

**IN THE SUPERIOR COURT
MOHAVE COUNTY, STATE OF ARIZONA**

**HONORABLE LEE F. JANTZEN
DIVISION: IV COURTROOM: 201
COURT REPORTER: DAWN DUFFEY**

**CHRISTINA SPURLOCK, CLERK OF SUPERIOR COURT
M. BROOKS, DEPUTY CLERK
HEARING DATE: 12/16/2022**

**JOSEPH "SONNY" BORELLI, et al.,
Plaintiffs,**

vs.

**KATIE HOBBS, in her capacity of Secretary of
State and in her capacity; STEPHEN RICHER,
in his official capacity as Maricopa County
Recorder and in his personal capacity; BILL
GATES, CLINT HICKMAN, JACK SELLERS,
THOMAS GALVIN, and STEVE
GALLARDO, in their official capacities as
members of Maricopa County Board of
Supervisors and in their personal capacities;
and SCOTT JARETT, in his official capacity as
Maricopa Director of Elections and in his
personal capacity,**

Defendant(s).

CASE NO: CV-2022-01480

RETURN HEARING

START: 4:17 P.M.

REMOTE APPEARANCES: Ryan Heath, Attorney for the Plaintiffs Joseph Borelli, et al.; Cameron Powell, (Pro Hac Vice), Joseph Borelli; Andrew Gaona, Sambo Dul, and Alexis Danneman, Attorneys for the Defendant Katie Hobbs.

This is the time set for a Return Hearing.

Counsel Gaona informs the Court they are specially appearing today without waiving any defenses; noting the complaint has not been served.

Counsel Danneman informs the Court they are specially appearing today without waiving any defenses as to personal jurisdiction; noting they were also not served in this matter.

Counsel Gaona advises the Court, as of 4:00 p.m. today, the Board of Supervisors for Maricopa County has not yet been served in this matter.

The Court has reviewed the file; notes it has received the Petition for Complaint on Order to Show Cause filed on Monday, December 12, 2022; and inquires to the status of this case as to which parties have been served in this matter.

Counsel Heath advises the Court co-counsel is handling service of process in this matter; and states they will have service effectuated in the coming days.

The Court inquires to Counsel Gaona's position.

Counsel Gaona provides his position to the Court; stating the only reason the Secretary's office was aware of this complaint being filed is due discussion on Social Media regarding such and appeared on a CNS Report; states he was informed of today's Return Hearing by a Reporter which sent him a copy of the Order; states his position is Plaintiff has failed to comply with the election contest statutes; states this Court has no personal jurisdiction over the Defendants; and believes this case should be dismissed based on laches grounds, failure to prosecute, failure to serve and failure to diligently prosecute.

Counsel Danneman provides her position to the Court; and moves to dismiss this matter immediately due to failure to prosecute.

Counsel Gaona addresses the Court regarding not being served in this matter; states there has been no contact by Counsel Heath's office to effectuate service through alternative means; and reiterates his request to dismiss this matter.

Counsel Heath addresses the Court regarding service; notes summons was produced by Turbo Court with a 20-day response for the Answer; notes there has been contact with the Court to fix the summons stating the Summons was fixed yesterday which now reflects a 5-day answer requirement and states this is the reason for the delay.

Discussion ensues regarding the correction of the summons and timely service.

Counsel Danneman and Counsel Gaona further provide their positions to the Court regarding timely service.

Counsel Danneman informs the Court her client's position is that the hearing of the contest must be within 10 days.

Counsel Gaona addresses the Court noting Plaintiff's failure to comply with election contest statutes and to serve in a reasonable time; requesting the case be dismissed.

Counsel Heath addresses the Court noting they are within timelines; addresses the Court's ability to file a 5-day extension for the initial 10-day period; and addresses a Constitutional transfer of power.

The Court notes its concerns of conducting today's hearing without all parties present today and the unwillingness to serve all parties.

Now show the presence of Counsel Powell via Zoom video at 4:32 p.m.

Counsel Gaona notes if Counsel Powell is not admitted as Pro Hac Vice, he is unsure why he should address the Court.

The Court concurs and notes it shall allow Counsel Powell to address the Court to explain service; noting he is aware Counsel Powell is not yet admitted into the State of Arizona as Pro Hac Vice.

Counsel Powell addresses the Court stating the action is not only a special elections contest, noting they have equal protection claims that could seek prospective relief; and requests the Court provide more time to look at the prospective forms of relief which involve changing policies and procedures of Maricopa and perhaps Arizona State Law.

Counsel Gaona presents statements to the Court regarding Plaintiff's seeking prospective relief as to Maricopa County's signature verification, stating they should voluntarily dismiss the election contest today and proceed with this case on a normal schedule.

Counsel Danneman concurs with Counsel Gaona; and requests, if the contest claim is dismissed in this matter, her client be dismissed as a Defendant, stating there would be no jurisdiction over her.

Counsel Heath presents statements to the Court regarding A.R.S. 16-676, noting the 10-day window is still well within timelines; addresses the summons issue stating he received the corrected summons back yesterday; and notes the Court's capacity to extend this matter for 5 days.

Counsel Gaona notes A.R.S. 16-676 states hearings are held within 10 days from filing; states the Court's ability to extend 5 days is for good cause shown and respectfully submits that the failure of service of the Order to Appear is not good cause.

Counsel Heath notes service would have been completed sooner, had the summons been correct, stating this was the cause of delay.

The Court addresses the parties regarding the summons; and states it believes this case cannot go forward based on the lack of service prior to today's Return Hearing.

IT IS ORDERED dismissing the contesting of election portion of this case for lack of service.

The Court notes it shall allow service to be completed on the remaining portion of this case, treating this as a normal civil case going forward.

The Court states the contesting of the election in Maricopa County removes Defendant, Katie Hobbs, in that capacity; however, it does not remove her in the other capacity.

The Court finds it cannot process a contested election case in this matter due to lack of service.

The Court notes this case is no longer a contested elections case.

The Court recesses at 4:44 p.m.

cc:

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