

**McCAULEY LAW OFFICES, P.C**

Daniel J. McCauley III (Bar No. 015183)  
6638 E. Ashler Hills Dr.  
Cave Creek, AZ 85331  
480-595-1378  
Dan@mlo-az.com  
Attorney for Contestant

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

Mark Finchem, an individual,  
Contestant;

Vs.

Adrian Fontes, purportedly  
officeholder-elect;  
Contestee;

--and--

Katie Hobbs, in her official  
capacity as the Secretary of  
State,  
Defendant.

Case No.: CV2022-053927

**CONSOLIDATED OPPOSITION TO  
MOTIONS TO DISMISS**

(Contest of election  
pursuant to A.R.S. §16-  
1672 et seq.)

Contestant, Mark Finchem ("Mr. Finchem"), by and through undersigned counsel, hereby respectfully notifies this consolidated opposition to two motions to dismiss ("MTD" or collectively "MTDs") one filed on behalf of Adrian Fontes ("Contestee") and the other purportedly on behalf of "Katie" Hobbs ("Defendant" for the lack of another statutorily appropriate designation) ... (Contestee and Defendant are hereinafter collectively

1 referred to as "Opponents"). Mr. Finchem respectfully  
2 requests this Honorable Court deny Opponents' MTDs on  
3 the following grounds.

4 **CONTESTEE'S CONTENTION THAT THIS ACTION IS AN ATTEMPT**  
5 **TO OVERTURN THE ELECTION IS FRIVOLOUS**

6 Mr. Finchem's election challenge is based on  
7 fundamental law, including the Arizona Constitution,  
8 Arizona election law under the Arizona Revised Statutes  
9 (particularly TITLE 16), Arizona Voting Manuals, and the  
10 Help America Vote Act ("HAVA").

11 The state Law that codified Arizona's Legislative  
12 intent by formulating the public policy protecting  
13 voters and elections as the culture enters the  
14 computer/information age. It took time and effort to  
15 construct a bipartisan statutory architecture to  
16 accomplish that goal.

17 Mr. Finchem proffers to this court that there are  
18 reasons for the strict statutory timetable imbuing the  
19 statutes with exacting and well-defined timetables for  
20 certification of electronic voting systems, components  
21 and the accreditation of laboratories that inspect and  
22 certify same. Legislators recognized the wellspring of  
23 mischief and inherent risk associated with electronic  
24 voting and accordingly, carefully crafted the specific  
25 and detailed statutory solution in order to assure  
26 qualified Arizona electors that used electronic systems  
27 in our elections are safe and reliable.

1           **CONTESTEE'S MOTION MUST BE STRCKEN FROM THE RECORD**

2           Arizona Revised Statutes ("A.R.S.")§ 12-349, cited  
3 in Fuentes' MTD along the associated rhetoric, legal  
4 conclusions and conclusory statements were nothing more  
5 than an attempt to mislead this Court by obfuscating, if  
6 not completely ignoring, the applicable statutory  
7 authority in the A.R.S. and legislative intent which was  
8 codified therein, related and actually applicable to  
9 election contests (*See Motion Caption page: also page 26*  
10 *and its associated footnote.*) Instead of addressing  
11 election contest statutory authority, the MTDs were  
12 replete with irrelevant legal conclusions, conclusory  
13 statements and out of context if not misrepresented cited  
14 cases inapposite to the arguments presented.

15           Both MTDs suffer from the same infirmities, lacking  
16 statutory authority for their filing. However, unlike  
17 Fuentes' MTD, which inferred an authority under which it  
18 was purported filed, said lack of authority  
19 notwithstanding, Hobbs' MTD was even more frivolous by  
20 not providing any authority for its filing whatsoever,  
21 again, because none exists.

22           In interpreting a statute, a court is to effectuate  
23 the legislature's intent. (*See Solar City Corp v. Ariz.*  
24 *Dep't of Revenue, 243 Ariz. 480 (2018)* as cited in  
25 *McKenna v. Soto (2021)*). Here, the Contestee  
26 misrepresents to this Honorable Court and attempts to  
27 gut this statutory framework governing this matter. The  
28 legislature constructed the quick, expedient path to be

1 taken in contested election matters and  
2 Contestee/Defendants' intent is abundantly clear; there  
3 is no applicable statutory authority for filing a Motion  
4 to Dismiss for an election contest; no other Rule nor  
5 authority was cited supporting any contention that the  
6 contest here is somehow a "civil action". An election  
7 contest is not a civil action and the Ariz. R. Civ. P.  
8 only apply to civil actions as designated therein. Ariz.  
9 R. Civ. P. 1 states in relevant part, that the R. Civ.  
10 P. "govern[s] the procedure in all civil actions." R.  
11 2 also states that "[t]here is one form of action-**THE**  
12 **CIVIL ACTION.**" R. 3 further states that "[a] **CIVIL ACTION**  
13 is commenced by filing a **COMPLAINT** with the court."  
14 (emphasis added). Contrary to both MTDs, a "statement  
15 of election" is what is required to commence an election  
16 contest; it is its own animal and is NOT a "COMPLAINT"  
17 nor designated as such anywhere in the A.R.S. which  
18 easily could have been defined otherwise by the  
19 legislature.

20 Whereas, what the legislature codified and specified  
21 is, that a "statement of contest" is required to commence  
22 an election contest, NOT a COMPLAINT.

23 Opposing counsel, by signing both MTDs have made  
24 misleading representations to this Court that (a) they  
25 were not being presented for any improper purpose which  
26 Mr. Finchem contends they were; (b) that the claims,  
27 defenses and other legal contentions were warranted by  
28 existing law or by a nonfrivolous argument and that the

1 factual contentions stated, which the MTDs were entirely  
2 devoid of, have or will have evidentiary support; and  
3 (c) that the numerous denials of factual contentions  
4 provided in the Statement of Contest were somehow  
5 warranted on the evidence.

6 More specifically, "[I]n any contest brought under  
7 the provisions of section 16-672 o 16-674," **under the**  
8 **filing of the answer**, or if no answer is filed..." . It  
9 is clear under the statutes an answer is mandatory, not  
10 discretionary. If an "answer" (again, there are no  
11 statutory provisions for filing the MTDs in an election  
12 contest) is not filed then the court "shall" move to an  
13 ex parte hearing (see A.R.S. 16-675(A).)

14 Further, Section 16-675(B) provides specific  
15 statutory language of the issuance of summons' which is  
16 completely distinct from the Ariz. R. of Civ. Proc. This  
17 is the statutory authority and legislative intent  
18 codified in the A.R.S.

19 Ariz. R. Civ. P. 7 defined exactly what a "pleading"  
20 is and a Statement of Contest is not a pleading (note,  
21 see Ariz. R. Civ. P., *Id. supra*). The legislature was  
22 fully aware of Rule 7 and chose not to define its  
23 statutory election contest within the ambit of usual and  
24 customary civil practice. It created a separate process  
25 specifically to govern elections and election contests  
26 in this case. The legislative intent was specifically  
27 tailored to be expedient with short deadlines in which  
28 to file a Statement of Contest; and an Answer to same;

1 and hear the election contest during a hearing (not a  
2 "trial"); and **not a series of time-consuming, motions or**  
3 **the inappropriate and statutorily unauthorized motion**  
4 **practice attempted in the MTDs which appear uniquely**  
5 **designed to prevent preparation for the hearing on the**  
6 **merits of the contest.**

7 ARS § 16-673 specifically states in subsection (A)  
8 that an election contest must be initiated by a  
9 "statement" **NOT A COMPLAINT.** (Note ARS § 16-675  
10 specifically states that the initiating document is to  
11 be designated a "statement of contest). Whereas, Ariz.  
12 R. Civ. P. 3 states an action is commenced by the filing  
13 of a "complaint," *Id. supra.* It is an erroneous  
14 presumption to assert the legislators did not know the  
15 difference when it laid out its election contest  
16 framework.

17 Filing and serving a responsive "pleading" which a  
18 statement of contest is not (see herein above), is  
19 governed by Ariz. R. Civ. P. 12. R. 12(a)(1) addresses  
20 time allocations completely different from the actual  
21 governing statute, A.R.S. § 16-673. It is its own  
22 statutory animal governed by strict statutes in A.R.S.  
23 Title 16 and particularly § 16-673. **Again, Ariz. R. Civ.**  
24 **P. 12 does not apply to election contests.**

25 Notwithstanding all the foregoing, it is also true  
26 that motions to dismiss are disfavored by Arizona courts.  
27 *Logan v. Forever Living Products Int'l., Inc*, 203 Ariz.  
28 191, 193 (2002). Arizona did not adopt the more

1 stringent pleading standards of the federal courts (*See:*  
2 *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).  
3 Instead, Arizona maintains the traditional "notice  
4 pleading" standard. *Cullen*, 218 Ariz. at 419 (Citation  
5 omitted). Under such an architecture, [d]ismissal is  
6 only appropriate if 'as a matter of law, plaintiffs would  
7 not be entitled to relief under **any** of the facts  
8 susceptible to proof.' (Emphasis added) *Coleman v. City*  
9 *of Mesa*, 230 Ariz. 352, 356. Here, the MTDs abuse this  
10 standard by playing three card monte in an attempt to  
11 give their Motion the effect of a "judgment on the  
12 pleadings" and again, notwithstanding that no motion  
13 practice is authorized for an election contest. The  
14 Court should not indulge such procedural gamesmanship.  
15 Our Supreme Court has been clear regarding such  
16 shenanigans:

17           There are certain well established rules  
18           to guide us: (1) in determining the  
19           sufficiency of a complaint on a motion to  
20           dismiss, the allegations must be treated  
21           as true, whether they are susceptible to  
22           proof at trial does not concern us at this  
23           time, (2) all intendments lie in favor of  
24           the complaint not against it,; and (3) a  
25           motion to dismiss an action should never  
26           be granted unless the relief sought could  
27           not sustained under any theory. *Griffin*  
28           86 Ariz. at 169-70, (citation omitted).

1 Election contests were designed under the statutes  
2 not to simply deliver an outcome but to insure the vote  
3 was full, fair and lawful **in all respects** (emphasis  
4 added) *See Harless v. Lockwood*, 85 Ariz. 97, 101 (1958).<sup>1</sup>  
5 The Court has the responsibility to make a determination  
6 if Ms. Hobbs failed in her purported capacity as the  
7 Secretary of State, failed to properly certify, the  
8 election voting systems, *inter alia*, that were used in  
9 this election as alleged in this contest.

10 Contrary to Ms. Hobb's contention that the county  
11 Boards of Supervisors have a statutory duty to  
12 essentially rubber stamp the election as tabulated by  
13 the voting systems she was in control of, including those  
14 in which she was a contestant, the Boards have a duty to  
15 their constituents to only certify the vote result if  
16 there is no evidence that the election is irregular.  
17 This Court has a duty to decide if Secretary Hobbs has  
18 the authority to bully Boards into submission as the  
19 MTDs admit she did; or instead, if the Boards had a  
20 higher duty to the constituents and qualified electors  
21 that elected them to protect their election and secure  
22 an honest count.

23 It is unequivocal, this court can and indeed must  
24 "hear and determine all issues arising in a contested

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25 <sup>1</sup> See [https://azgovernor.gov/sites/default/files/hb2492\\_signing\\_letter.pdf](https://azgovernor.gov/sites/default/files/hb2492_signing_letter.pdf) e.g.,  
26 [https://azgovernor.gov/governor/news/2022/03/governor-ducey-signs-](https://azgovernor.gov/governor/news/2022/03/governor-ducey-signs-legislation-furthering-arizonas-position-leader-election) and  
27 [legislation-furthering-arizonas-position-leader-election](https://azgovernor.gov/governor/news/2022/03/governor-ducey-signs-legislation-furthering-arizonas-position-leader-election) re "Election  
28 integrity means counting every lawful vote and prohibiting any attempt to  
illegally cast a vote" regarding H.B. 2492 being "...a balanced approach that  
honors Arizona's history of making voting accessible without sacrificing  
security in our elections."



1 election, (See, A.R.S. § 16-676(B)). Obviously, that  
2 responsibility includes determining the status of the  
3 accreditation of the certification company and the  
4 actual certification of all the components the voting  
5 systems used in the election. The Contestee's insulting  
6 assertion that this election contest is simply an attempt  
7 to overturn an election disintegrates under the glare of  
8 common sense and denigrates the statutory election  
9 contest process. The use of threats of criminal  
10 investigation and prosecution Secretary Hobbs admitted  
11 in her Motion to Compel County Boards to submit to her  
12 use of uncertified voting systems cannot be given an  
13 imprimatur by this Court. The Court's "judgment" must  
14 include a determination affirming or annulling the  
15 election, *Id...* courts in election contests routinely  
16 make such determinations. (See, *Higgins v. Superior*  
17 *Court in and for the County of Navajo*, 163 Ariz. 348,  
18 353-54 (1990), which was a judgment in favor of the  
19 contestee after making modifications to vote tallies to  
20 discount illegal votes; which is what we have here via  
21 the use of uncertified machines shown to be improperly  
22 certified by a likewise improperly accredited company  
23 whose right to conduct such examination(s) had been long  
24 expired and a certification "certificate" as well as  
25 accreditations were fabricated to cover this farce.

26 The statutory path set forth by the legislature is  
27 a clear statement that of their intent for strict  
28 compliance not substantial compliance with its with

1 regimen as codified. (See: *Bee v. Day*, 215 v. Ariz.  
2 505, 507 (2008) "the particular form requirement to be  
3 indispensable").

4 *Hancock v. Bisnar*, 212 Ariz. 344 (1959) was  
5 adjudicated on the merits and did not authorize Rule  
6 12(b)(6) motions. The legislature could have easily  
7 referenced the Ariz. Code of Civ. P. or Ariz. R. Civ. P.  
8 or even reference "civil actions" in Title 16 but chose  
9 not to do so. The MTDs the Response thereto and any  
10 Reply must be stricken from the record so as not to  
11 corrupt the record with motions practice unavailable for  
12 election contests and non-compliant with Title 16.

13 The attorneys for Contestee/Defendant knew or should  
14 have known all of the above. Despite that duty they  
15 proceeded with motion practice needlessly driving up the  
16 cost of litigation and purposely setting fire to Mr.  
17 Finchem's time to prepare for the contest hearing.  
18 Fuentes' MTD went out its way to decry the added cost of  
19 litigation of this "civil action" (which again, an  
20 election is not, *Id.*). Whereas in contrast the frivolous  
21 MTDs which were devoid of applicable grounds or statutory  
22 authority in support, have certainly and needlessly  
23 added substantially to the cost of this contest.

24  
25 **CONTESTEES' ASSERTION THERE IS NO CLAIM AGAINST MR.**  
26 **FONTES IS NONSENSE**

27 Fontes is a Contestee under Title 16 and must be named.  
28 More than that he was a direct beneficiary of Hobbs

1 misconduct. The Notice of Contest and this document  
2 show just how much he was unjustly enriched by the  
3 Secretaries misbehavior.

4 **SECRETARY HOBBS FAILED TO PERFORM THE DUTIES**  
5 **IMPOSED BY HER OFFICE**

6 Secretary Hobbs has not only the authority but the  
7 responsibility and duty to supervise elections and the  
8 election process throughout Arizona which has been  
9 shown, she was derelict in while abusing her office  
10 authority. A.R.S. § 16Fu-1009 governs and states in  
11 pertinent part:

12 *FAILURE OR REFUSAL TO PERFORM A DUTY BY ELECTION*  
13 *OFFICER; CLASSIFICATION.* A public officer upon whom a  
14 duty is imposed by this title, who knowingly fails or  
15 refuses to perform that duty in the manner prescribed by  
16 law, is guilty of a class 3 misdemeanor.

17 First, she was self-interested in the election. To  
18 prevent an appearance of impropriety she had a duty to  
19 recuse herself from management of the election in which  
20 she was a participant. Her failure to properly fulfill  
21 her duty implied under our elections statutes created a  
22 glaring error ripe for creating, and which did create,  
23 the appearance of unfairness and lack of confidence in  
24 the election that undermined the faith that at least  
25 half the population of our state now openly deems  
26 corrupted, unfair and "fixed". These alleged "election  
27 denier" talking points originated with and were created  
28 by the failings of the Secretary herself.

1           The essence of the allegations of the corruption of  
2 the election process is clearly spelled out in the Notice  
3 of Contest. The strict verification process timeline  
4 was intentionally or negligently mismanaged. As shown  
5 in the Notice, the laboratory that allegedly certified  
6 the voting machines was not accredited as required. To  
7 cover itself the lab provided the State with a forged  
8 certificate of accreditation which was not executed by  
9 the statutorily designated chief operating officer as  
10 required. Instead, it was executed by an unqualified  
11 person who may or may not even be an employee of the  
12 lab. The date on that referenced certificate was false  
13 and made strictly to trick anyone that might view it.  
14 Secretary Hobb's claim(s) that the document is  
15 legitimate was, and continues to be, not only untrue but  
16 a breach of her duty to govern a full and fair election  
17 process.

18           Even more egregious was Secretary Hobb's claim that  
19 the bi-annual certification of the voting systems,  
20 including the tabulators by this un-accredited lab,  
21 conformed to the 2-year re-certification or  
22 accreditation process. The reality is the 2-year  
23 statutory requirement was actually not completed, if at  
24 all, until after three years, which absolutely rendered  
25 the certification null and void (even if the lab had  
26 been properly recertified which there has been no proof  
27 provided that it was) (*See: the Curriculum Vite and*  
28 *Report of subject matter expert Michael Schafer, Exhibit*

1 *D attached to the Notice of Contest and the related*  
2 *allegations in paragraphs 52 through 84 of the Notice of*  
3 *Contest. Under A.R.S. § 16-442(B) machines or devices*  
4 *used in any election for any federal, state or county*  
5 *offices may only be certified for use in this state and*  
6 *may only be used if they comply with the Help America*  
7 *Vote Act of 2022 ("HAVA") and if those machines or*  
8 *devices have been **tested and approved by a laboratory***  
9 ***that is accredited pursuant to HAVA. (Emphasis added)***  
10 ***(see, HAVA Act Section 202 DUTIES). HAVA also provides***  
11 ***requirements for testing, certification, decertification***  
12 ***and re-certification of voting system hardware and***  
13 ***software, also see: 425 USC 15731, HAVA section 231***  
14 ***CERTIFICATION AND TESTING OF VOTING SYSTEMS)** All acts of*  
15 *certification testing and re-certification must be*  
16 *conducted by a certified lab. Both HAVA and A.R.S. §*  
17 *16-442(B) require certification by a lab accredited by*  
18 *the National Institute for Standards and Testing*  
19 *("NIST") and also by the Election Assistance Commission*  
20 *("EAC").*

21 Voting machines or devices which have had changes  
22 to hardware or software require re-certification prior  
23 to use in any election (A.R.S. § 14-662(B) and HAVA 202  
24 at 2). All governmental agencies and officers must  
25 comply with A.R.S. § 16-442. Pursuant to Version 2.0 of  
26 the Voting System Laboratory Program Manual, effective  
27 May 31, 2015, "A grant of accreditation is valid for a  
28 period not to exceed 2 years (VSTLPM p. 39, section 3.8).

1 Here the Statement of Contest not only alleges but  
2 shows that the voting systems and components were  
3 uncertified and as a result widely malfunctioned as a  
4 result of Secretary Hobb's related Title 16 misbehavior.  
5 The Secretary does not rely on, and does not provide any  
6 countervailing, unbiased expert opinion in her MTD that  
7 the verification and accreditation process she was  
8 supposed to govern was proper. She cannot because in  
9 continuing derogation of the statutes governing this  
10 contest she has not filed the mandatory Answer to address  
11 these issues. **The illegitimate MTDs are nothing more**  
12 **than smokescreens to distract this Court from her crimes.**  
13 Because "this election contest is not a criminal action  
14 against [the] contestee... a high degree of proof to  
15 convict is not essential." See *Griffen*, 86 ARIZ. 169-  
16 170.

17 **SECRETARY HOBBS EXCEEDED HER AUTHORITY BY ADDING**  
18 **TO THE ELECTION MANUAL WITHOUT AUTHORITY**

19 It has long been recognized that misconduct not  
20 consistent with fraud or intentional wrongdoing is  
21 actionable if it "effect[s] the result" **or at least**  
22 **renders it uncertain."** See: *Findley v. Sorenson*, 35 ARIZ.  
23 265, 269 (1929). Here the claim that the unaccredited  
24 lab and uncertified electronic voting systems, including  
25 the vote tabulators, fits precisely within the ambit of  
26 *Findley*. This is no form over substance claim. It is  
27 based upon a complete failure by Hobbs to adhere to the  
28 specific requirements of Title 16. The lack of

1 certification led straight to the chaotic election  
2 process throughout Arizona which resulted in erroneous  
3 and invalid ballot results i.e., "erroneous count of  
4 votes" pursuant to A.R.S. 16-672(A)(5) and the  
5 disenfranchisement of many qualified electors. A vote  
6 as chaotic as occurred during the relevant election  
7 resulted among other problems, in erroneous tallies.  
8 *(See Exhibit I to the Notice of Contest containing more*  
9 *that 80 emails from the Pima County government describing*  
10 *the election ballot tabulation chaos.*

11 **THE SECRETARY'S MISCONDUCT DURING THE ELECTION**  
12 **PROCESS ABUSED HER OFFICE**

13 Just a few days ago, the social media platform  
14 Twitter, released its business records to the public.  
15 Arizona citizens learned from this release that  
16 Secretary Hobbs, the second highest government official  
17 in the State and first in line to succeed the governor,  
18 used her office to censor constituents. Such acts breach  
19 the Secretary's duty in violation of both the United  
20 States and Arizona Constitutions. Using the  
21 Cybersecurity and Information Security and Information  
22 Agency ("CISA") Hobbs furthered her effort at  
23 unconstitutional censorship. She used an Election  
24 Misinformation Reporting Portal created by the  
25 Department of Homeland Security ("DHS"), and in  
26 partnership with the world's largest social media  
27 companies and other platforms including not only Twitter

1 but Facebook in which she caused the removal of any  
2 constituents' speech she disdained from public view.

3 Hobbs alleges here censorship was kosher because the  
4 way censoring "**misinformation**". Really? Under whose  
5 definition of that term - hers and hers alone? This  
6 claim/justification for censoring her constituent's free  
7 speech is nonsense. She misbehaved and it is grossly  
8 serious. It should disqualify her from the governor's  
9 office. Her state-wide office rendered her acts nothing  
10 less than governmental censorship. The acts were *per se*  
11 violations of Arizona citizens' constitutional free  
12 speech rights. As shown by Twitter's now public business  
13 records her acts were reprehensible. Starting at the  
14 time she knew she would be running for governor in 2021  
15 her acts constituted unambiguous election "misconduct."

16 **THE MOTIONS TO DISMISS ARE A DEVICE INTENDED TO DEFEAT**  
17 **CONTESTANTS HEARING PREPARATION**

18 A.R.S. Title 16 delineates an unambiguous statutory  
19 election contest process. It limits the process to  
20 (1) filing a Notice of Contest, (2) a responsive answer,  
21 (3) and immediate hearing ... there is no motion practice  
22 statutorily provided for whatsoever. The strict path  
23 for speedy resolution contemplated by the legislature  
24 allows the contest just a few days for hearing  
25 preparation. The public policy underlying the  
26 legislative intent was to circumvent exactly what we  
27 have here - illicit motion practice designed to thwart  
28 Mr. Finchem's preparation. And, to present a motion to



1 dismiss where no pleadings, nor motion practice are  
2 provided for despite the fact that the Notice of Contest  
3 is clearly not a pleading under Ariz. R. Civ. P. 7.  
4 Again, the litigation process under the Ariz. R. Civ. P.  
5 was deliberately excluded by the legislature for  
6 election contests.

7 Under the schedule set by the Court and as a result  
8 of this illicit motion practice, Mr. Finchem will have  
9 at best, inadequate time to prepare for the hearing.  
10 Under the current Order, motions are to be argued and a  
11 decision rendered in three days (Friday) and the hearing  
12 started only two days later (Monday). This is exactly  
13 the situation the legislature wanted to avoid under Title  
14 16. Therefore, the court must extend the hearing via  
15 the 5 added extension available under the statute to  
16 defeat the MTDs' obvious efforts to extinguish Mr.  
17 Finchem's right to prepare.

18 **THE REQUEST FOR SANCTIONS IS A BALD ATTEMPT TO COLOR**  
19 **THE COURT'S OPINION AND SERVE FRUIT FROM A POISONED**  
20 **TREE.**

21 Mr. Fincham filed a grounded, concise, direct  
22 election Contest. Instead of getting the answer required  
23 under Title 16 he received two meritless motions to  
24 dismiss. The Fuentes Motion is unnecessary caustic and  
25 outrageously abusive. If not protected by court rules  
26 it would be grounds for a Slander suit.

27 Standing up and fighting for an elected office no  
28 matter how many times you feel cheated is not fodder for

1 slander. The legislature devised election contest  
2 remedies more than a century ago because electors have a  
3 right to judicial consideration even if unintentional  
4 errors or improprieties that may render the announced  
5 results even somewhat "uncertain" See: *Findley*, 35 Ariz.  
6 at 269. No contestee who seeks an office in Arizona  
7 should be sanctioned. Such censure can only chill  
8 political opponents and discourage potential candidates.  
9 The prospect is troubling.

10 Any present or future application for sanctions  
11 should be denied.

12 The good faith and meritorious grounds for  
13 Contestor's claims are set forth in the Notice of Contest  
14 and in the Response. Contestor renews his objection to  
15 these curious, illicit motions. On information and  
16 belief, they were filed to distract Contestor's attorney  
17 and inhibit if not extinguish his trial preparation.

18  
19 DATED this 14<sup>th</sup> day of December, 2022.

20  
21 McCauley Law Offices, P.C.

22  
23 By: /s/ Daniel J. McCauley, III  
24 Daniel J McCauley III  
25 Attorney for Contestant  
26  
27  
28

1 ORIGINAL of the foregoing  
2 Filed this 14<sup>th</sup> day of December  
3 2022 with copies thereafter being  
4 Served via the TurboCourt Notification  
5 System on the following:

6 Andy Gaona  
7 Coppersmith Brockelman PLC  
8 [agaona@cblawyers.com](mailto:agaona@cblawyers.com)

9 Craig Morgan  
10 Sherman & Howard, LLC  
11 [cmorgan@shermanhoward.com](mailto:cmorgan@shermanhoward.com)

12 By: /s/ Daniel J. McCauley, III

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