.S. § 16-468(2). That
11 statute requires ballots to “be printed in plain clear type in black ink, and for a general
12 election, on clear white materials, and shall be of size and arrangement to fit the
13 construction of the vote tabulating equipment or other voting device.”

14
15 With respect to Plaintiff’s request to inspect 50 ballot envelopes, Maricopa argues
16 that A.R.S. § 16-677 only allows an inspection of ballots. The cases Maricopa County
17 cites in support of its argument do not discuss whether the envelope a ballot comes in
18 may be inspected pursuant to A.R.S. § 16-677. Ballots are placed in ballot envelopes
19 clearly making them a package. When someone receives a “ballot” in the mail, that
20 necessarily includes the envelope. Viewing the envelope separately serves no purpose.
21 And the original non-imaged signatures on those ballot envelopes are directly relevant to
22 Plaintiff’s claims regarding signature mismatches. *See, e.g., Complaint* at ¶¶ 44-62.

23 Specifically, Plaintiff submitted thousands of clearly mismatched signatures with
24 her Complaint. *See Declaration of Shelby Busch, Tab C.* The sheer number of
25 mismatched signatures indicates Maricopa County’s election security measures have
26 failed. The only true original record of a voter’s signature connected with the ballot is on
27 the ballot envelope—not the scanned image of that signature. If Maricopa County
28 destroyed the ballot envelopes, then the actual original signature is no longer available

1 for comparison to the file image. This would provide an explanation at trial for the
2 incredible number of mismatched signatures that were seen in the 2020 and 2022 general
3 elections.³ Permitting a limited inspection of 50 ballot envelopes is not burdensome to
4 Maricopa County, and the ballot envelope is related to the ballot.

5 Plaintiff respectfully requests that her designated representative be allowed to: (i)
6 randomly select and inspect 50 BOD printed ballots cast on Election Day from six vote
7 centers chosen by Plaintiff's representative; (ii) randomly select and inspect 50 early
8 ballots cast in the 2022 general election from six separate batches chosen by Plaintiff's
9 representative; (iii) randomly select and inspect 50 early ballot envelopes for early
10 ballots cast in the 2022 general election; and (iv) randomly select and inspect 50 BOD
11 printed ballots that were marked as spoiled on Election Day from six separate vote
12 centers chosen by Plaintiff's representative.

13
14 RESPECTFULLY SUBMITTED this 14th day of December 2022.

15
16 /s/Bryan James Blehm
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22 ORIGINAL efiled and served via electronic
23 means this 14th day of December, 2022, upon:

24 Honorable Peter Thompson
25 Maricopa County Superior Court
26 c/o Sarah Umphress
27 sarah.umphress@jbazmc.maricopa.gov

28 Joseph La Rue
Joe Branco
Karen Hartman-Tellez

³ Federal law prohibits destroying election records for 22 months after an election. 52 USC 20701

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