

ARIZONA COURT OF APPEALS

DIVISION ONE

KARI LAKE,

Plaintiff/Appellant,

v.

KATIE HOBBS, et al.,

Defendants/Appellees.

Court of Appeals

Division One

No. 1 CA-CV 22-0779

No. 1 CA-SA 22-0237

(CONSOLIDATED)

Maricopa County

Superior Court

No. CV2022-095403

KARI LAKE,

Petitioner,

v.

THE HONORABLE PETER
THOMPSON, Judge of the
SUPERIOR COURT OF THE STATE
OF ARIZONA, in and for the County
of MARICOPA,

Respondent Judge,

KATIE HOBBS, personally as
Contestee and in her official capacity
as Secretary of State; STEPHEN
RICHER, in his official capacity as
Maricopa County Recorder, et al.,

Real Parties in Interest.

**DEFENDANT-APPELLEE HOBBS'S ANSWERING BRIEF AND
OPPOSITION TO SPECIAL ACTION PETITION**

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INTRODUCTION

Kari Lake lost the Governor's race to Katie Hobbs by 17,117 votes. In the face of this insurmountable margin, Lake brought a sprawling election contest, alleging an elaborate and nefarious scheme among (largely Republican) election officials to disenfranchise Republican voters, all to sow distrust in Arizona's election results. The trial court gave Lake the opportunity to prove her speculative allegations during a two-day trial. Despite seven witnesses, hundreds of declarants, and thousands of pages of exhibits, Lake failed to demonstrate *any* violations of Arizona law and offered *no* evidence that absent alleged violations the outcome of the election would have been different.

On appeal, Lake fares no better. The trial court applied the correct legal standard, rooted in more than 100 years of precedent, and rightly found that Lake failed to carry her heavy burden to overturn the election. The trial court also rightly found that Lake's other claims were barred by laches, fell outside Arizona's exclusive election contest statute, or otherwise failed to state a claim. Lake's arguments to the contrary depend on unsupported and untenable legal standards that would require elections to be thrown out upon mere speculation of election misconduct and conjecture regarding its supposed result. But Arizona law requires much more to disenfranchise millions of Arizonans. Given the "strong public policy favoring stability and finality of election results," *Donaghey v. Attorney General*,

120 Ariz. 93, 120 (1978), “nothing but the most credible, positive, and unequivocal evidence should be permitted to destroy the credit of official returns,” *Hunt v. Campbell*, 19 Ariz. 254, 271 (1917). Lake fell far short of such a showing. Indeed, Lake’s own witnesses admitted having no knowledge of any election misconduct or the number of votes that may have been affected by alleged misconduct.

The trial court thus correctly dismissed Lake’s claims and confirmed the election of Governor Katie Hobbs. This Court should affirm.

JURISDICTIONAL STATEMENT

On January 9, 2023, this Court accepted special action jurisdiction.¹

STATEMENT OF FACTS

I. Voters in Maricopa County had ample opportunity to cast ballots.

Voters in Maricopa County had numerous opportunities to vote in the November 2022 election. Early ballots were mailed to voters almost four weeks before the election, A.R.S. § 16-542(C), and many vote centers provided in-person

¹ For preservation, Governor Hobbs maintains that special action jurisdiction is inappropriate in this case, as Lake has an “equally plain, speedy, and adequate remedy” available through the normal appellate process. *Harris Tr. Bank of Ariz. v. Super. Ct. in & for Cnty. Of Maricopa*, 188 Ariz. 159, 162 (App. 1996); Rule 1(a), Arizona Rules of Procedure for Special Actions. By waiting until the eve of Governor Hobbs’s swearing in to pursue appellate relief, *see infra* Statement of Facts § V, Lake failed to establish the “extraordinary circumstances” necessary to overcome the “strong Arizona policy against using [special actions] as substitutes for appeals,” *Harris*, 188 Ariz. at 162; *State ex rel. Neely v. Rodriguez*, 165 Ariz. 74, 76 (1990).

early vote options beginning at the same time, Lake Appendix to Special Action Petition:706 (“Lake.App.”). Over 1.3 million voters cast their ballots early using these options. Lake.App.:478 (2 Tr. 77:13-15 (Baris)). On election day, voters could vote from 6 a.m. to 7 p.m. at any of Maricopa’s 223 vote centers, which were an average distance of less than 1.8 miles apart. A.R.S. § 16-565; Lake.App.:706, 573-74 (2 Tr. 172:21-173:4 (Jarrett)). About 248,000 voters chose this option, approximately matching Maricopa County’s projection for election day voters. Lake.App.:158 (1 Tr. 61:1-21 (Jarrett)). Throughout election day, Maricopa County tracked wait times at each vote center and published them on the County’s website, allowing voters to see current times and opt for nearby vote centers with short wait times. Lake.App.:163-65 (1 Tr. 66:7-68:23 (Jarrett)); Lake.App.:578 (2 Tr. 177:11-25 (Jarrett)).

II. Election day printer and tabulator issues in Maricopa County were resolved throughout the day and did not prevent any voter from casting their ballot.

Arizona law does not require on-site tabulation of ballots cast in-person on election day. But about half of Arizona counties, including Maricopa, tabulate election day ballots at the voting center itself where possible. Lake.App.:585-87 (2 Tr. 184:9-186:23 (Jarrett)). Other counties, including some of Arizona’s largest counties like Pima and Pinal, tabulate all election day ballots at a central county location. *Id.*

On election day in Maricopa County, voters at some vote centers at certain times were unable to have their ballots tabulated on site. Lake.App.:579-80 (2 Tr. 178:23-179:1 (Jarrett)). When this occurred, voters had multiple options, including placing their ballots into a secure drop box “Door 3,” where ballots were collected and later counted at the Maricopa County Tabulation and Election Center (MCTEC). Lake.App.:585-87 (2 Tr. 184:9-186:23 (Jarrett)). Voters could also spoil their ballot and vote a new ballot at the same voting location or any of Maricopa’s other voting centers. *Id.* If on-site tabulators could not read a ballot, the ballot was later duplicated by bipartisan boards and tabulated at MCTEC. Lake.App.:582-83 (2 Tr. 181:18-182:7 (Jarrett)). Thus, every ballot that was initially unable to be tabulated was ultimately counted. *Id.* Lake offered no evidence to the contrary. *See* Lake.App.:223 (1 Tr. 126:2-8, 126:15-22 (Parikh)) (agreeing that any ballots that could not be read on-site would be duplicated and tabulated). Indeed, Lake’s witnesses could not identify a single voter who was unable to vote because of tabulator issues. *See, e.g.,* Lake.App.:354-55 (1 Tr. 257:24-258:11 (Bettencourt)) (no knowledge of anyone deciding not to vote because of tabulator issue); Lake.App.:373-74 (1 Tr. 276:12-19, 276:20-22, 277:5-14 (Sonnenklar)) (no personal knowledge of any voter leaving a line because of tabulator issues).

When tabulator issues arose on election day, Maricopa County immediately deployed multiple resources to resolve them: (1) 90 temporary technicians hired to

troubleshoot technical issues; (2) employees from the tabulator company; and (3) employees from the ballot-on-demand printer companies. Lake.App.:585-87 (2 Tr. 184:9-186:23 (Jarrett)). These teams and the County identified a variety of solutions—none of which demonstrated misconduct on the part of Maricopa election officials or anyone else. One of the most successful interventions on election day was to shake printer cartridges. Lake.App.:350-51 (1 Tr. 253:18-254:8 (Bettencourt)). Another was to change printer settings. *Id.*; Lake.App.:580 (2 Tr. 179:2-13 (Jarrett)) (describing printer heat setting issue). Another was to clean printer wires. Lake.App.:352 (1 Tr. 255:10-17 (Bettencourt)). Yet another solution was allowing printers to warm up and changing ink settings. Lake.App.:719-20. At three voting centers, technicians apparently altered printer settings to “shrink-to-fit” while attempting to resolve printer issues, resulting in slightly smaller images for 1,300 ballots, which tabulators could not read on-site. Lake.App.:581, 618 (2 Tr. 180:1-23, 217:20-25 (Jarrett)). In other cases, nothing was wrong with printers or tabulators at all; instead, a voter’s markings were too light or misshapen, rendering ballots unreadable by tabulators. Lake.App.:356 (1 Tr. 259:13-21 (Bettencourt)); Lake.App.:582-83 (2 Tr. 181:18-182:7 (Jarrett)) (10% of Door 3 ballots were the result of the voter’s markings). The County’s diligent efforts to resolve issues and

the varied, successful solutions contradict any speculation that Maricopa engaged in coordinated misconduct to undermine election day voting.²

Unsurprisingly, no witness offered any evidence of any intentional misconduct. *See, e.g.*, Lake.App.:689 (“Every single witness before the Court disclaimed personal knowledge of such misconduct.”); Lake.App.:355-56, 358 (1 Tr. 258:22-259:4, 261:1-5 (Bettencourt)) (no knowledge of any technician who caused printer or tabulator issues or of intentional scheme to undermine election); Lake.App.:487 (2 Tr. 86:5-9 (Baris)) (no knowledge of anyone intentionally tampering with printers or tabulators); Lake.App.:171-72 (1 Tr. 74:18-75:10 (Jarrett)) (no knowledge of any tampering with printers or tabulators); *see also* Lake.App.:213 (1 Tr. 116:5-9 (Parikh)) (no evidence of hacking); Lake.App.:375, 377-78 (1 Tr. 278:5-17, 280:6-281:9 (Sonnenklar)) (relying on “common sense” as proof of misconduct while admitting he did not “know exactly what caused the problem”). As one elections expert testified, tabulator issues are among the most common unforeseen equipment malfunctions in elections. Lake.App.:520 (2 Tr. 119:3-9 (Mayer)).

² Although Lake repeatedly argues ballots were “illegally misconfigured” systemwide, *see, e.g.*, Br. at 9, there was no evidence at trial that ballot definitions were improperly programmed in Maricopa’s Election Management System (EMS). As the trial court rightly observed, “if the ballot definitions were changed, it stands to reason that *every* ballot for that particular definition printed on every machine so affected would be printed incorrectly,” Lake.App.:687, which did not occur.

As in every election, some voters experienced long lines on election day. Lines arose for multiple reasons, including but not limited to tabulator issues. Lake.App.:353 (1 Tr. 256:19-25 (Bettencourt)) (describing lines prior to tabulator issues). Multiple witnesses testified regarding line lengths, but even Lake's evidence showed that only 64 of Maricopa's 223 vote centers experienced long lines, and that after 3pm on election day, only 24 of 223 had long lines. Lake.App.:371-73 (1 Tr. 274:24-275:7, 276:4-8 (Sonnenklar)). Maricopa's own systematic cataloging of lines aligns with Lake's evidence of scattered long lines. According to Maricopa's data, only 7% of vote centers had maximum wait times over an hour and 72% had maximum wait times of 30 minutes or less. Lake.App.:520 (2 Tr. 119:3-9 (Mayer)). And of course, voters could check live wait times online and choose to visit any of Maricopa's 223 vote centers.

No witness offered evidence that a specific number of voters were prevented from voting because of tabulator issues. All Lake offered was her purported expert, Mr. Baris, who speculated that had voter turnout been higher, Governor Hobbs *could have won* by 2,000 votes or lost by 4,000 votes. Lake.App.:438-39 (2 Tr. 37:20-38:3 (Baris)). Mr. Baris himself admitted that his analysis offered no evidence of whether anyone was unable to vote or even deterred from voting because of tabulator issues or long lines, Lake.App.:453, 456 (2 Tr. 52:3-9, 55:13-15, 59:5-10 (Baris)). Thus, the trial record provides no evidence that tabulator issues on election day resulted in

the disenfranchisement of *any* voters, let alone an outcome-determinative number of voters.

III. Maricopa County lawfully maintained chain of custody.

Maricopa adhered to all applicable chain of custody laws for 2022 general election ballots—including for early ballots received on election day, the only ballots for which Lake claims on appeal that Maricopa failed to maintain chain of custody. *See* Br. at 33.

Arizona Chain of Custody Laws. A.R.S. § 16-621(E) provides that the “officer in charge of elections” must “maintain records that record the chain of custody for all ... ballots during early voting through the completion of provisional voting tabulation.” The EPM in turn provides more detailed guidance regarding the procedures that must be followed for early ballots, including those received on election day. *See* Hobbs.App.:80-81, 86-87 (Ariz. Sec’y of State, 2019 Elections Procedures Manual (“EPM”) (rev. Dec. 2019), at 61-62, 192-93).³ The only specific chain of custody paperwork for early ballots required by Arizona law is a generic “retrieval form,” which must be “attached to the outside of the secure ballot container or otherwise maintained in a manner prescribed by elections officials that ensures the form is traceable to its respective secure ballot container.” *See*

³ The EPM is available at https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf.

Hobbs.App.:81 (EPM at 62). Early ballots do not need to be counted at any specific time if they “are transported in a secure and sealed transport container to the central counting place to be counted there.” Hobbs.App.:86-87 (EPM at 192-93). Arizona law does not require election officials to provide counts of early ballots to the public at any specific time. *See generally* EPM.

Maricopa Chain of Custody Process. Early ballots received on election day follow a regimented, documented procedure from submission to counting. These ballots are tracked using precinct ballot reports and receipt of delivery forms. *See* Lake.App.:593-95 (2 Tr. 192:10-194:2 (Jarrett)); Hobbs.App.:89-131, 132-61 . After the close of polls, early ballots received on election day are placed in securely sealed “blue boxes” at voting locations, and poll workers prepare precinct ballot reports documenting tamper-evident seal information for each box. Lake.App.:594-95 (2 Tr. 193:19-24, 194:9-25) (Jarrett)). Consistent with the EPM, Maricopa does not document the specific number of early ballots at this time because the “ballots are transported in a secure and sealed transport container to [MCTEC].” Lake.App.:597 (2 Tr. 196:10-20) (Jarrett)); Hobbs.App.:87 (EPM at 193).

Once the containers are delivered to MCTEC, bipartisan teams receive them, complete further chain-of-custody documents, scan the containers’ barcodes, open the containers, and sort contents by ballot type. Lake.App.:597-98 (2 Tr. 196:24-197:20, 198:9-25 (Jarrett)). Sorted ballots are loaded into trays in secure cages, and

an estimate of ballots is derived based on the number of trays, Lake.App.:599-600 (2 Tr. 198:22-199:4 (Jarrett)), consistent with the EPM's requirements to count ballots upon their arrival at MCTEC, Hobbs.App.:81, 87 (EPM at 62, 193). These estimates are recorded on "Inbound Receipt of Delivery" forms. Hobbs.App.:89-131.⁴

The secure ballot cages are then transported by a bipartisan team to Runbeck Election Services—Maricopa's "best-in-class" vendor—and received by a bipartisan team of county employees, who remain with the ballots at Runbeck, where ballot envelopes are scanned and counted before being returned to MCTEC for verification and tabulation. Lake.App.:601 (2 Tr. 200:12-13) (Jarrett)). Upon arrival at Runbeck, one member of the bipartisan team—a permanent county employee—photographs and documents chain of custody forms, and emails copies to Directors Jarrett and Valenzuela, and other election officials. Lake.App.:600, 601 (2 Tr. 199:5-13, 200:12-13 (Jarrett)); Hobbs.App.:89-131. The other team member signs Inbound Receipt of Delivery forms, documenting receipt of the secure cages at Runbeck. Lake.App.:605 (2 Tr. 204:4-20 (Jarrett)); Hobbs.App.:89-131. Then, "[u]nder the direct supervision and observation of Maricopa County employees," the ballot

⁴ Contrary to Lake's contention on appeal, Br. at 17-18, Lake's own lay witness Heather Honey admitted knowing that the required chain of custody documentation exists, claiming only that she did not receive these forms in response to her public records requests. Lake.App.:277, 310-11 (1 Tr. 180:15-16, 213:15-214:7 (Honey)).

envelopes are scanned and counted, and this information is recorded by Maricopa employees on Incoming Scan Receipts. Lake.App.:601 (2 Tr. 200:12-16 (Jarrett)); Hobbs.App.:132-61. Through this process, Maricopa “maintain[s] chain of custody for every one of those early ballots all the way through the process[,]” such that the County would be aware of any ballot “inserted or rejected or lost” in any part of the process. Lake.App.:601 (2 Tr. 200:18-24 (Jarrett)).⁵

Estimated Final Count of Early Ballots. The day after election day, Maricopa officials publicly estimated that “over 275,000” early ballots had been received on election day. Hobbs.App.:234-35; Lake.App.:126 (1 Tr. 29:19-22 (Richer)). After the county completed its counting process, the final number was about 290,000. Lake.App.607 (2 Tr. 206:7-13 (Jarrett)).

IV. Maricopa County lawfully verified signatures of early ballots.

Maricopa’s specific procedures for signature verification were published six months before the 2022 general election, Hobbs.App.:49 (2022 Maricopa Elections Plan at 45), and comply with all relevant statutory requirements and the EPM.

⁵ A non-witness declarant claimed that she observed Runbeck employees adding at most about 50 ballot envelopes from family members into the pool of early ballots at Runbeck. Lake.App.:75-78, 318, 331-32 (1 Tr. 221:17-22, 234:1-235:8 (Honey)). This alleged introduction of ballots was not authorized by Maricopa County, and no Maricopa election official testified that they knew of such conduct. Lake.App.:563 (2 Tr. 162:10-16 (Valenzuela)).

In Arizona, early ballot voters must return their ballots with a signed affidavit. *See* A.R.S. §§ 16-545, 16-547. Once received, the county recorder or other designated election official “shall compare the signatures” on early ballots “with the signature of the elector on the elector’s registration record” to verify that the ballot returned was cast by the voter associated with that ballot. *See id.* § 16-550(A). Pursuant to the EPM, election officials should consult the voter’s registration form and “additional known signatures from other official election documents in the voter’s registration record.” Hobbs.App.:83 (EPM at 68). If the signature does not match a voter’s known signatures, election officials must allow “the voter to correct or the county to confirm the inconsistent signature” within five business days after a general election. *Id.*; *see also* A.R.S. § 16-550(A).

Maricopa has a multi-level signature verification process to review all mail-in ballot signatures. First-level reviewers, who have access to only a limited number of signatures in a voter’s registration record, are tasked with flagging potential signature mismatches for manager-level review and decision-making. Hobbs.App.:49 (2022 Maricopa Elections Plan at 45). Lake offered the declarations of three first-level signature verification workers, all of whom admitted being the “most inexperienced” signature reviewers. *See* Hobbs.App.:163. These declarants collectively claimed that they had flagged for further review 15-40% of the signatures they reviewed, and that ultimately many of those initially flagged ballot

envelopes were accepted, Hobbs.App.:165-66, 173, 181—precisely as contemplated by Maricopa’s Election Plan’s multiphase signature verification process.

V. The trial court confirmed Governor Hobbs’s election, and Lake delayed prosecuting her appeal.

On December 5, 2022, state officials certified the Governor’s election for Katie Hobbs. Lake filed her complaint on December 9, Lake.App.:1, the last date for filing an election contest, see A.R.S. § 16-673(A). Defendants filed motions to dismiss the contest on December 15, which were then fully briefed. The trial court heard oral argument on the motions on December 19, after which it dismissed all claims other than Counts II (tabulator issues) and IV (chain of custody). Lake.App.:85-97. A trial was held on those claims on December 21 and 22. Lake.App.:682.

On December 24, 2022, the trial court issued its ruling denying Lake’s election contest. Lake.App.:682-691. Lake filed her appeal three days later, on December 27, after the trial court entered final judgment. Index of Record (I.R.), Case No. CV2022-095403, Index of Record (Ariz. Super. Ct. Dec. 27, 2022), No. 196. Lake took no action to accelerate her appeal. *See* Ariz. R. App. P. 29. Instead, she waited until 9 p.m. on Friday, December 30 (when the Court was closed for the holiday weekend) before filing, separately, her petition for special action in this Court, Case No. 1 CA-SA 22-0237, and, the next day, a petition for transfer of her special action in the Arizona Supreme Court, *see* Pet., Case No. T-22-0010-CV

(Ariz. Dec. 30, 2022), despite the fact that she could have filed her special action directly in the state's highest court. Ariz. R.P. Spec. Act. 4(a).

On January 2, 2023, Katie Hobbs was sworn in as Governor of Arizona.

The Arizona Supreme Court denied Lake's petition on January 4, 2023. Order, Case No. T-22-0010-CV (Ariz. Jan. 4, 2022). On January 9, this Court issued an order exercising jurisdiction over Lake's special action, consolidating Lake's special action with her appeal, and setting forth a briefing schedule. Case No. 1 CA-CV 22-0779 (Jan. 9, 2022 Order).

STATEMENT OF THE ISSUES

- I. Did the trial court err in declining to vacate the election results and require a new election where Lake failed to show an outcome-determinative number of votes were affected by misconduct or illegal votes?
- II. Did the trial court err in declining to consider claims that Lake could have brought before the election?
- III. Did the trial court err in declining to consider claims brought outside the election contest statute?

LEGAL STANDARD

This Court reviews legal questions, including the interpretation of rules and statutes, *de novo*. *Pima Cnty. v. Pima Cnty. L. Enf't Merit Sys. Council*, 211 Ariz. 224, 227, ¶ 13 (2005). The Court must defer to the trial court's findings of fact unless

clearly erroneous. *Shooter v. Farmer*, 235 Ariz. 199, 201, ¶ 4 (2014). Trial courts are tasked with “weigh[ing] the evidence and resolv[ing] any conflicting facts, expert opinions, and inferences therefrom.” *Id.* (internal citation omitted). Such determinations should not be reversed absent clear error.

For mixed questions of law and fact, this Court may “draw [its] own conclusions of law from the facts found by the trial court,” *Ariz. Bd. of Regents v. Phoenix Newspapers, Inc.*, 167 Ariz. 254, 257 (1991), but contrary to Lake’s suggestion, this Court must defer to the trial court’s determination of disputed facts. *Miller v. Indus. Comm’n of Ariz.*, 240 Ariz. 257, 259, ¶ 9 (App. 2016).

Given the “strong public policy favoring stability and finality of election results,” *Donaghey*, 120 Ariz. at 95, this Court, like the trial court, is bound by three important presumptions in evaluating election contests: First, Arizona courts apply “all reasonable presumptions” in “favor [of] the validity of an election.” *Moore v. City of Page*, 148 Ariz. 151, 159 (App. 1986). Second, there is a presumption “in favor of the good faith and honesty of the members of the election board.” *Hunt*, 19 Ariz. at 268. Third, courts must presume the “returns of the election officers are prima facie correct.” *Id.* As the Arizona Supreme Court has explained, vacating an election and requiring a new one imposes significant burdens on the electorate. *See Huggins*, 163 Ariz. at 351-52. And because “a second election” “may prove no better than the first,” *see id.* at 351, the burden to establish entitlement to a new election is

extraordinarily high. For the reasons explained below, the trial court correctly concluded that Lake did not meet that burden.

ARGUMENT

The trial court did not err in finding that Lake's contest fails at every level. *First*, the trial court applied the correct legal standard, requiring Lake to show by clear and convincing evidence that absent intentional misconduct by Maricopa election officials, Lake would have won. *Second*, Lake failed to show—by any legal standard—that Maricopa election officials committed any misconduct related to tabulators (Count II) or chain of custody (Count IV) or that any alleged misconduct would have altered the outcome of the election. *Third*, the trial court did not abuse its discretion in finding that laches bars Lake's signature matching claim (Count III), which otherwise fails as a matter of law. *Fourth*, the trial court did not err in dismissing claims brought outside Arizona's election contest statute (Counts V and VI), which also fail as a matter of law. None of Lake's arguments are sufficient to warrant the extraordinary relief of overturning Arizona's gubernatorial election and disenfranchising millions of Arizona voters.

I. The trial court did not err in declining to vacate the election.

A. The trial court applied the correct legal standard in rejecting Counts II and IV of Lake's complaint.

Lake asks this Court to declare that a contestant is entitled to vacate election results as long as she can show, by a preponderance of the evidence, that an honest

mistake of an election official caused some “nonquantifiable” impact on the election. *See* Br. at 22-29. That standard bears *no resemblance* to the election contest standard Arizona courts use, and for good reason. Under Lake’s preferred standard, elections would be routinely nullified where unforeseen and unintentional technical issues occurred in some places affecting some number of voters. This approach not only has no basis in practice or precedent, it runs counter to Arizona’s longstanding presumption in favor of the validity of elections. As explained below, the trial court properly required Lake to prove by clear and convincing evidence that, but for alleged misconduct or illegal votes, the election result would have been different. Because Lake failed to do this, *see infra* Argument §§ I(B)-(C), the trial court appropriately dismissed Lake’s contest.

1. The trial court properly required Lake to show that misconduct or illegal votes affected an outcome-determinative number of votes.

Election contests in Arizona are subject to a straightforward standard: To set aside the election, the contestant must show either (1) fraud or (2) that but for actual misconduct or illegal votes, “the result would have been different.” *Moore*, 148 Ariz. at 159. While cases involving fraud do not require definitively proving the outcome would be different, Lake expressly disclaimed any claim of fraud here. *Hobbs.App.*:190-91.

Lake inexplicably relies on Arizona's quintessential election fraud case—*Hunt v. Campbell*, 19 Ariz. 254 (1917)—to argue she need not quantify the impact of misconduct or show the result of the election was affected. *See* Br. at 28-29. But *Hunt* provides that where “*fraudulent combinations, coercion, and intimidation*” are at play, the effect often “cannot be arithmetically computed” and thus need not be proven in such cases (although the fraud itself must be established by “clear and satisfactory proof”). *Hunt*, 19 Ariz. at 265, 268 (emphasis added). Where Lake has not only failed to satisfy the heightened pleading standard for fraud, Lake.App.:90, but also specifically *disclaimed* fraud, Hobbs.App.:190-91, she cannot capitalize off the legal standard for election fraud claims.

Nor does *Huggins v. Superior Ct. In & For Cnty. of Navajo*, 163 Ariz. 348 (1990), relieve Lake of the obligation to show a quantifiable impact on election results. *See* Br. at 28. *Huggins* merely relieved contestants of the burden to prove *for which candidate* the alleged illegal ballots were cast. *Id.* at 350. *Huggins* still required contestants to show that an outcome-determinative number of illegal votes changed the election result via a “a proportionate, precinct-by-precinct extraction of the illegal votes.” *Id.* at 352. Indeed, in *Huggins*, the election result stood even though the contestant proved 16 illegal votes in an 8-vote margin race. *Id.* at 353-54. In that case, the contestant’s proof of illegal votes was insufficient for relief

where he could not also establish that they affected the outcome of the election. *Id.* at 353.

Lake latches onto the language of *Findley v. Sorenson*, 35 Ariz. 265, 269 (1929), that an election contest may succeed if the contestant can prove that the result is “uncertain” in light of proven misconduct. But the Court has since explained that “uncertainty” in the elections contest context means that the errors were of such magnitude that they would have changed the outcome of the election. *See Miller v. Picacho Elementary Sch. Dist. No. 33*, 179 Ariz. 178, 180 (1994) (en banc) (holding election result rendered “uncertain” where illegal ballots were procured “in sufficient numbers to alter the outcome of the election”); *see also Reyes v. Cuming*, 191 Ariz. 91, 94 (App. 1997) (holding election result rendered “uncertain” where “the absentee ballots counted in violation of [state law] indisputably changed the outcome of the election”). The result is not rendered “uncertain” anytime a contestant speculates what might have happened in flawless election. Such a standard would catapult nearly all elections into an election contest, violating Arizona’s presumption in favor of the validity of elections.

For all the reasons discussed *infra* Argument §§ I(B)(2), I(C)(2), Lake failed to show that the alleged misconduct she claims actually affected the election result.

2. The trial court properly required Lake to show intentional misconduct.

The trial court did not err in requiring Lake to show that the errors she claims occurred were the result of intentional action by election officials. The “good faith and honesty” of election officials must be presumed. *Hunt*, 19 Ariz. at 268. And as the Arizona Supreme Court has explained, “unless the [claimed] error or irregularity goes to the honesty of the election itself, it will be generally disregarded.” *Findley*, 35 Ariz. at 270. Consistent with *Findley*, more recent case law demonstrates what actionable misconduct looks like. In *Miller*, for example, governmental officials went to the homes of electors and personally distributed absentee ballots in violation of statute, and “stood beside them as they voted.” 179 Ariz. at 180. Such patently improper behavior, which was proven to affect the election results, *see id.*, was sufficient to establish misconduct. Mere mistakes alone, by contrast, do not state a claim for misconduct. *Cf. State v. Lapan*, 249 Ariz. 540, 549, ¶ 25 (App. 2020) (describing misconduct as “‘intentional conduct [that] the [person] knows to be improper and prejudicial’” (citation omitted)).⁶ In any event, as explained *infra* Argument §§ I(B)(1), I(C)(1), Lake failed to establish any misconduct—intentional, negligent, or otherwise.

⁶ That Arizona may recognize the concept of “negligent misconduct” in the context of attorney professional responsibility, *see* Br. at 26 (citing *In re Alexander*, 232 Ariz. 1, 13-14, ¶ 52 (2013)), is not probative in the elections contest context and does not change this analysis.

3. The trial court properly required Lake to prove her claims by clear and convincing evidence.

Lake's argument that she need only prove her claims by a preponderance of the evidence, *see* Br. at 23-26, ignores not only the well-established presumptions in favor of the validity of the election, but also a wealth of caselaw imposing a higher burden on contestants.

Tellingly, Lake does not cite a single election contest case applying a preponderance of the evidence standard. To Governor Hobbs's knowledge, no such case exists. Instead, courts regularly require contestants to establish their claims with a higher degree of proof. *See, e.g., Oakes v. Finlay*, 5 Ariz. 390, 398 (1898) (deeming it "unwise to lay down any rule by which the certainty and accuracy of an election may be jeopardized by the reliance upon any proof affecting such results that is not of the most clear and conclusive character"); *Hunt*, 19 Ariz. at 271 (holding "nothing but the most credible, positive, and unequivocal evidence should be permitted to destroy the credit of official returns"); *see also Law v. Whitmer*, 477 P.3d 1124 (Nev. 2020) (holding that district court did not err by requiring "clear and convincing evidence" in election contest and collecting cases from other jurisdictions which have held similarly).⁷

⁷ Contrary to Lake's contention, Br. at 25, *Miller* does not change the burden of proof in misconduct cases; it simply elaborates the *substance of the allegations* that must

Lake is also wrong to suggest that Defendants have any burden of proof in this case. Where she alleges misconduct, the burden remains on Lake to prove her claims. *See, e.g., Moore*, 148 Ariz. at 165-66 (refusing to shift burden of proof to city “to uphold the results of the election”). This makes sense: “The burden of proof in an election contest falls on the [contestant,]” as “all reasonable presumptions must favor the validity of an election.” *Id.* at 159 (citation omitted).

Lake’s attempt to lessen the burden to upend an election is hardly surprising given the lack of evidence offered in support of her claims. In any event, it does not move the needle; as explained below, Lake’s evidentiary showing falls short under any legal standard, and thus the trial court properly dismissed Lake’s contest.

B. The trial court did not err in holding Lake failed to prove Count II.

The trial court did not clearly err in finding that Lake failed to show any misconduct, however defined, in relation to printers and tabulators on election day or that any purported misconduct affected the outcome of the election.

1. Lake did not prove any misconduct occurred in relation to printers and tabulators on election day.

On appeal, Lake identifies just two purported instances of “misconduct” with regard to printers and tabulators: (1) that Maricopa failed to test voting equipment,

be proven in such a case, which, notably, includes that the misconduct “affected [the result of] the election.” *Id.* (quoting *Miller*, 179 Ariz. at 180).

and (2) that Director Jarrett allowed “misconfigured ballots to be injected into the 2022 general election.” Br. at 29-30. Neither claim finds any support in the record.

First, contrary to Lake’s assertion, all of Maricopa’s voting equipment was lawfully tested and certified years ago.⁸ Director Jarrett also confirmed that the printers and tabulators used at voting centers were successfully tested in the weeks leading up to election day and did not reveal any of the issues that arose on election day. Lake.App.:149-50 (1 Tr. 52:17-53:4 (Jarrett)) (Maricopa printers were successfully tested, including through tabulation by vote center tabulators); Lake.App.:580 (2 Tr. 179:2-25 (Jarrett)) (the printer heat settings used on election day were used in testing without issue); Lake.App.:611-12 (2 Tr. 210:20-211:16 (Jarrett)) (printer testing did not show any ballot size issue). Lake offers no contrary evidence. Instead, her argument boils down to the untenable proposition that whenever a machine fails, testing must not have been conducted. *See* Br. at 30 (“Had such logic and accuracy testing been done such widespread failures could not have occurred.”). Under any standard, Lake’s unsupported inference of misconduct does not amount to actual proof of misconduct.

⁸ *See* SOS’s official list of voting equipment certifications: https://azsos.gov/sites/default/files/2020.07.22_Official_List.pdf (last accessed January 15, 2023). Had there been any failure to test voting equipment, such a claim is barred by the doctrine of laches. All testing occurred months, if not years, before the 2022 general election, and any “alleged procedural violations” of those processes must have been challenged “prior to the actual election.” *Sherman v. City of Tempe*, 202 Ariz. 339, 342, ¶ 9 (2002).

Second, Lake can point to no evidence that Maricopa County officials “misconfigured” ballots. Director Jarrett’s trial testimony was consistent: He testified that no 19-inch configuration was programmed into Maricopa’s Election Management System (EMS), Lake.App.:171 (1 Tr. 74:4-16 (Jarrett)), and separately, that three vote centers appear to have had their individual printer settings changed on election day to “shrink-to-fit,” most likely as a result of troubleshooting tactics that technicians used at 1% of all vote centers, Lake.App.:581 (2 Tr. 180:1-23 (Jarrett)). As the trial court rightly observed, had ballot definitions been changed systemwide, every ballot should have been printed on the wrong size, which Lake’s own expert did not find. Lake.App.:687, 188-89, 191-93 (1 Tr. 91:24-92:1; 94:5-8; 94:12-95:4; 96:9-22 (Parikh)). Indeed, Mr. Parikh admitted that a shrink-to-fit setting could have accounted for the ballots he believed to be 19 inches in size. Lake.App.:222 (1 Tr. 125:6-9 (Parikh)).⁹ Additionally, the fact that numerous and varied strategies resolved issues on election day demonstrates that there was no singular cause for the issues that arose. *See supra* Statement of Facts § II; Lake.App.:687-88. In fact, every one of Lake’s own witnesses disclaimed any

⁹ While Lake repeatedly claims that her expert, Mr. Parikh, found incorrectly sized ballots from each of the six voting centers’ ballots he reviewed, *see, e.g.*, Br. at 31, Mr. Parikh stated only that he *requested* ballots from six centers and that 48 of 113 spoiled ballots and original ballots appeared to have been smaller than 20 inches, as were 14 of 15 duplicated ballots. Lake.App.:188-89, 191-193 (1 Tr. 91:24-92:1, 94:5-8, 94:12-95:4, 96:9-22 (Parikh)).

knowledge of intentional misconduct, and one of Lake's technical witnesses testified the issues were the result of unforeseen mechanical failures. Lake.App.:687-88; *see supra* Statement of Facts § II.

Ultimately, Lake identifies no factual basis to disturb the presumption of “good faith and honesty” of election officials, *Hunt*, 19 Ariz. at 268. To the contrary, all the evidence, including from Lake's own witnesses, shows that Maricopa worked in good faith to prevent and resolve technical issues on election day. *See supra* Statement of Facts § II. Because Lake's cries of foul play ring hollow, the trial court did not err in finding no misconduct.

2. Lake failed to show that an outcome determinative number of voters were disenfranchised.

Even if Lake had established misconduct, she must also show that but for that misconduct, “the result would have been different.” *Moore*, 148 Ariz. at 159. Lake failed to do so. As an initial matter, Lake makes no claim that printer or tabulator issues caused any illegal votes to be cast. There is also no dispute that any voter who encountered a tabulator issue ultimately had their vote counted—Lake's own expert confirmed this. *See, e.g.*, Lake.App.:226-27 (1 Tr. 129:24-130:2 (Parikh)). Indeed, not one of Lake's witnesses identified a single voter who was unable to vote because of tabulator issues or long lines. *Supra* Statement of Facts § II. And of the hundreds of voter declarations Lake submitted, only one voter said they *chose* not to vote because of long lines. *See, e.g.*, Lake.App.:26-27. Thus, the trial court did not clearly

err in finding that “the actual impact element. . .*could not be proven.*” Lake.App.:687.

To close the 17,000-plus vote gap, Lake speculates that some unknown number of voters *might* have voted on election day absent long lines and that they *might* have voted at high rates for Lake. Lake identifies no case where an Arizona court set aside an election based on conjecture of what the vote count might have looked like in a flawless election. Long lines, whatever the cause, are an unfortunate reality in many elections, and by Lake’s untenable standard, nearly every election would have to be redone. That is precisely why Lake must show “the result *would* have been different” to prevail. *Moore*, 148 Ariz. at 159 (emphasis added).

The only “evidence” Lake offered to suggest an outcome-determinative number of votes was the purported expert testimony of Richard Baris. Mr. Baris conducted a poll asking respondents whether they faced “any issues or complications” while voting and concluded that anyone who did not respond to his survey must have been unable to vote due to tabulator issues. Lake.App.:435-36, 453-454, 460 (2 Tr. 34:3-35:18, 52:3-9, 53:13-17, 59:5-10 (Baris)). Mr. Baris’s analysis is flawed at every level.

First, there are ample reasons to question Mr. Baris’s credibility. Despite the scope of his testimony, Mr. Baris has no academic or publishing background in polling, long lines, voter turnout, or what factors can affect voter turnout,

Lake.App.:443-45 (2 Tr. 42:25-44:17 (Baris)). Moreover, his polling company has been thoroughly discredited: It is excluded from national poll aggregators and received an “F” grade by the New York Times’ 538 polling project. Lake.App.:443-45, 449 (2 Tr. 42:25-44:17, 48:16-19 (Baris)); Lake.App.:535-36 (2 Tr. 134:20-135:5 (Mayer)).¹⁰

Second, Mr. Baris’s poll only surveyed individuals who actually voted yet draws conclusions about people who did *not* vote. Lake.App.:456 (2 Tr. 55:13-15 (Baris)). Indeed, the sole basis for Mr. Baris’s conclusions (which Lake neither explains nor defends, *see, e.g.*, Br. at 29-32) was the unremarkable fact that a handful of people *declined* to complete Mr. Baris’s poll. Specifically, Mr. Baris assumed that anyone who did not complete his survey attempted to vote but could not because of a printer or tabulator issue on election day. Lake.App.:435-36, 454, 460 (2 Tr. 34:3-35:18, 53:13-17, 59:5-10 (Baris)). As Governor Hobbs’s highly qualified expert explained, *see* Lake.App.:513-15 (2 Tr. 112:9-114:21 (Mayer)), “there are about five logical leaps that you have to go through to get from that premise to the conclusion, and there’s just no evidence to support that contention. It’s just a series of

¹⁰ Governor Hobbs moved to exclude Mr. Baris’s testimony pursuant to Arizona Rule of Evidence 702, and, although the trial court denied her motion, Governor Hobbs maintains that Mr. Baris’s expert testimony was inadmissible for the reasons cited therein. *See* Hobbs.App.:236-63.

assumptions and speculation.” Lake.App.:528 (2 Tr. 127:8-24 (Mayer)) (cleaned up).

Third, Mr. Baris’s “calculation” of potential election outcomes is based on fanciful assumptions and faulty math. Mr. Baris’s speculation about what *might have happened* if turnout had been 2.5 percentage points higher was not derived from his poll. Instead, he plucked this number out of thin air because such an increase in turnout was, in his view, “what it would have needed to [be] in order for it to change the outcome.” Lake.App.:474 (2 Tr. 73:1-13 (Baris)). Mr. Baris admitted that his analysis about a potentially different election outcome actually assumed—without any factual basis—that 16% more voters would have voted on election day. Lake.App.:483 (2 Tr. 82:22-83:1 (Baris)); Lake.App.:532-33 (2 Tr. 131:10-132:2 (Mayer)). In other words, Mr. Baris conceded that the outcome of the election could only be different assuming that one out of every six voters who would have voted on election day were prevented from doing so by printer and tabulator issues. Lake.App.:485 (2 Tr. 84:3-12 (Baris)).

Ultimately, Mr. Baris himself agreed that his analysis offered no evidence about whether anyone was deterred from voting as result of printer or tabulator issues or long lines, admitting that “nobody can give a specific number” of “disenfranchised” voters. Lake.App.:476 (2 Tr. 75:7 (Baris)). And even if Mr. Baris’s analysis carried any weight, his own estimates resulted in many scenarios

where *Governor Hobbs still would have won*. Lake.App.:438-39 (2 Tr. 37:20-38:3 (Baris)).

In short, under any standard, Lake does not come close to meeting her burden to establish that the printer and tabulation issues affected an outcome-determinative number of votes.

C. The trial court did not err in holding Lake failed to prove Count IV.

Lake claims that election officials failed to comply with legally required chain of custody procedures, but failed at trial to show, by clear and convincing evidence or any other standard, that *any* legal requirement went unmet or that any of her alleged violations altered the outcome of the election. The Court did not clearly err in holding otherwise.

1. Lake did not prove any chain of custody misconduct in relation to early ballots received on election day.

First, Lake argues that Maricopa violated chain of custody requirements because it allegedly failed to maintain “delivery receipt” forms for the “nearly 300,000” election day early ballots. Br. at 33. Not so. Director Jarrett testified that these forms were maintained for all early ballots received on election day, which are part of the record before this Court. *See* Lake.App.:596, 600, 602-03 (2 Tr. 195:6-12, 199:14-24, 201:15-202:3 (Jarrett)); Hobbs.App.:132-61; Hobbs.App.:89-131.

Lake presented just one witness in support of her argument—Pennsylvania resident Heather Honey.¹¹ While Ms. Honey testified that she did not receive them in response to public records requests, Lake.App.:276-77, 280 (1 Tr., 179:01-180:16, 183:1-5 (Honey)), she admitted knowing that the forms at issue exist and were utilized by Maricopa, even if they were not in her possession. *See* Lake.App.:310 (1 Tr. 213:15-25 (Honey)) (Q. “[B]ecause you didn’t receive those forms, you’re assuming that they do not exist?” A. “No, quite the contrary. I know they exist.”). Ms. Honey also admitted that she had no evidence that anyone intentionally interfered with early ballots received on election day in Maricopa County. *See* Lake.App.:328 (1 Tr. 231:19-25 (Honey)).

In passing, Lake notes the hearsay testimony of two non-witnesses who claim to have observed ballots delivered to Runbeck unaccompanied by chain of custody forms. Br. at 33.¹² Neither demonstrates any breach of chain of custody requirements. As an initial matter, Arizona law does not require chain of custody

¹¹ Ms. Honey testified about her personal understanding of Arizona election law and her secondhand understanding of the events of election day. Ms. Honey is not an expert, and by her own admission, has never trained or worked as an election official, poll worker, or poll observer, has never been a credentialed observer in Maricopa County, has never been inside the MCTEC facility, and has no personal knowledge about what happened at Runbeck or MCTEC on election day. Lake.App.:309-12 (1 Tr. 212:19-213:14, 214:15-215:2 (Honey)).

¹² Governor Hobbs objected at trial to all hearsay evidence, *see, e.g.*, Lake.App.:289-90 (1 Tr. 192:22-193:5), and maintains that this and other evidence admitted over hearsay objections remains inadmissible.

forms to be physically attached to ballot containers. *See* Hobbs.App.:81 (EPM at 62) (forms “shall be attached to the outside of the secure ballot container *or otherwise maintained in a matter prescribed by the County Recorder or officer in charge of elections*”) (emphasis added). Moreover, one of the declarants, whom the trial court found not credible compared to county witnesses, *see* Lake.App.:686, left before the delivery of any election day early ballots to Runbeck, Lake.App.:75-78, while the second declarant admitted that because she did not have a “clear view of the activities on the truck or on the dock” where containers were delivered, she could not have seen chain of custody documentation processed in those areas. Lake.App.:71.

Second, Lake argues that “Maricopa violated clear [chain of custody] rules” by not having “an exact count of ballots” on election night. Br. at 16, 33. But there is no legal requirement that counties have a precise count of early ballots received on election day “immediately” after polls close on election night. Br. at 16. As Director Jarrett explained, if “the ballots are transported in a secure sealed transport container to the central counting place,” the EPM does not require documenting the number of early ballots at voting centers. Lake.App.:597 (2 Tr. 196:10-20 (Jarrett)); Hobbs.App.:87 (EPM at 193). In accordance with EPM requirements, these ballots were counted upon arrival at MCTEC and Runbeck. *See supra* Statement of Facts § III.

Third, Lake argues that because Maricopa’s initial estimate of election day early ballots was not precisely correct, there was an “inexplicable injection of over 25,000 ballots” after election day. Br. at 2. But there is no legal requirement that counties publicly report exact counts of early ballots. *See generally* EPM. The truth is much more mundane: The initially reported “at least 275,000” figure was only an estimate provided “early in the day following Election Day,” before the County had even completed its scanning-in process. Lake.App.:126 (1 Tr. 29:19-22 (Richer)); Lake.App.:606-07 (2 Tr. 205:24-206:7 (Jarrett)). Far from evidencing misconduct, the final figure was simply the “full accounting for all [] early ballots.” Lake.App.:607 (2 Tr. 206:7-13 (Jarrett)).¹³

In sum, Lake failed to identify any legal chain of custody requirement that went unmet.

2. Lake did not prove that the alleged chain of custody violations changed the outcome of the election.

Beyond identifying no discernable misconduct, Lake also failed to prove that any votes were wrongly counted because of purported chain of custody violations, and certainly not enough to change the election outcome. Lake’s only witness on

¹³ To the extent Lake claims Maricopa’s chain of custody procedures violate Arizona law, that claim is barred by laches, *see infra* Argument § II, as those procedures have been in place since at least early 2022. Lake App:121-22 (1 Tr. 24:21-25:6 (Richer)); *see also* Hobbs.App.:4-73 (2022 Maricopa Elections Plan published in May 2022) (describing generally Maricopa chain of custody processes and forms for 2022 elections).

this point, Ms. Honey, admitted that any estimate of how many ballots were improperly counted “would be nothing but pure speculation,” Lake.App.:337-38 (1 Tr. 240:17-21, 241:5-13 (Honey)), and on appeal, Lake concedes that “it [is] impossible to know how many ballots were injected into the system,” Br. at 16. Both admissions are fatal to Lake’s appeal.

At most, Lake offered the declaration of one non-witness who claimed that approximately 50 ballots of family members were added to the pool of ballots at the Runbeck facility rather than dropped off at a designated voting center. Lake.App.:318, 331-32 (1 Tr. 221:17-22, 234:1-235:8 (Honey)). Even if the Court were to credit this testimony, 50 ballots is far short of an outcome determinative number of votes—or, as the trial court correctly found, “would not come close to clear and convincing evidence that the election outcome was affected.” Lake.App.:689. And as Director Jarrett explained, Maricopa “maintained chain of custody for every one of those early ballots all the way through the process” and there was “a one-for-one” tracking system, such that the County would be aware of any ballot “inserted or rejected or lost” in any part of the process. Lake.App.:601 (2 Tr. 200:18-24 (Jarrett)). Lake fails to demonstrate that but for any alleged chain of custody violations “the result [of the election] would have been different.” *Moore*, 148 Ariz. at 159.

II. The trial court did not err in dismissing Count III.

A. The trial court did not abuse its discretion in dismissing Lake's signature verification claim (Count III) on laches grounds.

The equitable doctrine of laches bars claims when a plaintiff's delay in filing suit is unreasonable and prejudicial. *Sotomayor v. Burns*, 199 Ariz. 81, 82-83, ¶ 6 (2000). This Court "review[s] the dismissal of a complaint based on laches for an abuse of discretion." *See Prutch v. Town of Quartzsite*, 231 Ariz. 431, 435, ¶ 12 (App. 2013), as amended (Feb. 26, 2013) (internal citation omitted). "[A]bsent erroneous interpretation of the law or clearly erroneous factual underpinnings," the lower court's finding will be "overturned only if its decision represents an unreasonable judgment in weighing relevant factors." *Id.* (internal quotation marks omitted). The trial court did not abuse its discretion in dismissing Lake's signature verification claim (Count III), which was available to Lake well before election day.

In considering whether laches bars a late lawsuit, courts consider (1) "the justification for delay"; (2) "whether [the] delay ... was unreasonable"; and (3) whether "the delay resulted in actual prejudice to the adverse parties." *Harris v. Purcell*, 193 Ariz. 409, 412, ¶ 16 (1998) (citing *Mathieu v. Mahoney*, 174 Ariz. 456, 459 (1993)). In evaluating prejudice, Arizona courts consider fairness to litigants, election officials, the voters, and the Court. *See id.*; *Sotomayor*, 199 Ariz. at 83, ¶ 9. The trial court here exercised "reasonable judgment in weighing" all "relevant

factors” in finding that Count III was barred by laches. *See Prutch*, 231 Ariz. at 435, ¶ 12 (internal quotation marks omitted).

There is no justification for Lake’s unreasonable delay. By definition, “[t]he reconciliation of ballot envelope signatures with voter file signatures is an election procedure,” Lake.App.:91, citing *Sherman*, 202 Ariz. at 342, ¶ 10, which was set out in Arizona’s 2019 EPM and Maricopa’s 2022 Elections Plan published six months before the election. Hobbs.App.:49-50. While Lake contends that her signature verification claim is based on Maricopa’s alleged failure to follow its procedures rather than the procedures themselves, the substance of her allegations indicates otherwise. Lake’s only contention is that first-level reviewers flagged more potential mismatches than were ultimately rejected after higher level review and cure procedures. *See* Lake.App.:17-18. But that is the precise process contemplated by Maricopa’s 2022 Elections Plan. Hobbs.App.:49-50 (describing multi-level signature verification process). As a result, Lake’s challenge to the process by which signatures initially flagged are ultimately verified is a challenge to the election procedure itself, and thus one that Lake was required to bring “prior to the actual election.” *Sherman*, 202 Ariz. at 342, ¶ 9. The trial court did not abuse its discretion in finding that Lake “offers no explanation for the delay,” and her belated action is “unjustifiable.” Lake.App.:91-92.

Lake's unjustifiable delay also presents "an exceedingly high degree of prejudice against both the parties and the public[.]" Lake.App.:92. Lake's cavalier request that the Court order the rejection of ballots deemed valid by election officials belies the fundamental harm to Arizona voters: "[A]ny procedural challenge post-election 'ask[s] us to overturn the will of the people as expressed in the election.'" Lake.App.:92 (citing *Finchem v. Fontes*, CV2022053927, at 5 (Maricopa Cnty. Super. Ct. Dec. 16, 2022) (quoting *Sherman*, 202 Ariz. at 342, ¶ 11)). Lake's prejudicial delay also compromised both Governor Hobbs's entitlement "to a meaningful response" and the public's entitlement to fair administration of justice. *Ariz. Pub. Integrity All. Inc. v. Bennett*, No. CV-14-01044-PHX-NVW, 2014 WL 3715130, at *3 (D. Ariz. June 23, 2014); *see also McClung v. Bennett*, 225 Ariz. 154, 157, ¶ 15 (2010) (applying laches in election appeal filed within the statutory deadline given prejudice to opponent and public). The impact of Lake's delay also extends to the judiciary: "The real prejudice caused by delay in election cases is to the quality of decision making in matters of great public importance." *Sotomayor*, 199 Ariz. at 83, ¶ 9.

Because Lake "allow[ed] an election to proceed in violation of the law which prescribes the manner in which it shall be held," Lake cannot be permitted "after the people have voted," to "then question the procedure." *Kerby v. Griffin*, 48 Ariz. 434, 444 (1936), *abrogated on other grounds by Fann v. State*, 251 Ariz. 425 (2021). As

below, this Court should reject Lake’s attempt to “subvert the election process by intentionally delaying a request for remedial action to see first whether [she would] be successful at the polls.” *McComb v. Super. Ct. In & For Cnty. of Maricopa*, 189 Ariz. 518, 526 (App. 1997) (cleaned up).

B. Count III otherwise fails as a matter of law.

Even if it were not barred by laches, Lake’s Count III “misconduct” claim also fails as a matter of law. *First*, Lake fails to allege that any signature verification worker failed to comply with the signature matching statute, A.R.S. § 16-550(A), or the relevant provision of the EPM, Hobbs.App.:83 (EPM at 68), much less engaged in misconduct or counted illegal votes. *See* Lake.App.:14-21. While Lake’s declarants—who describe themselves as “the most inexperienced” of signature reviewers, *see* Hobbs.App.:163, 169, 178—may have anticipated higher numbers of rejected signatures, Lake.App.:17-19, their misapprehension does not amount to misconduct on the part of county officials, *Hunt*, 19 Ariz. at 264, particularly where unsupported by any allegations of a statutory violation. *See* Hobbs.App.:227 (“An illegal vote is one that is cast in violation of a statute providing that non-compliance invalidates the vote, or cast by one who is not eligible to vote.”).¹⁴

¹⁴ In fact, Maricopa County’s 2022 signature rejection rate of .137% is consistent with 2020 rejection rates of 0.0646% statewide and 0.47% nationally across all jurisdictions that use signature matching. *See* Maricopa Cnty. Elections Dep’t,

Second, Lake’s claim for the “rejection of ballots with invalid signatures” (Br. at 37) fails to comply with the exclusive statutory procedures for challenging ballots on those grounds. A.R.S. § 16-552 requires that such challenges be made before the opening of the ballot envelope, and that voters be provided with notice and opportunity to be heard before their ballots can be invalidated. Lake should not be permitted to disenfranchise some untold number of Arizonans by using an election contest to evade the procedures required by statute to challenge early ballots.

Finally, Lake speculates that “nothing prevented” election workers from curing ballots improperly. Lake.App.:19-20. But allegations of *opportunities* for misconduct are not allegations of *actual* misconduct, *see Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 418-19, ¶ 4 (courts may not “speculate about hypothetical facts that might entitle the plaintiff to relief”), and cannot overcome the presumption of “good faith and honesty” of election officials, *Hunt*, 19 Ariz. at 268.

For any and all of these reasons, Count III fails as a matter of law.

November General Election Canvass (Nov. 8, 2022), <https://elections.maricopa.gov/asset/jcr:7bd36c75-477c-43d0-83db-80b2761ca698/11-08-2022-0%20Canvass%20BOS%20SUMMARY%20CANVASS.pdf>; U.S. Election Assistance Comm’n, https://www.eac.gov/sites/default/files/document_library/files/2020_EAVS_Report_Final_508c.pdf (accessed Jan. 15, 2023); *see also Mesquite Power, LLC v. Ariz. Dep’t of Revenue*, 252 Ariz. 74, 78 n.3 (App. 2021) (noting that court may take judicial notice of agency website). In short, these declarants’ “expectations” of a rejection rate as high as 40%, *see Lake.App.:18-19*, bear no relation to reality.

III. The trial court did not err in dismissing claims brought outside the election contest statute.

Lake's complaint raised seven constitutional claims wholly outside the election contest statute, ranging from allegations that officials violated Lake's First Amendment rights (Count I) to a claim that mail-in ballots violate ballot secrecy requirements under "U.S. Const. amend. XVI" (Count VII). Lake.App.:57-67. On appeal, Lake argues that the trial court erred in dismissing just two of these: her equal protection claim (Count V) and her due process claim (Count VI). But the trial court correctly dismissed these claims falling outside the scope of the election contest statute. Lake.App.:9-10. Even if a court could consider separate constitutional claims in an election contest, Lake's allegations in Count V and VI fail to state a claim as a matter of law. This Court should therefore affirm the dismissal of these claims on either ground.

A. Election contests are limited in scope and are not vehicles for free-wheeling constitutional claims.

A.R.S. § 16-672 circumscribes five exclusive statutory grounds for an election contest: (1) official misconduct on the part of the election boards, (2) ineligibility of the contestee to hold office, (3) bribery or other offenses against the franchise committed by the contestee, (4) illegal votes, or (5) when "by reason of erroneous count of votes the person declared elected ... did not in fact receive the highest number of votes." Election contests "may not be extended to include cases not within

the language or intent of the legislative act,” and the burden falls on the contestant to show that her claims fall strictly within the statute. *Henderson v. Carter*, 34 Ariz. 528, 534-35 (1928).

Lake cannot meet this burden. Indeed, in response to Defendants’ motions to dismiss below, rather than argue that her constitutional claims fall within the terms of the election contest statute, Lake relied on general joinder provisions under the rules of civil procedure to justify her constitutional claims. Hobbs.App.:213-14. But suits alleging unconstitutional action are regularly “subject to express and implied statutory limitations.” *Armstrong v. Exceptional Child Care Ctr., Inc.*, 575 U.S. 320, 327 (2015); *see also* Ariz. Const. art. IV, pt. 2, § 18 (legislature may set restrictions on suit). Where, as here, the relevant statute circumscribes the grounds for relief, general joinder rules must give way to specific statutory limitations.

On appeal, Lake changes course, attempting to smuggle in her free-wheeling equal protection and due process claims by slapping a “misconduct” label on them. Notably, Lake cites no election contest in Arizona’s history recognizing a constitutional claim as a valid basis for an election contest and offers no way around binding precedent prohibiting judicial reach beyond “the language or intent of the legislative act,” *Henderson*, 34 Ariz. at 534-35. Lake argues only that it “beggars the imagination that the Legislature would exempt” constitutional claims in election contests. Br. at 45. But it is Lake who is operating in the realm of imagination. Had

the Legislature wished to include constitutional violations within the statute's scope, it could have done so. Because it did not, and "it is not the function of the courts to rewrite statutes," *Orca Commc'ns Unlimited, LLC v. Noder*, 236 Ariz. 180, 182, ¶ 11 (2014), this Court may not read in a "constitutional claim" component to the election contest statute where none exists.

B. Lake's constitutional claims otherwise fail as a matter of law.

Even if they could be considered in an election contest, the trial court did not err in dismissing Counts V and VI because neither states a viable claim for relief.

Lake's equal protection claim of intentional discrimination, as alleged in the complaint, hinges solely on insufficient allegations of disparate impact. Lake alleges that, "[a]ssuming *arguendo* that a state actor caused the tabulator problems ... the disproportionate burden on a class of voters—Republicans—warrants a finding of intentional discrimination." Lake.App.:63. But a basic tenet of equal protection doctrine is that disparate impact alone is rarely sufficient to state a claim of intentional discrimination. *See Washington v. Davis*, 426 U.S. 229, 239 (1976); *see also Valley Nat'l Bank of Phoenix v. Glover*, 62 Ariz. 538, 554 (1945) (state equal protection law follows federal counterpart).

On appeal, Lake argues that "impact alone" is sufficient to state a claim for intentional discrimination when the impact is "wildly out of proportion." Br. at 43. But Lake has not alleged the type of results that would permit any court to infer

intentional discrimination. Courts infer intentional discrimination from disparate impact alone only when the result is *extraordinary* and *unexplainable* on any other basis. See *Yick Wo v. Hopkins*, 118 U.S. 356 (1886) (finding intentional discrimination where 100% of those adversely impacted by ordinance were of minority group); *Gomillion v. Lightfoot*, 364 U.S. 339 (1960) (finding intentional discrimination where city removed all but four Black voters and no white voters). As the U.S. Supreme Court has explained, “[a]bsent a pattern as stark as that in *Gomillion* or *Yick Wo*, impact alone is not determinative.” *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977). There is no such pattern here; all that is alleged is that Republicans were more likely to vote on election day than Democrats. That is simply not enough to state a claim of intentional discrimination.

Lake’s substantive due process claim must also fail because she did not allege the required patent and fundamental unfairness necessary to state such a claim. Lake claims the printer and tabulator issues rises to a substantive due process violation. Lake.App.:64, 66. But the only burden Lake alleges relates to longer lines at some voting centers at some times on election day, which is the kind of “garden variety election irregularit[y]” which cannot give rise to a substantive due process violation. *Griffin v. Burns*, 570 F.2d 1065, 1076 (1st Cir. 1978); see *Hennings v. Grafton*, 523 F.2d 861, 862 (7th Cir. 1975) (rejecting substantive due process claim after voting machines malfunctioned). Courts have found substantive due process violations

following elections only in extraordinary circumstances, such as failure to call an election entirely, *see Duncan v. Poythress*, 657 F.2d 691 (5th Cir. Unit B 1981), or the retroactive invalidation of ten percent of all absentee ballots, *see Griffin*, 570 F.2d at 1078-88. Such fundamental deprivation of rights is not alleged here. Finally, *Marks v. Stinson*, 19 F.3d 873, 888 (3d Cir. 1994), does not support Lake's substantive due process claim. As Lake concedes, *Marks* involved "massive absentee ballot fraud," Br. at 44, and Lake has disclaimed any allegation of fraud here.

Lake's procedural due process claim—which she raised in a single sentence in her complaint for "intentional failure to follow election law" and "random and unauthorized acts," *see Lake.App.:64-65*, and makes no mention of here—is also meritless. Lake's complaint did not allege voters were disenfranchised, only that some voters may have chosen to leave the line. But where a voter is not deprived of the right to vote, a procedural due process claim must fail. *Cf. Raetzel v. Parks/Bellemont Absentee Election Bd.*, 762 F. Supp. 1354, 1357 (D. Ariz. 1990) (acknowledging procedural due process violation where voters are actually disenfranchised and ballots disqualified without proper protections).

Finally, while Lake argues *Coleman v. City of Mesa*, 230 Ariz. 352 (2012), provides a roadmap for her claims, *see Br. at 40*, *Coleman* only emphasizes that an individual must be intentionally targeted for discrimination or deprived of something

(here, the right to vote) to state viable claims. Lake has not adequately alleged either, and this Court should affirm the trial court's dismissal of these claims.

CONCLUSION

For any and all of these reasons, the Court should affirm the trial court's orders and deny Lake's attempt to overturn the will of Arizona's voters. Governor Hobbs also reserves her right to pursue attorneys' fees pursuant to Ariz. R. Civ. App. P. 21 and Ariz. R.P. Spec. Act. 4(g).

RESPECTFULLY SUBMITTED this 17th day of January, 2023.

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ARIZONA COURT OF APPEALS

DIVISION ONE

KARI LAKE,

Plaintiff/Appellant,

v.

KATIE HOBBS, et al.,

Defendants/Appellees.

Court of Appeals

Division One

No. 1 CA-CV 22-0779

No. 1 CA-SA 22-0237

(CONSOLIDATED)

Maricopa County

Superior Court

No. CV2022-095403

KARI LAKE,

Petitioner,

v.

THE HONORABLE PETER
THOMPSON, Judge of the
SUPERIOR COURT OF THE STATE
OF ARIZONA, in and for the County
of MARICOPA,

Respondent Judge,

KATIE HOBBS, personally as
Contestee and in her official capacity
as Secretary of State; STEPHEN
RICHER, in his official capacity as
Maricopa County Recorder, et al.,

Real Parties in Interest.

**DEFENDANT-APPELLEE HOBBS'S ANSWERING BRIEF AND
OPPOSITION TO SPECIAL ACTION PETITION APPENDIX**

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January 17, 2023.

APPENDIX¹

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¹ Though Ariz. R. App. P. 13 and 13.1 do not require an appendix, the Court's January 9, 2022 Order consolidating Lake's appeal and special action did not dispense with the procedural requirements under Arizona's Rules of Procedure for Special Actions. Accordingly, this Appendix is submitted pursuant to Ariz. R.P. Spec. Act. 7(e), which Governor Hobbs reads to require an appendix where portions of the record are cited that are not included in Petitioner/Appellant Lake's appendix.

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CASE NO: CV2022-095403

***Kari Lake v.
Katie Hobbs, et al.***

DEFENDANTS' EXHIBIT 2

DEFS00030

Hobbs.App.:4



Maricopa County Elections Department

2022 ELECTIONS PLAN

August Primary & November General



DEFS00031

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EXECUTIVE SUMMARY

2022 Elections Plan | August Primary & November General Elections

The Maricopa County Elections Department is pleased to provide our 2022 Elections Plan. The plan informs Maricopa County voters about our preparations for the upcoming August Primary and November General Election and the options voters have to participate. The release of this plan prior to the elections is one of the first steps of our voter education and outreach efforts. Below are some highlights of key information included in plan.

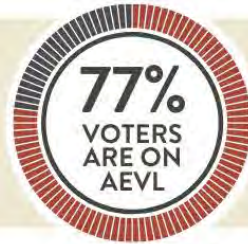
GetInvolved.Maricopa.Vote

2,600 POLL WORKERS

**750 Truck Drivers,
Central Boards & Other
Temporary Workers**

**Enlisting the help of
100+ county employees**

HYBRID TRAINING



**ACTIVE
EARLY
VOTING
LIST**

EARLY BALLOTS

Request.Maricopa.Vote

Voters that need to make a one-time early ballot request or those who are out of town for the election can request an early ballot on our website. Independent voters may also use this portal to select a ballot type for the Primary.

**TRACK
YOUR
BALLOT**

**Text JOIN to
628-683**

MULTIPLE WAYS TO VOTE



By
Mail



In-Person
Early & Election Day



Drop
Boxes



Military &
Overseas



Special
Elections Board

VOTE CENTERS

Locations.Maricopa.Vote

Maricopa County will offer a "vote anywhere" election model to provide voters with increased access and reliability. Voters can choose from a variety of locations, days, and hours that are convenient for them to vote in person or drop off an early ballot.



210-225 LOCATIONS

Locations will open in phases at 27-days, 12-days, 2-days and on Election Day.



2 MILES APART

Voter Centers will be located less than two miles apart on average and are near bus routes & light rail.



10-15 DROP BOX-ONLY

Voters may drop off early ballots at any Vote Center, or drop box-only locations.



WAIT TIMES ONLINE

Our website has a searchable tool for voters to find Vote Center hours, wait times, and more!

Results.Maricopa.Vote

Tabulation Security



Restricted Access



Air Gapped Network



Monitored 24-7



Chain of Custody



Tamper Evident
Seals



Audits & Accuracy
Tests



Bipartisan boards
& observers
DEF500033

VOTER INFORMATION

BeBallotReady.Vote | JustTheFacts.Vote

The Elections Department will focus on educating voters and building trust in election administration and voting processes. BeBallotReady.Vote provides voters with personalized election information. Voters can find facts and myth busters at JustTheFacts.Vote.

Hobbs.App.:7

1.0 – 2022 Elections Plan (Early, Emergency, and Election Day)

The Maricopa County Elections Department's (Department) 2022 Elections Plan outlines the strategies, constraints and methods staff will use to prepare for the 2022 August Primary (8/2/2022) and November General (11/8/2022) Elections. The plan is intended to guide the Elections Department as it provides voters with a safe, reliable, secure, transparent, and accessible election. The plan also informs Maricopa County voters and other stakeholders on key information and activities, so they are prepared to successfully participate in the election.

1.1 – Maricopa County Elections Department

In August 2021, the Maricopa County Board of Supervisors (Board) partnered with the Maricopa County Recorder by establishing an Elections Operations Agreement. The purpose of this agreement was to outline the responsibilities for administering elections in Maricopa County and to provide shared oversight over the Elections Department. The Board-appointed Director of In-Person Voting and Tabulation and Recorder-appointed Director of Mail-In Voting and Elections Services manage the Elections Department's shared resources. The co-directors are also responsible for ensuring the Elections Department meets voter needs and that hand-offs between divisions are seamless, efficient, and secure. The following chart outlines assigned responsibilities for the Elections Department.

MARICOPA COUNTY ELECTIONS DEPARTMENT RESPONSIBILITIES

Director In-Person Voting and Tabulation (Scott Jarrett)	Shared	Director of Mail-in Voting and Elections Services (Rey Valenzuela)
<ul style="list-style-type: none">• Recruitment & Training of Poll Workers, Central Boards, and Temporary Staff• Warehouse & Logistics• In Person Early Voting• Election Day Operations• Emergency Voting Operations• Ballot Preparation & Tabulation	<ul style="list-style-type: none">• Transition from Early Voting to Election Day• Elections Department Communications• Elections Department Facilities	<ul style="list-style-type: none">• Uniform and Overseas Citizens Absentee Voting• Special Election Boards• Signature Verification• Early Ballot Processing• Provisional Ballot Processing• Candidate Filing• Campaign Finance Reporting

1.2 – Planning for the Election

The Elections Department began planning for the 2022 August Primary and November General elections over twelve months in advance of the elections. As we progress through the election cycle, we will refine our plans to ensure they meet the needs of the specific election and voters.

Election planning began by reserving facilities, forecasting turnout, training poll worker leadership, designing a marketing and outreach plans, equipment maintenance, supporting candidate filing, updating early voting instructions, and drawing precinct maps. The next planning and implementation phase begins

in May, approximately 90 days before the election, and includes mailing notices to Active Early Voting List (AEVL) voters, beginning to accept early ballot requests, recruiting temporary workers (poll workers, central boards, and other temporary staff), building supply kits, programming voting equipment, designing the ballot, preparing to mail ballots to overseas and military voters, building delivery routes, creating election specific training curriculum, implementing media and voter outreach plans, and creating risk analysis deliverables.

1.3 – August Primary and Jurisdictional Elections

In the August Primary, voters choose their preference for their party’s candidate to be on the ballot in the November General Election. Federal, state, and county offices, as well as 22¹ local jurisdictions with candidates and/or issues will appear on Maricopa County’s August Primary Election ballots (A.R.S. § 16-204)².

Maricopa County has three recognized political parties— Republican, Democrat, and Libertarian. Voters registered with these political parties will be issued a ballot with the partisan races and local jurisdictions they are eligible to vote. Independent voters and those registered without a political party preference must actively request the partisan ballot of their choice (Republican or Democrat only) or a non-partisan ballot (if available for the city or town in which they live) in order to participate in this election. Independent voters may make that request by mail, online at [BeBallotReady.Vote](https://www.maricopa.gov/BeBallotReadyVote), by phone (602-506-1511) or when voting in-person.

Maricopa County will have over 15,000 unique ballot styles for the August Primary Election. The chart below shows the key dates for the August Primary Election. These dates will drive Elections Department planning activities.

AUGUST 2022 PRIMARY ELECTION KEY DATES

Date	Description
April 4, 2022	Candidate filing deadline (CandidateList.Maricopa.Vote)
May 2, 2022	Mail 90-day cards and begin accepting early ballot requests and independent voter ballot requests (Request.Maricopa.Vote)
June 13, 2022	Launch “Where Do I Vote” webpage (Locations.Maricopa.Vote)
June 18, 2022	Send ballots to military and overseas voters (MilitaryOverseas.Maricopa.Vote)
July 5, 2022	Voter registration deadline (Register.Maricopa.Vote)
July 6 – 29, 2022	Early Voting – in person and by mail
July 26, 2022	Recommended date to return ballot by mail
July 30 – Aug 1, 2022	Emergency Voting
August 2, 2022	Election Day

¹ Cities and Towns of Apache Junction, Avondale, Buckeye, Carefree, Cave Creek, Chandler, El Mirage, Fountain Hills, Gila Bend, Gilbert, Glendale, Goodyear, Guadalupe, Litchfield Park, Mesa, Paradise Valley, Queen Creek, Scottsdale, Surprise, Tolleson, Wickenburg, Youngtown

² State law determines that for the purposes of increasing voter participation and for decreasing the costs to taxpayers, the August Primary election should be consolidated to provide voters just one ballot for this election.

1.4 – November General Election

In the November General Election, voters choose their preference for federal, state, county, and local offices and ballot measures. Depending on the August Primary results, there could be up to 25³ cities and towns with another 75 local jurisdictions with candidates or ballot measures on the November General Election Ballot (A.R.S. § 16-204)⁴. The chart below shows the key dates for the November General Election.

NOVEMBER 2022 GENERAL ELECTION KEY DATES

Date	Description
September 24, 2022	Send ballots to military and overseas voters (MilitaryOverseas.Maricopa.Vote)
September 9, 2022	Update “Where Do I Vote” webpage (Locations.Maricopa.Vote)
October 11, 2022	Voter registration deadline (Register.Maricopa.Vote)
Oct. 12– Nov. 4, 2022	Early Voting – in person and by mail
November 1, 2022	Recommended date to return ballot by mail
November 4 – 7, 2022	Emergency Voting
November 8, 2022	Election Day

1.5 – Accessible, Reliable, Secure, Transparent, Efficient Voting Options

The Maricopa County Elections Department’s mission and vision drive operations and areas of focus. They help us improve our operations and motivate staff by guiding Department strategies and goals.

MISSION

The mission of the Maricopa County Elections Department is to build public trust and confidence by providing accessible, reliable, secure, transparent, and efficient elections services.

VISION

Our vision is to promote a culture of service, continuous improvement, accountability, collaboration, and integrity in every action, strategy, objective, and election process.

1.5.1 Increased Access

The Elections Department will ensure voters are aware of all voting options for the upcoming elections. Whether the voter decides to vote by mail or in-person, our goal is to provide safe, secure, reliable and accessible choices.

³ Potential Runoff: Cities and Towns of Apache Junction, Avondale, Buckeye, Carefree, Cave Creek, Chandler, El Mirage, Fountain Hills, Gila Bend, Gilbert, Glendale, Goodyear, Guadalupe, Litchfield Park, Mesa, Paradise Valley, Peoria, Queen Creek, Scottsdale, Surprise, Tolleson, Wickenburg, Youngtown / Other Election: City Phoenix, City of Peoria,

⁴ State law determines that for the purposes of increasing voter participation and for decreasing the costs to taxpayers, the November General election should be consolidated to provide voters just one ballot for this election.

Voting by Mail

Arizona law has allowed “no excuse” absentee voting for over two decades known as Early Voting. A voter can request a one-time ballot in the mail or sign up for the Active Early Voting List (AEVL). Voters may make these request by visiting [BeBallotReady.Vote](#) or contacting the Elections Department. Voters on AEVL will be mailed a ballot 27-days before the August Primary and November General Election, with the exception of independent voters in the Primary. These voters must first notify the Election Department of their ballot choice. Early voters should sign and date the envelope as well as provide a phone number the Elections Department can use to reach voters if there is a signature issue. Voters may return Early Ballots by mail or at any secure ballot drop box or Vote Center in Maricopa County (Hours of availability will be posted at [Locations.Maricopa.Vote](#) approximately 45 days before each election).

In addition to traditional ballot-by-mail options, Maricopa County also provides voters with additional early ballot options. Voters may make requests for the following options by email SEB@risc.maricopa.gov or phone (602) 506-1511:

- Braille ballots
- Large print ballots
- Spanish ballots
- Special Election Boards – Voters who are unable to vote by mail or in person due to a confining illness or disability may request a Special Election Board. These Boards are made up of two members of differing political parties who travel to the voter with the voter’s ballot to facilitate the voting process. Often these voters are in hospitals or nursing homes. (See Section 6.0 Early Voting – Page 40 for more details).

In-Person Voting

Prior to the 2020 Election Cycle, Maricopa County used a precinct model assigning voters to a single precinct on Election Day. With great success, the Elections Department implemented an in-person “vote anywhere” Vote Center model in 2020. Given the benefits, the Elections Department will offer secure and convenient in-person Vote Centers during early voting, emergency voting, and on Election Day again in 2022.

- Early Voting (Open Monday-Saturdays, including evening hours)
- Emergency Voting (Open the Saturday and Monday before Election Day, including evening hours⁵)
- Election Day (Open 6am – 7pm)

The Elections Department will use a phased approach to open 210-225 Vote Centers by Election Day. The phased opening approach increases reliability of in-person voting operations, and significantly expands a voter’s access to participate in the August Primary and November General elections. Vote Centers will be available during business hours, in the evenings (5-7 p.m.), and on Saturdays. Saturday voting will occur at Phase 1 and 2 locations on July 23 and 30 for the Primary Election and October 29 and November 5 for the General Election. A final list of Vote Centers and hours of operations will be published at [Locations.Maricopa.Vote](#) approximately 45 days before the election. The phased opening schedule and the approximate amount of geographically dispersed Vote Centers are listed in the table on the next page.

⁵ See section 1.6 for more details about Emergency Voting.

Vote Center Opening Phases	August Primary	November General
Phase 1: Open 10 Vote Centers (28 Day Sites) on:	July 6	October 12
Phase 2: Open 40 – 45 additional Vote Centers (12-day sites) on:	July 22	October 28
Phase 3: Open 60 - 70 additional Vote Centers (2-day sites) on:	August 1	November 7
Phase 4: Open 90 - 100 additional Vote Centers (1 -day sites) on:	August 2	November 8
Total Election Day Vote Centers	210 - 215	210 - 225

We evaluate our voting locations to ensure they meet ADA requirements and can serve voters with a disability. We also offer curbside at all locations if these voters choose to vote from their vehicle. All locations are equipped with an accessible voting device that can serve voters with vision, hearing and movement disabilities (See Section 7.1.2 – page 51 for more details).

1.5.2 – Improved Reliability of Voting Options and Operations

The Elections Department's has implemented redundancies, documented procedures, and contingency plans so the Elections Department can prevent both routine and unforeseen events from disrupting voting options. The contingency plans also offer solutions so the Elections Department can restore operations in the event that a vote center or the central counting and processing center becomes temporarily or permanently inoperable due to equipment failures, a power outage, or other unforeseen disruption. The contingency plans are described in further detail in the following two sections of this plan.

- 2.3 Wait-Time Reduction (page 15)
- 9.0 Risk Management and Contingency plan (page 62)

1.5.3 – Transparency

To provide transparency of the County's elections operations, the County Board of Supervisors, the Recorder's Office, and Elections Department have made significant investments in capital, staff, reviews, and other initiatives to provide the public and voters insight and visibility into the inner workings of the Elections Department. Some of these investments are highlighted below.

- Installed security cameras to provide 24/7 live video feeds throughout the elections department year around.
- Added glass walls around the tabulation server and installed racking to clearly show the tabulation equipment wires are not connected to an outside network.
- Hosting public board meetings and publishing of Election Plans
- Hosting Elections Department Tours
- Publishing educational videos
- Inviting political party representatives to observe and participate in voting processes
- Implementing Voter Outreach initiatives
- Inviting Federally Certified Voting System Testing laboratories to evaluate our tabulation equipment.

1.5.4 – Security

There are many components to maintaining the security and integrity of the election process. We partner with the Department of Homeland Security, the FBI, the County's Information Security Department, and others to perform security assessments and prepare plans to ensure we have the security measures in place to respond to cyber, physical, and operational threats. To ensure the viability and integrity of the plans, many of the details are not publicly disclosed.

As it relates to mail-in voting, in-person voting, and central count operations, we include some of those security functions in sections 6.0 Early Voting plan – page 40, 7.0 Facilities and Logistics plan – page 49, and 8.0 Central Count and Tabulation plan – page 56 of this document.

1.5.5 – Efficient Voting Operations

Maricopa County, as a voting jurisdiction, has nearly 2.6 million registered active voters (2nd most in the nation). The County also spans 9,224 square miles and is geographically larger than seven states (Connecticut, Delaware, Hawaii, New Hampshire, New Jersey, Massachusetts, Rhode Island). The County also offers four separate voting models that allow voters to return their early ballot through the mail, drop-off their early ballot at any voting location, or vote in-person at anyone of our early or election day vote centers.

In-order to serve millions of voters over a very large geographic footprint, while offering four separate voting models, the County establishes a set of efficient voting operations, plans and procedures. These are documented throughout the plan, with some highlights listed below.

- To ensure the county has the temporary work force and talent needed to support voting operations, we create detailed plans to recruit, hire and train a large workforce of over 3,100 temporary workers (see section 4.0 Staffing – page 27 and 5.0 Training sections – page 34).
- To ensure in-person voting wait-times are minimal, the county established procedures to project turnout and setup a sufficient amount of voting locations within narrow windows of time (see section 2.0 Voter Turnout and Wait-Time Reduction plan – page 11 and 7.0 Facilities and Logistics plan – page 49).
- Established procedures to ensure the County can securely deliver, transport, process, count, and report results on millions of ballots and tens-of-millions of contests within statutory strict statutory timeframes (see sections 6.0 Early Voting Plan – page 40, 7.0 Facilities and Logistics plan – page 49, and 8.0 Central Count and Tabulation plan – page 56).
- The county established a robust communications plan that includes paid media, earned media, and voter outreach efforts to inform voters of how they can successfully participate in the election (see sections 3.0 Communications Plan – page 21)

These efforts are all performed to serve voters for the August Primary Election and then quickly initiated again to serve voters for the November General Election. With a total cost of \$23.4 million for both elections, this is completed at a low cost of less than \$5.22 per resident⁶.

⁶ July 1, 2021: United States Census Bureau estimates Maricopa County had a population of 4,496,588 residents: [U.S. Census Bureau QuickFacts: Maricopa County, Arizona](#). The Elections Department estimates that the count will expend \$10.6 million to support the August Primary and \$12.7 million to support the November General Election. This is a total of \$23.4 million in expenditures to support both elections.

1.6 – Emergency Voting

State law gives the Board the authority to authorize the use of emergency voting centers for each election and requires the Board to specify in a resolution the location of the emergency voting centers and the hours of operation (see [A.R.S. § 16-411\(B\)\(5\)](#)). “Emergency” means any unforeseen circumstance that would prevent the voter from voting at the polls on Election Day. Eligible voters who experience an emergency between 5 p.m. on the Friday preceding the election and 5 p.m. on the Monday preceding the election may vote at an emergency voting center in the manner prescribed by the Board (see [A.R.S. § 16-542\(H\)](#)).

Before receiving a ballot at an emergency voting center, a voter must provide identification. The voter must also sign a statement under penalty of perjury containing substantially the following language: “I declare under penalty of perjury that I am experiencing or have experienced an emergency after 5 p.m. on the Friday immediately preceding the election and before 5 p.m. on the Monday immediately preceding the election that will prevent me from voting at a polling place on Election Day.” These statements are not subject to public inspection pursuant to Title 39, Chapter 1, Article 2 (see [A.R.S. § 16-542\(H\)](#); [A.R.S. § 16-246\(F\)\(2\)](#)).

Maricopa County’s Emergency Voting plan is to staff 50-55 geographically dispersed sites throughout the County for eligible voters to cast a vote if they experience an emergency on the Friday (after 5 p.m.) and Saturday prior to Election Day. The number of voting locations will increase to 110-125 locations on the Monday prior to Election Day. To minimize voter confusion, emergency voting locations will be the same sites used during early voting. The Elections Department will present the emergency voting locations and hours to the Board for approval along with the lists of voting locations and Poll Workers in June 2022 for the August Primary and September 2022 for the November General Election.

2.0 – Forecasting Turnout and Reducing Wait Times

To effectively plan for the 2022 August Primary and November General elections, the Elections Department developed a series of models to forecast how many potential voters are likely to turn out by voting early or on Election Day. We used this forecast to determine the amount of voting locations and temporary workers (e.g., Poll Workers and Central Boards) that are needed to have a successful election and serve the voters of Maricopa County. We also use these forecasts to develop strategies to minimize voting location wait-times and to ensure the processing and tabulation of early ballots is efficient and secure.

Historic population growth, recent elections, and increased interest in the elections process point to the potential for historic voter turnout in the 2022 gubernatorial election cycle. In 2020, the most recent Primary and General election, voter turnout was at or near all-time highs. The 2020 August Primary had 860,704 (35.4% - Turnout Percentage) voters participate and the 2020 November General had 2,089,563 (80.5% - Turnout Percentage) voters participate. Both elections also saw a significant increase in early voting. For the 2020 August Primary, 93.94% of voters that participated cast an early ballot, while 91.67% of voters that participated in the 2020 General Election cast an early ballot.

2.1 – Scope and Objectives

Forecast models include Early Voting and Election Day turnout projections for the 2022 Primary and General elections. The Wait-Time Reduction Plan focuses on both Early and Election Day voting at Vote Centers and meets statutory and legal requirements outlined in section 2.1.1 below. The objectives for creating a forecast model and Wait-Time Reduction Plan includes:

- Create and use a forecast model that provides a fair estimation of Early Voting and Election Day turnout.
- Use the model to develop Election Day, Emergency Voting, and Early Voting plans to reduce wait-times at voting locations.
- Refine the forecast as new information becomes available.
- Develop a strategy to inform voters of wait-times at each location so they can make informed decisions on when and where to vote.

2.1.1 – Statutory and Other Requirements

State statute (See [A.R.S. § 16-411\(J\)](#)) requires that counties provide a method to reduce voter wait-time at the polls. The Arizona Secretary of State defines *wait-time* as the duration of time from when the voter arrives in line to the time the voter is provided a ballot or access to an accessible voting device.⁷

2.1.2 – Forecast Model Constraints and Considerations

Elections occur infrequently and turnout is largely driven as a product of current events, candidates involved in the contest, ballot measures, and voter engagement. Since it is difficult to measure and correlate precise turnout based on these factors, we use actual turnout from prior recent elections as a primary factor for estimating turnout. There are two major factors driving uncertainty in the forecast models. The first factor being the impact that COVID-19 had on 2020 voting patterns and how those impacts affect the turnout models. The second factor is that post 2020, there has been a significant amount of mis-, dis-, and mal-information spread about the security of voting processes, especially as it relates to voting

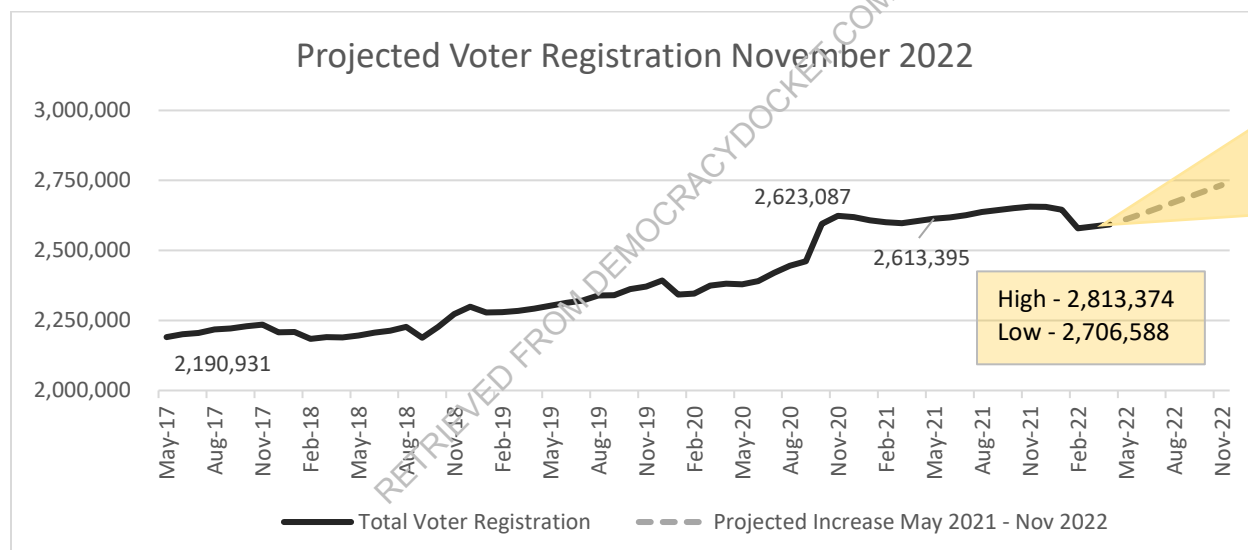
⁷ Arizona Secretary of State 2019 Elections Procedures Manual (page 166).

by mail. As a result, this could cause some voters that have traditionally voted early to instead vote on Election Day.

This uncertainty in forecasting turnout is one of the key benefits to using a “Vote Anywhere” vote center model. Vote Centers provide significant advantages for voters to overcome wait-times because they are no longer assigned to a single precinct. In 2022, Maricopa County voters can choose from any of the 210-225 locations. If a wait-time of more than 30 minutes forms, a voter can visit another convenient location with a shorter wait-time.

2.2 – Voter Registration Increases

Since August 2020, active registered voters in Maricopa County increased from 2,445,548 to 2,592,800 (6 percent). Historically, registration activity tends to increase leading up to an election. Based on registration activity in similar election years (2020 and 2018), we anticipate there will be between 2,706,588 and 2,813,374 voters actively registered by the November 2022 General Election. The chart below shows that the monthly pattern of voter registration increases since May 2017 and the estimated increases from March 2022 through November 2022.



Since August 2020, there have been 147,252 active voters added to the voting rolls in Maricopa County. The majority of these new voters have signed up for the Active Early Voter List (AEVL). As of April 20, 2022, there were 2,015,528 (77.64 percent) of Maricopa County voters on AEVL. In November 2020, the percent of voters signed up on the Permanent Early Voting list was 75.92%. This increase is an important indicator, as it demonstrates that voters have continued to sign-up to receive a ballot-by-mail.

2.2.1 - Forecast Models

Since elections are rare and there are many year-to-year factors that can influence turnout, we developed two forecast models to estimate turnout. The forecast modes are designed based on the following six factors:

1. Voter turnout from the prior two elections of a similar type.
2. The number of ballots (including regular, early, and provisional) cast in the prior two elections of a similar type ([A.R.S. § 16-411\(J\)\(1\)](#)).

3. The number of registered voters ([A.R.S. § 16-411\(J\)\(3\)](#)).
4. The number of registered voters who requested an early ballot or are on AEVL, ([A.R.S. § 16-411\(J\)\(2\)](#)).
5. The potential number of ineligible voters that could attempt to vote.
6. The average decrease in turnout between presidential and gubernatorial election years.

The first model is based on average turnout during the 2014 and 2018 November General Elections, the most recent general elections that occurred during a gubernatorial election cycle. The first model estimates that total turnout will be 1,438,859 voters, with 291,863 voters participating on Election Day.

FIRST FORECAST MODEL – 2022 NOVEMBER GENERAL ELECTION			
Forecast Factor	2014 Nov. Voters (Factor)	2018 Nov. Voters (Factor)	2022 Projected Voters
Registered Voters (Active Voters Only)	1,935,729	2,229,718	2,733,284
Active/Permanent Early Voter Registration %	44.5%	56.7%	77.6%
Turnout Percentage (Active Voters Only)	45.32%	65.21%	55.27%
Total Turnout	877,187	1,454,103	1,468,859
Election Day – Eligible Voters Only	165,854	269,842	282,486
Election Day – Provisionals Not Counted	5,554	8,957	9,377
Election Day Turnout (Includes Provisionals)	171,408	278,799	291,863
Early Ballots Turnout (By mail and in-person)	711,333	1,184,261	1,185,996

We also prepared a model based on the same factors for the August Primary. The model used average turnout during the 2014 and 2018 August Primary Elections. The first model estimates that total turnout for the August Primary will be 748,824 voters, with 108,080 voters participating on Election Day.

FIRST FORECAST MODEL – 2022 AUGUST PRIMARY ELECTION			
Forecast Factor	2014 Nov. Voters (Factor)	2018 Nov. Voters (Factor)	2022 Projected Voters
Registered Voters (Active Voters Only)	1,974,428	2,229,718	2,671,260
Permanent Early Voter Registration %	44.5%	56.7%	77.6%
Turnout Percentage (Active Voters Only)	25.34%	31.38%	28.36%
Total Turnout	500,282	699,636	748,824
Election Day – Eligible Voters Only	66,552	101,482	105,809
Election Day – Provisionals Not Counted	1,974	2,178	2,271
Election Day Turnout (Includes Provisionals)	68,526	103,660	108,080
Early Ballots Turnout (By mail and in-person)	433,730	598,154	643,015

2.2.2 - Second Forecast Model

For the second model, we expanded the data inputs to include additional gubernatorial elections and turnout comparisons with presidential election cycles. We included all gubernatorial elections going back to 1946. On average, turnout in a gubernatorial election year is 62.07%. We used this percentage as the low end of the turnout for the second model.

We also included a comparison factor comparing turnout decreases for gubernatorial election years as compared to the preceding presidential election year. Based on turnout data for every election from 1946-2018, we calculated the average turnout decrease between a presidential election year and the subsequent gubernatorial election year. On average, turnout decreases 19.8 percent between the presidential and gubernatorial election cycles. In 2016 and 2018 elections, the most recent years in which there was a presidential election followed by a gubernatorial election cycle, turnout decreased by 13.34%. This was the smallest turnout decrease since the 1988 (presidential) and 1990 (gubernatorial) elections which decreased 8.9%.

To ensure the second model was incorporating current events, we used the most recent percentage decrease of 13.34% to project 2022 turnout. Since 80.51% percent of voters turned out in 2020, we calculated a turnout percentage of 69.77% as the high-end of the range.

The second model averaged these two factors and estimates that total turnout will be approximately 1,801,825 voters, with 251,615 voters (includes provisional voters) voting on Election Day.

SECOND FORECAST MODEL – 2022 NOVEMBER GENERAL ELECTION			
Forecast Factor	Average of All Gubernatorial Elections (Factor)	Presidential Election Average Decrease (Factor)	2022 Projected Voters
Registered Voters (Active Voters Only)	2,733,284	2,733,284	2,733,284
Turnout Percentage (Active Voters Only)	62.07%	69.77%	65.92%
Total Turnout	1,696,608	1,907,042	1,801,825
Election Day – Eligible Voters Only	141,340	311,935	242,238
Election Day – Provisionals Not Counted	9,377	9,377	9,377
Election Day Turnout (Election Day & Provisionals Not Counted)	150,717	321,312	251,615
Early Ballots Turnout Projection (By Mail and in-person early)			1,550,210

Similar to the first model, we also performed this same forecast for the August Primary. We found that total turnout will be approximately 960,962 voters, with 149,363 voters (includes provisional voters) voting on Election Day.

SECOND FORECAST MODEL – AUGUST PRIMARY			
Forecast Factor	Average of All Gubernatorial Elections (Factor)	Presidential Election Average Decrease (Factor)	2022 Projected Voters
Registered Voters (Active Voters Only)	2,671,260	2,671,260	2,671,260
Turnout Percentage (Active Voters Only)	35.94%	36.01%	35.97%
Total Turnout	959,939	961,986	960,962
Election Day – Eligible Voters Only	106,448	178,138	147,092
Election Day – Provisionals Not Counted	2,271	2,271	2,271
Election Day Turnout (Election Day & Provisionals Not Counted)	108,719	180,409	149,363
Early Ballots Turnout Projection (By Mail and in-person early)			813,870

2.3 – Wait-Time Reduction Plan

Our first step in planning to reduce wait-times was to use historical information to forecast turnout. However, voter turnout is only one factor that can cause long lines on Election Day. Other contributing factors include the voting model (precinct-based vs. vote center), training, contingency plans, time-of-day voting patterns, check-in speeds, length of the ballot, and access to early voting options. The 2022 Elections Plan outlines our considerations for forecasting turnout and managing these factors to reduce wait-times and lines at voting locations. Below are some factors and potential bottlenecks that may cause wait-times during the August Primary and November General Elections and strategies Maricopa County is implementing to mitigate them.

Expanded Access and Vote Centers

To help reduce wait-times, we have designed a model to provide voters with expanded in-person voting options. The County will offer 210-225 “vote anywhere” Vote Center options on Election Day. Not only will there be an expansion in the number of Election Day in-person voting locations, but the County will offer many in-person voting locations beginning 27-days before Election Day. Vote Centers are regionally dispersed and open in following four phases:

Vote Center Opening Phases	August Primary	November General
Phase 1: Open 10 Vote Centers (28 Day Sites) on:	July 6	October 12
Phase 2: Open 40 – 45 additional Vote Centers (12-day sites) on:	July 22	October 28
Phase 3: Open 60 - 70 additional Vote Centers (2-day sites) on:	August 1	November 7
Phase 4: Open 90 - 100 additional Vote Centers (1 -day sites) on:	August 2	November 8
Total Election Day Vote Centers	210 - 215	210 - 225

For the 2022 elections, we plan to increase the number of check-in stations per location by nearly 3-times (on average) over the amount that was used during the 2018 November General Election. In 2018, the

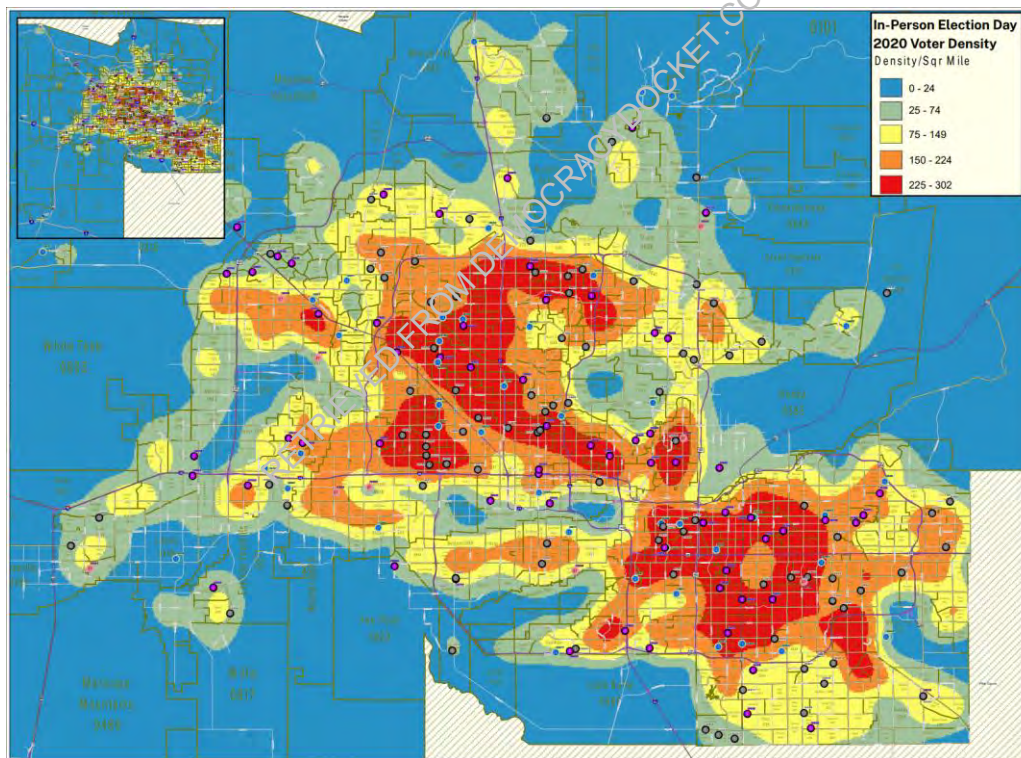
County provided each voting location with three SiteBook check-in stations for a total of 1,100 countywide. Each voting location will be equipped with 8-12 SiteBooks totaling more than 1,800 check-in stations across the county.

Regionally Dispersed Voting Locations

Vote Centers will be placed vote centers through-out the county, including in rural communities (e.g., Aguila, Gila Bend, Kaka Village) and along public transportation (e.g., Light rail, bus routes), and high frequency transportation corridors. This ensures voters in all areas of the county are offered an in-person voting option.

To ensure adequate coverage of voting locations in higher population density regions of Maricopa County, we use historical turnout and heat maps that show where in-person voters are likely to vote. The image below is of a heat map that uses 2020 in-person voting election data. Since elections in 2020 were the first time vote anywhere Vote Centers were used on Election Day, this map provides great insight on where in-person voters may participate in 2022. We use the data to ensure we have enough voting locations in these areas.

Heat Map Analysis



Heat map using 2020 in-person voting data, with 2022 Vote Centers (Blue and Gray dots). The dark red areas are the highest volume areas followed by the orange and yellow shaded areas. The blue and green section of the map are the geographic areas that have the fewest number of in-person voters.

Check-in Process

The Elections Department will use SiteBooks to check-in voters at all voting locations. SiteBooks are Maricopa County's voter check-in system built in-house. The award-winning technology provides voters and Poll Workers with enhanced functionality to the electronic poll book referenced in state statute. The SiteBooks were first introduced in the November 2017 jurisdictional elections. Prior to 2016, Poll Workers used paper check-in rosters, a manual process that slowed check-in times and were much less reliable. The SiteBook provides faster check-in speeds because it allows for more than two voters to check-in simultaneously at a polling location and connects directly with the Recorder's voter registration system, providing a secure, enhanced and streamlined voter experience. Check-in speeds from recent elections average between 120-150 seconds per voter. The SiteBook check-in terminals guide voters through a series of screens. Voters answer questions, in their choice of English or Spanish, to establish identity and eligibility, which ensures the correct ballot is issued. With a barcode scan of an ID or by entering the voter's name, voters check-in and prove their proof of identity to a trained Poll Worker before a ballot is printed. For the statutory ID requirement, a voter can provide one of the acceptable forms of photo identification, two forms on non-photo identification, or a permissible combination of one photo and one non-photo identification⁸.

Time Needed to Vote a Ballot

The length of the ballot or a limited number of voting booths can also create wait-times at a voting location. We have evaluated the time it takes to vote a ballot and established sufficient capacity in our voting locations to reduce bottlenecks. For the August Primary, we anticipate 10-14 contested offices and 4-6 additional contests on the ballot. For the November General Election, the majority of the ballots will have between 65-75 total contests.

On average, we estimate that it will take voters between 4.4-6.4 minutes to vote the 2022 August Primary Ballot and between 8.5-10.5 minutes to vote the 2022 November General Election ballot. Based on these time estimates and the amount of time we have calculated to check-in, we can determine how many voting booths are needed to eliminate bottlenecks in our vote centers. We've established the following voting location guidelines for the room size of a voting location and the number of check-in stations and voting booths to accommodate voters and minimize wait-times.

- 1,400-2,000 square foot location: 8 SiteBooks /25 Voting Booths
- 2,000-3,000 square foot location: 12 SiteBooks /30 Voting Booths

Provisional Ballots

The Elections Department will work to reduce the number of voters required to vote a provisional ballot in two ways:

1. We introduced premium poll worker training and plan to have a Certified Premium Trained Inspector at nearly every Vote Center across Maricopa County. The training covered topics that are likely to create issues within a voting location including the common scenarios to cause to be issued a provisional ballot.
2. We are implementing a Vote Center model equipped with ballot-on-demand technology and SiteBook check-in stations to serve as "vote anywhere" locations. Vote Centers will be geographically dispersed throughout the county and will provide voters the option to vote at a location that is most convenient for them, which may be near their work, gym, favorite restaurant

⁸ ([A.R.S. § 16-579](#) – Procedure for obtaining ballot by elector)

or while running errands. This voting model and technology eliminates provisional ballots issued for out-of-precinct voters. The SiteBooks also allow voters to update their address and make name changes during check-in, eliminating provisional ballots to be issued for voters that changed their name or address after the voter registration deadline.

Poll Worker Training

As described in the *Training Plan* (Section 5, page 34), the Elections Department will require all Poll Workers to attend training. We understand temporary Poll Workers live throughout the county and have other responsibilities, so we plan to offer online training and several in-person training options where inspectors, judges, marshals, and clerks can practice using the voting equipment and learn about election laws and their job responsibilities. The in-person training sessions will ensure that Poll Workers are prepared. In addition, a training manual that covers the duties of each role and the nuances and equipment procedures is provided for every election. The manual will be available on the Elections Department's website 45 days before each election.

Poll Worker Staffing Contingencies

We are hiring an additional four to five Poll Workers per site for a total of up to 11 Poll Workers at each location. These additional Poll Workers will allow for coverage during the early voting period and should we encounter absenteeism. The Elections Department could experience 20-30% absenteeism from Poll Workers and will be able to provide in-person voting options without interruption.

Command Center Hotline and Equipment Support

We have a command center hotline staffed with subject matter experts that are available to answer Poll Worker questions and dispatch Troubleshooters as needed. Each call for service is documented in an Election Reporting System. These service requests are reviewed by the training team and are used to develop future training curriculum.

Vote Centers are equipped with 2-3 high-speed ballot-on-demand printers, creating a much-needed redundancy to prevent lines in the event one printer needs service or repair. If a piece of equipment fails, Poll Workers, Trouble Shooters and Technical Support Staff (T-Tech) are trained on solutions to correct any issues that arise in the voting location. We have developed specific SiteBook and printer procedures for checking in voters through using an off-line mode if a cellular network or the virtual private network connection to the voter registration database is lost. If a SiteBook terminal becomes inoperable, a T-Tech will be quickly dispatched with a replacement.

Additionally, Trouble Shooters will have access to five regionally located supply depots to obtain back-up precinct-based tabulators, replacement printer cartridges, and other commonly used supplies in the event a location's equipment needs repair.

Additionally, Trouble Shooters will have access to five regionally located supply depots to obtain a back-up precinct-based tabulators, replacement printer cartridges, and other commonly used supplies in the event a location's equipment needs repair.

Wait-time Simulations

To determine if we have established enough vote centers, check-in stations, and voting booths, we run wait-time simulations to project wait-times. To simulate and calculate projected wait-times, we create a sand box (physical mock-up of a voting location) and gather data inputs gathered from turnout models, the number of phased-in vote centers, the regionally dispersed voting locations, heat map analysis, check-in

process, time-to-vote a ballot analysis, poll worker training, and command center response efforts. We create different variations of the vote center to determine optimal voter flow. Using this information, we generate simulations on expected wait-times. Those estimates are summarized in the table below.

August Primary Estimated Wait-Times		
Time of Day	Average Wait-Time	Longest Wait-Time
6AM - 6:30AM	1 – 2 Minutes	7 – 8 Minutes
12:00 (NOON)	0 Minutes	1 – 2 Minutes
4:30PM	0 Minutes	3–4 Minutes
6:00PM	0 Minutes	3–4 Minutes
7:00PM	0 Minutes	2–3 Minutes
November General Election Estimated Wait-Times		
Time of Day	Average Wait-Time	Longest Wait-Time
6AM - 6:30AM	3–4 Minutes	10–11 Minutes
12:00 (NOON)	0 Minutes	2-3 Minutes
4:30PM	3–4 Minutes	16–17 Minutes
6:00PM	7-8 Minutes	30–31 Minutes
7:00PM	1 Minutes	14–15 Minutes
<p>Wait-Time Simulation Inputs: For both the August Primary and November General Election, the Presidential Election Average Decrease factor from Model 2 was used to simulate wait-times. Of the two model projections and four factors (6 total options), this factor calculated the highest estimated Election Day turnout. For planning purposes, we base our planning efforts to meet the highest turnout.</p> <p>August Primary Simulation Inputs: In-Person Voters: 180,408 / Vote Centers: 200 / Check-in Stations: 8 / Voting Booths: 15 / Time to Vote Ballot 6.5 Minutes / Time to Check-in: 3 Minutes.</p> <p>November General Simulation Inputs: In-Person Voters: 321,312 / Vote Centers: 220 / Check-in Stations: 8 / Voting Booths: 25 / Time to Vote Ballot 11 Minutes / Time to Check-in: 3 Minutes.</p>		

2.4 – Wait-Time Remediation

For the August Primary and November General Election, we are implementing a systematic process to monitor wait-time and respond accordingly. We have programmed our SiteBooks to calculate wait-times based on the number of voters in line. The application is designed to calculate wait-time using a formula based on check-in speeds and inputs of how many people are in line. We are training our Poll Workers to count voters in line and report this information on the SiteBook every 15 minutes. The information is logged and monitored by the Elections Department’s Command Center and Trouble Shooter hotline. This information also immediately populates on the Elections Department’s website. Through this system, the Elections Department and voters will have access to real time information about voter wait-times.

If wait-times exceed 30 minutes, Inspectors or Trouble Shooters will work with Department staff to assess the cause of the issue or bottle neck. Depending on that assessment, additional resources can be deployed to provide technical assistance.

The Elections Department uses our [Locations.Maricopa.Vote](#) webpage to report wait-times in real-time. Voters can sort locations by shortest to longest wait-times. During the 2020 Elections, we had an over 83 percent compliance rate with Poll Workers reporting wait-times every 15 minutes. We have designed the page to be mobile friendly and provide voters with a quick way to find a voting location near them, as well as search for locations open on the weekends and much more. Voters can visit this page directly or find it through their [BeBallotReady.Vote](#) dashboard (described in Section 3.2.3, page 22).

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3.0 – Communications Plan

This Communication Plan outlines our approach to informing key stakeholders in Maricopa County about the 2022 August Primary and November General elections. The purpose of this plan is to establish the communication requirements for the election and outline how the Elections Department will communicate that information. The scope of the Communications Plan describes the following:

- High level messaging about the 2022 Primary and General elections
- The primary audience and stakeholders for our outreach
- Paid and earned media strategy
- Voter outreach strategy
- STAR Call Center
- Sensitive and crisis communications

3.1 – Communications Channels

The public and media can find official communications from the Elections Department through the following channels:

- Email – voterinfo@risc.maricopa.gov
- Website
 - English - [Maricopa.Vote](https://maricopa.vote) | [BeBallotReady.Vote](https://beballotready.vote)
 - Spanish – [Maricopa.Voto](https://maricopa.voto) | [TengaBoletaLista.Voto](https://tengaBoletaLista.Voto)
- Phone – (602) 506-1511
- Social Media
 - Elections Department (@MaricopaVote) – [Facebook](https://www.facebook.com/MaricopaVote), [Twitter](https://twitter.com/MaricopaVote), [Instagram](https://www.instagram.com/MaricopaVote), & [YouTube](https://www.youtube.com/MaricopaVote)
 - Recorder’s Office – [Facebook](https://www.facebook.com/RecorderOffice), [Twitter](https://twitter.com/RecorderOffice), [Instagram](https://www.instagram.com/RecorderOffice)
- Press Releases & Media Alerts

3.2 – Communication Approach & Strategy

It is essential that elections-related communications between all county government and the public are consistent, accurate, and reliable. The Communications Plan serves as a guide that outlines the Elections Department’s paid and earned media strategy, crisis communications strategy, as well as programs, events and other methods to inform key stakeholders about the 2022 elections. In addition, changes or updates may be required due to reasons such as changes in personnel, scope or budget.

3.2.1 - Stakeholders and Audience

Maricopa County residents and voters are the primary audience for the Communications Plan. Additional stakeholders include:

- Maricopa County Board of Supervisors & Maricopa County Recorder
- Elections Department and Recorder’s Office staff
- Temporary staff including Poll Workers and central board workers
- Maricopa County jurisdictions (city and town clerks, school districts, fire districts, etc.)
- Vote Center facility owners and operators

- Political parties
- Election-focused community and advocacy groups

3.2.2 - Campaign Messaging Strategy

Given the significant increase of mis- dis- and mal-information on elections in Maricopa County, the 2022 campaign messaging strategy will focus on educating voters, building trust in election administration and voting processes, and serve as a tool to attract election workers, observers, and other volunteers to support the elections process.

Communications across all platforms will inform voters of important election deadlines and provide information about how to cast a ballot in-person or request a ballot in the mail. Transparency, security and trust in election results is critical to the success of this election. The campaign messaging strategy will also provide the public with information about ballot tabulation, ballot tracking and the multi-layer oversight of elections. The Elections Department's earned media and voter outreach strategy will amplify our #BeBallotReady paid media strategy. Some of the Elections Department's messaging themes include:

- *An entire community of your friends and neighbors are working to ensure a secure, transparent and accurate election in Maricopa County. Discover what it takes by visiting BeBallotReady.Vote.*
- *Help Your Community Be Ballot Ready! Register to vote by July 5, pick a ballot if you're an Independent voter, and gain hands-on experience by working elections. Get involved at BeBallotReady.Vote.*
- *At BeBallotReady.Vote go behind the scenes with Maricopa County to see how ballots are secured and counted and track your ballot every step of the way. Together, we make elections possible.*

3.2.3 - BeBallotReady.Vote | TengaBoletaLista.Voto

Maricopa County is making it easier for voters to make choices when it comes to how and when they want to vote. Our communications strategy will use BeBallotReady.Vote and TengaBoletaLista.Voto as a tool for voters to prepare for elections in 2022.

BeBallotReady.Vote and TengaBoletaLista.Voto provide Maricopa County residents with a personalized voter dashboard in English or Spanish that includes everything they need to know to successfully participate in elections and learn about the elections process. Voters can make changes to personal voter information, learn about upcoming elections, find voting locations, sign up for ballot status alerts, and much more. The platform also provides video tutorials, infographics, and answers to frequently asked voter questions to ensure they can successfully participate in the election. It's a one-stop shop for Maricopa County voters to find important election information.

During the Primary Election, the voter dashboard will also serve as a place for Independent voters or those without a party preference to choose a Democratic, Republican or City/Town Only ballot. Independent voters on the Active Early Voting List (AEVL) will not be mailed a ballot until they notify us of their ballot choice online, by phone or by mail. Voters can make their choice at BeBallotReady.Vote.

3.2.4 - Paid Media Strategy

The Elections Department and the Recorder's Office contracted with Commit Agency through a Contract Task Order to develop a well-rounded paid media campaign for the 2022 election cycle. The budget includes \$220,000* for the creative design, production of advertising materials, and other costs associated with the marketing plan for all mediums in English and Spanish, as well as an estimated \$399,000* for the Primary

and \$577,000⁹* for the General in direct ad buys in both English and Spanish across multiple platforms (television, radio, print, social media, digital display, and billboards). This paid media campaign; will run advertising in six phases from May through November.

- Phase 1 – May 3-July 1 (*Primary Election – Get Involved, Pick a Ballot, & Voter Registration Deadline*)
- Phase 2 – July 2-August 2 (*Primary Election - Early Voting to Election Day*)
- Phase 3 – August 3-23 (*Primary Election - Tabulation to the Canvass*)
- Phase 4 – August 24-October 5 (*General Election - Get Involved & Voter Registration Deadline*)
- Phase 5 – October 6-November 8 (*General Election - Early Voting to Election Day*)
- Phase 6 – November 9-November 30 (*General Election - Tabulation to the Canvass*)

3.2.5 - Earned Media and Voter Outreach Strategy

The Elections Department's earned media and voter outreach strategy will amplify our #BeBallotReady paid media strategy. Methods in English and Spanish will include:

- *Earned Media Interviews* – Our team is available for media interviews. We will inform voters about important election deadlines, security measures, voting locations and ways Maricopa County is making elections secure, transparent and accurate.
- *Press Releases* – We will send out press releases to media on election deadlines including voter registration, mail-in ballot requests, mail-in ballot deadlines, voting locations and dates, Election Day information, and post-election information about election results.
- *Toolkits* – We will create a customized toolkit for the Primary and General elections for our jurisdictional partners, county agencies, community partners and others, which will include an FAQ, Election Calendar, participating jurisdictions, social media graphics, security infographics and more.
- *Social Media* – We will use social media to directly inform Maricopa County voters of their voting options and respond quickly to changing narratives. Through our @MaricopaVote [Facebook](#) and [Twitter](#), and [Instagram](#) pages, and amplified by the Recorder's Office social media channels, we will share our messaging to voters throughout the election cycle and respond to voter questions with actionable information and resources. We will also share our messaging with [Maricopa County](#), [Condado Maricopa](#), and other county partners to expand our reach.
- *Newsletter* – We plan to provide the public with a monthly *Just the Facts* newsletter to inform subscribers about election facts, upcoming election dates and deadlines, event information and more. The public can subscribe at [JustTheFacts.Vote](#).

In addition to the methods above, the Elections Department will engage the public through public forums, events, tours and more.

- *Public Forums* – Our goal is to ensure that our outreach is accessible, accountable, and transparent and works to meet voters where they are. We plan to host public forums to provide voters with the election education and information necessary to participate in elections.

⁹ The budgeted amounts of \$220,000, \$399,000 and \$577,000 are estimates and subject to change.

- Virtual Election Education Series – We plan to host a series of virtual webinars on election specific topics. Our election experts plan to dive into recruitment and training, early voting, in-person voting and tabulation.
- Public Forums – We plan to hold two public forums: one focused on the August Primary Election and a second focus on the November General Election. These public forums will provide information about the upcoming elections, how to get involved in elections and offer election materials and voter tool kits. We expect them to be 90-minutes and plan to send out invitations through our community partners and on social media.
- *Tours* – We plan to provide tours of the Elections Department to elected officials and community organizations to present accurate information about early voting, signature verification, the life of the ballot, controls and documentation, and the checks and balances of the system.
- *Community Events & Activities* – We can maximize our community outreach and make a positive impact in the community by leveraging community events to engage, educate and inform eligible voters about elections. These events will provide voter education, promote poll worker recruitment, and ensure that the elections process provides equity to all voters. They will also provide a forum to gain feedback and incorporate that feedback into election plans and future outreach activities.
- *Student Election Program* –The Student Election Program, reimagined from the STEP-UP student poll worker program, provides educators and high school students access to engaging election education information to raise their voter and civic awareness. It also provides opportunities for students at least 16 years of age to get involved in a fulfilling experience as a Student Election Clerk. Through leadership, job skills, education, and working with their fellow community, the Student Election Program can help to make a student’s future brighter.
- *Deputy Registrar Program* – The Recorder’s Office maintains a unique corps of non-partisan Deputy Registrar volunteers. These individuals are registered Maricopa County voters and are trained by the Recorder’s Office and certified on aspects of voter registration. They support the County efforts at voter registration events, naturalization ceremonies and various voter education opportunities. The volunteers also support the County with projects such as phone banking, mail sorting and other tasks that directly impact voters. The Recorder’s Office provides these volunteers with ongoing education throughout the year.

3.2.6 - Communications Command Center

Throughout the election cycle, the Elections Department will stand up a communications command center to quickly and accurately respond to the public and provide accurate election information. We will have staff monitoring social media, responding to voters by phone and email, and communicating with the media. The communications command center is located at MCTEC and staffed by Elections Department and Recorder’s Office communications staff. In addition, two county communicators will support this command center on Election Day to help meet the increased demand from voters.

3.2.7 - STAR Call Center

The STAR Call Center is an important member of the election team. The STAR Call Center is a shared resource between the Maricopa County Recorder’s, Treasurer’s and Assessor’s Offices. They maintain a call center to serve all three offices. The STAR Call Center has seen a significant increase in volume around elections. As a result, they are planning an increase in staff to reduce wait times to speak to a live agent.

Additionally, they are collaborating with the Elections Department staff to ensure their recorded messages are up to date and accurately reflect information voters may be seeking. Should call volumes exceed the STAR Center's capacity, we've cross-trained Election Department staff members to support when needed.

3.2.8 - Crisis Communications Strategy

In the event of an emergency or other crisis during the election cycle, effective and timely communication will help to ensure voting integrity, public safety and the long-term reliability of the Elections Department. For the purpose of this plan, a crisis is defined as a significant event or incident that disrupts – or has the potential to disrupt – voting, ballot processing or tabulation.

All messages will include accurate and detailed information about the situation and what actions to take. The media also aids in the dissemination of the crisis communication message. The Crisis Communication Team will ensure that media has access to updated information throughout the crisis incident or event. The Election Directors are responsible for notifying County Recorder, Board of Supervisors and the appropriate members of the county's senior leadership team of the status of the incident and provide ongoing status reports.

The public will seek – and trust – other sources of information (e.g. news reports, social media, rumors, and word of mouth) in the absence of official communication. Effective communication will help quell rumors, maintain trust, and ensure public safety. We will convene the Crisis Communications Team as quickly as possible. Depending on the urgency and severity of the incident or event, this may occur in person or by phone. Team members include:

- The Election Directors
- Assistant Election Directors
- Board of Supervisors - Chief of Staff for the Chairman
- County Recorder - Deputy Recorder & Chief of Staff
- Communication Staff
- Chairman of the Board of Supervisors and County Recorder (as needed or as appropriate)
- Legal
- *Others may participate based on the specific incident*

The Crisis Communication Team will implement some, or all of the steps outlined below based on the circumstance, coordinating with all key personnel. Throughout a crisis, the team will meet frequently to review changing facts, assess whether key messages are reaching audiences and determine whether strategies need to change. In the event of a crisis during the election cycle, final approval of all communications rests with the crisis communication team.

1. Immediate Response – Based on the severity of the incident and facts available, the Crisis Communications Team will determine what, if any, public messaging should be sent out and will ensure public safety and other emergency responders are informed as appropriate.

2. Notifying Key Audiences – The Crisis Communications Team will decide which groups need to be informed first. Audiences could include:
 - Voters
 - Poll Workers
 - Elections Department and Recorder’s Office Staff
 - News Media
 - Jurisdictions
 - Arizona Secretary of State
 - Political Parties
 - Candidates or Campaigns
 - Arizona Attorney General
 - Maricopa County Sheriff and other state and local police
 - Arizona Counter Terrorism Information Center
 - Maricopa County Department of Emergency Management
 - Federal Bureau of Investigation (FBI)
 - U.S. Department of Homeland Security
 - The U.S. Attorney’s Office
3. Determine Spokesperson(s) – This can either be a member of the Crisis Communications Team who has knowledge of the crisis and is assigned to provide key messages and emerging facts to the public/media, or an elected official in charge of Maricopa County elections.
4. Developing a Fact Sheet – As soon as possible after the incident, a fact sheet will be prepared to supplement communication with key audiences and information provided to the media by the spokesperson. Members of the Crisis Communications team will create the Fact Sheet, and those with a direct knowledge of the crisis will check it for accuracy. Fact sheets released publicly or posted to the internet must be time stamped and updated as information changes.
5. Informing the STAR Call Center, Email and Social Media Response Staff – Once information is known and verified, the Crisis Communications Team will share messaging details and fact sheets with STAR Center leadership and election staff that support email and social media communication.
6. Alerting the media – The Crisis Communications Team will decide the best ways to communicate with the media during an incident or event. In cases where a crisis is likely to be prolonged, the Crisis Communication Team may use the Maricopa County Tabulation and Elections Center (MCTEC) for media briefings or within a designated location not in view of an official voting location. We will take into consideration appropriate media staging locations that can accommodate vehicles such as satellite trucks. Communication with the media must occur as frequently as the Elections Department verifies new information.
7. Monitoring social media – To anticipate any problems in the flow of accurate communications to the media and public, the Crisis Communications Team will designate staff to monitor social media and respond to questions and disinformation immediately and with consistency.
8. Approval of outgoing information – Typically, we develop communications in a collaborative way, but we recognize the need for decisive decision-making during a crisis to enable rapid, accurate communication.

4.0 – Staffing Plan

The Elections Department's partnership with the Maricopa County community is vital to our success in facilitating elections. We have a proud history of rapid, high-volume community support in serving as paid election workers. These temporary workers (e.g., Poll Workers and central boards) are the face of the Elections Department for voters, and voters expect elections services to be secure and efficient. Our process begins with recruiting adequate numbers of staff for our polling locations, and hiring temporary workers to support early voting activities, warehouse operations, tabulation and equipment management, training and recruitment initiatives. These workers must possess the right mix of skills, while also ensuring balanced political party representation to support the efficacy of elections services. Critical to our success is the establishment of and adherence to timelines and schedules that make the best use of our temporary workers while also ensuring fiscal responsibilities to our taxpayers.

The scope of the Staffing Plan for the 2022 Primary and General Elections includes strategies, constraints, and methods to recruit:

- Poll Workers to staff Vote Centers for early voting, emergency voting, and Election Day
- Central board workers to staff election boards (e.g., early vote processing, duplication boards)
- Temporary workers to staff election boards and other support operations (e.g., early vote processing, duplication boards, delivery drivers, vote center set up teams and warehouse staff)
- County permanent staff to support election operations by working at Vote Centers, Ballot Drop-off Locations, Receiving Centers, supporting setup operations, and providing Election Night support in the warehouse

4.1 – Staffing Approach and Strategy

The staffing strategy for the 2022 elections considers the hiring landscape with record low unemployment and increasing inflation levels not seen in many decades. The Recruitment team faces new challenges in confirming a qualified and capable workforce needed to support a successful election and ensure bipartisan representation is involved every aspect of administering election processes. Below are some of the ways we are pivoting to overcome these challenges.

- Providing a pathway for Poll Workers that have worked in prior elections to come back in support the 2022 August Primary and November General elections.
- Revamping the Elections Department's [GetInvolved.Maricopa.Vote](#) webpage that will serve a one-stop online website that informs the public of all temporary employment opportunities while also providing an easy way for potential temporary employees to submit their interest in working elections directly to our recruitment staff.
- Using paid media, earned media, events and community partnerships (e.g., County political parties, Clean Elections, Secretary of State) to drive interested parties to the Elections Department's [GetInvolved.Maricopa.Vote](#) webpage and dedicated recruitment email inbox.
- Developing targeted messaging to prospective hires that addresses health and safety concerns.
- Increasing the number of Poll Workers at voting locations to proactively address turnover that may occur and to ensure coverage in larger spaces.
- Applying for federal grant funds to provide Poll Worker incentive pay to increase hourly pay rates.
- Providing a pathway for Poll Workers that served in the August Primary to work in the November General Election.

Recruitment for the August Primary and November General elections will be performed in eight phases. The majority of temporary workers are hired to work both elections. Each hiring phase and the timeframe of the phase are described below.

- Phase 1 (Beginning the week of April 11, 2022) – Hire 2,650 Poll Workers to staff approximately 210 - 225 polling locations. Most locations will be staffed by 11 Poll Workers to include one Inspector, two Judges, a Marshal, a Voter Registration Clerk, and six Clerks, with at least one employee proficient in communicating with voters in English and Spanish. For larger locations that can accommodate 12 SiteBook Check-In stations, we will increase the size of the election board to 12 Poll Workers, adding additional clerk positions to more efficiently assist with issuing ballots and coordinating line management to accommodate larger numbers of voters. Recruiters will confirm Poll Workers are capable of performing role-specific duties, provide necessary paperwork to support the hiring process, and schedule Poll Workers to attend training designed to model a safe, secure, and high-quality voter experience. For the November General Election, this phase begins the week of August 24.
- **Phase 2** (Week of June 05, 2022) – Hire 300 temporary workers to support elections operations: T-Techs, Vote Center Setup Workers, Signature Verification, Special Elections Boards, UOCAVA, HR Admin, Warehouse and Recruitment support. *For the November General Election, this phase begins the week of August 31.*
- **Phase 3** (Week of June 27, 2022) – Hire 25 temporary workers to support elections operations: additional Signature Verification and Special Elections Boards support as well as Training Operations support. *For the November General Election, this phase begins the week of September 14.*
- **Phase 4** (Week of July 11, 2022) - Hire 34 Drivers/Warehouse Workers and T-Techs. *For the November General Election, this phase begins the week of September 28.*
- **Phase 5** (Week of July 18, 2022) – Hire 40 temporary workers to support elections operations: Vote Center Workers, T-Techs, Ballot Couriers, Hotline Operators, and Ballot Processors. *For the November General Election, this phase begins the week of October 5.*
- **Phase 6** (Week of July 25, 2022) – Hire 74 temporary workers to support elections operations: Mail and Ballot Runners, Drivers/Warehouse Workers, Ballot Processors, and Troubleshooter Hotline Operators. *For the November General Election, this phase begins the week of October 12.*
- **Phase 7** (Week of July 25) – Hire temporary workers to support elections operations: Adjudication Boards, Ballot Tabulation Center Operators and Ballot Tabulation Inspectors. *For the November General Election, this phase begins the week of October 19.*
- **Phase 8** (Week of July 25) – Hire temporary workers, most from other County Departments, offering civic duty pay, to support elections operations: Vote Center Setup Workers, IT Support, Ballot Drop-Off Site Managers, Receiving Site Managers, and Elections Night Warehouse Support (Red Line/Blue Line Workers). *For the November General Election, this phase begins the week of October 19.*

Recruiters will rely on a variety of resources to obtain the necessary workers for the Primary and General elections. These resources include prior Poll Worker pipelines, partnership with the State of Arizona agencies, outreach campaigns to the community and County employees, support from three staffing firms, both online and in-person job board advertising, community partnerships, workforce programs, recruitment fairs (online and in-person), Deputy Registrar events, and Political Party referrals. We will also work with the Arizona Secretary of State's office to recruit staff to work as Poll Workers for two-day sites. The Elections Department will track recruitment efforts using our proprietary Poll Worker database, and recruiters will provide weekly progress reports on challenges to staffing and adherence to schedule and timeline. Temporary workers performing duties at the Elections Department will be processed for background checks if this is their first time working for the Elections Department.

The Election Department's recruitment and training teams meet regularly to cross-functionally share observations and data in support of continual improvement of the recruitment process. This heightened communication results in increased Poll Worker job fitting for future elections. Additionally, the training team members act as Hotline Operators during periods of heavy call volume, allowing these team members to assess issues and challenges at polling locations that may be mitigated through improvements in Poll Worker recruitment.

4.2 – Statutory Requirements Pursuant to Staffing

A.R.S. § 16-531 specifies a requirement to hire "one inspector, one marshal, two judges, and as many clerks of election as deemed necessary" not less than twenty days before an election. These individuals, per statute, "shall be qualified voters of the precinct for which appointed," and as far as inspector, marshal, and judges are concerned, "shall not have changed their political party affiliation or their no party preference affiliation since the last preceding general election." Furthermore, "if they are members of the two political parties that cast the highest number of votes in the state at the last preceding general election, they shall be divided equally between these two parties. There shall be an equal number of inspectors in the various precincts in the county who are members of the two largest political parties. In each Vote Center where the inspector is a member of one of the two largest political parties, the marshal in that precinct shall be a member of the other of the two largest political parties." Finally, "any registered voter in the election precinct...may be appointed [hired] as a clerk."

This statute also specifies "wherever possible, any person appointed as an inspector shall have had previous experience as an inspector, judge, marshal or clerk of elections."

4.3 – Temporary Staffing Roles, Quantities, and Pay Rates

Pursuant to A.R.S. § 16-536, "The compensation of the election officers shall be fixed by the Board of Supervisors and shall be a county charge. In no case shall an election board member be paid less than thirty dollars per day.

Role	Total	Pay Rate/hour
Temporary Recruiters	10	\$18.00
Temporary Training Coordinators	6	\$18.00
Inspectors	220	\$15.00
Judges	440	\$14.00
Voter Registration Clerks	220	\$13.00
Marshals	220	\$13.00
Clerks	1,540	\$13.00
Temporary UOCAVA Clerks	6	\$15.50
Temporary Ballot Processors	90	\$14.00
Temporary Signature Verification Clerks	24	\$15.00
Temporary Mail Couriers	12	\$18.00
Temporary Ballot Couriers	49	\$18.00
Temporary Warehouse Drivers	40	\$18.00
Temporary Grips & Auditors	35	\$15.00
Temporary Special Election Boards	12	\$14.00
Temporary T-Techs	65	\$19.00
Temporary Ballot Curing	10	\$14.00
Temporary Troubleshooters	81	\$15.00
Temporary Hotline Operators	6	\$15.00
Temporary Adjudication Boards	46	\$14.00
Hand Count Boards (Recruited by political parties)	155	\$12.80
Temporary BTC Workers/Catchers	4	\$14.00
Temporary "Red Line/Blue Line Workers	35	\$12.80
Temporary IT Techs	10	\$20.00
Temporary BTC Tabulator/Operators	4	\$15.00
Temporary Warehouse Dock Worker	10	\$15.00
Temporary Communion's Intern	2	\$17.00
Temporary Communication's County Temp (Civic Duty)	3	\$12.80
Total	3,355	

4.4 – Staffing Contingencies and Workload Balancing

Given how important these temporary workers are to ongoing operations, we're deploying contingency recruiting strategies in the event some Poll Workers and temporary staff cannot perform their role or duty. We plan to hire 10-11 Poll Workers per site to ensure we have sufficient Poll Workers to staff the polling location. This staffing model also allows us to overcome an absenteeism rate of 30-40%. We also work with

the County and Recorder's budget department to create extra positions that can be used to immediately back fill a vacated position, while offboarding paperwork is completed.

4.5 – Temporary Staffing Job Responsibilities

Job Title	Responsibilities
Temporary Recruiter	Temporary Recruiter will source, screen, hire and schedule Poll Workers for assignments at either Election Day Vote Centers. They will also be responsible for filing paperwork and completing data entry in support of payroll functions.
Temporary Training Coordinators	Temporary Training Coordinators will prepare and distribute class materials and assist with hands-on instruction on the set-up, use, and breakdown of Election equipment. Coordinators will also assist Poll Workers in troubleshooting online training issues and answering emails in the Training Inbox.
Temporary Human Resources Staff	Assist with tracking of clock-in and clock-out times for these workers.
Poll Worker: Inspector	The Inspector is the Team Leader at the Vote Center, and as such, the Inspector is responsible for delegating the tasks of other Poll Workers, ensuring workers clock in and out properly, and providing assistance to voters. The Inspector is responsible for making sure that each and every voter is able to cast their ballot privately and securely.
Poll Worker: Judge	Each voting location will have two Judges of different political party affiliation. The Judge is the backup for the Inspector, and therefore is charged with the same responsibilities as the Inspector. Along with assisting voters with the check-in process, the Judge supports Curbside Voting, the use of Accessible Voting Devices, and monitors Ballot Drop-Off and Tabulation.
Poll Worker: Marshal	The Marshal is responsible for preserving order at the polls, most specifically regarding line management during high-volume cycles. The Marshal is responsible for maintaining order at the polls and ensuring the opening of the polls and the completion of activities at the end of the day. The Marshal measures the length of wait times throughout the day and may also perform the duties of other Poll Workers on a relief basis. The Marshall monitors both tabulators on Election Day.
Poll Worker: Voter Registration Clerk	The Voter Registration Clerk assists voters in updating their name or address in the SiteBook as needed. They may also assist the Inspector or Judge in verifying the voter possesses the required acceptable identification. The Voter Registration Clerks shall be certified as having completed and mastered a training curriculum approved by the Recorder's Office due to their access to live voter registration information via the SiteBook.
Poll Worker: Clerk	Clerks are responsible for providing voters with the correct ballot. This is done by confirming specific information on the ballot, and in some cases (Early Voting, Emergency Voting, Provisional Ballots) matching information on the ballot to information on an affidavit envelope. In the case of Vote Centers using ballot-on-Demand (BOD) capabilities, the clerk retrieves a printed ballot from a BOD printer, confirms the information on the ballot matches the voter's BOD code, and if necessary the code on the affidavit envelope, and presents these items to the voter. Clerks will also report wait times using the SiteBook at regular intervals.
Temporary UOCAVA Clerk	UOCAVA Clerks support the mission of the Uniformed & Overseas Citizens Absentee Voting Act. Duties include assisting overseas voters in registering to vote, requesting an early ballot, and voting a ballot via a secure portal.
Temporary Ballot Processors	Ballot Processors work in teams of two, or Boards, and they must be of a different political party. Ballot processors open, verify ballots are for the correct election, and stack ballots for delivery to the Ballot Tabulation Center.
Temporary Signature Verification Clerks	Signature Verification Clerks are responsible for verifying that signatures on affidavit envelopes match voters' signatures on record. They may use forensic techniques to analyze signatures, and they may also perform other research such as contacting voters directly to ensure the efficacy of mail-in ballot processing.

Job Title	Responsibilities
Temporary Mail Couriers	Mail Couriers are responsible for making postal runs, picking up printed items from Runbeck Elections Services, and using electronic mail opening machinery to open ballots prior to ballot processing.
Temporary Ballot Couriers	The Elections Department uses Ballot Couriers to retrieve ballots from Ballot Drop Boxes and securely deliver them to MCTEC for processing. Ballot Couriers must complete a chain-of-custody form that is signed by the Vote Center Inspector or City/Town Clerk designee to ensure the lawful hand-off and transportation of ballots.
Temporary Warehouse Drivers	Temporary Warehouse Drivers are responsible for operating a fleet of 16' box-trucks with lift gates. Drivers transport equipment and items to and from Vote Centers and receiving sites.. Warehouse Drivers may also support other warehouse functions such as checking equipment in and out, lifting and stacking inventory, and general warehouse maintenance.
Temporary Set-Up Team Members (T-Techs, Grips, Auditors)	The Elections Department establishes set-up teams that work in coordination with Poll Workers to set up Vote Centers and Polling Locations prior to opening for Election Activities. Some Set-Up Team Members will support troubleshooting efforts throughout the election cycle and may support equipment security and retrieval activities at the close of Election Day.
Temporary Hotline Operators	Hotline Responders are staffed at the MCTEC Command Center and are responsible for responding to issues and questions that may arise via phone or radio during an Election cycle. Hotline Responders must be Elections Subject Matter Experts as they must deliver critical information to voters, Poll Workers, and other Elections Support Staff under tight timelines and during high-volume cycles.
Temporary Adjudication Duplication Boards	Adjudication/Duplication Boards, pairs of two from different political party affiliations, make every attempt to determine voter intent; when in question, due to stray marks or other issues on the ballot that may make accurate tabulation of a ballot impossible. Through an electronic adjudication or manual duplication process, these bipartisan teams ensure that the voter's clear intent is reflected on the ballot which is tabulated.
Temporary Star Call Center Employees	Temporary Star Call Center Employees are responsible for responding to Elections-specific questions from voters. These employees possess Elections Subject Matter Expertise and deliver critical information to voters during high-volume cycles.

Elections Department Human Resources Liaisons, in coordination with Maricopa County Central Human Resources, provide critical support in determining temporary staff eligibility to work, facilitating payroll processing, and providing mileage reimbursement to temporary staff that use their personal vehicles on official elections business.

- **Eligibility to Work:** Each temporary employee must provide a copy of the appropriate documentation to Human Resources to confirm their eligibility to work in the United States. Central Board Workers must also pass a standard criminal background investigation to obtain badge credentials that allow them to securely enter the MCTEC facility.
- **Payroll Processing:** A coordinated effort between the Elections Recruitment Staff, Elections Human Resources Liaisons, and County Payroll allows the Elections Department to provide pay to Poll Workers in one lump sum at the completion of an election. Temporary Employees/Central Board Workers may be paid through the County's ADP system, allowing for bi-weekly pay for longer-term employment.
- **Mileage Reimbursement:** Department staff work directly with temporary employees that utilize personal vehicles for official elections business, tracking and documenting mileage in compliance with Maricopa County General Travel Policy A2313. Mileage Reimbursement forms are submitted to County payroll for processing of reimbursements to temporary employees.

4.6 – Deliverables and Performance Metrics

Staffing deliverables provide Performance Data that will shape future models. These include:

- Weekly tracking of metrics related to hire-by-source. The Elections Department has leveraged support from County Procurement to increase our cadre of temporary staffing resources. We are currently partnering with three temporary staffing firms to provide quick-turn solutions for high-quantity/high-quality resources. We will be tracking placements by source to better understand the capabilities of these firms, and data will be shared back to Procurement leaders.
- Poll Worker rosters showing assigned role, party registration status, polling location assignment and training status
- Weekly staffing updates showing recruitment status for each phase and position
- Monthly performance data analytic reports will utilize dashboard formats (red, yellow, and green shading) to identify:
 - Successful hire rates based on recruiting sources
 - Drop-Out rates based on recruiting sources
 - Areas needing additional resources or innovative measures to overcome challenges
 - Surveys (temporary worker and hiring manager)
 - After Action – Recruitment Lessons Learned report

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5.0 – Training Plan

The Elections Department's training plan for the 2022 Primary and General elections establishes the framework for ensuring temporary staff (e.g., Poll Workers, Troubleshooters, Central Board Workers) are trained to perform their assigned roles and responsibilities to serve Maricopa County voters. Training is an essential element to ensuring elections are conducted with integrity, efficiency, reliability, and in accordance with federal and state laws.

The scope of the Training Plan describes the Elections Department's approach to providing specialized training for the temporary workers that will support both the August 2022 Primary and General Elections:

- Approximately 2,600 Poll Workers will staff 210 - 225 polling locations to serve as Inspectors, Judges, Marshals, Voter Registration Clerks, and Clerks.
- Approximately 80 Troubleshooters will receive training from both the Poll Worker curriculum as well as curriculum identified by the Vote Center Manager focusing on more complex issues related to voting equipment
- Approximate 700 central boards will receive training in classroom settings and through hands-on learning opportunities delivered from division managers, supervisors, and subject matter experts.

5.1 – Poll Worker Training Approach & Strategy

Pursuant to A.R.S. § 16-532, the Elections Department "shall conduct a class for the instruction of inspectors and judges...in their duties, which shall include instruction in the voting system to be used and the election laws applicable to such election. Each election board member receiving instructions and properly qualified shall receive a certificate of qualification. Only inspectors and judges of the election board who have received the required instruction class shall serve at any election...Other members of the election board may be trained at the same time."

The Elections Department's Poll Worker training plan for the Primary and General elections will be to provide training with the following specific objectives:

- Establish a training curriculum
 - Redesign training curriculum to deliver 25% of training online via the County's Learning Management System, TheHUB.
 - Limit in-person training sessions to no more than 18 participants and two Trainers.
 - Focus in-person training sessions on setup, use, and breakdown of Election equipment procedures.
 - Develop an online skills assessment in tandem with online training modules to ensure Poll Workers are ready to perform the tasks required of them as prescribed by A.R.S. Title 16, the Arizona Secretary of State Elections Procedures Manual, and Elections Department policies and procedures.
- Develop informative, consistent, and accessible training sessions to ensure temporary workers have the information they need to perform their roles successfully and ample opportunities to attend training.
 - Training sessions will be held in Central Phoenix and surrounding communities in the East, North and West Valley.
 - Training will be offered over the course of six weeks, six days a week, three sessions a day and will include weekend and evening options.

5.2 – Central Board Worker Training Approach & Strategy

The Elections Department's Central Board Worker training plan will consist of both in-person classroom setting training coupled with in-person hands on training.

- Early Voting, Vote Center, and Warehouse divisions establish division specific role-based training curriculum. This includes:
 - Development and review of training manuals
 - Formal classroom setting presentations
 - Hands on demonstrations.
 - Hands on software and equipment training

5.3 – Training Methodology

Temporary workers play a critical role in helping the Elections Department meet the resource needs required to conduct an election. We provide staff with the knowledge and skills to overcome the challenges they may experience while working at a voting location. We have a team of trainers and subject matter experts that will provide the temporary workforce with appropriate training to prepare them for their assignments. Factors that will be addressed include varied learning styles, statutory training requirements, and the high volume of temporary staff that need training in a short period of time. Specific methodologies and curriculum are described in further detail below.

5.3.1 Premium Poll Worker Training

The newest elections training product is the Premium Poll Worker Inspector training course. The Elections Department's goal is to have at least one Premium Certified Inspector present at each voting location. The Premium Poll Worker Inspector course is a 16-hour course conducted over two-days. Each course has four quizzes and an on-line final exam. To become a Certified Premium Poll Worker Inspector, a passing score of 80% must be achieved to earn the recognition of Certified Premium Poll Worker Inspector. The new course was introduced in July of 2021.

The learning objectives of the Premium Poll Worker Inspector course are:

- To provide an in-depth understanding of all areas of the voting process
- A clear understanding of how to trouble shoot all voting equipment issues
- The ability to successfully resolve problems through de-escalation and problem-solving techniques
- An understanding of the operational tasks that are required to be completed daily
- Course Topics: Setting up the Vote Center, opening and closing procedures, SiteBook and ballot-on-demand printer functionality, accessible voting device functionality, precinct-based tabulation operations, checking voter ID, de-escalation and problem solving techniques.

As of April 15, 2022, we have completed 28 Premium Poll Worker two-day courses with 402 poll workers successfully completing the course and online exam. Bipartisan representation is critical to the success of the Election Department, and we have ensured to have a balanced amount of Democrats, Republicans, and other registered voters attend. The number of attendees as of April 15, 2022, based on political party registration status is shown below.

- 157 Republican Party
- 156 Democratic Party
- 89 Other (Independent, Party Not Declared, Libertarian Party)

5.3.2 – 2022 August Primary and November General Poll Worker Training

Voters expect the Elections Department to conduct elections with integrity and efficiency, but they also expect to receive a high-level of customer service. A voter's experience at a voting location is directly correlated with the level of expertise and customer service exhibited by the Poll Workers staffing. For the August Primary & General Elections, the Elections Department will hire and train approximately 2,650 staff to work at approximately 210 - 225 Vote Centers.

Successfully working at a Vote Center requires a difficult mix of soft skills, like customer service and de-escalation techniques, as well as technical, analytical, and problem-solving skills. Elections Department Trainers find unique ways to teach these skills in a format that is both interesting and time efficient. State law requires specific Poll Workers to take training every time they serve. While we must target required training topics, these repeat learners also receive updates on changes to laws, procedures, and voting equipment. The Elections Department also hires Poll Workers that are new to serving, and for these learners, capacity is the challenge. Trainers must identify the most important areas of learning before each election and provide as many high-quality resources and job aids as possible that can be use up to and including Election Day. "Just in time" training resources also include brief tutorial videos on specific, key activities such as packing election equipment.

To continually improve the learning experience and increase knowledge retention, the Training Team will require all Poll Workers to complete an interactive, web-based curriculum featuring multiple lessons of study. In 2022, Poll Workers who serve as Clerks in the August Primary Election may take the entirety of their learning via web-based portal if they are returning as Clerks in the November General Election. This does not apply to those that served as Clerks in the Primary but are hired into a new role for the General Election.

Each Poll Worker will complete an online assessment at the conclusion of their web-based learning to ensure they meet the competencies required as a Poll Worker. A score of 80% or better will be required for each Poll Worker to pass the course and be authorized to work at a voting location. We will offer Poll Workers opportunities to retake the web-based training and assessment to obtain a passing score.

We anticipate Poll Workers will spend approximately four hours in learning sessions, between online and in-person instruction, and strict attendance data will be kept ensuring all Poll Workers have completed the required training. In-person sessions will be offered in four or more locations around Maricopa County, with no more than 18 attendees in each session. The table below shows the availability of hands-on instruction and the number of training sessions offered.

2022 August Primary Election Training Dates

Training Dates	Key Election Dates	Sessions	Seats
June 19 – June 25, 2022		7	126
June 26 – July 2, 2022		11	198
July 3 – July 9, 2022	E-27 (July 6)	24	432
July 10 – July 16, 2022		33	594
July 17 – July 23, 2022	E-12 (July 21)	39	702

July 24 – July 30, 2022		43	774
July 31 – August 2, 2022	Election Day (Aug.2)	6	108
Total Sessions / Seats		163	2,934

2022 November General Election Training Dates

Training Dates	Key Election Dates	Sessions	Seats
September 25 – October 01, 2022		6	90
October 02 – October 08 2022		15	225
October 09 – October 15,	E-27 (Oct. 12)	25	375
October 16 – October 22, 2022		31	465
October 11 – November 05, 2022	E-12 (Nov. 01)	40	600
November 08, 2022	Election Day (Nov. 08)	2	30
Total Sessions / Seats		119	1,785

(The November General Election training calendar has fewer classes and attendees. This is the result of a returning clerk that attended an in-person training and worked the August Primary. These clerks need only attend an election specific online training course for the November General)

The Elections Department's Early Voting teams will be spreading out throughout the building, allowing those temporary employees enough safe space to work. Spaces usually dedicated for training will be needed for our Early Voting teams. This created a unique opportunity for the Training Team to deliver most of the in-person instruction in regional locations in the west, east and north valley. Many of our learners will have the opportunity to train and practice using Elections equipment in a facility that has been outfitted as a Vote Center. The rest of our in-person sessions will be held at spaces provided by the Maricopa County Flood Control District (FCD) and the Maricopa County Department of Transportation (MCDOT). These spaces will also be outfitted as "sandbox" voting locations. We are excited to offer this immersive learning environment as part of the training strategy for the election cycle.

Poll Workers will be expected to demonstrate job readiness by passing specific course assessments delivered by the training team prior to their first day at the polls. A high-level summary of training topics covered in the training curriculum includes:

- **Review of Election Laws and Procedures** including standard voting procedures, updates to election laws and procedures, and issuance of ballot types/styles
- **Election Specific Training** including an understanding of the contests on a General Election ballot and critical dates associated with registration, Early voting, mail-in balloting, Emergency Voting, and Election Day
- **Training on Opening and Closing Duties** including voting location hours of operation, Poll Worker hours, clocking in and out for duty, verifying duties to be performed, equipment setup and closing,

furniture arrangement, inventory of supplies, signage placement, preparation of official and unofficial envelope contents, and Election Night Drop Off Procedures

- **Role-Specific Training** (see Appendix A, page 67)
- Review and hands-on training setting up, using, and breaking down Polling Equipment including BOD, Accessible Voting Device, Tabulator, SiteBook, and Voting Booths
- **Customer Service Training** including accessible/curbside voting procedures, assisting differently-abled voters, and teamwork strategies
- **Voter Check-In** including required ID training and use of the SiteBook to update a voter's name and address
- **Safety and Sanitation Procedures** including standards of cleanliness, use of PPE, Poll Worker and voting location safety, and situational awareness techniques. This includes the use of the Emergency Power Outage and MoFi Disconnection Procedures
- **Troubleshooting** including when and how to implement wait-time reduction, contacting a Troubleshooter for technical support, and basic equipment support
- **Supplemental Training for Inspectors and Judges** including "how to" strategies for conducting a pre-election meeting with Poll Workers, ensuring political party representation among Poll Workers, gaining building access and developing relationships with building stewards, monitoring envelope drop boxes, the provisional ballot process, spoiling ballots, and transmitting results and/or delivery of voted ballots and Tabulator Memory (SD) Cards
- **Supplemental Training for Clerks and Marshals** including using SiteBooks to report wait-times
- **Supplemental Training for Voter Registration Clerks** including training designed by the Maricopa County Recorder
- **Supplemental Training for Bi-Lingual Poll Workers** starts with verifying Spanish language proficiency and includes preparation materials in English and in Spanish to assist bilingual Poll Workers in using elections-specific verbiage and terminology when assisting Spanish-speaking voters
- **Emergency Voting Training** including the awareness of voter affirmations using a customized affidavit envelope
- **Supplemental Micro-Learning for All Poll Workers** focused on the Ballot Tabulation process to provide Poll Workers with a better understanding of their role in closing out on Election Night and the importance of returning all results and ballots to the designated Receiving Site

5.3.3 – 2022 Logistics and Warehouse and Technical Support Staff Training

In most cases, the Elections Department will cross-train temporary staff in two or more functional areas. This reduces operational constraints and builds confidence in the team as well as with polling place and Vote Center staff.

T-Techs (Technical Troubleshooters) and Setup Team Members

The Elections Department establishes set-up teams comprised of t-techs, grips, and auditors. The teamwork in coordination with Poll Workers to set up Vote Centers and Polling Locations prior to opening for Election Activities. They also provide technical response and support throughout the election cycle and may support equipment security and retrieval activities at the close of Election Day. The set-up team members will start one week prior to being scheduled to setup a voting location.

They spend this week in training attending poll worker training and participating on job specific training. Training begins with attending a Maricopa County's Driver Safety course. The Set Up team members also

attend a classroom training session with their assigned Vote Center Lead Technician. Topics covered include:

- Job responsibilities and duties of each setup team member
- Required setup paperwork and quality assurance checklists
- Equipment overview

After being assigned to a setup team, the entire team will transition to a hands-on training course. In the hands-on training, they will visit a mock vote center where the team will spend several days practicing vote center setups and troubleshooting equipment issues, including routine service calls such as ballot on demand toner changes, printer jams, and any other election troubleshooting so that they may respond quickly to maintain a fully operational Vote Center.

Ballot Couriers

The Elections Department uses Ballot Couriers to retrieve ballots from Ballot Drop Boxes and securely deliver them to MCTEC for processing. Ballot Couriers perform their work as part of a bipartisan team. The couriers must complete a ballot transport statement (chain-of-custody form) that is signed by a Polling Location or Vote Center Inspector to ensure the lawful hand-off and transportation of ballots.

Couriers start one week prior to performing early ballot pickups from early voting centers. During their first week, ballot couriers will attend the classroom portion of safe truck operations that delivery driver and setup teams attend. They will also receive form training and undergo hands-on exercises demonstrating:

- How to properly empty a drop box and how to lock /seal the box.
- Completing transport statements
- How to properly affix tamper evident seals on drop boxes and transfer cases
- How to securely transfer the ballots from the drop box into the ballot transport containers
- How to lock and seal the drop box for the next pick up.

Delivery Drivers

Delivery drivers will receive formal training from Risk Management on the principles of safe truck operations. The training will conclude with a practical backing exercise to check driver competency prior to scheduled deliveries. In house training will include equipment scanning procedures, equipment package building and equipment loading/tie-down procedures.

6.0 – Early Voting Plan

The Elections Department Early Voting Plan outlines and establishes the framework for providing voters with a reliable, secure and accessible Early Voting process for the Primary and General Elections. This plan also provides Maricopa County voters and key stakeholders information related to Early Voting activities with the goal of transparency and increased voter participation. The Recorder's Office and Elections Department are committed to improving the voter experience and increasing voter turnout by providing the most accessible and voter-centric voting processes available.

6.1 Early Voting Approach and Strategy

In Maricopa County, voters have historically voted early, with early voting turnout exceeding 90% in recent election. To ensure we can efficiently serve early voters while meeting statutory, security, and operational needs, the Elections Department established the following early voting programs and processes.

- Early Ballot Request (Active Early Voting List and One-time Requests)
- Ninety (90) Day Notification Mailers
- Printing and Mailing of Early Ballot Packets
- Mail Pick-ups and Drop-offs
- Signature Verification and Curing
- Early Ballot Processing
- Other Programs/Processes: Military and Overseas Voters (UOCAVA), Special Election Boards, Provisional Ballot Processing, Serving Pre-trial Detainees

6.2 Key Dates

The table below summarizes the key early voting dates for the 2022 August Primary and November General Elections.

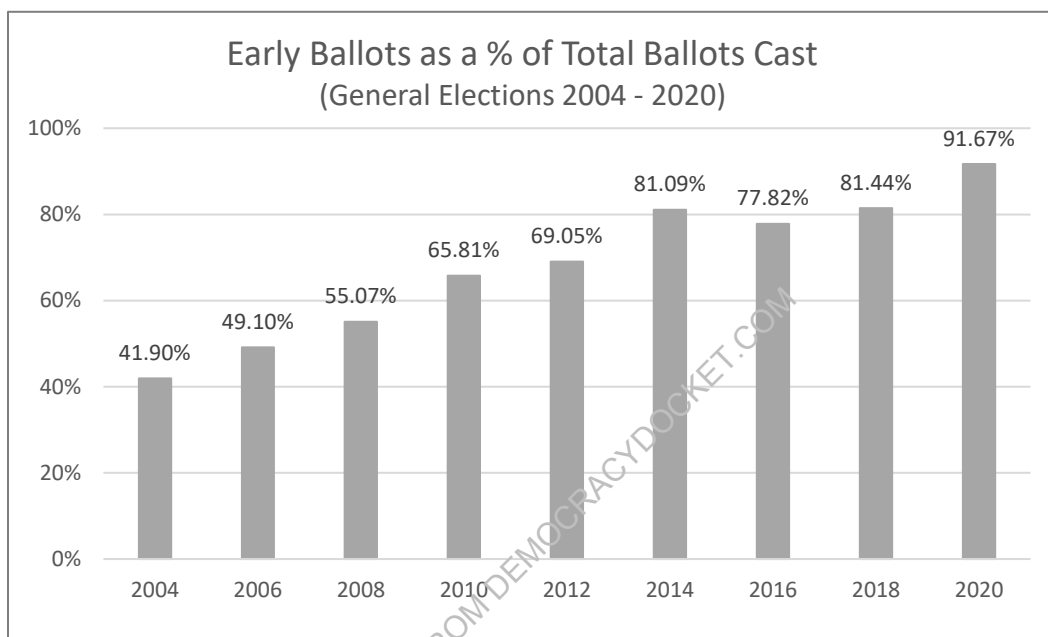
2022 AUGUST PRIMARY & NOVEMBER GENERAL ELECTION KEY EARLY VOTING DATES

Date	Description
May 2, 2022	Mail 90-day cards to AEVL Voters and begin accepting early ballot requests
June 18, 2022	Last day to send August Primary ballots to military and overseas voters
July 6 – 29, 2022	August Primary Early Voting – in person and by mail
July 22, 2022	August Primary – Last Day to Request and Early Ballot by Mail
July 26, 2022	August Primary – Recommended date to return ballot by mail
August 2, 2022	August Primary – Election Day
September 24, 2022	Last day to send November General ballots to military and overseas voters
Oct. 12– Nov. 4, 2022	November General Early Voting – In person and by mail
October 28, 2022	November General – Last Day to Request and Early Ballot by Mail
November 1, 2022	November General – Election Recommended date to return ballot by mail
November 8, 2022	November General Election Day

6.3 – Early Voting Processes and Programs

6.3.1 - “No Excuse” Early Voting

Arizona law has allowed “no excuse” absentee voting for nearly three decades. In Arizona, this voting style is referred to as “Early Voting” and “Vote by Mail”. Maricopa County’s voters have historically voted early in large numbers. In the November 2020 General election, 91.67% of ballots cast were early voters. Below is a graphical representation of turnout for past elections that shows the upward trend and popularity of t Early Voting.



6.3.2 – Requesting and Early Ballot and 90 Day Cards

A voter can request a one-time ballot in the mail or sign up for the Active Early Voting List (AEVL). Voters may make these requests by visiting [BeBallotReady.Vote](#), [Request.Maricopa.Vote](#), or contacting the Elections Department. Voters on AEVL will be mailed a ballot 27-days before the August Primary and November General Election, with the exception of Independent voters in the Primary. These voters must first notify the Election Department of their ballot choice. Currently, 77.64% of all active voters are on the Active Early Voting List (AEVL).

In addition to traditional ballot-by-mail options, Maricopa County also provides voters with additional early ballot options. Voters may make requests for the following options by emailing SEB@risc.maricopa.gov or calling us at (602) 506-1511:

- Braille ballots
- Large print ballots
- Spanish ballots (Primary Election – English / Spanish included on one ballot; General Election – Due to ballot length, a separate Spanish ballot is created)
- Special Election Boards – Voters who are unable to vote by mail or in person due to a confining illness or disability may request a Special Election Board. These Boards are made up of two members of differing political parties who travel to the voter with the voter’s ballot to facilitate the voting process. Often these voters are in hospitals or nursing homes.

Whether the voter decides to vote by mail or in-person, our goal is to provide safe, reliable, secure and accessible choices that make it easy for a voter to participate in the Election. Prior to 2020, Maricopa County voters could only sign up for the AEVL with a paper form or online through the state Motor Vehicle Division website via a process more specifically designed for registering new voters. Now already registered voters have another option to meet their needs. We developed an Active Early Voting List (AEVL) "Online Portal" to offer a secure and simpler way for a voter to sign up for this status.

Ninety (90) Day Cards: State law requires the County Recorder to mail a notice to all voters on the Active Early Voting List (AEVL) no later than 90 days prior to the Primary Election. The Maricopa County Elections Department will be sending two types of cards on May 2, 2022; "Have a Party" card for voters that have a party designation of Republican, Democratic or Libertarian and "Pick a Party" card for voter's that do not have a party designation. Voters without a party designation will need to select a ballot type (Republican, Democratic or City/Town Only (when available)) to vote by mail. These cards also serve several other purposes including:

- Confirmation the voter still resides at the address on the voter registration file and provides the opportunity for the voter to update their information if they have moved.
- Request a temporary address request for their ballot to mail to
- Request to be removed from the Active Early Voting List (AEVL).
- Request not to receive a ballot by mail for the Primary, General or both elections.

These AEVL voters may also make their request at [Request Maricopa.Vote](#) by June 18, 2022 or mail their card back by June 9, 2022 to ensure it is processed in preparation for the initial mailing of ballots for the August 2022 Primary Election.

6.3.3 – Early Ballot Security and Tracking

Voting by mail in Arizona and Maricopa County is secure and verifiable. The Recorder's Office and Elections Department have internal controls and tracking methods for ballot security. These measures are highlighted below.

- **ONLY REGISTERED VOTERS CAN REQUEST A BALLOT:** State law requires that the Elections Department check the voter registration record against vital records and government systems prior to mailing a ballot to a voter. These checks verify the registration status of the voter and ensures we send the correct ballot to the correct voter.
- **VERIFICATION STARTS 90 DAYS BEFORE AN ELECTION:** State law requires the Office of the Recorder mail out notices to all voters on the Active Early Voting List 90-days prior to an election. This mailing confirms that the voter still lives at the address on file using the U.S. Post Office address database and allows the voter the opportunity to update their record if the voter has moved. After reconciling our voter records, we mail ballots 27 days before an election.
- **CHAIN OF CUSTODY AND INTELLIGENT BARCODE TRACKER:** Every single mailed ballot is tracked upon delivery and receipt with a unique, intelligent mail barcode. Once the ballot is returned to the Elections Department, there are also a robust set of chain of custody documents that track an early ballot as it progresses through every step of the process. The combination of the unique barcode and these chain-of-custody documents ensure the integrity and security of the early ballot.
- **ALL AFFIDAVIT ENVELOPES ARE SIGNATURE VERIFIED:** All signatures are checked against a known signature on the official voter registration file including affidavit signatures from prior elections.

The signature verification process has multi-level checks to ensure only valid signatures are counted. Voters with questionable signatures are contacted by the Elections Department and have 5 days after an election to confirm their signature.

- **ONLY VERIFIED BALLOTS ARE COUNTED:** Once the signature is verified on the affidavit envelope, it is opened by a bipartisan board and sent to be counted. All uncounted ballots (e.g. no signature and non-matching signatures) are also tracked and reported in the official canvass for each election.

Since every ballot is affixed with a unique intelligent barcode tracker, voters can also be alerted to when the ballots are mailed, when the ballots are received, once the ballot affidavit is signature verified, and when their ballot has been sent to be counted. A voter can track their early ballot by texting "JOIN" to 628-683 or online at [BeBallotReady.Vote](https://www.maricopa.gov/BeBallotReady/Vote).

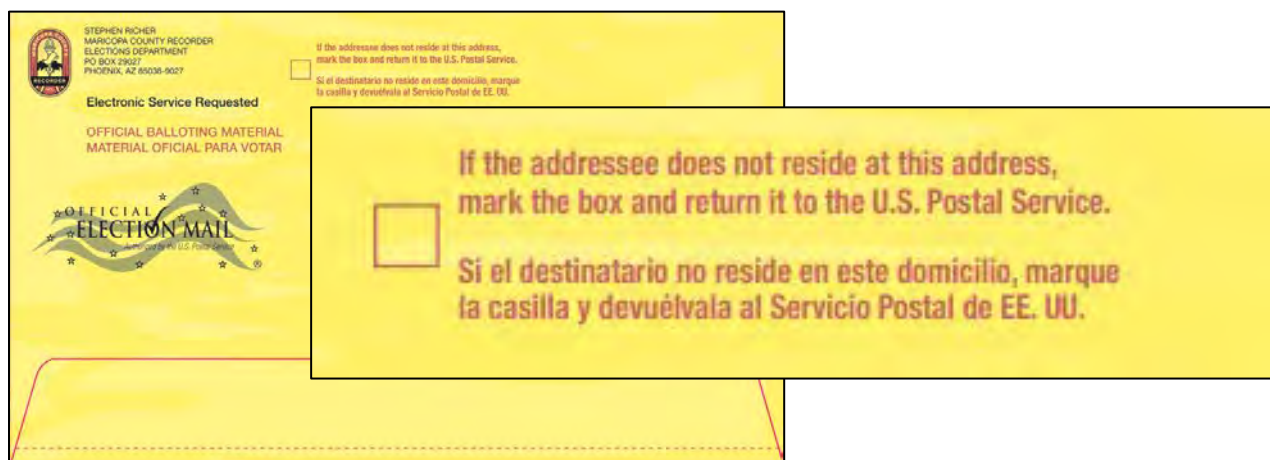
6.3.4 - Printing and Mailing of Early Ballot Packets

For planning purposes, the Elections Department is preparing for up to 813,000 early voters for the August Primary Election and over 1.5 million early voters for the General Election. Using these high-end forecasts will ensure enough resources are available and allocated to print and mail ballots.

Early ballot packets sent include a carrier envelope, the early ballot, an early ballot affidavit envelope, and voter instructions. These packets are printed and assembled at our current local vendor's office, Runbeck Election Services (Runbeck). This location has state-of-the-art security as well as fire detection and suppression systems

SB 1530, passed during the 2021 legislative session, amended Arizona Revised Statute 16-545 requiring new language on the Early Voting Carrier Envelope. Statutory language states: *If the addressee does not reside at this address, mark the unopened envelope "return to sender" and deposit in the United States mail.*

The Elections Department worked closely with the US Postal Service to develop verbiage that would not negatively impact the timely delivery of the early voting packet. The agreed upon verbiage was added to the carrier envelope during the November 2021 Jurisdictional Elections and will be used for all 2022 Elections.



(New Carrier Envelope with statutory required language "If addressee does not reside at this address, mark the box and return it to the U.S. Postal Service.")

The Early Voting Division manages a large volume of mail and all early voting ballot packets must be carefully accounted for. Each early voting mail packet contains an intelligent barcode so that the Elections Department and voters have visibility and can track it by texting JOIN to 628-683 or online at [BeBallotReady.Vote](https://www.beballotready.vote). The Elections Department, Runbeck Elections Services (Runbeck or RES), and the U.S. Postal Service facilities maintain a very close and positive relationship to ensure mail and postal issues impacting the sending or receipt of ballots can be quickly identified and addressed.

6.3.5 - Ballot Flagging

Elections Department staff respond to a large volume of voter inquiries (flagging) by phone, email and social media, about their early ballot delivery (such as address issues) or requesting one-time delivery of a ballot by mail for non-AEVL voters. Voters may request to receive an early ballot up until 11 days prior to election day by 5 p.m.

The Early Voting Division also manages the processing of 90-day cards, adding/removing voters from AEVL, voiding/reissuing ballots, temporary address requests, one-time ballot requests, and adding or removing opt out requests for ballots from voters.

Ensuring that voters' requests for early ballots are flagged and fulfilled quickly is required by state law. There are three permanent and 25 temporary employees scheduled to fulfill this role. These staff are also tasked with verifying the signatures of returned early ballot affidavits and contacting voters regarding any signatures that are questionable or missing. This work takes place across the 27 days Early Voting period and continues after the election for any early ballots that are mailed in the final days leading up to the election and/or dropped off at voting locations on Election Day.

6.3.6 - UOCAVA Program

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) program provides military personnel (domestic and stationed abroad) as well as any eligible voter overseas (temporarily or indefinitely), extra time to receive and return their ballots. As required by federal law, ballots are mailed or otherwise delivered to UOCAVA status participants 45 days before the election, allowing voters in distant areas of the world extra time to receive and return their ballot. These voters have options to return their ballot and signed affidavit to the Elections Department through a secure portal upload, fax, mail, or email. For these ballots to count, ballots must be received by the Elections Department by 7 p.m. on Election Day.

There are two permanent staff and 6 temporary staff that will ensure our military and overseas citizens are able to vote. The work of these employees spans a longer time-period before the election. They prepare ballots to be sent out to military and overseas voters beginning at least 55 days prior to the election and these ballots are sent no later than 45 days (June 18) before the election. This staff processes the returned ballots during that 45-day period and through Election Day.

6.3.7 - Mail Delivery Pick-ups and Drop-offs

The delivery and receipt of ballot packets between the U.S. Post Office, Runbeck and MCTEC happen on a regular and regimented schedule to ensure that processing timeframes needed to tabulate ballots in a timely manner can be maintained. As early ballots are returned by mail, a two-member bipartisan team from the Elections Department pick-up the mail and deliver it in hand-documented batches to Runbeck. The transfer is documented using a chain-of-custody transfer slip that is signed by both Elections Department staff and Runbeck staff.

Upon delivery of early ballot affidavits, Runbeck conducts an inbound scan of the affidavit envelope to capture a digital binary image of the voter signatures from that packet and places those images into an automated batch system for Elections Department staff review. To ensure all ballots are accounted for, the batch system is continuously audited systematically in addition to being validated by Elections Department staff and Citizen Boards through audit tray reports that accompany the batches. These audit tray reports are also used by early processing boards (See 6.3.8 Bipartisan Ballot Processing Boards)

After the initial inbound scan pass, Runbeck then stores the unopened ballot packets in their facility in a secure, water and fireproof vault, while Elections Department staff review the digital images of voter affidavit signatures (used for signature verification, see section 6.3.7) – thus eliminating the need to handle the actual physical ballot packet multiple times.

6.3.8 - Signature Verification and Curing

Maricopa County has a multi-level signature verification process to review 100% of the signatures on mail-in ballots. Using a binary digital image, 100% of the signature records are compared to a reference signature with a disposition made by a human. The digital image of the signature on the current affidavit envelope is compared against a historical reference signature that was previously verified and determined to be a good signature for the voter. These historical documents may include voter registration forms, in-person roster signatures and early voting affidavits from previous elections.

During the first level review, trained staff first look at the broad and local characteristics of the signature and compare it to up to three signatures on file. In this first review, staff can only select one of the following two options:

- 1) Approve the signature (if it matches the one of the signatures used for this initial review)
- 2) Or move it to an “exception” status (if it does not).

If an envelope is moved to an “exception” status, the manager can review every signature sample we have on file for that voter. When a signature is initially deemed an exception, the record is systematically triaged to the “Manager’s Mode” queue where higher level management staff are tasked with performing an additional review using all historical signatures on file for the voter. Dispositions in the manager level include good signature, no signature, questionable signature, need packet, deceased, and household exchange.

Additionally, for every batch of approximately 10,000 signatures, the managers perform an audit on a randomized 2% sample of the signatures within that batch. Once all the signatures are reviewed and the audit is complete, the dispositions are sent back to Runbeck to perform an inbound sort on those corresponding ballot packets to create smaller physical batches of the packets based on their status (e.g. Good Signature, No Signature, Questionable Signature, Need Packet, etc.).

Those physical batches (approximately 250 pieces per batch), with matching audit reports for each batch, are then secured for transport by a bipartisan team of two Elections Department staff members back to our Maricopa County Tabulation and Election Center (MCTEC) facility for curing or processing and tabulation. Once the packets arrive to the MCTEC facility, the batched trays are appropriately distributed based on the dispositions made during signature verification. The affidavit envelopes deemed to have verified good signatures will be triaged to the bipartisan ballot processing boards. The affidavit envelopes deemed as no signature, questionable signature, need packet, deceased, and household exchange packets will remain sealed and triaged to the Signature Verification/Ballot Flagging team for research and curing.

Upon being deemed as need packet, no signature, questionable signature, deceased or household exchange, the sealed affidavit envelope is triaged to the Signature Verification/Flagging unit with audit paperwork. A quality control process occurs to account for all packets. The staff will physically review the packet to identify any additional information on the packet (i.e., notes from voter) or signatures on different areas of the affidavit envelope.

State law requires the County Recorder/Elections Department to make a meaningful attempt to contact the voter when their signature cannot be verified. The Signature Verification and Flagging team is responsible for performing all curing activities. State law permits the voter seven calendar days (five business) for the Primary and General Elections to verify a questionable inconsistent signature and up to Election Day, 7 p.m. to cure a no signature packet.

The team will make a reasonable and meaningful attempt to contact voters utilizing the information available in the voter's registration file and the affidavit. Each staff member will utilize the preapproved letter and/or script when communicating with the voter about the available options for curing.

All attempts to contact voters are documented on a standardized preprinted voter contact label, one label per contact. The label includes the outcome of the communication, voter's response, date of the contact, and initials of the staff. Each staff contacting voters will be provided a supply of labels, approved script, the guide for the labels, a phone, and affidavits that require follow up with the voter.

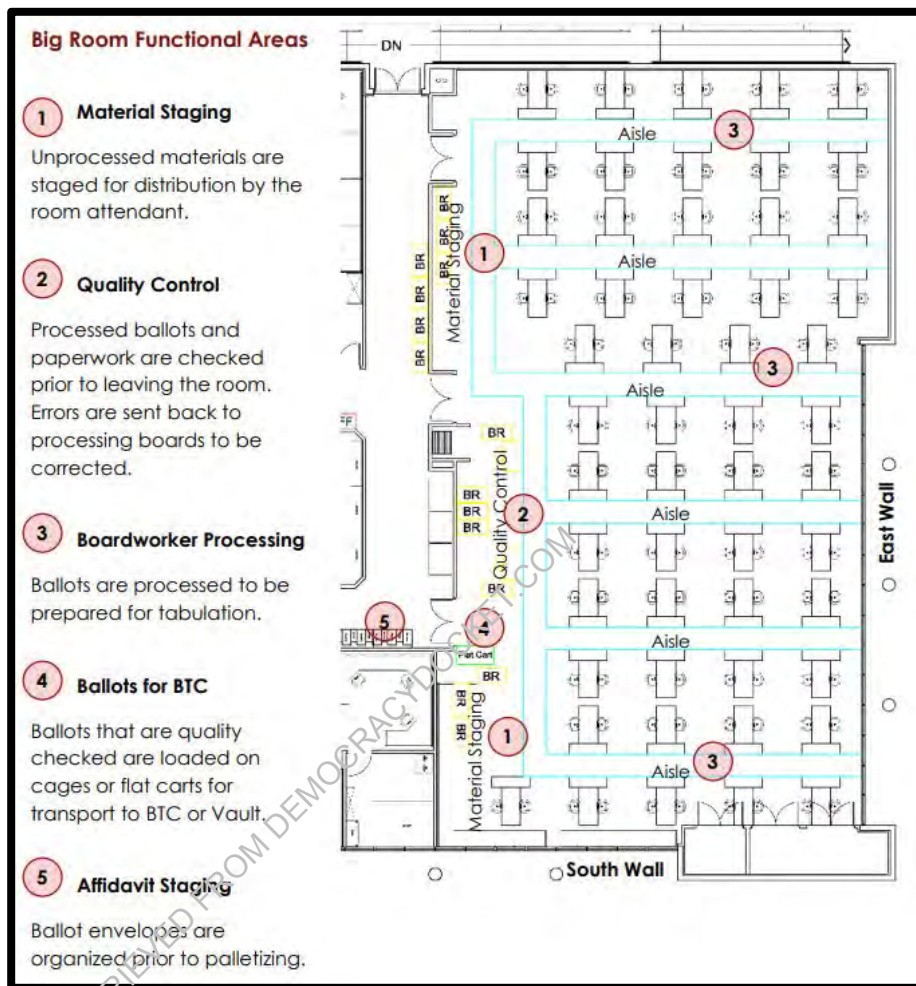
Voters have multiple options to cure their questionable signature. The TXT2Cure platform was recently implemented as an additional secure option. The TXT2Cure platform requires users to verify whether they signed the affidavit envelope, provide an electronic signature on an affidavit and an image of their photo identification with an Arizona address. If a voter verifies their signature, the Verified and Approved MCTEC stamp will be placed on the affidavit envelope. The packets containing questionable signatures that are not cured by the deadline remain sealed and reported on the official canvass as either "rejects" or as a "bad" signature final disposition status.

If a voter indicates they did not sign the affidavit envelope, the staff will immediately triage the information to a supervisor. The supervisor will research the case and those categorized as allege voter fraud cases will be triaged to the Maricopa County Attorney's Office for investigation. Voters that forgot to sign their packet have multiple options for signing their original packet or voting in person. If the voter chooses to vote in-person the original unsigned packet is automatically voided in the system. The packets containing no signature that are not cured by the deadline remain sealed and reported on the official canvass as a "no signature" final disposition status.

6.3.9 – Bipartisan Ballot Processing

All early voting packets deemed to have a good signature are triaged to the bipartisan processing boards. For the Primary and General Elections, there will be three permanent and 55 boards of two people each, a data entry clerk and two room attendants (or 113 temporary employees) assigned to this task. At the staffing levels anticipated for the Primary and General Elections, the Elections Department can process in a regular shift up to 65,000 ballots daily to prepare them for tabulation (e.g., sorting, signature verification, removing from the envelope).

The early ballot processing requires a methodical separation of these affidavit envelopes from each ballot to ensure every ballot is anonymous when tabulated. This separation process is done by hand, by Citizen Boards consisting of two people representing different political parties. The processing boards are tasked with preparing ballots for transfer to the Ballot Tabulation Center (BTC) and identifying those ballots that require duplication (i.e., damaged, torn, stained etc.) performed by a bipartisan duplication board. The boards are required to complete documentation attesting that each packet in the tray is accounted for. Processed trays are then triaged to the Quality Control (QC) team to complete an additional audit of the paperwork and tray before transferring custody to the BTC.



The processing area is set up to maximize use of the spaces and allow the materials to move efficiently between each functional area to station. There will be designated areas for unprocessed trays on racks, quality control station, bipartisan board worktables, processed ballots awaiting transfer to BTC, and empty affidavit envelope staging.

6.3.10 - Election Day Deadline

State law requires that all voted ballots be received back by 7 p.m. on Election Day and the US Postal Service recommends that ballots be mailed at least 7 days before Election Day to guarantee timely delivery. Ballots received after Election Day, even if they are post-marked as mailed on Election Day, are not valid by law and are not counted. Traditionally, a proportionately small number of ballots are received after Election Day despite robust efforts to educate voters about the recommended mailing timelines (934 ballots of the 1,915,487 early ballots in the November 2020 General Election were received late, or roughly 0.04% of early votes).

We are also incorporating more education in our advertising and community outreach about the ballot drop-off option to ensure voters know they have an alternative way to deliver ballots back to the Elections Department for processing if they prefer not to use the post office delivery system.

6.3.11 Special Election Boards

The Elections Department administers a Special Election Boards (SEB) program, designed to assist individuals who have a disability, are ill, institutionalized or otherwise incapable of traveling or using the traditional Early Voting process to cast or mark their ballot. Under this program, a Special Election Board, made up of two individuals of different political parties, will offer the voter options on casting their ballot. Voters may choose to cast their vote in person, by phone, or by video call. The types of voters the SEB teams typically serve are those that live temporarily or permanently in nursing homes, hospitals, and homes or institutions for people with disabilities or those who cannot live independently.

The expanded vote ID requirement adopted by the legislature in 2019, requiring voters who vote early in-person to show ID, creates significant challenges to serving the SEB population. Many voters that are living, even temporarily, in these types of facilities do not have ready access to their government-issued ID or other forms of ID allowed by law to be presented to satisfy the ID requirement.

6.3.12 - Processing Provisional Ballots

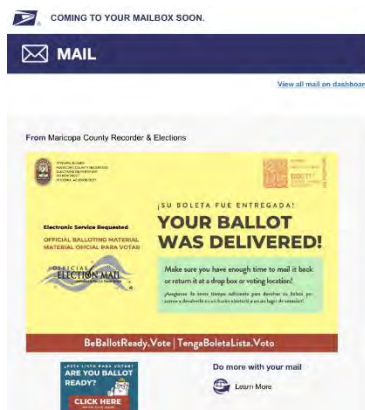
The Recorder's office is also responsible for researching voter information for any provisional ballots cast and determining whether or not the ballots are eligible to be counted. Provisional ballots are provided to voters who vote in person but do not have the required ID or if there is a question about their eligibility to vote. Voters casting provisional ballots often end-up in standard categories regardless of the type of election, such as "not registered" or "registered too late/after the cutoff."

For any ballot cast in person where sufficient ID was not provided in accordance with A.R.S. §16-579, the voter will be issued a conditional provisional ballot and will have seven calendar days (five business days) after Election Day to present the required ID to validate their ballot.

6.3.13 - Serving Pre-Trial Detainees

Pretrial detainees and other inmates in correctional facilities whose voting rights have not been terminated due to a felony conviction may request their ballot be mailed to them at the facility. The Recorder's Office and Elections Department works with the County Sheriff's office to ensure detainees are able to make phone calls to the Elections Department to discuss their ballot request free of charge to the detainee.

6.3.14 - Informed Delivery



Since 2021, the Recorder's Office and Elections Department have added another ballot tracking feature by utilizing U. S. Postal Service ([USPS](#)) [Informed Delivery](#). Voters can sign up for Informed Delivery email notifications to access a digital preview of their ballot and the scheduled delivery date. The interactive campaign includes a representative image of the mail piece, and a clickable ride-along call-to-action image that links to [BeBallotReady.Vote](#) or another Elections Department webpage where voters can take action and find resources to prepare for elections. Tied to Intelligent Mail Barcode sequencing, Maricopa County is utilizing the Informed Delivery tool on ballots mailed throughout the 2022 election cycle and other official election mail to provide voters with another trusted and secure resource to be ballot ready. Maricopa

County will also be eligible to apply for an USPS incentive during the mailing of the 2022 General Election ballots, resulting in a potential 4% discount on postage for these approximately 2.1 million ballots.

7.0 – Facilities and Logistics Plan

The Elections Department's Facilities and Logistics plan for the 2022 Primary and November General Elections establishes the framework for ensuring that Maricopa County voters have a safe, reliable, and accessible in-person voting option for Early Voting, Emergency Voting and on Election Day.

The Facilities and Logistics plan describes our approach to providing adequate facilities and efficient logistics support for the 2022 Primary and General elections. The Elections Department will offer in-person voting options at approximately 210 -220 geographically dispersed locations that are compliant with the Americans with Disabilities Act (ADA). We will also be providing approximately 10-15 drop box only locations within government facilities throughout the County. The Logistics and Warehouse teams support Early Voting, Emergency Voting, and Election Day operations and their objectives are to provide the following activities:

- Ensuring that an estimated 210 full time and temporary logistics (e.g., facility relations, ballot couriers, hotline call center, and troubleshooters) and warehouse (e.g., drivers, inventory specialists, and warehouse) staff are hired, trained and proficient on all assigned tasks and functions in preparation for the General Election.
- Acquiring, inspecting, setting up, and supporting Vote Centers.
- Preparing, packaging, securing, delivering, and recovering sufficient and fully functional supplies, Personal Protective Equipment (PPE), voting materials, equipment, and technology to ensure voting locations are prepared to serve voters.
- Providing full-service response solutions to vote center staff issues that may arise during early voting periods and on election day

7.1 – Facilities Management Approach and Strategy

The facilities management planning cycle starts approximately 12 months before the election and includes regular communication with facilities owners and administrators to keep them apprised of available dates and facility conditions. To help ease the voting experience, we attempt to use the same voting locations from election to election. However, due to constraints (e.g., facility availability, construction, inspection compliance, and specific election requirements) we cannot always adhere to this approach.

As described in the *Voter Turnout and Wait-Time Reduction Plans* (Section 2.0, page 11), we determined that between 210 - 225 Vote Centers are needed for both the Primary and General elections taking place in 2022. A final list will be published at Locations.Maricopa.Vote approximately 45 days before each election. Tasks related to managing facilities include:

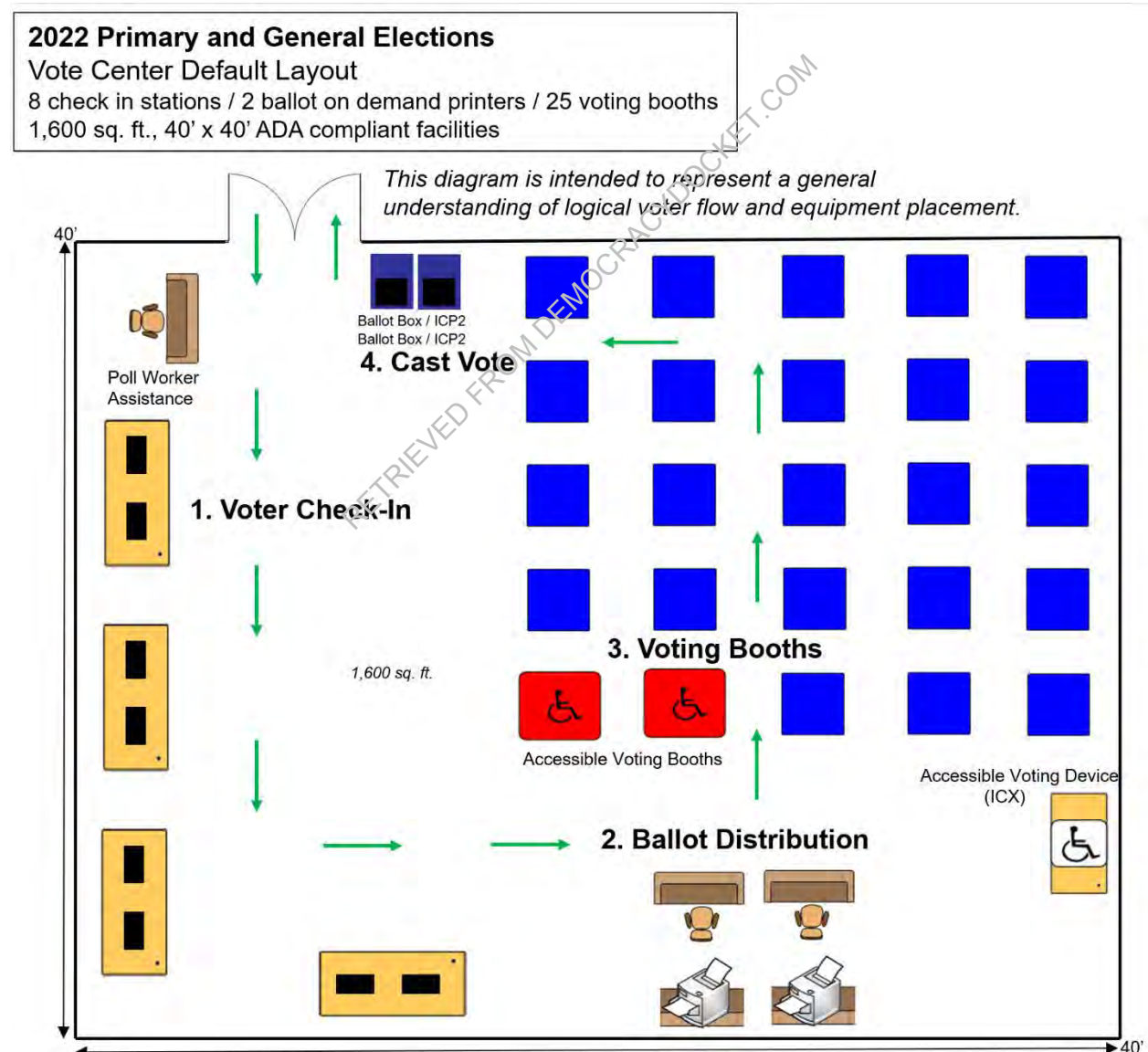
- Establishing the layout and flow for each type of voting location (see section 7.1.1)
- Performing inspections and ensuring locations comply with the Americans with Disabilities Act (see section 7.1.2)
- Transitioning from early voting and emergency voting to election day (see section 7.1.3)
- Acquiring and contracting with voting facilities (see section 7.1.4)
- Setting up facilities and supporting ongoing operations (see section 7.2)

7.1.1 - Election Day Voting Locations

Voting Location and Setup

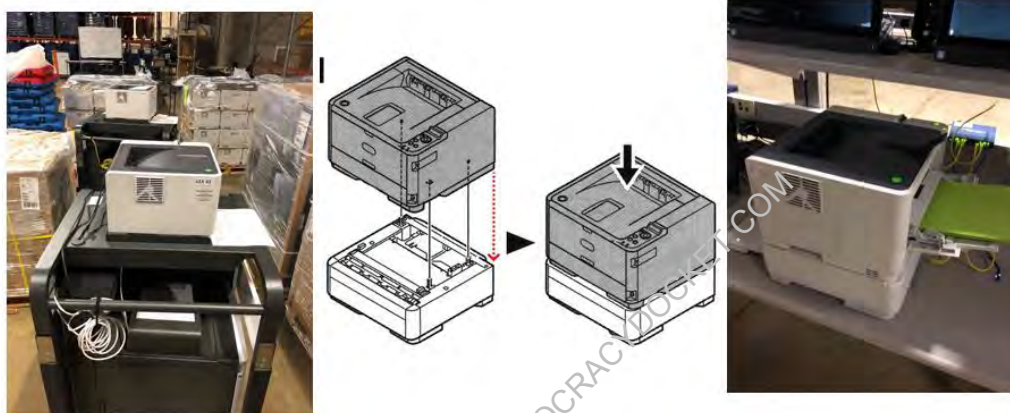
For the Primary and General elections, in person voters will have the option to vote from any one of 210-225 geographically dispersed Vote Centers. All Election Day sites will be open from 6 a.m. to 7 p.m. in accordance with statutory guidance established in Title 16 of the Arizona Revised Statutes.

The Vote Center model will default to an eight check-in station layout with two ballot on demand printers and 25 voting booths. The flow of the Vote Centers will be established in a manner that reduces unnecessary foot traffic and keeps voter flow fluid. If practical, this Vote Center layout may be scaled up for larger venues with higher anticipated voter turnout. In these situations, a 12 check in station equipped with larger heavy duty ballot on demand printers will be used. The layout diagram provided below provide a general understanding of voter flow and equipment placement. Not all locations will have this layout, but setup teams are trained to standardize setup to establish safe and efficient polling locations.



The Vote Center model provides Maricopa County voters the ability to vote outside their designated precinct by using Ballot-On-Demand (BOD) and SiteBook technology. In an effort to simplify printer deployment (e.g., setup, usage and repair) the Elections Department reduced the printery types from three styles used in 2020 to two types for 2022. The two ballot-on-demand printers are described below.

1) The Mini BOD printer is a retrofitted Oki B432 that receives a firmware update along with the addition of a driving laptop to manage the job load. An added high-capacity feeder (as pictured below) and scalable extender will hold the 19" x 8 ½" ballots that would normally not fit in the small manufacturer provided paper feeder. A comprehensive stress test was completed to thoroughly understand capacity and identify best courses of action should an issue occur while deployed in the field. The Mini BOD printer was first used in 2020. It proved to be a very reliable BOD printer.



2) Larger venues and sites open during early voting require the use of a larger more robust ballot on demand printers. The Lexmark C4150 is the department's newest acquisition and has already demonstrated excellent performance in a jurisdictional election. This printer excels at producing high quality ballots, envelopes and receipts in as little as 5.5 seconds per print item.



The Lexmark C4150 has the capability of a workgroup printer that functions with the ease of a personal output printer. High volume printing with simple functioning is an optimal solution for vote centers serving larger venues.

7.1.2 - Facility Inspections and Accessible Voting

To verify that facilities will meet our needs, we perform inspections to substantiate hours of operation, indoor space, floor plans, wireless connectivity, line management needs, and parking needs. We also evaluate the facility to ensure voters with a disability are able to vote in-person or curbside if they choose. To confirm usability and voter accessibility we review the following during our on-site inspections:

- Voter entrance
- Obstacles
- Confirmation of minimum square footage, parking and lighting
- Ability to setup certified accessible voting device
- Availability for curbside voting
- Drop-off or loading area with a level access side
- Exterior and interior pedestrian routes that voters use to get to check-in and voting areas

In some instances, we are able to provide temporary installation of ramps or signage to create an ADA-compliant site. If non-compliance issues are reported after our inspection, a new on-site assessment is conducted, issues are worked on-site with the administrator, and the accessibility evaluation is updated.

Additional accessible voting options such as special election boards that visit nursing homes are described in further detail in the Early Voting Plan. The Elections Department complies with the following Federal and State laws in order to serve voters with disabilities:

- 52 U.S.C. § 20101 Voting Accessibility for the Elderly and Handicapped Act of 1984
- 52 U.S.C.A. § 21081(a)(3) HAVA – Disability Rights
- 42 U.S.C. § 12101(a)(3); 42 U.S.C. § 12131 et seq. The Americans with Disabilities Act of 1990
- A.R.S. § 16-581

7.1.3 - Transition between Election Phases

A smooth and seamless transition between Early Voting, Emergency Voting, and Election Day with minimal problems can only be achieved through close communication and complete collaboration with Department staff and the Recorder's Office. To minimize voter confusion and duplication of efforts, the Elections Department will use the same Vote Center facilities and equipment for Election Day as used during the Emergency Voting and Early Voting phases.

7.1.4 - Facilities Acquisition & Timeline

We place an emphasis on enhancing relationships with facility administrators and staff to build a reliable inventory of ready-to-use facilities. Most facilities provide the Elections Department with their facility for free or for a nominal charge. To manage facilities, we adopt a framework of communication, customization and continuous monitoring.

- Communication: We reach out to facility administrators about 9 months prior to an election and attempt to quickly resolve delivery, setup, and other modification requests within 24-48 hours.
- Customization: We work with facility administrators to customize voter flow, lines, seating and operational space to ensure voters and staff have ample movement in and around the facility.
- Monitoring: We provide responsive support from 180 days before the election through equipment recovery on/about one week after the election.

A timeline of key steps involved prior to the election in the acquisition of our polling locations is included below:

- **360 days:** The Elections Department completes a joint review with the Recorder's Geographic Information System (GIS) team to determine prior in-person voting trends.
- **150 days:** Early communication with facilities determines accessibility, compliance, and availability for the duration of voting requirements. A "Save the Date" message is sent to facility administrators to query polling place and Vote Center participation in all 2022 elections.
- **150-60 days:** The Elections Department signs Facility Use Agreements with General Election Vote Centers, which include dates of service and confirmation signatures. Facility technicians monitor for changes in dates, times, venue, and ensuring positive relationships with facility owners and managers.
- **60-21 days:** Final confirmations are made with all facilities to determine if there have been any changes in dates, times, and/or venue. Once all confirmations are made, the Elections Department will post the locations on our website, Locations.Maricopa.Vote.

During the complete election cycle, we conduct continuous monitoring of interactions with facilities. Department staff work to resolve issues. At the end of the election cycle, lessons learned are captured during an after action review and recorded for future use.

7.1.5 - Drop Box Only Locations

The Election Department will also be opening approximately 10-15 secure drop box only locations where voters can drop off their sealed early ballot affidavit without having to visit a vote center or their local mailbox. The vast majority of drop box locations are placed in municipal centers such as city halls, public libraries.

We send bipartisan courier teams to visit the locations on a daily basis during early voting to retrieve dropped off early ballot affidavits. The courier's check-in with the City, Town, or facility representatives and work together to open the locked and sealed drop box. All actions taken by the courier teams are documented on an early ballot transport statement.

7.2 – Voting Equipment Delivery & Logistics

Vote Center equipment delivery and set up begins up to 36 days prior to the election. Set up teams will be comprised of laborers, drivers, t-techs, warehouse workers and troubleshooters. Drivers will deliver the equipment and supplies and perform initial set up of Vote Center support equipment. The tech crew follows behind to perform the technical set up and ensure the location is ready for voters. Finally, a troubleshooter will close the loop with a quality control check of critical systems such as the SiteBooks and accessible voting devices.

Set ups are scheduled as early in the day as possible in order to address any problems that may arise and set up crews are also encouraged to get ahead of the schedule as feasible. Set up crews confirm set up completion with Vote Center manager and provide a second set of onsite test prints that further confirm BOD functionality on site. A makeup date is injected into the planning calendar in the event that a failed set up occurs.

7.2.1 – Equipment and Supply Buildout

The Elections Department begins organizing Vote Center equipment packages 90-120 days prior to deliveries. Vote Center preparation starts with SiteBook updates, BOD printer checks and services which include performance testing, printer settings checks and ballot file uploads. BOD test prints will confirm

functionality and Quality Assurance checks are documented and provided to executive leadership. Yellow and green bags include all of the critical technology peripherals needed to enable SiteBook and BOD connectivity and communication, they are assembled jointly by IT staff and warehouse personnel. The accessible voting device and precinct based tabulators are programmed and tested by Ballot Tabulation Center staff and then carefully packed and configured for transport by warehouse personnel. Next steps involve the non-technical preparation aspects and start with the consumable stock needed at each Vote Center such as blank ballot shells, envelopes, blank paper for receipts and the heavier weighted 8 ½" x 11" paper for the accessible voting device. Cleaning kits are also assembled which include all of the necessary PPE and cleaning supplies required to operate and maintain a safe and healthy environment for poll workers and voters. Temporary staff enter the workflow at this point and assist with the packaging and preparing the general supply carts, voting booths, all barricades, curbside signage, black box, tables and all of the stationary supplies such as ballot marking pens. They follow the same equipment checklist used by permanent staff.

7.2.2 – Election Day Facility and Operational Support

Hotline and Troubleshooters

Hotline and troubleshooter temporary staff support critical functions as subject matter experts; they are hired from a specialized pool of people with previous elections experience. They are already familiar with the Election Reporting System (ERS) and understand the urgent need for quickly responding to problems that arise.

Troubleshooters are issued kits with extra supplies and a troubleshooter manual for reference during their shift. Troubleshooters act in a semi-supervisory capacity in their management of up to five Vote Centers and are looked to for procedural guidance and some technical support as the first line of problem resolution.

Troubleshooters are involved in every step of the process especially during site set up. They are usually the first layer of resolution in any problem solving at a Vote Center and serve as a bridge between the Poll Workers and the support staff.

Hotline staff are provided a detailed reference manual and a desktop application that replicates the SiteBook check-in system user interface so that they can navigate Poll Workers through difficult scenarios. Hotline staff are the primary operators of the ERS and are responsible for categorical reporting of technical issues, administration issues, supply issues, voter registration, procedural issues and other general problems that are beyond the capability of a Poll Worker to resolve.

7.2.3 – Election Equipment Recovery

The Elections Department plans to pick up all election equipment beginning the day after election day with completion by the following Tuesday of each election. The pickup schedule is designed to accommodate facilities with specific requirements for immediate equipment removal. Every attempt is made to collect equipment and materials from every facility as timely and safely as possible, with a return of all facility rooms and furniture to their original state. First priority after safety is accountability of all equipment with the highest priority assigned to capital assets which will receive color-coded asset tags. Secondary priority is the immediate identification of deficiencies or damages that may have occurred during the election cycle. Finally, all equipment will be cleaned, recorded virtually in the warehouse management system and restowed according to assignment. Printers, laptops, voting equipment and other passive electronic

components will be scheduled for post-election servicing in accordance with original equipment manufacturer guidance. After inspection and cleaning has been completed the warehouse team will work in conjunction with the Records IT team to initiate repairs and conduct annual maintenance.

7.3 – Logistics and Facility Key Performance Indicators

We will measure our performance through the following Key Performance Indicators:

1. **Election Site Resourcing:** Measures the level of resourcing provided to election sites, this indicator allows us to track and measure equipment package defects, the most important function of the warehouse and logistics team.
2. **Percentage of on time deliveries:** Department standard is to deliver all assigned election equipment and supplies to an election site 18 hours prior to Setup Day.
3. **Uniformity at sites:** The Elections Department uses the same standard for accuracy at all election sites. This will be determined and tracked through a 10% internal inspection/audit.
4. **Property Accountability:** Refers to a measure of a) missing equipment, b) tracking of equipment, and c) documentation, and includes verification of a paper trail that follows the equipment's journey from pallet rack to staging area to dock door to truck to election site and back
5. **Response Time:** Measures our response time to solve facility problems beyond the scope/capability of a Troubleshooter.

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8.0 – Tabulation and Central Count Plan

The Elections Department's Tabulation plan for the August Primary and November 2022 General Elections outlines how we will process and count ballots. The factors related to successfully and accurately tabulate votes include:

- Verifying that the amount of tabulation equipment is sufficient to accommodate forecasted turnout
- Using equipment that meets certification and testing requirements
- Implementing physical and cyber security measures
- Securely storing original ballots and creating audit trails
- Hiring bipartisan central boards to assist with hand count audits, adjudication, duplication and other tabulation activities

8.1 – Tabulation Approach and Strategy

State statute allows five business days for the processing of provisional ballots and curing of inconsistent signatures on early ballots (A.R.S. 16-550 and 16-584D). Our goal is to have 100% of all valid ballots that did not need curing counted and reported by the end of the cure period (Primary Election- August 9, 2022 and General Election - November 15, 2022).

8.1.1 – Efficiency

For the 2022 elections, ballots will be counted by precinct-based tabulators (ICP2) if voting in-person on Election Day, or by central count tabulators (High Speed – HiPro 821 or Cannon G1130) if voting by mail, a provisional ballot, at an Early Vote Center, or at an Emergency Vote Center.

Precinct Based Tabulation

Precinct based tabulation occurs on Election Day as voters insert their ballot into a tabulator at their polling location. The Elections Department posts these results after 8 p.m. on Election Day as the equipment and results are returned from each of the Vote Centers. Given the geographic size of the County, it is not unusual for the final posting of ballots cast on Election Day to occur after midnight. Based on turnout forecasts (section 2.0, page 11), we anticipate 13% - 19% of voters to cast their ballots on Election Day. For the August Primary Election this could be as high as 178,138 ballots cast. For the November General Election this could be as high as 321,312 ballots.

As our tabulation equipment cannot read handwriting, write-in candidates voted on Election Day ballots will need to be sent to electronic adjudication to tally and reports write-in results. This will occur on the weekends of August 6th for the August Primary and November 12th for the November General elections.

Central Count Based Tabulation

Our central count tabulators are capable of scanning and counting ballots much faster than our precinct-based tabulators. Based on quantities achieved in during the 2020 election cycle, we determined that we can easily count a total of 110,000 – 140,000 ballots per day during an 8-hour shift.

Based on the turnout forecast completed in Section 2.0 (page 8), we anticipate total early (by mail and in-person early) voter turnout to be between 643,015 to 813,870 for the August Primary Election. For the November General Election, we estimate that early voter turnout could range between 1,185,996 and

1,550,210. We use the higher estimates to make decisions on central count staffing projections to ensure we can count ballots and report results timely.

August Primary

For the August Primary, we will use four high-speed scanners (HiPro) and five additional central count (Canon) tabulators. Using a single eight-hour-shift (six tabulation hours and 1 report verification hour), we will have a daily capacity to count approximately 110,000 – 140,000 ballots per-day. These amounts indicate that it will require us between 5.8 - 7.4 days to count ballots if all ballots were received are ready when we begin counting. State statute allows us to start tabulating early ballots upon receipt. However, we typically do not receive all ballots at once, and voters tend to return closer to Election Day. We plan to begin tabulation on July 19, 2022. This should give us plenty of time to tabulate ballots and complete tabulation for all ballots not requiring curing by the 5th business day after the election.

AUGUST 2022 PRIMARY ELECTION KEY DATES

Date	Description
June 20, 2022	Publish Logic and Accuracy Test Notice (at least 48 hours before test date)
June 30, 2022	Complete Logic and Accuracy Test
July 14, 2022	Start Duplication
July 19, 2022	Start Tabulation and Adjudication
August 2, 2022	Initial Results Reporting at 8 p.m. (processed early ballots)
August 3-9, 2022	As needed, daily updates will be reported between 5 p.m. - 7 p.m.
August 3, 2023	Hand Count Audit Draw
August 16, 2022	Deadline for Board Approval of Canvass (A.R.S. § 16-642(A))

November General

For the November 2022 General Election, we will also use four HiPros and five Canon tabulators. Using a single eight-hour-shift (six tabulation hours and 1 report verification hour), we will have a daily capacity to count approximately 110,000 – 140,000 ballots per-day. These amounts indicate that it will require us 11 - 14 days to count ballots.

In the 2020 General Election, we received approximately 172,000 early ballots (8.2% of the total 2,089,563 ballots) dropped off at a voting location or returned by mail on election day. If we conservatively assume that 10% of early ballots will be returned on Election Day, we will need to count approximately 155,000 ballots after Election Day. Early ballot processing (e.g., sorting, signature verification, removing from the envelope) can take 3 days to process 155,000 ballots. Given the processing capacity of 90,000 – 110,000 ballots per-day, coupled with the tabulation capacity of 110,000 -140,000 ballots per day, we estimate to have counted 100% of all ballots not needing to be cured within five business days after the Election. We can implement a second shifts if turnout exceeds expectations.

NOVEMBER 2022 GENERAL ELECTION KEY DATES

Date	Description
September 26, 2022	Publish Logic and Accuracy Test Notice (at least 48 hours before test date)
October 6, 2022	Complete Logic and Accuracy Test
October 20, 2022	Start of Tabulation, Duplication, and Adjudication
November 8, 2022	Initial Results Reporting at 8 p.m. (processed early ballots)
November 9-17, 2022	As needed, daily updates will be reported between 5 p.m. - 7 p.m.
November 9, 2022	Hand Count Audit Draw
November 28, 2022	Deadline for Board Approval of Canvass (A.R.S. § 16-642(A))

Adjudication and Duplication Process

When early ballots are damaged, defective, or when voter's intent is clearly indicated, but can't be determined by the tabulation system, we will electronically duplicate and adjudicate the ballot and then use a bipartisan adjudication board overseen by an inspector to decide if voter intent can be determined. Each board will be comprised of at least two members who are registered voters of different political parties.

We conservatively estimate that the percent of ballots requiring adjudication will range between 9 - 11%. Based on turnout forecasts, this would create a range of 60,000 – 90,000 ballots that need to be duplicated or adjudicated for the August Primary and 110,000 -170,000 for the November General. Based on the percent of ballot processed after Election Day, we are hiring sufficient staff to perform adjudication on 9,000-12,000 ballots for the August Primary and 10,000 – 15,000 ballots for the November General elections. Considering the length of the ballot, we would need to hire approximately 20 adjudication bipartisan boards (46 board members) to finish adjudicating the pose election day ballots within five business days after Election Day.

8.1.2 – Security, Integrity, Transparency, and Oversight

There are many components to maintaining security, integrity, transparency, and oversight over the tabulation process and equipment. They include system testing (e.g., certification, logic and accuracy testing), physical security, credential management, network security, using paper ballots, performing audits, hiring bipartisan central boards, and other checks and balances. Some of these items are described in further detail below.

Certification and Accuracy Testing

As required by state statute, the Dominion Voting System we will use for the 2022 August Primary and November General elections is certified by the Federal U. S. Election Assistance Commission (EAC), the State's Equipment Certification Advisory Committee, and the Secretary of State. (see [A.R.S. §16-442](#)). Upon receipt and installation of certified software on the tabulation equipment, the Elections Department performed a hash code (i.e., digital fingerprint) verification test confirming the installed firmware and software matched hash code values stored offsite with the EAC and the Arizona Secretary of State's Office.

The Elections Departments also performs a logic and accuracy test on all voting equipment prior to each election. The conduct of the test is overseen by the Elections Department Director of Tabulation and In-Person Voting. The test is open to observation by representatives of the political parties, candidates, the press, and the public. Since this election involves a federal or state office, the Secretary of State is also responsible for conducting an additional logic and accuracy test on selected voting equipment (see [A.R.S. § 16-449](#)).

The logic and accuracy test uses a set of test ballots with a predetermined set of results to verify that the election management system (EMS) is accurately programed for the specific election. Ballots and individual votes are scanned on precinct and central count tabulators and reports are run to determine if votes attributed to candidates and ballot measures in the election management system (EMS), are correct and accurately being counted, sent to adjudication, summarized, and reported.

The logic and accuracy tests are performed before (pre) and after (post) each election. This series of tests confirms that the software, firmware, and specific election program was not altered during the period between the pre and post logic and accuracy tests.

Physical Security and Credential Management

The County and Elections Department have implemented a robust set of security controls for restricting access to the tabulation system, managing credentials, and monitoring user access. Before any of the County ballot tabulation staff enters the Ballot Tabulation Center to work at their assigned stations, they must go through multiple security checks.

1. The BTC is located within a secure building that requires authorized badge access and is monitored by Maricopa County Security Services. Both inside and outside, the building has 24/7 surveillance cameras also monitored by security services. While ballots are onsite at the Maricopa County Tabulation and Elections Center (MCTEC) the County has 24/7 physical security officers monitoring cameras, doors, and performing employee badge checks.
2. Once in the building, higher level badge access is required for any door leading into the BTC. This elevated badge access is only provided to designated staff with a business need to enter. Badge access into the BTC and surveillance cameras are also monitored by security services.
3. Along with the surveillance system cameras inside and outside MCTEC, the Elections Department live streams all access points into the BTC on its website 24/7.
4. All of the central count tabulation equipment is within the BTC, which requires authorized, elevated badge access to enter. Only those whose jobs require them to be in the BTC have this level of access. Within the BTC is another room that holds the EMS servers. This is a glass room that requires elite-level badge access to enter. Only a few of the most senior election officials have this access. The glass tabulation server room is also live steamed on the County's website and onsite security officers are monitoring who comes in and out of the server room.
5. All ports on precinct based and central count tabulation equipment are blocked and secured with tamper evident seals and or serialized port blockers. In addition, the workstations for each central count scanner and computer are contained within a locked security cage.
6. In addition, ballots are only tabulated when political party observers are present. Tabulation staff and political party observers perform a reconciliation of total ballots tabulated before and after each shift by comparing and confirming the totals on the tabulator screens to the totals collected in the previous shift. This process independently validates that ballots are only counted when political party appointees are observing the process.

The tabulators (HiPro and Canon) in the Ballot Tabulation Center, used to tabulate all early ballots require the following three forms of authentication to gain access to the tabulators and Image Cast Central (ICC) program.

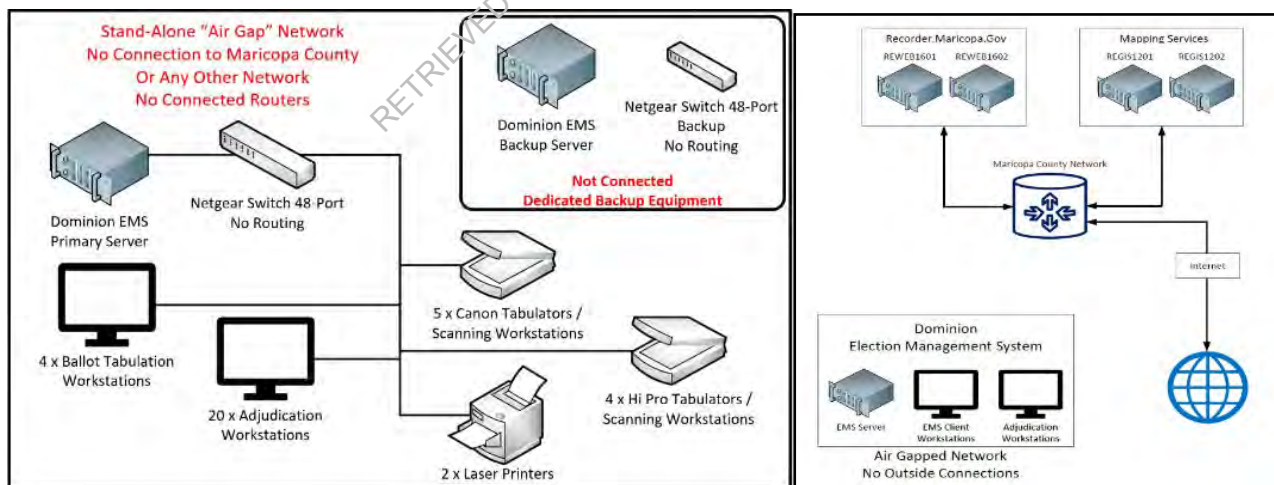
1. Windows Login Authentication password
2. iButton Key Fob two-factor authentication (2FA)
3. The program ICC password

The EMS workstations running the Election Event Designer and used to create the official certified results, also have more than one form of authentication for access. The EMS workstations use two forms of authentication, Windows login and the project password to the EED (Election Event Designer) to gain access. Prior to every election, the Elections Department changes the Election Event Designer Project password, Precinct Based Tabulator Password, and the Image Cast Central passwords. These frequently updated passwords are required to tabulate ballots, run reports, and generate results.

Network Security

Air Gapped Network: The Elections Department maintains an air gapped network for the Election Management System that prevents the tabulation system from connecting to the internet. In February 2021, two sperate audits performed by independent certified Voting System Test Laboratories confirmed that the County's EMS air gapped network was not connected to the internet

To demonstrate the design of the air gapped network, we've included a series of diagrams below describing the different components of the EMS network, which can only "speak" to each other within the network. It cannot access the internet or other County systems. This can be evidenced by the air gapped network's hard-wired lines which are visible through the glass windows into the Elections Department's Ballot Tabulation Center. The diagrams below also demonstrate that the EMS network exists separately from the County's network at large, including the servers supporting webpages for the Recorder's Office and Elections Department's website.



(Left) A network diagram of the County's Election Management System air gapped network design with no connections to the internet. (Right) A network diagram of the Recorder's web servers, which shows a clear separation between the website and the tabulation equipment.

Paper Ballots and Hand Count Audits

The Elections Department retains the original paper ballot until the election is officially canvassed. After the official canvass, ballots from the elections are stored according to statutory and record retention

requirements. The tabulators also scan and store a digital copy of every ballot with a digital audit mark that is affixed detailing how the ballot was counted. Since the equipment creates a digital image of the ballot, the Elections Department immediately secures and stores the actual original paper ballots by batch after tabulation. The ballots are stored in multiple batches of 200 or less within each long-term and sealed storage box. This allows us to quickly locate the physical ballots if there is a need to compare them with the digital copy.

We validate the accuracy of the tabulation system through a random Hand Count Audit of 1% of early ballots and 2% of the ballots voted at a vote center. This manual hand count will be completed by appointees of each of the political parties and not performed by our office or staff. The Hand Count Audit is performed by three member boards of differing political parties (for checks and balances) on ballots randomly selected by the political party observers during tabulation. The boards compare their hand count results to the amounts counted by the tabulations machines. Board members may not bring any electronic devices or pens into the hand count room.

Bipartisan Boards and Observers

The ballot tabulation center will be staffed by a tabulation manager, tabulation team leads, tabulation technicians, bipartisan Central Boards (e.g., adjudication, duplication, write-in tally), and political party observers. The Elections Department's Director of In-person Voting and Tabulation appoints the Central Boards, which are comprised of two members of different political parties and an independent inspector, who are trained on their duties before assuming their positions. The Elections Departments recruiting efforts include requesting each party provide lists of nominees that will be considered for appointment to a Central Board.

All persons taking part in the processing and counting of ballots, including our staff members, will be appointed in writing and take an oath office that they will faithfully and impartially perform their duties. Any person who has not been appointed in writing or taken the oath shall, under no circumstances, be permitted to touch any ballot, computer, or counting device used in processing or tabulating ballots.

8.2 – Reporting Results and Canvass

The Elections Director for In-Person Voting and Tabulation is responsible for promptly transmitting election results to the Secretary of State, prior to or immediately after making those results public. On Election Day, results will be transmitted at 8 p.m., which will include all early ballots tabulated as of Election Day. Election Day results returned from in-person voting location will be posted as results are returned, which we estimate will occur from approximately 10 p.m. through 1 a.m. (the following day).

Subsequent result posts that occur after Election Day will be accompanied by a press release that describes the source/type of ballots included in the post, ballots left to count, and when the next post will occur.

The Elections Department will submit the Canvass to the Board for approval and will include the following information ([A.R.S. § 16-646\(A\)](#)):

1. A Statement of Votes Cast, which includes:
 - a. The number of ballots cast in each Precinct in the county;
 - b. The number of ballots rejected in each Precinct in the county;
 - c. The title of the offices up for election and the names of the persons (along with the party designation) running to fill those offices;
 - d. The number of votes for each candidate by Precinct in the county;

2. A cumulative Official Final Report, which includes:
 - a. The total number of Congressional Districts;
 - b. The total number of ballots cast;
 - c. The total number of registered voters eligible for the election;
 - d. The number of votes for each candidate by congressional district

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9.0 – Risk Management and Contingency Plan

The Elections Department's Risk Management and Contingency Plan for the 2022 August Primary and November General elections establishes the procedures that will be followed in the event that a polling location or the central count center becomes temporarily or permanently inoperable on Election Day due to equipment failures, a power outage, or other unforeseen disruption. The objective of the Risk Management and Contingency plan is to outline how the Elections Department will identify potential risks, develop strategies to mitigate risks, and provide for the continuity of voting and tabulation on Election Day.

9.1 – Risk Management and Contingency Planning Methodology and Approach

Risk management is a continuous, forward-looking process that is an important part of conducting an election. We perform risk management activities to identify potential risks that may adversely impact an election and develop strategies that can mitigate these risks if they occur. The Elections Department's risk management process includes:

- Identification of key operations that would have the most significant impact if they were unavailable during the course of the election.
- Assignment of project managers (e.g., Election Directors, Assistant Directors) over key processes (e.g., communications, staffing, training, facilities acquisition, logistics) to work with stakeholders to ensure risks are actively identified, analyzed, and managed throughout the project.
- *Crisis Communication Strategy* that describes how risks will be documented and escalated. (See Section 3.2.8, Page 25).

Voting Locations

In the event that a single or small number of voting location(s) experiences an emergency, the Elections Communications Officer will use social media, traditional media, and other means where possible to advise voters of the emergency and the nearest Vote Center location until the emergency is resolved. Maricopa County is deploying 210 -225 Vote Centers that any voter can use in the event that one location is unavailable.

In conjunction with local public safety authorities, an assessment will be made in order to determine the operational status of vote location(s) by the Elections Department's Facilities Acquisition Division. If the Assistant Director for Logistics finds that the emergency will significantly or permanently close the location, a new location will be found. The Facilities Acquisition Division will oversee the posting of signs providing the information on the revised voting location. Signs will be placed as near as possible to the evacuated location(s) alerting voters of the relocated voting location, as well as the location of the nearest Vote Center location and the website address for the complete list of Vote Center locations.

The Division of Recruitment and Training will communicate this information to Inspectors, Trouble Shooters and/or other Poll Workers. The Elections Department Communications Director will communicate the new location to the public.

If the emergency is widespread and affects many voting locations, the Elections Department will work with local authorities to perform an assessment of the situation. We'll provide timely updates as described in the *Crisis Communications Plan* (Section 3.28, page 25).

If a location loses power, the Elections Department has backup generators, supplemental lighting, and other emergency supplies that we will dispatch from the Supply Depots for quick response. The Elections

Department has established additional contingencies for long-term, widespread, power outages or cellular network failures.

- Sealed Break-in Case of Emergency Kit: This includes emergency voter check-in procedures, blank paper check-in roster, transfer tickets, and transfer forms.
- ICX Accessible Voting Device: The device has an uninterrupted back-up power source. The device is loaded with all ballot styles and available to use as a vote anywhere model in case of an emergency.

Voting Supplies and Equipment

If a voting location's supplies or equipment are missing or inoperable, Poll Workers, Trouble Shooters and Observers will use hotlines to advise the Elections Department. Replacement supplies and equipment will be dispatched from one of ten Supply Depot locations across the County.

The Elections Department has addressed on-site contingencies with the use of multiple SiteBooks and BOD printers. All voting locations have at least six SiteBook check-in terminals, one accessible voting device and a ballot tabulator. Vote Centers also have two ballot-on-demand printers. If other equipment malfunctions, three Supply Depots across the county contain back-up equipment, which Trouble Shooters and other technical support staff will deliver.

Central Counting Center

In the event that the MCTEC facility is inoperable on Election Day due to a centralized emergency, the Elections Department will relocate the Tabulation Center to the City of Phoenix's Election Department. This process includes delivering and securing tabulation equipment and materials. The County has arranged with Dominion to provide necessary contingent equipment.

Based on the joint agreement of both Election Director's to relocate the Tabulation Center location, Election Department employees assigned to work in election night activities will proceed to the relocation site. The Elections Department will establish a personnel check-in area to account for all assigned workers. Work assignments will be allocated based on election night responsibilities and include voting location ballot/supplies receiving, securing, unpacking, secure ballot storage, tabulation, and the reporting of unofficial elections results.

Staff assigned to early ballot signature verification will relocate to the Recorder's downtown facility to continue with that process. Early Ballot Processing, write-in and duplication boards will report to the City of Phoenix Elections Department. The Election Department Division of Recruitment & Training will communicate with all Central Board Workers to confirm their work location and any other important information. Cellular phones, two-way radios, and email will be used for internal staff communications.

The Director of In-Person Voting and Tabulation will notify the Secretary of State (and the chairpersons of the recognized political parties) if this tabulation contingency plan is invoked.

Poll Worker Absences and Emergencies

The Election Department Division for Recruitment & Training is responsible for ensuring that an adequate number of Poll Workers, including bilingual workers are hired and trained to work Election Day. In addition, we are hiring 10 - 11 Poll Workers for each voting location. The hiring of extra Poll Workers will allow us to overcome an absentee rate of 30-40%.

If a Poll Worker does not report for work, the Inspector is trained to call the Poll Worker hotline to request the Elections Department hire and dispatch a replacement worker. If the Inspector does not report, a Judge will assume temporary Inspector responsibilities of the polling location and call the Hotline for further instructions, including the request for a replacement Inspector and/or additional workers.

If a Poll Worker becomes ill during Election Day or has a personal emergency, the worker will be allowed to leave and will be replaced. If a health emergency occurs with a Poll Worker or any other individual in the voting location, the Inspector is trained to call 911 and then the Poll Worker hotline.

9.2 – Provisions for Extending Voting Hours

In the case of a terrorist attack or natural or man-made disaster, the Director of Election Day and Emergency Voting will consult with the Board of Supervisors, Sheriff's Office, the County Attorney's Office and the Secretary of State's Office to determine what action should be taken. Because the Legislature has not provided the County nor the courts with the statutory authority to seek an extension of voting hours, the County will not initiate any court action to extend polling location hours for isolated events such as power outages or a delay in opening a polling location.

9.3 – Emergency Communications and Key Stakeholders

The Crisis Communications Team will be activated and a response plan will be set in action to disseminate critical information to voters and other key stakeholders. As described in the *Crisis Communications Plan* (Section 3.28, page 25) the Director for Election Day & Emergency Voting or designee will contact the Board of Supervisors and Secretary of State to apprise them of any emergency and the proposed recovery plan. The following entities have been identified as key stakeholders and are included in the communication and escalation plan.

- Voters
- Poll Workers
- Elections Department Staff
- Board of Supervisors
- County Recorder
- News Media
- Jurisdictions
- Arizona Secretary of State
- Political Parties
- Candidates or Campaigns
- Maricopa County Attorney
- Arizona Attorney General
- Maricopa County Sheriff and other state and local police
- Arizona Counter Terrorism Information Center
- Maricopa County Department of Emergency Management
- FBI
- U.S. Department of Homeland Security
- The U.S. Attorney's Office

9.3.1 – Sheriff's Support

Maricopa County Sheriff's Office has assigned specific deputy officers to the Elections Department in case of disturbances or emergency at any voting location on Election Day. All Poll Workers are trained to call the hotline and Sheriff Deputies will be dispatched as needed. All Poll Workers are trained to call 911 in case of immediate and/or life-threatening emergency.

10.0 – 2022 Election Plan Costs (August Primary and November General)

On January 12, 2022, the Elections Department presented the proposed budget for the 2022 August Primary and November General elections. The funding for each election is paid from the County's General Fund. To account of large-scale elections such as the August Primary and November General elections, the budget department uses a specific accounting code (ELE1) to track and budget election related costs. The FY2023 budget request is summarized is below.

August 2022 Primary Election Budget (FY2023)		
Expenditure Description	Sub Total	Total
<u>Staffing</u>		
Poll Workers (Vote Centers and Polling Locations)	\$1,528,133	
Central Board and Other Temporary Workers	\$2,310,616	
STAR Call Center Temps and Security Services	\$250,000	
Temporary Staffing Inflation Adjustment	\$152,947	
Security Services	\$50,000	
<u>Staffing Total</u>		<u>\$4,291,696</u>
<u>Supplies and Services</u>		
Printing/Mailing/Postage Cost of Ballots	\$3,655,385	
Printing/Mailing/Postage – Voter Registration Cards and Forms	\$450,000	
Translation Services, Twilio	\$19,000	
Vote Center Rental Agreements	\$400,000	
Mileage, Fuel, Temporary Parking Lots, Shuttle Rentals, Vehicle Rentals	\$214,287	
Vote Center Supplies, Consumables, Other Supplies & Services (e.g., translation, ballot storage, braille envelopes)	\$208,400	
Advertising, Direct Mailers	\$600,000	
COVID-19 Contingency (Cleaning Supplies, Rentals, Protective Equipment)	\$347,053	
Other Contingency (Preprints, change Cards, Operations)	\$500,000	
<u>Supplies and Services Total</u>		<u>\$6,394,125</u>
<u>Election Total Budget</u>		<u>\$10,685,821</u>

November 2022 General Election Budget (FY2023)		
Expenditure Description	Sub Total	Total
<u>Staffing</u>		
Poll Workers (Vote Centers and Polling Locations)	\$1,528,133	
Central Board and Other Temporary Workers	\$2,531,323	
STAR Call Center Temps and Security Services	\$364,000	
Temporary Staffing Inflation Adjustment	176,496	
Security Services	\$160,000	
<u>Staffing Total</u>		<u>\$4,759,953</u>
<u>Supplies and Services</u>		
Printing/Mailing/Postage Cost of Ballots	\$5,207,923	
Printing/Mailing/Postage – Voter Registration Cards and Forms	\$250,000	
Translation Services, Twillo	\$19,000	
Vote Center Rental Agreements	\$400,000	
Mileage, Fuel, Temporary Parking Lots, Shuttle Rentals, Vehicle Rentals	\$248,567	
Vote Center Supplies, Consumables, Other Supplies & Services (e.g., translation, ballot storage, braille envelopes)	\$213,400	
Advertising, Direct Mailers	\$600,000	
COVID-19 Contingency (Cleaning Supplies, Rentals, Protective Equipment)	\$323,504	
Other Contingency (Preprints, change Cards, Operations)	\$750,000	
<u>Supplies and Services Total</u>		<u>\$8,012,393</u>
<u>Election Total Budget</u>		<u>\$12,772,346</u>

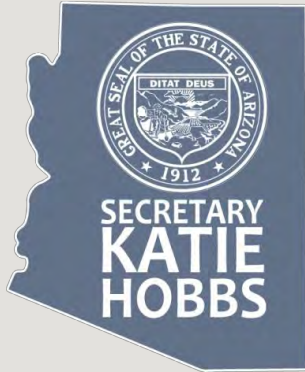
Appendix A – Poll Worker Training Topics

Specific role-based training topics by role and type of voting location are included in the table below.

Topic	Polling Places			
	Judges / Inspectors	Marshals	Voter Reg. clerks	Clerks
Cleaning and Sanitation Guidelines for Safe Voting during COVID-19	X	X	X	X
Hours the voting location will be open	X	X	X	X
ICX Operation	X	X	X	
Image Cast Precinct 2 Tabulator Operation	X	X	X	
Information specific to the 2020 General Election	X	X	X	X
Inventorying supplies	X			
Issuance of ballot types/styles (political party, FED only, ballot splits, etc.)	X	X	X	X
Mediation/Difficult Conversations	X	X		
Monitoring envelope drop-off box	X	X		
Nightly closing	X	X	X	X
Opening the voting location	X	X	X	X
Political party observers	X	X	X	X
Poll Worker injuries	X	X	X	X
Poll Workers' hours	X	X	X	X
Practicing Physical Distancing	X	X	X	X
Preparing the official and unofficial envelope contents	X			
Procedures for challenges	X	X	X	X
Procedures for checking identification	X	X	X	X
Proper Use of Required PPE	X	X	X	X
Provisional ballot processing	X	X	X	X
Review of election laws and procedures	X	X	X	X
Signage	X	X	X	X
SiteBook Operation	X	X	X	X

Appendix A – Poll Worker Training Topics (Continued)

Topic	Polling Places			
	Judges / Inspectors	Marshals	Voter Reg. clerks	Clerks
Situational Awareness	X	X	X	X
Voter Flow through the Voting Location	X	X	X	X
Spoiled ballot procedures	X			
Standard voting procedures	X	X	X	X
Delivery of voted ballots and Tabulator Memory Cards	X			
Troubleshooting, including when and how to implement wait-time reduction and other contingency plans	X	X	X	X
Voting equipment checks, including ensuring that equipment seals have not been tampered with and verifying equipment is functioning properly	X	X	X	
Who may vote in the election	X	X	X	X



STATE OF ARIZONA

2019 ELECTIONS PROCEDURES MANUAL

December 2019

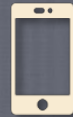
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ARIZONA ELECTIONS PROCEDURES MANUAL

A PUBLICATION OF
THE ARIZONA SECRETARY OF STATE'S OFFICE
ELECTIONS SERVICES DIVISION

INTRODUCTION
FROM SECRETARY OF STATE KATIE HOBBS

December 2019

I am pleased to provide the 2019 Elections Procedures Manual to county, city, and town election officials and other stakeholders throughout Arizona. Completing a long overdue update to the Elections Procedures Manual has been one of my Administration's highest priorities since transitioning into office in January 2019. To accomplish this, we worked in close partnership with County Recorders, Elections Directors, and their staff, and carefully considered feedback from other stakeholders and the public. With their invaluable contributions, we believe the 2019 Elections Procedures Manual will help ensure the maximum degree of correctness, impartiality, uniformity, and efficiency in election procedures across the state.

Secure, accurate, and accessible elections are at the heart of our democracy and they would not be possible without the continued dedication and vigilance of election workers across the State. Thank you for all that you do for Arizona's voters.

Sincerely,



Katie Hobbs
Arizona Secretary of State



DOUGLAS A. DUCEY
GOVERNOR

STATE OF ARIZONA
OFFICE OF THE GOVERNOR

EXECUTIVE OFFICE

December 20, 2019

The Honorable Katie Hobbs
Arizona Secretary of State
1700 West Washington Street, 7th Floor
Phoenix, AZ 85007

Dear Secretary Hobbs:

My office has reviewed the 2019 version of the Arizona Secretary of State Election Procedures Manual (2019 Procedures Manual) that you submitted for approval on December 18, 2019.

Based upon review and approval submitted on December 19, 2019 by the Attorney General's Office that the 2019 Procedures Manual complies with the Arizona election laws, and my office's review, I hereby approve the 2019 Procedures Manual in accordance with A.R.S. § 16-452(B).

Sincerely,

A handwritten signature in black ink that reads "Douglas A. Ducey".

Douglas A. Ducey
Governor
State of Arizona

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602-542-4331 • www.azgovernor.gov



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

December 19, 2019

The Honorable Katie Hobbs
Arizona Secretary of State
1700 E. Washington Street
Phoenix, Arizona 85007

Re: Approval of the 2019 Elections Procedures Manual

Secretary Hobbs:

Pursuant to A.R.S. § 16-452(B), my office has reviewed the draft Elections Procedures Manual submitted December 18, 2019. Based upon that review, we believe the submitted manual complies with Arizona's election statutes. Accordingly, I approve the Elections Procedures Manual as submitted on December 18, 2019.

Sincerely,

A handwritten signature in blue ink, reading "Mark B" followed by a long, horizontal, wavy line.

Mark Brnovich
Attorney General
State of Arizona

cc: Governor Doug Ducey

ABOUT THIS PUBLICATION

Published by the Arizona Department of State, Office of the Secretary of State, Election Services Division

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2019 ELECTIONS PROCEDURES MANUAL*

must include information about:

- How many UOCAVA ballots were validly requested;
- How many UOCAVA ballots were transmitted in accordance with the 45-day deadline based on valid requests received before that date; and
- How many UOCAVA ballots were transmitted after the 45-day deadline based on valid requests received before that date.

UOCAVA reports must be emailed or electronically submitted to the Secretary of State within one business day of the UOCAVA ballot transmission deadline. The reports shall not include any protected information for voters who have their records sealed pursuant to A.R.S. § 16-153 or who are enrolled in the Address Confidentiality Program.

The Secretary of State must consolidate the county reports and report Arizona's aggregated statistics to the U.S. Department of Justice following each primary and general election for federal office. See <https://www.justice.gov/crt/statutes-enforced-voting-section#uocava>.

H. Deadline to Return Ballots-by-Mail

A ballot-by-mail (with completed affidavit) must be delivered to the County Recorder, the officer in charge of elections, an official ballot drop-off site, or any voting location in the county no later than 7:00 p.m. on Election Day. [A.R.S. § 16-547\(C\)](#); [A.R.S. § 16-551\(C\)](#).

The ballot-by-mail return deadline also applies to UOCAVA ballots, regardless of the method of transmission to the election official, unless the UOCAVA return deadline is extended pursuant to emergency procedures as outlines in [Chapter 2, Section I\(F\)](#).

I. Ballot Drop-Off Locations and Drop-Boxes

Counties or municipalities that establish one or more ballot drop-off locations or drop-boxes shall develop and implement procedures to ensure the security of the drop-off location and/or drop-boxes and shall comply with the following requirements.

1. A ballot drop-off location or drop-box shall be located in a secure location, such as inside or in front of a federal, state, local, or tribal government building. All ballot drop-off locations and drop-boxes shall be approved by the Board of Supervisors (or designee).
 - a. An unstaffed drop-box (*i.e.*, not within the view and monitoring of an employee or designee of the County Recorder or officer in charge of elections) placed outdoors shall be securely fastened in a manner to prevent moving or tampering (for example, securing the drop-box to concrete or an immovable object).
 - b. An unstaffed drop-box placed inside a building shall be secured in a manner that will prevent unauthorized removal.
 - c. While a staffed drop-off location or drop-box (*i.e.*, within the view and monitoring of an employee or designee of the County Recorder or officer in

*ARIZONA SECRETARY OF STATE
2019 ELECTIONS PROCEDURES MANUAL*

charge of elections) need not be securely fastened or locked to a permanent fixture, it must be securely located inside a government building and monitored by a properly trained employee or designee of the County Recorder or officer in charge of elections at all times that the location or drop-box is accessible by the public.

2. The County Recorder or officer in charge of elections shall publicly post a listing of designated drop-off locations and drop-boxes on the website of the County Recorder or officer in charge of elections. Where practicable, the County Recorder or officer in charge of elections shall also post a listing of drop-off locations and drop-boxes anywhere that polling places and vote centers are posted.
3. All drop-boxes shall be clearly and visibly marked as an official ballot drop-box and secured by a lock and/or sealable with a tamper-evident seal. Only an election official or designated ballot retriever shall have access to the keys and/or combination of the lock to remove the deposited ballots.
4. All drop-boxes (both staffed and unstaffed) shall have an opening slot that is not large enough to allow deposited ballots to be removed through the opening slot.
5. Ballot drop-off locations and drop-boxes shall be locked and covered or otherwise made unavailable to the public until the 27th day prior to an election to ensure that no ballots or any other materials may be deposited before the early voting period begins. Prior to use on the 27th day before the election, all drop-boxes shall be inspected for damage and to ensure they are empty.
6. All drop-boxes shall be locked and covered or otherwise made unavailable after the polls have closed on Election Day to ensure that no ballots may be dropped off after the close of the polls.
7. The County Recorder or officer in charge of elections shall develop and implement secure ballot retrieval and chain of custody procedures, which shall include the following:
 - a. Voted ballots shall be retrieved from ballot drop-off locations and/or drop-boxes on a pre-established schedule. Ballot retrieval shall be more frequent as Election Day approaches.
 - b. For any election that includes a partisan race, at least two designated ballot retrievers of at least two differing party preferences shall be assigned to retrieve voted ballots from a ballot drop-off location or drop-box. For a nonpartisan election, at least two designated ballot retrievers shall be assigned to retrieve voted ballots from a ballot drop-off location or drop-box.
 - c. Each designated ballot retriever shall wear a badge or similar identification that readily identifies them as a designated ballot retriever and/or employee of the County Recorder or officer in charge of elections.
 - d. Upon arrival at a drop-off location or drop-box, the two designated ballot retrievers shall note, on a retrieval form prescribed by the County Recorder or

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officer in charge of elections, the location and/or unique identification number of the location or drop-box and the date and time of arrival.

- e. The designated ballot retrievers shall retrieve the voted ballots by either placing the voted ballots in a secure ballot transfer container, retrieving the secure ballot container from inside the drop-box, or retrieving the staffed drop-box which also serves as a secure ballot container. If the drop-box includes a secure ballot container, the designated ballot retrievers shall place an empty secure ballot container inside the drop-box. The time of departure from the drop-off location or drop-box shall be noted on the retrieval form.
- f. Upon arrival at the office of the County Recorder or officer in charge of elections, central counting place, or other receiving site, the designated ballot retrievers shall note the time of arrival on the retrieval form. The County Recorder or officer in charge of elections (or designee) shall inspect the secure ballot container for evidence of tampering and shall confirm receipt of the retrieved ballots by signing the retrieval form and indicating the date and time of receipt. If there is any evidence of tampering, that fact shall be noted on the retrieval form.
- g. The completed retrieval form shall be attached to the outside of the secure ballot container or otherwise maintained in a manner prescribed by the County Recorder or officer in charge of elections that ensures the form is traceable to its respective secure ballot container.
- h. When the secure ballot container is opened by the County Recorder or officer in charge elections (or designee), the number of ballots inside the container shall be counted and noted on the retrieval form.

Ballots retrieved from a ballot drop-off location or drop-box shall be processed in the same manner as ballots-by-mail personally delivered to the County Recorder or officer in charge of elections, dropped off at a voting location, or received via the United States Postal Service or any other mail delivery service, *see* [Chapter 2, Section VI](#).

J. Reporting Ballot-by-Mail Requests and Returns

At the request of a state or county political party chairperson before an election, a County Recorder must provide the following information at no cost to the political party:

- A listing of registrants who have requested a ballot-by-mail. This information must be provided daily Monday through Friday, beginning 33 days before the election and through the Friday before the election;
- A listing of registrants who have returned their ballot-by-mail, which must be provided daily in Maricopa and Pima Counties and weekly in all other counties.
 - Daily information in Maricopa and Pima Counties must be provided Monday through Friday, beginning the first Monday after early voting commences and ending the Monday before the election;

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- Weekly information in all other counties must be provided beginning on the Friday after early voting commences and ending on the Friday before the election.

[A.R.S. § 16-168\(D\).](#)

Ballot-by-mail request and return reports should conform to the format established for precinct lists as nearly as practicable (see [Chapter 1, Section X\(A\)\(1\)](#)) and should contain the following minimum information:

1. Registrant's name;
2. Voter registration/ID number;
3. Residential address;
4. Mailing address (if different from residential address);
5. Political party;
6. Whether PEVL or one-time request (ballot-by-mail request reports only); and
7. Date of request, for one-time requests (ballot-by-mail request reports only).

The first ballot-by-mail request report should contain all PEVL registrants and registrants who made a one-time ballot-by-mail request up to the time of the report. Subsequent ballot-by-mail request reports should include new one-time ballot-by-mail requests that have been made since the last report.

II. ON-SITE EARLY VOTING

A County Recorder shall establish on-site early voting at the County Recorder's office during the early voting period. A County Recorder may also establish additional in-person early voting locations throughout the county as practicable to ensure that all voters may reasonably access at least one early voting location. [A.R.S. § 16-246\(C\)](#); [A.R.S. § 16-542\(A\)](#).

A voter must cast a ballot issued at the on-site early voting location at that location, and may not remove that ballot from the location. An early ballot must be issued even if the voter previously requested or received a ballot-by-mail, but only the first ballot received and verified by the County Recorder shall be counted.

An elector who appears at an on-site early voting location by 5:00 p.m. on the Friday preceding the election and presents valid identification must be given a ballot and permitted to vote at the on-site early voting location. [A.R.S. § 16-542\(E\)](#).

A. Posting Notice of Write-In and Withdrawn Candidates

A County Recorder must post a Notice of Write-In and Withdrawn Candidates at each on-site early voting location. [A.R.S. § 16-312\(E\)](#); [A.R.S. § 16-343\(G\)](#).

listed in [A.R.S. § 16-591](#) as a basis for the challenge.

[A.R.S. § 16-552](#); [A.R.S. § 16-594](#).

VI. PROCESSING AND TABULATING EARLY BALLOTS

The following procedures for processing early ballots shall be followed, unless the Secretary of State has granted a jurisdiction permission to use another method otherwise consistent with applicable law. A jurisdiction wishing to deviate from these instructions must make a request in writing no later than 90 days prior to the election for which the exception is requested.

A. County Recorder Responsibilities

1. Signature Verification

Upon receipt of the return envelope with an early ballot and completed affidavit, a County Recorder or other officer in charge of elections shall compare the signature on the affidavit with the voter's signature in the voter's registration record. In addition to the voter registration form, the County Recorder should also consult additional known signatures from other official election documents in the voter's registration record, such as signature rosters or early ballot/PEVL request forms, in determining whether the signature on the early ballot affidavit was made by the same person who is registered to vote.

- If **satisfied** that the signatures were made by the same person, the County Recorder shall place a distinguishing mark on the unopened affidavit envelope to indicate that the signature is sufficient and safely keep the early ballot and affidavit (unopened in the return envelope) until they are transferred to the officer in charge of elections for further processing and tabulation.
- If **not satisfied** that the signatures were made by the same person the County Recorder shall make a reasonable and meaningful attempt to contact the voter via mail, phone, text message, and/or email, notify the voter of the inconsistent signature, and allow the voter to correct or confirm the signature. The County Recorder shall attempt to contact the voter as soon as practicable using any contact information available in the voter's record and any other source reasonably available to the County Recorder.

Voters must be permitted to correct or confirm an inconsistent signature until 5:00 p.m. on the fifth business day after a primary, general, or special election that includes a federal office or the third business day after any other election. For the purposes of determining the applicable signature cure deadline: (i) the PPE is considered a federal election; and (ii) for counties that operate under a four-day workweek, only days on which the applicable county office is open for business are considered "business days."

If the early ballot affidavit is not signed, the County Recorder shall not count the ballot. The County Recorder shall then make a reasonable and meaningful attempt to contact the voter via

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mail, phone, text message, and/or email, to notify the voter the affidavit was not signed and explain to the voter how they may cure the missing signature or cast a replacement ballot before 7:00pm on Election Day. The County Recorder shall attempt to contact the voter as soon as practicable using any contact information available in the voter's record and any other source reasonably available to the County Recorder. Neither replacement ballots nor provisional ballots can be issued after 7:00pm on Election Day.

All early ballots, including ballots-by-mail and those cast in-person at an on-site early voting location, emergency voting center, or through a special election board must be signature-verified by the County Recorder. However, because voters who cast an early ballot in-person at an on-site early voting location, emergency voting center, or through a special election board must show identification prior to receiving a ballot, early ballots cast in-person should generally not be invalidated based solely on an allegedly inconsistent signature absent other evidence that the signatures were not made by the same person. After verifying an in-person early ballot, a County Recorder may update the signature in a voter's record by scanning the voter's affidavit signature and uploading the signature image to the voter's record.

[A.R.S. § 16-550\(A\)](#); [A.R.S. § 16-552\(B\)](#).

2. Rejected Early Ballots

If the County Recorder or other officer in charge of elections determines the ballot should be rejected, they shall:

- Indicate for each ballot that the ballot has been rejected;
- Note on the early ballot report or audit report the voter's ID number (or other unique ID number) and the reason for rejection; and
- Set aside the unopened affidavit envelope in the designated stack.

3. Incorrect Ballots

If it is determined that the voter was sent an incorrect ballot and there is sufficient time to mail a new ballot and receive the correct voted ballot back from the voter, the County Recorder or other office in charge of elections shall make reasonable efforts to contact the voter and issue a correct ballot.

If it is too late to mail the correct ballot when the error is discovered but it is still possible to link the ballot to the specific voter, the incorrect ballot shall be sent to the Ballot Duplication Board, and any offices or issues the voter could have lawfully voted for shall be duplicated onto the correct ballot.

B. Early Ballot Board Responsibilities

The Board of Supervisors or officer in charge of elections shall appoint one or more early ballot boards consisting of an inspector and two judges (the two judges must be from different political

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taken up a residence apart from their family with the intention of remaining in that separate residence shall be regarded as a resident where the person resides.

9. A United States citizen who has never resided in the United States is eligible to vote in this state by using a federal write-in early ballot if both of the following apply:
 - A parent is a United States citizen.
 - The parent is registered to vote in this state.
10. The mere intention of acquiring a new residence without leaving the state, or leaving the state without the intent to permanently do so, does not cause a loss of residency.

[A.R.S. § 16-593\(A\)](#); [A.R.S. § 16-593\(C\)](#). Board members should consult above residency requirements when determining registration validity.

If the challenged voter appears to be registered, the challenged voter must orally take the oath prescribed in the State Form: “I swear or affirm that the information in my voter registration is true, that I am a resident of Arizona, I have not been convicted of a felony or my civil rights have been restored, and I have not been adjudicated incapacitated with my voting rights revoked.” [A.R.S. § 16-592\(A\)](#).

The challenged voter also may choose to answer questions material to the challenge, under oath. Only the inspector may address questions to the challenged voter. [A.R.S. § 16-592\(A\)](#).

If a majority of the board finds the challenge to be invalid, the voter must be permitted to vote a regular ballot, so long as the voter is otherwise eligible to do so. [A.R.S. § 16-592\(B\)](#).

If the person challenged refuses to take any oath, refuses to answer questions material to the challenge, or if a majority of the board finds that the challenge is valid, the challenged voter must be permitted to vote a provisional ballot. [A.R.S. § 16-592\(C\)](#).

In the case of any challenge, the election board must complete the Official Challenge List (*see Chapter 17* for sample forms) and may seek guidance from the officer in charge of the election.

VIII. CLOSING THE VOTING LOCATION

A. Announcing the Closing of the Polls

The polls close at 7:00 p.m. on Election Day. [A.R.S. § 16-565\(A\)](#). The marshal must announce the closing of the polls and make the following additional public announcements (inside the voting location and to any voters waiting in line) at the specified time intervals:

- 1 hour before the closing of the polls;
- 30 minutes before the closing of the polls;
- 15 minutes before the closing of the polls;
- 1 minute before the closing of the polls; and

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- At the moment of closing at 7:00 p.m.

[A.R.S. § 16-565\(C\)](#). The marshal must allow everyone to vote who is physically in line at the moment of closing the polls. The marshal may use any reasonable system to document or keep track of which voters were in line as of 7:00 p.m., for example, by standing in line behind the last person to arrive as of the closing of the polls and telling those who arrive later that the polls are closed. Voters who arrive in line after 7:00 p.m. on Election Day are not permitted to vote. [A.R.S. § 16-565\(D\)](#).

B. Election Board Close-Out Duties

Upon closing the voting location after the last voter has voted on Election Day, the election board should perform close-out duties as assigned by the officer in charge elections, including the following duties as applicable:

1. Using the procedures specified by the officer in charge of elections, the election board must conduct an audit to ensure that the number of voters who signed in on the signature roster or e-pollbook matches the number of ballots cast, including regular and provisional ballots and, if the accessible voting equipment independently tabulates votes, any votes cast on the accessible voting equipment, [A.R.S. § 16-602\(A\)](#).
 - a. If ballots are tabulated at the voting location; a printed statement of tally or summary of all vote totals shall be printed from every tabulation machine, and the number of ballots cast shall be compared to the signature roster and/or e-pollbook list and provided with the Official Ballot Report, [A.R.S. § 16-607](#).
2. The information from this audit must be recorded on an Official Ballot Report form, as provided by the officer in charge of elections, which must include:
 - a. The total number of printed ballots or estimated number of ballot stock received from the officer in charge of elections;
 - b. The number of voters who signed in on the signature roster, poll list, or e-pollbook and are indicated as having been issued regular ballots;
 - c. The number of voters who signed in on the signature roster, poll list, or e-pollbook and are indicated as having been issued provisional and conditional provisional ballots;
 - d. The number of regular ballots cast as determined by the election board's manual count if tabulation is not done at the voting location, or as reflected on the printed summary tape from the tabulation machine if tabulation is done at the voting location;
 - e. The number of provisional and conditional provisional ballots cast;
 - f. The number of unused ballots, spoiled ballots, misread ballots that still need to be tabulated (if tabulation is done at the voting location), and write-in ballots (if applicable);

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- g. The number of early ballots received by the voting location (unless ballots are transported in a secure and sealed transport container to the central counting place to be counted there);
 - h. In counties that use accessible voting units that independently tabulate, the number of regular and provisional ballots cast on the unit, and the unit's beginning and ending counts (if applicable);
 - i. The Official Ballot Report must be signed by the inspector and both judges, and if there are any discrepancies in the report, an explanation for the discrepancy should be attached or otherwise provided with the Official Ballot Report. The Audit Board will use this information to conduct their post-election audit (*see* [Chapter 10, Section II\(H\)](#)).
- 3. Secure the ballot boxes with a numbered seal, [A.R.S. § 16-608\(A\)](#);
 - 4. Remove all memory cards or electronic media from voting equipment and e-pollbooks (if applicable);
 - a. Lock and/or seal any ports or compartments where memory cards or electronic media had been inserted.
 - 5. Power down any voting equipment and prepare the equipment for transport/pick-up;
 - 6. Collect all supplies required to be returned to the elections department;
 - 7. Sign the Certificate of Performance for the signature roster or e-pollbook;
 - 8. Prepare the official returns envelopes/containers and, if applicable, unofficial returns envelopes/containers, including the following items, for transport to the central counting place or other receiving site:
 - a. Official and unofficial returns envelopes/containers shall be plainly marked to identify items to be placed within each envelope/container:
 - The official returns envelope/container shall be securely sealed with a tamper-evident, secure label signed by the inspector and both judges and should include, as applicable:
 - Spoiled ballots, including any spoiled early ballots, [A.R.S. § 16-585](#);
 - One copy of the poll list (if the county uses paper signature rosters); and
 - Affidavits of challenged voters, decisions of election officials, and challenge lists, [A.R.S. § 16-594](#);
 - The unofficial returns envelope/container shall be returned with the official returns envelope/container and shall be made available for inspection by electors for a period of six months following the election. The unofficial returns envelope/container shall include the following, as applicable:
 - A copy of the paper signature roster and poll list (if e-pollbooks are used, the e-pollbook list must be captured (*e.g.*, on memory sticks or electronic media, or exported from the e-pollbooks) and retained);

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- Payroll voucher envelope, if applicable, with the Official Ballot Report or duplicate thereof; and
 - Any other items as directed by the officer in charge of elections;
- b. Voted ballots (with a report of the number of voters who have voted, sealed in a container with a numbered seal, [A.R.S. § 16-608\(A\)](#));
 - c. Unvoted ballots (in a sealed container, [A.R.S. § 16-566\(B\)](#));
 - d. The original Official Ballot Report (if not included in the unofficial returns envelope/container);
 - e. Tally lists, if ballots are tabulated at the voting location (enclosed in a secure envelope which is sealed and signed by the members of the board (inspector and both judges) and attested by the clerks), [A.R.S. § 16-614](#);
 - f. The original signature rosters/poll lists, if applicable (enclosed in a secure envelope, sealed and signed by the inspector and judges), [A.R.S. 16-615\(A\)](#));
 - g. E-pollbooks (if the signature roster information remains in the e-pollbook and has not been extracted by removing memory cards or electronic media or otherwise securely synced with the central server);
 - h. Memory sticks or electronic media (securely sealed in a transport container for that purpose); and
 - i. Any voting equipment that independently tabulates (if memory sticks or electronic media have not been removed).
9. All election night returns must be delivered to designated receiving site and a receiving board log of the transmissions should be kept by the receiving board which will later be provided to the officer in charge of elections; and
 10. Exit and lock the voting location.

C. Transport of Ballots, Voting Equipment, and Precinct Supplies

Following the close of voting on Election Day, the transport of any ballots, voting equipment, and necessary precinct supplies to the central counting place or other authorized receiving site must be done by: (1) two authorized election workers, who must be members of different political parties; or (2) if extenuating circumstances exist, a sworn official election messenger, such as a sheriff's deputy, appointed in accordance with [A.R.S. § 16-615\(B\)](#).

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10-13-22

DATE RECEIVED FROM MC

BRANDON

RES EMPLOYEE

7:35

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB				
OUT OF SPEC				
NEED PACKET	1	60	YES	TS147003 TS147004
BLUE ENVELOPES				
LATES				
CTR	1	159	✓	TS147230 TS147229

RETRIEVED FROM DEMOCRACYDOCKET.COM

CUSTODY EXCHANGE

10/13/22
DATE

Oscar Miranda
COUNTY RECEIVED

10-13-22
DATE

R. L. Smith
RES WITNESS

10/13/22
DATE

Travis T. Sts
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/14

DATE RECEIVED FROM MC

Ricardo Ramez

RES EMPLOYEE

8:03 AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	1	13	—	—
REGULAR MOB	1	7	—	
OUT OF SPEC				
NEED PACKET	1	10	Y	15147005/15147006
BLUE ENVELOPES				
LATES				
CTR	1	254	—	

CUSTODY EXCHANGE

10/14/22

DATE

Oscar Miranda

COUNTY RECEIVED

10/14

DATE

Ricardo Ramez

RES WITNESS

10/14/22

DATE

Donna T. Stea

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/17

DATE RECEIVED FROM MC

Ricardo Rames

RES EMPLOYEE

8:05AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	15x350	5250	—	
REGULAR MOB	1	4		
OUT OF SPEC				
NEED PACKET	1	7	Y	15439989 / 15439990
BLUE ENVELOPES				
LATES				
CTR	1	22	—	

RETRIEVED FROM DEMOCRACYDOCKET.COM

CUSTODY EXCHANGE

10/17/22

DATE

Araceli Miranda

COUNTY RECEIVED

10/17

DATE

Ricardo Rames

RES WITNESS

10/17/22

DATE

Frank E. Eder

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/18

DATE RECEIVED FROM MC

Ramos

RES EMPLOYEE

6:47 AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	84x400	33,600		
REGULAR MOB	1	599		
OUT OF SPEC				
NEED PACKET	1	13	Y	15439988 / 15439987
BLUE ENVELOPES				
LATES				
CTR	1	281	—	

CUSTODY EXCHANGE

10/18/22

DATE

Oscar Miranda

COUNTY RECEIVED

10/18

DATE

R. Ramos

RES WITNESS

10/18/22

DATE

John T. Smith

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/19

DATE RECEIVED FROM MC

Ramos

RES EMPLOYEE

6:40 A.M

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	102 x 350	35,700	—	—
REGULAR MOB	1	1143	—	—
OUT OF SPEC				
NEED PACKET	1	41	Y	15439985 / 15439986
BLUE ENVELOPES				
LATES				
CTR	1	273	—	—

CUSTODY EXCHANGE

10/19/22

DATE

Oscar Miranda

COUNTY RECEIVED

10/19

DATE

Ramos

RES WITNESS

10/19

DATE

rt Viller

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389
ELECTION
Ramos
RES EMPLOYEE

10/19
DATE RECEIVED FROM MC
5:10 PM
TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	1	350	—	—
REGULAR MOB	3	1806	—	—
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR	1	274	—	—

RETRIEVED FROM DEMOCRACYDOCKET.COM

CUSTODY EXCHANGE

10/19/22
DATE
10/19
DATE
10/19/22
DATE

Oscar Miranda
COUNTY RECEIVED
Ramos
RES WITNESS
[Signature]
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/20

DATE RECEIVED FROM MC

Ramos

RES EMPLOYEE

AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	111 x 350	38,850	✓	✓
REGULAR MOB				
OUT OF SPEC				
NEED PACKET	1	162	✓	15439984 / 15439983
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

10/20/22

DATE

Oscar Miranda

COUNTY RECEIVED

10/20

DATE

Ramos

RES WITNESS

10/20/22

DATE

Jorge T. Soto

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/20

DATE RECEIVED FROM MC

Ramos

RES EMPLOYEE

5:50 PM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	1	100	—	—
REGULAR MOB	4	2213	—	—
OUT OF SPEC				
NEED PACKET	1	89	✓	15439981 / 15439982
BLUE ENVELOPES				
LATES				
CTR	1	339	—	—

CUSTODY EXCHANGE

10/20/22

DATE

Osceola

COUNTY RECEIVED

10/20

DATE

Ramos

RES WITNESS

10/20/22

DATE

Donna T. S.

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/21

DATE RECEIVED FROM MC

Ramos

RES EMPLOYEE

6:37 AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	92 x 350	32,200	—	—
REGULAR MOB				
OUT OF SPEC				
NEED PACKET	1	52	✓	15439947 / 15439948
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

10/21/22

DATE

Oscar Miranda

COUNTY RECEIVED

10/21

DATE

Ramos

RES WITNESS

10/21

DATE

VA Valler

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/21

DATE RECEIVED FROM MC

Ramos

RES EMPLOYEE

5:19 PM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB	2	1793	—	—
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR	1	268	—	—

CUSTODY EXCHANGE

10/21/22
DATE

Oscar Miranda
COUNTY RECEIVED

10/21
DATE

Ramos
RES WITNESS

10/21
DATE

JA Valler
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/22/22

DATE RECEIVED FROM MC

Denise

RES EMPLOYEE

10:05

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	138	48,000	NO	
REGULAR MOB				
OUT OF SPEC				
NEED PACKET	1	263	yes	IS 439941 IS 439942
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

DATE

10/22/22

DATE

COUNTY RECEIVED

Denise M...

RES WITNESS

DATE

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/24

DATE RECEIVED FROM MC

Ramos

RES EMPLOYEE

6:50 AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	87 x 350	28,700	—	—
REGULAR MOB				
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

10/24/22
DATE

Oscar Miranda
COUNTY RECEIVED

10/24
DATE

Ramos
RES WITNESS

10/24/22
DATE

St. Valen
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/24/22

DATE RECEIVED FROM MC

Ramos

RES EMPLOYEE

6 25 pm

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB	10	5,791		
OUT OF SPEC				
NEED PACKET	1	203	X	15439945
BLUE ENVELOPES				
LATES				
CTR	2	500	N	—

RETRIEVED FROM DEMOCRACYDOCKET.COM

CUSTODY EXCHANGE

10/24/22

DATE

Acari Miranda

COUNTY RECEIVED

10/24/22

DATE

Ramos

RES WITNESS

10/24/22

DATE

SSAN PAGES

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/25

DATE RECEIVED FROM MC

Ramos

RES EMPLOYEE

6:39 AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	213 x 350	74,550	—	—
REGULAR MOB				
OUT OF SPEC				
NEED PACKET	1	212	✓	15146145 / 15146146
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

10/25/22
DATE

10/25
DATE

10/25
DATE

Oscar Miranda
COUNTY RECEIVED

Ramos
RES WITNESS

A. Valles
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389
ELECTION

BRANDON
RES EMPLOYEE

10/25
DATE RECEIVED FROM MC

7:13
TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	1	350	~	~
REGULAR MOB	9	6263	Y	~
OUT OF SPEC	1	49	Y	IS146143
NEED PACKET	1	313	Y	IS146144
BLUE ENVELOPES				IS146141
LATES				IS146142
CTR	1	611	Y	~

CUSTODY EXCHANGE

10/25/22
DATE

10/25
DATE

10/25/20
DATE

Osceola Miranda
COUNTY RECEIVED

Rhr
RES WITNESS

[Signature]
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/26

DATE RECEIVED FROM MC

Ramos

RES EMPLOYEE

6:38 AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	159x350	55,650	—	—
REGULAR MOB				
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

10/26/22

DATE

10/26

DATE

10/26/22

DATE

Oran Miranda

COUNTY RECEIVED

Ramos

RES WITNESS

Donk T. St.

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/26

DATE RECEIVED FROM MC

Ramos

RES EMPLOYEE

6:00 PM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB	8	5676	—	—
OUT OF SPEC				
NEED PACKET	1	434	Y	15439944 / 15439943
BLUE ENVELOPES				
LATES				
CTR	1	621	—	—

CUSTODY EXCHANGE

10/26/22

DATE

Oscar Miranda

COUNTY RECEIVED

10/26

DATE

Ramos

RES WITNESS

10/26/22

DATE

[Signature]

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/27

DATE RECEIVED FROM MC

Ramos

RES EMPLOYEE

6:43 AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	126x350	44,100		
REGULAR MOB				
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

10/27/22

DATE

Oscar Miranda

COUNTY RECEIVED

10/27

DATE

Ramos

RES WITNESS

10/27/22

DATE

Derek T. Smith

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/27/22

DATE RECEIVED FROM MC

ANDY

RES EMPLOYEE

7:00 pm

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	2@400	800	N	
REGULAR MOB	8	5356	-	-
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR	1	561		

CUSTODY EXCHANGE

10/27/22
DATE

Oscar Miranda
COUNTY RECEIVED

10/27/22
DATE

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RES WITNESS

10/27/22
DATE

[Signature] SEAN PAGE
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389
ELECTION
Ricardo Ramos
RES EMPLOYEE

10/28
DATE RECEIVED FROM MC
6:39 AM
TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	141x350	49,360	—	—
REGULAR MOB				
OUT OF SPEC				
NEED PACKET	2	545	Y	151634895/151634894 151634898/15145195
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

10/28
DATE

10/28
DATE

10/28/22
DATE

Oscar Miranda
COUNTY RECEIVED

Ricardo Ramos
RES WITNESS

[Signature]
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389
ELECTION
ANTY
RES EMPLOYEE

10/28/22
DATE RECEIVED FROM MC
6:30 PM
TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB	11	6539	✓	—
OUT OF SPEC	2	1		
NEED PACKET	1	406	✓	15150681 15150684
BLUE ENVELOPES				
LATES				
CTR	2	14	✓	—

CUSTODY EXCHANGE

10/28/22
DATE

Oscar Nkando
COUNTY RECEIVED

10/28/22
DATE

[Signature]
RES WITNESS

10/28/22
DATE

[Signature]
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/29

DATE RECEIVED FROM MC

Ricardo Ramos

RES EMPLOYEE

11:37 AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	123x350	43,050	—	—
REGULAR MOB				
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

10/29/22

DATE

Oscar M. ...

COUNTY RECEIVED

10/29

DATE

Ricardo Ramos

RES WITNESS

10/29/22

DATE

...

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

11389
ELECTION
Ricardo Ramos
RES EMPLOYEE

10/31
DATE RECEIVED FROM MC
6:54 AM
TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	96x350	33,600	—	—
REGULAR MOB	8	5,281	—	—
OUT OF SPEC				
NEED PACKET	1	194	Y	15150683/ 15150682
BLUE ENVELOPES				
LATES				
CTR	3	1639	—	—

CUSTODY EXCHANGE

10/31/22
DATE

10/31
DATE

10/31/22
DATE

Oscar Miranda
COUNTY RECEIVED

Ricardo Ramos
RES WITNESS

Derek T. [Signature]
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

10/31/22

DATE RECEIVED FROM MC

ANDY

RES EMPLOYEE

7:50 PM

TIME


TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	1 @ 350	250	✓	—
REGULAR MOB	20	13,765	✓	—
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR	2	2,050	✓	—

CUSTODY EXCHANGE

10/31/22
DATE

Oscar Miranda
COUNTY RECEIVED

10/31/22
DATE


RES WITNESS

10/31/22
DATE


WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389
ELECTION
Ricardo Ramos
RES EMPLOYEE

11/1
DATE RECEIVED FROM MC
7:00 AM
TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	258 x 350	90,300	—	—
REGULAR MOB				
OUT OF SPEC				
NEED PACKET	1	938	1	15439043 / 15149641
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

11/01/22
DATE
11/1
DATE
11/01
DATE

Oscar Miranda
COUNTY RECEIVED
Ricardo Ramos
RES WITNESS
A. Valles
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1289
ELECTION

ANDY
RES EMPLOYEE

11/1/22
DATE RECEIVED FROM MC

7:05 pm
TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB	7	16,686		
OUT OF SPEC	1	80		151491111 - 151491115
NEED PACKET	1	370		15149642 - 15149643
BLUE ENVELOPES				
LATES				
CTR	4	2,751	2	

CUSTODY EXCHANGE

11/01/22
DATE

Oscar Miranda
COUNTY RECEIVED

11/1/22
DATE

[Signature]
RES WITNESS

11/01/22
DATE

[Signature]
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11/02

DATE RECEIVED FROM MC

Ricardo Ramos

RES EMPLOYEE

6:35 AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	180x400	72,000	—	—
REGULAR MOB				
OUT OF SPEC				
NEED PACKET	1	186	Y	15149650/15149649
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

11/02/22

DATE

Oscar Miranda

COUNTY RECEIVED

11/02

DATE

Ricardo Ramos

RES WITNESS

11/2/22

DATE

Daniel Soto

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11-2-22

DATE RECEIVED FROM MC

ADRIAN G.

RES EMPLOYEE

7:20 pm

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB	25	16,640	2	—
OUT OF SPEC				
NEED PACKET	1	720	4	15149646 15149647
BLUE ENVELOPES				
LATES				
CTR	5	3,087	2	—

CUSTODY EXCHANGE

11/02/22
DATE

Oscar Miranda
COUNTY RECEIVED

11/2/22
DATE

[Signature]
RES WITNESS

11/2/22
DATE

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WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11/03

DATE RECEIVED FROM MC

Ricardo Ramos

RES EMPLOYEE

6:58 AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	76 x 400	30,400	—	—
REGULAR MOB				
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

11/03/22

DATE

11/03

DATE

11/03

DATE

Oscar Miranda

COUNTY RECEIVED

Ricardo Ramos

RES WITNESS

St Valles

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11/13/22

DATE RECEIVED FROM MC

ANDY

RES EMPLOYEE

7:00 PM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB	25	15,013	N	
OUT OF SPEC	1	117	Y	15142811 15142812
NEED PACKET	1	520		15143555 15143556
BLUE ENVELOPES				
DATES				
CTR	4	3.5	N	

CUSTODY EXCHANGE

11/03/22
DATE

David Rhonda
COUNTY RECEIVED

11/13/22
DATE

RES WITNESS

11/03/22
DATE

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11/04

DATE RECEIVED FROM MC

Ricardo Ramos

RES EMPLOYEE

7:00 AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	34 x 400	13600	/	/
REGULAR MOB				
OUT OF SPEC				
NEED PACKET	1	36	/	15148558 / 15149648
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

11/04/22

DATE

Osca Miranda

COUNTY RECEIVED

11/04

DATE

Ricardo Ramos

RES WITNESS

11/04/22

DATE

David T. St.

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11/4/22

DATE RECEIVED FROM MC

ANDY

RES EMPLOYEE

7:00pm

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB	25	11151	2	
OUT OF SPEC				
NEED PACKET	2	1209		11116815-13114816 11116813-13114815-7
BLUE ENVELOPES				
LATES				
CTR	5	1172	11	

CUSTODY EXCHANGE

11/04/22
DATE

Debra Miranda
COUNTY RECEIVED

11/4/22
DATE

[Signature]
RES WITNESS

11/04/22
DATE

[Signature]
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

Ricardo Ramos

RES EMPLOYEE

11/06

DATE RECEIVED FROM MC

7:20 AM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	12x400	4,800	—	—
REGULAR MOB	24	14,323	—	—
OUT OF SPEC				
NEED PACKET	1	650	—	15439861 / 15146814
BLUE ENVELOPES				
LATES				
CTR	6	5600	—	—

CUSTODY EXCHANGE

11/06/22

DATE

11/06

DATE

11/06/22

DATE

Oscar Miranda

COUNTY RECEIVED

Ricardo Ramos

RES WITNESS

Jack T. [Signature]

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389
ELECTION
Ricardo Ramos
RES EMPLOYEE

11/07
DATE RECEIVED FROM MC
6:38 AM
TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	4 x 400	1600	/	/
REGULAR MOB	5	3020	/	/
OUT OF SPEC				
NEED PACKET	1	756	Y	15439863/15439862
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

11/07/22
DATE

11/07
DATE

11/07/22
DATE

Osas Miranda
COUNTY RECEIVED

Ricardo Ramos
RES WITNESS

Frank T. [Signature]
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

ELECTION Day 1389

ELECTION

11/08
DATE RECEIVED FROM MC

Ricardo Ramos
RES EMPLOYEE

6:47 AM
TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	14x400	5600	—	—
REGULAR MOB	46	33994	—	—
OUT OF SPEC				
NEED PACKET	2	1041	✓	15439865/15439864 15439881/15439882
BLUE ENVELOPES				
LATES				
CTR	16	7849	—	—

CUSTODY EXCHANGE

11/08/22
DATE

Oscar Miranda
COUNTY RECEIVED

7:00 AM

11/08 6:53 AM
DATE

Ricardo Ramos
RES WITNESS

11/08
DATE

✓ A Valler 6:54 AM
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11/18/22

DATE RECEIVED FROM MC

ANDY

RES EMPLOYEE

7:15 PM

TIME

HW 11/18/22
12:00 PM

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB				
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR				
Election Night	5@350	150	N	—

RETRIEVED FROM DEMOCRACYDOCKET.COM

11/08/2022 9:24pm Hperdy, Rgn-

11/08/2022 9:33 Hperdy, Rgn-

CUSTODY EXCHANGE

11/08/22
DATE

Oscar Miranda
COUNTY RECEIVED

10:00 AM

11/18/22
DATE

RES WITNESS 7:15 PM

11/08/22
DATE

WITNESS 1004 PM

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11/8/22

DATE RECEIVED FROM MC


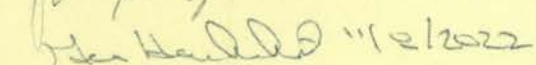
ANDY

RES EMPLOYEE

10:00 pm

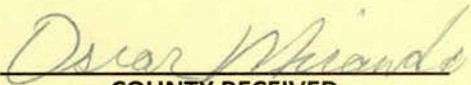
TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB				
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR				
Election Night	27 @ 350	9,450	N	—

 11/8/22
 11/8/22

CUSTODY EXCHANGE

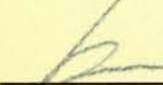
11/08/22
DATE

 10:00 P.M.
 COUNTY RECEIVED

11/8/22 10:00 pm
DATE


 RES WITNESS

11/08/22
DATE


 WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11/8/22 11:43 PM

DATE RECEIVED FROM MC

ANDY

RES EMPLOYEE

11:43 PM

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND	9			
REGULAR MOB				
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR				
Election Night	81@350	28350	N	—

[Signature] 11/08/2022
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CUSTODY EXCHANGE

11/08/22
 DATE

[Signature]
 COUNTY RECEIVED

11/8/22 11:45 PM
 DATE

[Signature]
 RES WITNESS

11/08/22
 DATE

[Signature]
 WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11/9/22

DATE RECEIVED FROM MC

ANDY

RES EMPLOYEE

4:43 am

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB				
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR				
Election night	105@350	36750	N	—

RETRIEVED FROM DEMOCRACYDOCKET.COM

[Signature] 11/09/2022
[Signature] 11/09/2022

CUSTODY EXCHANGE

11/09/22
 DATE

[Signature]
 COUNTY RECEIVED

11/9/22 4:45am
 DATE

[Signature]
 RES WITNESS

11/09/22 4:45AM
 DATE

[Signature]
 WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11/9/22

DATE RECEIVED FROM MC

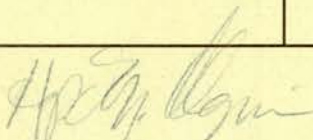
ANDY

RES EMPLOYEE

1:43 am

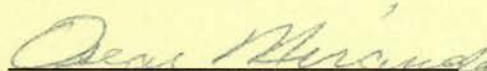
TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB				
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
OR				
Election night	186 @ 350	65 @ 100	N	—

 11/09/2022
 Mary H. H. H. 11/09/2022

CUSTODY EXCHANGE

11/08/22
DATE

 1:45 AM
 COUNTY RECEIVED

11/9/22 1:45 am
DATE


 RES WITNESS

11/09/22 01:45 AM
DATE


 WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11/9/22

DATE RECEIVED FROM MC

ANDY

RES EMPLOYEE

3:27 am

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB				
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES				
CTR				
Election night	210@350	73500	N	—

CUSTODY EXCHANGE

11/09/22

DATE

Oscar Miranda

COUNTY RECEIVED

11/9/22 3:27 am

DATE

[Signature]

RES WITNESS

11/9/22 3:27 AM

DATE

[Signature]

WITNESS

MC INBOUND - RECEIPT OF DELIVERY

LATES

-1389

ELECTION

11-9
DATE RECEIVED FROM MC

BRANDON
RES EMPLOYEE

2:28 PM
TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB				
OUT OF SPEC				
NEED PACKET				
BLUE ENVELOPES				
LATES	1	184	~	~
CTR				

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda 2:43 PM
COUNTY RECEIVED

11-9 2:28 PM
DATE

Brandon Sanchez
RES WITNESS

11/9/22 2:45 PM
DATE

Duck T. Star
WITNESS

MC INBOUND - RECEIPT OF DELIVERY

1389

ELECTION

11/11/2022

DATE RECEIVED FROM MC

[Signature]

RES EMPLOYEE

7:22

TIME

TYPE OF INBOUND	# OF TRAYS / TUBS	QTY OF PIECES	SEALED YES / NO	SEAL #
POST OFFICE INBOUND				
REGULAR MOB				
OUT OF SPEC				
NEED PACKET	287 1	287	YRS	75439868 75439869
BLUE ENVELOPES				
LATES				
CTR				

CUSTODY EXCHANGE

11/11/22
DATE

Oscar Miranda 7:35 AM
COUNTY RECEIVED

11/11/2022 7:22
DATE

[Signature]
RES WITNESS

11/11/22
DATE

A Valles 7:29 AM
WITNESS

RETRIEVED FROM DEMOCRACYDOCKET.COM

CASE NO: CV2022-095403

***Kari Lake v.
Katie Hobbs, et al.***

DEFENDANTS' EXHIBIT 33

DEFS00778

Hobbs.App.:132

MC INCOMING SCAN RECEIPT

1389

ELECTION

Jonathan S.

RES OPERATOR

11/9/22

(DATE)

int AW int _____ int _____ int _____ int _____ int _____

BATCH #:

11092022-01174

INBOUND SCAN

9940

PROVISIONALS

0

OVER

4

UNDER

1

VALID APP ID

0

UNREADABLE

0

sm- /

lg-

sm-

lg-

sm-

lg-

sm-

lg-

Finished @ 1:01am

[Signature]

[Signature] 11/09/2022

[Signature] 11/09/2022

CUSTODY EXCHANGE

11/09/22
DATE

Oscar Miranda
COUNTY RECEIVED

1:45 A.M.

11/9/22 1:45am
DATE

[Signature]
RES WITNESS

11/09/22 1:47am
DATE

[Signature]
WITNESS

MC INCOMING SCAN RECEIPT

1389

ELECTION

Jonathan S.

RES OPERATOR

11/9/22

(DATE)

int 92 int AG int _____ int _____ int _____ int _____ int _____ int _____

BATCH #:

110920220118

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	10476			
PROVISIONALS	0			
OVER	8			
UNDER	0			
INVALID APP ID	0			
UNREADABLE	2			
	sm- lg-	sm- lg-	sm- lg-	sm- lg-

Finished @ 1:45 am

CUSTODY EXCHANGE

11/09/22
DATE

Oscar Miranda
COUNTY RECEIVED

11/9/22 3:30 AM
DATE

RES WITNESS

11/9/22 3:30 AM
DATE

WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Sorathau S.
RES OPERATOR

11/9/22
(DATE)

int ll int AW int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022-0119

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	10190			
PROVISIONALS	0			
OVER	8			
UNDER	0			
VALID APP ID	0			
UNREADABLE	0			
	sm- 1 lg-	sm- lg-	sm- lg-	sm- lg-

Finished @ 2:19pm

11/9/22

Hopkins 11/09/2022

Mrs. Ide 11/09/2022

CUSTODY EXCHANGE

11/09/22
DATE

Oscar Miranda
COUNTY RECEIVED

11/9/22 3:30am
DATE

[Signature]
RES WITNESS

11/9/22 3:30am
DATE

[Signature]
WITNESS

MC INCOMING SCAN RECEIPT

1329

ELECTION

Jonathan D.

RES OPERATOR

11/9/22

(DATE)

int 6 int 47 int _____ int _____ int _____ int _____ int _____ int _____



BATCH #:	1109232-0120			
----------	--------------	--	--	--

--	--	--	--	--

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	9834			
PROVISIONALS	1			
OVER	9			
UNDER	1			
INVALID APP ID	0			
UNREADABLE	0			
	sm- lg-	sm- lg-	sm- lg-	sm- lg-

Finished @ 2:55am

11/09/2022
 New Identities 11/09/2022

CUSTODY EXCHANGE

11/09/22
 DATE

COUNTY RECEIVED

11/9/22 3:30am
 DATE

RES WITNESS

11/9/22 3:30AM
 DATE

WITNESS

MC INCOMING SCAN RECEIPT

1389

ELECTION

Jonathan S.

RES OPERATOR

11/9/22

(DATE)

int 16 int AW int _____ int _____ int _____ int _____ int _____ int _____

BATCH #:

11092022-0131

QUANTITY

QUANTITY

QUANTITY

QUANTITY

INBOUND SCAN

10725

PROVISIONALS

0

OVER

2

UNDER

1

INVALID APP ID

0

UNREADABLE

0

sm- 1

lg-

sm-

lg-

sm-

lg-

sm-

lg-

Finished @ 3:02 AM

CUSTODY EXCHANGE

11/09/22

DATE

Oscar Miranda

COUNTY RECEIVED

11/9/22 4:45am

DATE

RES WITNESS

11/09/22 4:45 AM

DATE

WITNESS

MC INCOMING SCAN RECEIPT

1389

ELECTION

Sc. 10/11/22

RES OPERATOR

11/9/22

(DATE)

int 10 int FL int _____ int _____ int _____ int _____ int _____ int _____

BATCH #:

11092022-0107

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	10895			
PROVISIONALS	0			
OVER	6			
UNDER	0			
INVALID APP ID	0			
UNREADABLE	0			
	sm- lg-	sm- lg-	sm- lg-	sm- lg-

Finished @ 4:44am

[Signature]

[Signature] 11/09/2022
New Mexico 11/09/2022

CUSTODY EXCHANGE

11/09/22
DATE

[Signature]
COUNTY RECEIVED

11/9/22 4:45am
DATE

[Signature]
RES WITNESS

11/09/22 4:45am
DATE

[Signature]
WITNESS

MC INCOMING SCAN RECEIPT

1329

ELECTION

Jonathan B.

RES OPERATOR

11/9/22

(DATE)

int int int int int int int int

BATCH #:

11092022-023

QUANTITY

QUANTITY

QUANTITY

QUANTITY

INBOUND SCAN

10227

PROVISIONALS

0

OVER

1

UNDER

0

INVALID APP ID

0

UNREADABLE

3

sm-

lg-

sm-

lg-

sm-

lg-

sm-

lg-

Finished @ S'Donnan

11/09/2022

11/09/2022

CUSTODY EXCHANGE

11/10/22

DATE

Oscar Miranda 6:33 AM

COUNTY RECEIVED

11-10 6:33 AM

DATE

RES WITNESS

11/10 6:35 AM

DATE

WITNESS

MC INCOMING SCAN RECEIPT

1389

ELECTION

Jonathan L.

RES OPERATOR

11/9/22

(DATE)

int 6 int AW int _____ int _____ int _____ int _____ int _____ int _____

BATCH #:

11092022-0124

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	10471			
PROVISIONALS	0			
OVER	5			
UNDER	0			
INVALID APP ID	0			
UNREADABLE	0			
	sm- lg-	sm- lg-	sm- lg-	sm- lg-

Finished @ 5:53 pm

11/9/24

[Signature]

11/09/2022

CUSTODY EXCHANGE

11/9/22

DATE

Oscar Miranda 2:43 pm

COUNTY RECEIVED

11/9/2022 2:33 pm

DATE

[Signature]

RES WITNESS

11/9/22 2:44 pm

DATE

[Signature]

WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11-9-22
(DATE)

int BS int RR int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022-0125

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>10694</u>			
PROVISIONALS	<u>2173</u>			
OVER	<u>1</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>39</u>			
UNREADABLE	<u>1</u>			
	sm- <u>1</u> lg- <u>5</u>	sm- _____ lg- _____	sm- _____ lg- _____	sm- _____ lg- _____

START: 6:10AM
END: 6:57AM

Matcher Gencio 11/9/22
6 AM 11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda 2:42 PM
COUNTY RECEIVED

11/9/2022 2:33pm
DATE

Jesus M...
RES WITNESS

11/9/22 2:43pm
DATE

Julio T...
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramey
RES OPERATOR

11/09
(DATE)

int RR int _____ int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022-0126

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>1051.0</u>			
PROVISIONALS	<u>227</u>			
OVER	<u>4</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>0</u>			
UNREADABLE	<u>1</u>			
	sm- lg- <u>1</u>	sm- lg-	sm- lg-	sm- lg-

START 6:58 AM
END 7:28 AM

Notarized receipt 11/9/22
MM 11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda 2:41 pm
COUNTY RECEIVED

11/9/22 2:33 pm
DATE

Jesus M...
RES WITNESS

11/9/22 2:42 pm
DATE

Josh T...
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/09
(DATE)

int PP int CP int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022-0127

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>10559</u>			
PROVISIONALS	<u>240</u>			
OVER	<u>6</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>0</u>			
UNREADABLE	<u>0</u>			
	sm- lg- <u>1</u>	sm- lg-	sm- lg-	sm- lg-

START 7:35AM
END 8:16AM

Natalie Casado 11/9/22
LM 11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda 2:41 pm
COUNTY RECEIVED

11/9/2022 2:33 pm
DATE

Jessie Mami
RES WITNESS

11/9/22 2:49 pm
DATE

Derek T. St
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/09
(DATE)

int PR int CP int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022-0128

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>10829</u>			
PROVISIONALS	<u>254</u>			
OVER	<u>11</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>0</u>			
UNREADABLE	<u>0</u>			
	sm- lg- <u>1</u>	sm- lg-	sm- lg-	sm- lg-

Start 8:18 AM
End 8:49 AM

Natalie Gamero 11/9/22
11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda 2:40 pm
COUNTY RECEIVED

11/9/2022 2:33 pm
DATE

Juan Marin
RES WITNESS

11/9/22 2:40 pm
DATE

[Signature]
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/09
(DATE)

int RR int CP int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022-0129

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>10694</u>			
PROVISIONALS	<u>362</u>			
OVER	<u>9</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>446</u>			
UNREADABLE	<u>0</u>			
	sm- lg- <u>2</u>	sm- lg-	sm- lg-	sm- lg-

Start 8:53 AM
End 9:22 AM

Natalie Cencato 11/9/22
11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda 2:42pm
COUNTY RECEIVED

11/9/2022 2:33pm
DATE

Juan Maria
RES WITNESS

11/9/22 2:42pm
DATE

Derek T. Soto
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/09
(DATE)

int RR int CP int _____ int _____ int _____ int _____ int _____ int _____



BATCH #: 11092022-0130

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>10544</u>			
PROVISIONALS	<u>276</u>			
OVER	<u>4</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>0</u>			
UNREADABLE	<u>0</u>			
	sm- lg-	sm- lg-	sm- lg-	sm- lg-

Start 9:28 AM
End 9:58 AM

Natalie Aarcho 11/9/22
C/M 11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Osai Miranda 2:41 pm
COUNTY RECEIVED

11/9/2022 2:33 pm
DATE

Guio Marin
RES WITNESS

11/9/22 2:41 pm
DATE

Probs T
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramon
RES OPERATOR

11/09
(DATE)

int RR int CP int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022-0131

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>10549</u>			
PROVISIONALS	<u>294</u>			
OVER	<u>10</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>0</u>			
UNREADABLE	<u>0</u>			
	sm- lg- <u>1</u>	sm- lg-	sm- lg-	sm- lg-

Start 10:00 AM
End 10:30 AM

Natalie Garco 11/9/22
[Signature] 11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda 2:41 pm
COUNTY RECEIVED

11/9/22 2:33 pm
DATE

[Signature]
RES WITNESS

11/9/22 2:41 pm
DATE

[Signature]
WITNESS

MC INCOMING SCAN RECEIPT

1389

ELECTION

Ricardo Ramos

RES OPERATOR

11/09

(DATE)

int 22 int CP int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022-0132

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	10394			
PROVISIONALS	198			
OVER	4			
UNDER	0			
INVALID APP ID	0			
UNREADABLE	0			
	sm- lg-	sm- lg-	sm- lg-	sm- lg-

Start 10:31 AM
End 10:52 AM

Natalie Caceres 11/9/22
11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

11/9/2022 2:37
DATE

11/9/22 2:40pm
DATE

Ascar Miranda 2:40 pm
COUNTY RECEIVED

Juan Marin
RES WITNESS

Juan T. [Signature]
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/09
(DATE)

int 22 int CP int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022-0133

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	10933			
PROVISIONALS	215			
OVER	5			
UNDER	0			
INVALID APP ID	149			
UNREADABLE	0			
	sm- lg- /	sm- lg-	sm- lg-	sm- lg-

Start 10:53 AM
End 11:37 AM

Adelino Crenshaw 11/9/22
11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda 2:41 PM
COUNTY RECEIVED

11/9/2022 2:33pm
DATE

Jesus Marin
RES WITNESS

11/9/22 2:42pm
DATE

Duke T. Edwards
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Roman
RES OPERATOR

11/09
(DATE)

int RR int CP int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022-0134

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	10436			
PROVISIONALS	249			
OVER	5			
UNDER	0			
INVALID APP ID	249 0			
UNREADABLE	0			
	sm- lg- 1	sm- lg-	sm- lg-	sm- lg-

Start 11:43 AM
End 12:23 AM

Natalie Crenshaw 11/7/22
11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda 2:40 pm
COUNTY RECEIVED

11/9/22 2:33 pm
DATE

Jesus Mari
RES WITNESS

11/9/22 2:37 pm
DATE

Jesus Mari
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/09
(DATE)

int RR int CP int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022-0135

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>10474</u>			
PROVISIONALS	<u>248</u>			
OVER	<u>3</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>0</u>			
UNREADABLE	<u>7</u>			
	sm- lg- <u>1</u>	sm- lg-	sm- lg-	sm- lg-

Start 12:25 PM
End 12:56 PM

Natalie Cronwell 11/9/22
(Signature) 11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda 2:36 P.M.
COUNTY RECEIVED

11/9/2022 2:32 pm
DATE

(Signature)
RES WITNESS

11/9/22 2:38 pm
DATE

(Signature)
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/09
(DATE)

int RR int _____ int _____ int _____ int _____ int _____ int _____ int _____



BATCH #:	<u>11092022-0136</u>		
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	QUANTITY	QUANTITY	QUANTITY	QUANTITY
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INBOUND SCAN	<u>10608</u>			
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PROVISIONALS	<u>339</u>			
--------------	------------	--	--	--

OVER	<u>1</u>			
------	----------	--	--	--

UNDER	<u>0</u>			
-------	----------	--	--	--

INVALID APP ID	<u>0</u>			
----------------	----------	--	--	--

UNREADABLE	<u>0</u>			
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--	--	--	--	--

sm- lg- <u>1</u>	sm- lg-	sm- lg-	sm- lg-
------------------	---------	---------	---------

Start 1:00 PM
End 1:35 PM

Natalie A. Gencelo 11/9/22
[Signature] 11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda 2:42 pm
COUNTY RECEIVED

11/9/2022 2:33 pm
DATE

[Signature]
RES WITNESS

11/9/22 2:43 pm
DATE

[Signature]
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/09
(DATE)

int PP int _____ int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022.0137

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	10543			
PROVISIONALS	237			
OVER	1			
UNDER	0			
INVALID APP ID	0			
UNREADABLE	0			
	sm- lg- 1	sm- lg-	sm- lg-	sm- lg-

Start 1:40 PM
End 2:20 PM

Notarie Canelas 11/12/22
C/M 11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda 2:42 pm
COUNTY RECEIVED

11/9/2022 2:33 pm
DATE

Jessie Thomas
RES WITNESS

11/9/22 2:44 pm
DATE

Duke [Signature]
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/09
(DATE)

int RR int CP int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11097022.0138

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>10643</u>			
PROVISIONALS	<u>228</u>			
OVER	<u>2</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>0</u>			
UNREADABLE	<u>0</u>			
	sm- lg- <u>1</u>	sm- lg-	sm- lg-	sm- lg-

Start 2:21
End 2:43

Natalie Carrido 11/9/22
1/11/22 11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

11/9/22 4pm
DATE

11/9/22
DATE

Osar Miranda
COUNTY RECEIVED

Janise Marie
RES WITNESS

A. Valles
WITNESS

4:02 P.M.

4:03 PM

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/09
(DATE)

int RR int DR int 1 int int int int int



BATCH #: 11092027-0139

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>10799</u>			
PROVISIONALS	<u>327</u>			
OVER	<u>0</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>0</u>			
UNREADABLE	<u>0</u>			
	sm- lg- <u>1</u>	sm- lg- <u> </u>	sm- lg- <u> </u>	sm- lg- <u> </u>

Start 2:46 PM
End 3:12 PM

Natalie Oanciole 11/9/22
CM 11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

Oscar Miranda
COUNTY RECEIVED

4:01 p.m.

11/9/22 4pm
DATE

Erin Man
RES WITNESS

11/9/22
DATE

Valle 4:03 PM
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/09
(DATE)

int RR int CP int _____ int _____ int _____ int _____ int _____ int _____

BATCH #: 11092022-0140

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>10845</u>			
PROVISIONALS	<u>293</u>			
OVER	<u>2</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>0</u>			
UNREADABLE	<u>0</u>			
	sm- lg-	sm- lg-	sm- lg-	sm- lg-

Start 3:16 PM

End 3:45 PM

Natalie Cencero 11/9/22
[Signature] 11/9/22

CUSTODY EXCHANGE

11/9/22
DATE

11/9/22 4:00pm
DATE

11/9/22
DATE

Oscar Miranda
COUNTY RECEIVED

[Signature]
RES WITNESS

[Signature]
WITNESS

4:00 P.M

4:03 PM

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/09
(DATE)

int PR int CP int _____ int _____ int _____ int _____ int _____ int _____



BATCH #: 11092022-0141

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>10837</u>			
PROVISIONALS	<u>277</u>			
OVER	<u>2</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>0</u>			
UNREADABLE	<u>0</u>			
	sm- lg-	sm- lg-	sm- lg-	sm- lg-

Start 3:48 PM
End 4:28 PM

Natalie Cencio 11/9/22
11/9/22

CUSTODY EXCHANGE

11/10/22
DATE

Oscar Miranda 6:32 AM
COUNTY RECEIVED

11-10 6:33 AM
DATE

Beth Smith
RES WITNESS

11/10 6:35 AM
DATE

Ricardo Ramos
WITNESS

MC INCOMING SCAN RECEIPT

1389
ELECTION

Ricardo Ramos
RES OPERATOR

11/10/22
(DATE)

int PR int CP int _____ int _____ int _____ int _____ int _____ int _____



BATCH #: 11092022-0142

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>12193</u>			
PROVISIONALS	<u>293</u>			
OVER	<u>1</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>293</u>			
UNREADABLE	<u>23</u>			
CTR'S Re-Issue	<u>46</u>			
	sm- lg-	sm- lg-	sm- lg-	sm- lg-

Start 4:34 PM
End 5:11 PM

Noted & Cancelled 11/9/22
11/9/22

CUSTODY EXCHANGE

11/10/22
DATE

Dora Miranda 6:33 A.M
COUNTY RECEIVED

11-10 6:32 AM
DATE

Brampton Soto
RES WITNESS

11/10 6:35 AM
DATE

Ricardo Ramos
WITNESS

MC INCOMING SCAN RECEIPT

1389

ELECTION

Jonathan D.

RES OPERATOR

11/8/22

(DATE)

int 16 int 16 int 16 int 16 int 16 int 16

BATCH #:

11083022-0114

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	1675			
PROVISIONALS	0			
OVER	5			
UNDER	0			
INVALID APP ID	15			
UNREADABLE	0			
	sm- lg-	sm- lg-	sm- lg-	sm- lg-

CUSTODY EXCHANGE

11/08/22
DATE

COUNTY RECEIVED

11/8/22 10:00pm
DATE

RES WITNESS

11/08/22
DATE

WITNESS

MC INCOMING SCAN RECEIPT

1389

ELECTION

Jonathan B.

RES OPERATOR

11/8/22

(DATE)

int 11/8/22 int 11/8/22 int 11/8/22 int 11/8/22 int 11/8/22 int 11/8/22

BATCH #:

11020000-0115

INBOUND SCAN

10 C49

PROVISIONALS

0

OVER

0

UNDER

0

INVALID APP ID

0

UNREADABLE

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sm- |

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Finished @ 10:55 PM

[Signature] 11/8/2022

Handled 11/8/2022

CUSTODY EXCHANGE

11/08/22
DATE

Oscar Miranda 11:43 PM.
COUNTY RECEIVED

11/8/22
DATE

[Signature] 11:45 pm
RES WITNESS

11/08/22
DATE

[Signature] 11:46 PM
WITNESS

MC INCOMING SCAN RECEIPT

ELECTION

RES OPERATOR

(DATE)

int 1579 int AW int _____ int _____ int _____ int _____ int _____ int _____

BATCH #:

11020082-016

	QUANTITY	QUANTITY	QUANTITY	QUANTITY
INBOUND SCAN	<u>3166</u>			
PROVISIONALS	<u>248</u>			
OVER	<u>2</u>			
UNDER	<u>0</u>			
INVALID APP ID	<u>74</u>			
UNREADABLE	<u>2</u>			
	sm- lg-	sm- lg-	sm- lg-	sm- lg-

11:00pm FINISHED

11/09/2022

CUSTODY EXCHANGE

DATE

DATE

DATE

COUNTY RECEIVED

RES WITNESS

WITNESS

DEFS00807

6

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DECLARATION OF ANDREW MYERS

I, Andrew Myers, hereby declare as follows under penalty of perjury:

1. I am over the age of 18 and competent to make this declaration.
2. I am a citizen of the United States and of the State of Arizona.
3. I reside in Phoenix, Arizona.
4. From October 14, 2022, through November 15, 2022, I served as a part-time employee of the County working as a level one signature verification worker. I also performed ballot curing.
5. At my location, in the room where I worked there were a total of about 15 people reviewing and verifying signatures. We were divided into two rooms and the other room had about 10 people working. In addition, there was also a night crew of several people working from about 3 p.m. until about 7:30 p.m.
6. The process for signature verification of ballots was composed of two levels, and a third level developed toward the end of the four weeks. Level one was composed of part-time employees of the county who compared an image of the ballot envelope against three images of a signature in the voter file which are normally the three most recent images of voter forms. I performed level 1 review, and we were the most inexperienced of all levels.
7. Ballot signatures at level one review were either approved or rejected; another way to describe rejected ballots was that they were marked "exception."
8. If a ballot signature was rejected, then it was automatically reviewed at level 2. Level 2 signature verification was composed of managers who were longer, part-time employees of the county and had the most experience at signature verification. This

would also include the full-time managers and supervisors for the county. Review at level 2 allowed the managers to view the same three images as level 1, but level 2 was also allowed to see additional images of the signatures in the entire voter file and were allowed to zoom in on signature images.

9. There was a level 3 review of signatures developed at the end of the project. Level 1 workers were the most inexperienced workers and were being asked to overrule level 2's decision on the excepted signatures. Level 1 was given the same access that level 2 had, which was first time many of the level 1 had seen the history of the voter's signatures. I did not take part in this, because I felt that I did not have enough experience to overrule level 2 decision. Also, shortly after the request was made, I had to work on curing.
10. Level 2 managers were the full-time managers and supervisors, of the county and some long-term part-time employees like Andrew.
11. When the excepted numbers grew the managers would resend those excepted signatures back out into the general pool, hoping that someone would approve those same signatures, which would thereby reduce the excepted signature load.
12. After the above signature review, the approved signature ballots were counted, and the rejected signature ballots were sent into a process whereby the ballots could be cured.
13. The bulk of what I did was curing. The curing process was as follows. Michelle would bring a USPS bin with green affidavits. We would put a preprinted label on the affidavit, marked "LS" for letter sent with that day's date also preprinted on the label. We would then take the "labeled" affidavits to Melissa, minus the affidavits that did

not have phone numbers. Melissa would scan the green envelopes which would generate an address label for each affidavit.

14. We would then put the address label on an envelope that was pre-stuffed with a letter informing the voter that the county was having trouble verifying their signature. The voter was given a phone number to the Star Center to assist with curing their ballot. Thereafter, we would put the green envelopes in alphabetical order. I was responsible for working through files beginning with letters M-Z. After everything was in alphabetical order, we would start the curing process.
15. The curing process consisted of matching print outs from Star Center, a third-party contractor, or the Text to Cure method. When we had a cure matched and approved, we would paper clip the printout from Star Center or Text to Cure to the green envelope and the supervisor would stamp "Signature Verified" and send it to Runbeck to be rescanned. The text to cure process changed toward the end of the election. We were no longer curing through the Text to Cure method but were only using Star Center print outs. Celia said it took too long to print out text to cure and she would handle it.
16. Observers were allowed to watch and listen to my curing work. I rarely made calls.
17. The process in my curing room was controlled and there were really only two of us doing the curing and putting labels on and matching print outs with green envelopes.
18. The first week I worked about thirty-five (35) hours over five days. I worked primarily on curing, but in terms of signature verification, I processed about 3,000 ballots the first week. The rejection rate was about 15-20%, so about 450 to 600 ballots were rejected by me this first week.

19. The second, third and fourth week I worked about fifty (50) hours per week. I worked on curing and do not believe I processed any signature verification on ballots in weeks two, three and four.
20. The total ballots I processed for signature verification over four weeks was about 3,000 and the total ballots I rejected was about 450 to 600, but that was because almost all of my time was spend on curing and not on signature verification.
21. In my room we had a white board that Michelle would update with the number of ballots to be verified that day. Throughout the day Michelle would update the progress the people were making in verifying signatures. The math never added up. Typically, we were processing about 60,000 signatures a day. I would hear that people were rejecting 20-30% which means I would expect to see 12,000 to 15,000 ballots in my pile for curing the next day. However, I would consistently see every morning only about 1000 envelopes to be cured. We typically saw about one tenth of the rejected ballots we were told we would see.
22. Andrew, one of the signature reviewers, would tell me every day that I was going to get crushed the next day because he was excepting (rejecting) a "ton" of bad signatures. However, we never saw a correlation.
23. I can only think of two explanations for why our cure pile was consistently only about a tenth of the numbers we were expecting based on the information given to us by the level 1 signature verification teams. The first explanation is that the signature verification workers were incorrect. I do not think this is the case because I spoke with many of them, and the difference was consistently ten times less than we expected. The second explanation is that the level 2 managers who re-reviewed the

rejections of the level 1 workers were reversing and approving signatures that the level 1 workers excepted and rejected. This seems to me to be the more likely explanation. If this is the case, then the level 2 managers were changing about 90% of the rejected signatures to accepted.

24. The computer records show the number of signature rejections by all workers at all levels. All approval of rejected ballots by level 2 should be evidenced on the computer system.
25. There was a black bin that held green envelopes where the voter told the caller during the curing process that they had not voted, or it that was not their ballot.
26. When I left work on my final day of November 15, I estimate that in my room there were 5,000 uncured envelopes. There were a number of voters that were never able to vote because they said that they went through the curing process, but their ballots were never cured. I recall one lady in particular who sent an email claiming that she had successfully completed the curing process but was told she was not cured. I did my best to look through the above pile of 5,000 envelopes to resolve her situation. Her ballot should have been in that batch, but it was not. This is simply one example of the disorganized situation we experienced.

I declare under penalty of perjury that the above is true and correct.

Signed: _____

Andrew Myers

Date: _____

12/7/22

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DECLARATION OF YVONNE NYSTROM

I, Yvonne Nystrom, hereby declare as follows under penalty of perjury:

1. I am over the age of 18 and competent to make this declaration.
2. I am a citizen of the United States and of the State of Arizona.
3. I reside in Mesa, Arizona.
4. From October 31, 2022, through November 15, 2022, and November 20, 2022 and November 21, 2022. I served as a part-time employee of Maricopa County working as a level 1 signature verification worker. It was my job to, among other things, perform signature verification on ballots.
5. To perform our work, we were given the following materials, and were told to follow them:
 - a. Attached as Exhibit A is the "Maricopa County Elections Department, 2022 General Election" manual,
 - b. Attached as Exhibit B is the "Electronic Adjudication Board Procedures," and
 - c. Attached as Exhibit C is the "Maricopa County Elections Department VRAS System-Research" manuel.
6. At my location, there were a total of 24 people reviewing and verifying signatures. We were divided into two rooms. In addition, there was also a night crew, in which I was part of the night crew, of about eight to ten people working 3 p.m. until about 7:30 p.m.
7. The process for signature verification of ballots is as follows:
 - a. There were three levels for signature verification. Level one was composed of part-time employees of the county who compare an image of the ballot envelope

against one to three images of a voter's signature in the voter file which are normally the three most recent images of voter forms.

- b. ballot signatures at level one was either approved or rejected; another word for rejected ballots was "exception."
- c. If a ballot signature was rejected then it was automatically reviewed at level 2. Level 2 signature verification was composed of managers who were more experienced employees of the county. Review at level 2 included the same images as level 1, but level 2 was allowed to see more images of the signature in the voter's file, and was allowed to zoom in on signature images.
- d. There was a level 3 review of signatures as well. It is not clear whether this third level was part of level two or an additional level. In any event, I worked at level one and it was my clear understanding that there were three levels of review, and that each of the above levels had the ability to reverse a rejection of a ballot signature. Level 2 could reverse level 1. Level three could reversed level 1 and/or 2. Level 3 managers also would send the whole managers "que" back to the level 1 part-time employees to review the signatures that had already been rejected by level 1 and 2 personnel to accept the signatures or reject them again.
- e. There were observers watching the review of level 1. Some observers in other rooms were able to see some of level 2 managers. I do know that in my room for the evening shift, the observers were not able to see or observe the managers in my room.
- f. After the above signature review, Runbeck batched ballots into categories for those with approved signatures and rejected signatures. The accepted ballots were

sent to ballot processing and counted and the rejected signature ballots were sent into a process whereby the ballot could be cured.

- g. The curing process was flawed for at least two reasons: (1) inadequate personally identifiable information ("PII") and (2) an inability for the voter to see and verify that their signature was in fact the signature being viewed by the curing worker. The voter was on the phone and, of course, could not see signature that was being viewed by the curing worker on the actual green envelope.
- h. The process for curing included a person who would call the voter at the number listed on the green envelope. Most of the time, perhaps sixty to seventy (60% - 70%) of the time the person calling the alleged voter only had the name on the ballot, the phone number and the address. This was because the curing worker was not at a computer and was only able to look at the actual green envelope. However, the person who sent the green envelope and ballot was permitted to write a phone number on the green envelope that was mailed in that was different from the one listed in their voter file. This occurred a number of times. There were probably forty percent (40%) of phone numbers on the green envelopes that were different from the number listed in the voter file. Of course, voters do change phone numbers, but this seemed to be a very large number of different numbers. The above struck me and the curing workers as odd.
- i. Observers were allowed into the curing process, but not in some areas. Some of the curing process occurred in the ballot processing room and the observers were only allowed in a designated area in that room and that area was far away from where the curing employees were working.

- j. The part-time employees performing of the curing function were given a batch of stickers to place on a ballot, including stickers indicating that a ballot was: "Letter Sent (LS)," "Left Message (LM)," "Phone Disconnected (PD)," "Wrong Number (WN)," "Verified (VER)," and other statuses. One of the problems with the stickers was that workers were not controlled or kept accountable with access to stickers and placement of stickers. Nothing prevented a worker from accessing many "approved" stickers and placing them on ballots. Once stickers were placed on ballots there was no record on the ballot or elsewhere to determined who placed the sticker there; there were no individual identifying initials or signatures on the sticker. The system was insecure and subject to abuse by permitting false placement of approved stickers without accountability.
8. If a signature was rejected then it would be reviewed by the first level manager which was William, Jeff Beimer, or Andrew George. Those are the three first level managers. If these managers agreed with me and also rejected the signatures, then it went to the next level managers, for second level manager approval. Those second level managers were Aloma Richmond, Michelle Acker, Tony (Antonio) Ortiz, and Celia Nabor. Bill Gates was occasionally there, but I don't know if he performed signature verification review. Scott Jarrett and Rey Valenzuela were co-elections directors, and they were there every day. I am not sure if Scott and/or Rey performed signature verification of not, but they were third level managers.
9. We had observers watching level 1 signature verifiers such as myself, but they did not watch all level 2/3 managers who also performed approvals and rejections on signature

verification. There were times when my level 1 queue of work was worked by a level 2 or level 3 manager above me without observers watching their work.

10. My job was to review a scan of the actual green affidavit with the voter's signatures and to match the signature with one of the three (or less) signatures of the voter on file to verify or reject the signature.
11. I worked a total of 16.5 hours in signature verification during the time I was working the election. The other hours were spent in ballot processing, ballot duplication, ballot adjudication and SEB (Special Elections Board).
12. It took me approximately a minute on each signed affidavit envelope to either approve or reject a voter's signature. Some affidavits took much less time due to no signature, obvious wrong signature, a protected signature and such. Those signatures were immediately rejected.
13. From my experience during my time, the rejection rate for bad signatures was approximately thirty-five to forty percent (35% - 40%). The highest rate of rejection was forty percent.
14. I do not know the rejection rate for others in my room, but I do know that a lot of people working in my room said that they were also not verifying numerous signatures because of how bad they were.
15. On November 15th, before we left for the last day of the job, Jacque and I questioned Aloma about the remaining ballots requiring curing because there were still several bins with about two to three thousand ballots to be cured. Aloma told us we were free to go and to not worry about those thousands of ballots since they were only for the managers

to handle. However, it is my understanding that no observers monitored the curing process of the managers.

16. The computer records from EVRT program showed the number of signature rejections by me and the managers. I do not know how many times the managers reversed my rejection of the signatures. I was not able to see that information. I do know that observers were not watching the work of the managers above me who had the ability to change my rejection of signatures. If one of the managers changed by rejection, then that should be recorded under their name in the computer records of the EVRT program.
17. The reversal of signature rejections was handled through a process of curing. This was after the last level of managers still disapproved of the envelope signature it would go to the process of calling the voter to cure the signature. We had a script to talk to the voter or leave a scripted message for them to call the Star Center, which was a third-party contractor that worked completely off-site but had the same access to the voter's file information as we did on the computers at MCTEC, to cure their affidavit signature. My understanding of the Star Center's curing process was to verify information from the voter's file, i.e., the last 4 of their SS #, driver's license #, street address, full name and any other identifying information in their file. It is my understanding that the Star Center was able to cure and did cure ballots, but were not able to see the actual ballot with the signature on it. It is my understanding that the Star Center work was not monitored with observers, whereas my work was required to be monitored by observers. Since they had the ability to cure and reverse the rejection of signatures, I do not know why their work was not monitored by observers.

18. Part of the process for curing ballots that had been rejected for bad signatures, was for the part-time employees to call a number for the voter and speak with a person they thought could be the voter. They would ask for personal identifying information ("PII") to confirm the person and ask them if they were the voter, but the person who allegedly voted was never able to see the signature to see if it was their signature, they would simply say they were the voter, give some PII, and say they signed the affidavit.
19. There were times that the curing workers called voters that had rejected signatures and those alleged voters would tell us that they never voted. For example, we had some college students who said they never voted and did not sign the ballots. Obviously, we voided those ballots, but as long as the person on the phone said they were the voter, and was able to give some PII, it is my understanding that those ballots were approved and went on to the ballot processing, even if the signature was previously rejected.
20. The permanent employee managers were Tony (Antonio) Ortiz, or Aloma Richmond or Michelle Acker. They had more experience and were trained on curing poor signatures. When they cured a ballot that had been signed by the spouse, it is my understanding they would just put a label on the affidavit with the voter's name on it that said the husband or wife had signed the affidavit for the other as a type of household signature exchange. The ballot would then go to Runbeck for scanning and the green ballot envelope would go through the same signature verification as any other ballot envelope.
21. On the last day of work, November 15, we were asked by manager Celia to go through perhaps 5,000 to 7,000 ballots, that had already been rejected at levels 1, 2 and 3. We were asked to go to the SHELL program and to only find one signature that matched the green envelope, even if all other signatures in the program did not match the green

envelope. The implication from Celia is that was desperate to get the work complete and that she wanted the ballots approved. These 5,000 to 7,000 ballots had already been through the full level 1, 2, and 3 process and been rejected. Therefore, I do not know why were going through them again, and that is why it seemed that Celia wanted them approved.

I declare under penalty of perjury that the above is true and correct.

Signed: Yvonne Nystrom
Yvonne Nystrom

Date: 12-7-22

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DECLARATION OF JACQUELINE ONIGKEIT

I, Jacqueline Onigkeit, hereby declare as follows under penalty of perjury:

1. I am over the age of 18 and competent to make this declaration.
2. I am a citizen of the United States and of the State of Arizona.
3. I reside in Phoenix, Arizona.
4. From October 14, 2022, through November 16, 2022, I served as a part-time employee of the County working as a level one signature verification worker. It was my job to, among other things, perform signature verification on ballots.
5. At my location, there were a total of about 24 people reviewing and verifying signatures. We were divided into two rooms. In addition, there was also a night crew of about six to eight people working 3 p.m. until about 7:30 p.m.
6. The process for signature verification of ballots was composed of three levels. Level one was composed of part-time employees of the county who compared an image of the ballot envelope against three images of a signature in the voter file which are normally the three most recent images of voter forms. I performed level 1 review.
7. Ballot signatures at level one review were either approved or rejected; another way to describe rejected ballots was that they were marked "exception."
8. If a ballot signature was rejected, then it was automatically reviewed at level 2. Level 2 signature verification was composed of managers who were longer term part-time employees of the county. Review at level 2 allowed the managers to view the same three images as level 1, but level 2 was also allowed to see additional images of the signatures in the entire voter file and were allowed to zoom in on signature images.

9. There was a level 3 review of signatures as well, but it is unclear whether this third level was simply part of level two or a truly additional level. In any event, I worked at level 1, and it was my clear understanding that functionally, there were three levels of review, and that each of the above levels had the sole ability to reverse a rejection of a ballot signature. Level 2 could reverse level 1. Level 3 could reverse level 1 and/or 2.
10. Level 2 managers were William, Jeff, and Andrew. I do not know their last names. Level 3 managers were Aloma, Michelle, Tony, Celia, and Bill Gates. I do not know their last names except for Bill Gates.
11. At times when the workload was high, level 2 and 3 managers sent some of their work – which was to review our level 1 work – back to level 1 to re-review the work we had already done.
12. There were observers watching the review of level 1, but there were not any observers watching all of the review of levels 2 and 3. Sometimes the observers were able to watch some of the work of Andrew (a level 2 manager) but were not able to observe any of the work of the other level 2 managers: Jeff and William.
13. After the above signature review, the approved signature ballots were counted, and the rejected signature ballots were sent into a process whereby the ballots could be cured.
14. There were two major problems with the curing process. First, there was inadequate personally identifiable information (“PII”) that was necessary to truly confirm the identity of the alleged voter. Second, when the alleged voter was on the phone, they did not have the ability to actually see and verify that the signature on the ballot

matched their signature. The curing worker was able to see the signature, but the alleged voter was not.

15. the process for curing included a person who would call the voter at the number listed by the person who filled out the ballot envelope. In many cases, the person calling the alleged voter only had the pre-printed name and address on the ballot, and the phone number which was written on the ballot envelope by the alleged voter. However, the person who sent the ballot was able to give a phone number that could be different from the one listed in the voter file; this did occur a number of times. I performed curing work and there were many times that the phone number written on the ballot by the alleged voter was different than the number or numbers in the voter file. Sometimes the number written by the alleged voter on the ballot was not found anywhere among the multiple number listed in the voter file.
16. Observers were allowed to watch and listen to my curing work.
17. In order to perform the curing process, we were given a batch of stickers to place on a ballot, which included stickers with abbreviations. Some, but not all, of the ballot stickers and abbreviations were as follows: "VER" meant that we verified the voter's information, and their ballot was approved to be counted, "WV" meant that a voter did not want to verify their ballot over the phone, and "LM" meant that we called the voter and left a message.
18. One of the problems with the stickers was that nothing prevented a level 1, 2 or 3 worker from requesting a massive amount of "approved" stickers and placing them on ballots. Again, observers did not watch any level 3 work and did not watch most of level 2 work. Once stickers were placed on ballots, there was no record on the ballot

or elsewhere to determine who placed the sticker there. We were told to not sign or initial the sticker, but to only date it. Accordingly, there was no way to know who placed "verified" stickers on ballots. The system was wide open to abuse and allowed for potential false placement of "verified" stickers without accountability.

19. The first week I worked about thirty-five (35) hours over five days. I processed about 1,500 ballots per day, and about 7,500 ballots the first week. The rejection rate was about 25-30%, so about 1,875 to 2,250 ballots were rejected by me this first week.
20. The second week I worked about sixty (60) hours per week for six days. I processed about 1,750 ballots per day, and about 10,500 ballots the second week. The rejection rate was about 25-30%, so about 2,625 to 3,150 ballots were rejected by me this second week.
21. The third week I worked about sixty (60) hours per week for seven days. I processed about 1,750 ballots per day, and about 12,250 ballots the third week. The rejection rate was about 35-40%, so about 4,287 to 4,900 ballots were rejected by me this third week.
22. The fourth week I worked about sixty (60) hours per week for seven days. I processed about 1,750 ballots per day, and about 12,250 ballots the fourth week. The rejection rate was about 35-40%, so about 4,287 to 4,900 ballots were rejected by me this fourth week.
23. The total ballots I processed for signature verification over four weeks was about 42,500, and the total ballots I rejected was about 13,074 to 15,200.
24. The fifth week we only worked Monday, Tuesday, and Wednesday but I only cured ballots and did not perform signature verification the fifth week.

25. The other workers in my room had similar complaints about bad signatures resulting in the rejection of ballots. I believe the rejection rates for their ballots were similar to my rejection rates.
26. There were times that Tony and/or Michelle would make us leave at about 7:30 – 8:30 p.m. and they would be there later than us working on signature verification – not curing – but just signature verification. When we would come in the next day, we would ask them how late they were there, and they would tell us they were there until 9:30 or 10:00.
27. One example of the above occurred on November 15th. Before we left for the day, Yvonne and I asked Aloma about the remaining ballots because there were still several bins with about two to three thousand ballots. I did not know whether these ballots required original signature verification or curing work, but we did both types of work. Aloma told us we were free to go and to not worry about those thousands of ballots since they were only for the managers to handle. However, it is my understanding that no observers monitored the work of the managers on those ballots.
28. The computer records show the number of signature rejections by me and the managers. Tony said this information can be accessed from the computers by IT workers. I do not know how many times the managers reversed my rejection of the signatures. I was not able to see that information. I do know that observers were not watching most of the work of the level 2 managers above me who had the ability to change my rejection of signatures. Observers were not watching any of the work of the level 3 managers above me who had the ability to change my rejection of signatures. I do know that if one of the managers changed my rejection, then that

should be recorded under their name in the computer records. I know this because Andrew told me that all of our actions for level 1, 2 and 3 workers were recorded in the computer system under each of our names.

29. There were times that the curing workers called voters with rejected signatures and those alleged voters they told them that they never voted. For example, we had some college students who said they never voted and did not sign the ballots submitted in their names. Obviously, we voided those ballots, but as long as the person on the phone said they were the voter, and was able to give some PII, it is my understanding that those ballots were approved, even if the signature was previously rejected.

I declare under penalty of perjury that the above is true and correct.

Signed: _____

Jacqueline Onigkeit

Date: _____

12/6/22

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*to be admitted pro hac vice

Attorneys for Contestant/Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

KARI LAKE,

Contestant/Plaintiff,

v.

KATIE HOBBS, personally as Contestee and
in her official capacity as the Secretary of
State; et al.,

Defendants.

No. CV2022-095403

**PLAINTIFF KARI LAKE'S
RESPONSE TO DEFENDANTS'
MOTIONS TO DISMISS¹**

(Assigned to Hon. Peter Thompson)

¹ This response is to the coordinated filing of three Motions to Dismiss filed by Defendants. For the Court's convenience, the positions raised in those Motions are addressed in one filing instead of three. Throughout, the brief filed by the Maricopa County Defendants is referred to as "County Br.," the brief filed by the Arizona Secretary of State is referred to as "Sec'y of State Br.," and the brief filed by Katie Hobbs is referred to as "Hobbs Br."

INTRODUCTION

Plaintiff's Complaint lays out specific facts and violations of law supported by the sworn testimony of over two hundred witnesses, including employees from MCTEC² and Runbeck Election Services ("Runbeck"); the testimony of credentialed experts in electronic voting systems and election voter surveys; and internal government documents only recently made public. The Complaint unequivocally identifies specific numbers of illegal votes that far exceeds the 17,117 vote margin between Plaintiff Kari Lake and Secretary of State Katie Hobbs.

In response to these detailed allegations, Hobbs in her capacity as Secretary of State and as Contestee, and Maricopa County officials³ (collectively "Defendants") filed three largely duplicative motions to dismiss that fundamentally miss the mark and either ignore or flat out misstate Plaintiff's claims to raise strawman arguments as a distraction. Defendants have not met their burden to demonstrate that Plaintiff's well-pled claims, accepted as true and drawing all inferences in Plaintiff's favor, fail to state a claim necessary to set aside the election under A.R.S. § 16-672(A)(1), (4) and (5). Nor have they met their burden to dismiss Plaintiff's claims arising under the U.S. Constitution and the Arizona Constitution which are largely underpinned by the same misconduct and other illegal acts as pled in connection with Plaintiff's election contest claims. Defendants' motions should be denied and this case should proceed to trial.

² Maricopa County Recorder and Elections Department

³ Maricopa County Recorder Stephen Richer, Maricopa County Board of Supervisors Bill Gates, Clint Hickman, Jack Sellers, Thomas Galvin, and Steve Gallardo, Maricopa County Director of Elections Scott Jarrett.

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ARGUMENT

I. Applicable Legal Standards.

In order to prevail in an election contest, the Plaintiff must plead facts “affect the result [of the election], or at least render it uncertain.” *Findley v. Sorenson*, 35 Ariz. 265, 269 (1929).

In connection with a motion to dismiss an election contest, the Arizona Supreme Court has supplied direct guidance in election contest cases challenged by motions like the three motions filed here by Defendants.

Specifically, the Arizona Supreme Court said the following when it reversed a superior court order dismissing an action on grounds similar to those urged by Defendants:

The ultimate issue raised by this appeal is whether the statement of contest filed herein states a claim upon which relief could be granted, for if it does the trial court was in error in dismissing same. In resolving this issue there are certain well established rules to guide us (1) in determining sufficiency of complaint (in this instance statement of contest) on a motion to dismiss, the allegations must be treated as true, and whether they are susceptible of proof at the trial does not concern us at this time, (2) all intendments lie in favor of the pleading and not against it, and (3), a motion to dismiss an action should never be granted unless the relief sought could not be sustained under any possible theory.

Griffin v. Buzard, 86 Ariz. 166, 169-70 (1959) (citations omitted). Guided by these principles, the Court should deny Defendants’ motions to dismiss.⁴

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⁴ Defendant Hobbs’s ancillary comment that the Complaint reads like a “choose your own adventure” novel, Hobbs Br., at 14 n.9, is not only false, but it also ignores basic pleading principles. *See* Ariz. R. Civ. P. 8(e)(2) (claims can be presented “alternatively or hypothetically”).

1 **II. Defendants Fail to Address How Chaos Caused by County Officials' Incompetence**
2 **and Intentional Acts Calls into Question the Validity of the Election.**

3 The debacle that occurred in Maricopa County on November 8, 2022 ("Election Day")
4 was "chaos" as Defendant Maricopa County's Board of Supervisors Chairman Bill Gates
5 admitted on live TV during a press conference. Complaint ¶ 8. On Election Day, Maricopa
6 County operated 223 sites ("Vote Centers") at which voters could check in and cast a ballot. At
7 each Vote Center, after receiving and filling in a ballot, the voter must feed the ballot into a
8 computerized scanner ("tabulator"). The tabulator was then supposed to count the votes marked
9 on the ballot. However, the tabulators and ballot printers experienced rampant systematic
10 breakdowns at no fewer than 132 out of the total 223 Maricopa County vote centers (59.2%).
11 Complaint ¶¶ 3, 85. This prevented many voters from scanning their ballots. Supporting
12 Plaintiff's Complaint are hundreds of declarations in which voters, poll workers, and poll
13 observers, detail the rampant issues at the voting center. Different technicians dispatched by
14 Maricopa County to the Vote Centers also described a horror show, texting messages to each
15 other like:
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- 19 • "I'm having a 911. Tabulators aren't reading ballots, it's maybe 50/50"
- 20 • "What is the current record for T Tech milage on election day because I'm at 166"
- 21 • "50 inside and about 100 outside still waiting. Coffee pls."
- 22

23 Complaint ¶ 70.

24 The Vote Center Spreadsheet attached to Plaintiff's Complaint organizes the testimony
25 by Vote Center and issue. The Vote Center Spreadsheet and Vote Center Declarations confirm
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1 that the tabulators' rejection of thousands of ballots set off a domino chain of electoral
2 improprieties, rampant administrative chaos and confusion, lengthy delays at polling sites, and
3 ultimately the prevention of qualified voters from having their votes counted. Thousands of
4 voters gave up voting due to the long wait times or simply avoided the polls after seeing the
5 chaos reported on the news. The massive voter suppression caused by the tabulator breakdowns
6 is mostly ignored by Defendants in their motions to dismiss. However, the effect of the tabulator
7 breakdowns cannot be disputed. Expert evidence shows that, conservatively, at least between
8 15,603 and 29,257 Republican voters were disenfranchised from voting as a direct consequence
9 of the voting machine failures in Maricopa County. *Id.* ¶ 11, 90.

12 Election data published show stark differences in the proportions of votes received by
13 candidates Lake and Hobbs for each different type of voting. The Arizona Secretary of State
14 claimed Lake received 70% (330,249 out of 469,822) of the votes cast statewide at polling
15 places, while Hobbs received 55% (1,144,948 out of 2,080,363) of the votes cast statewide
16 through early balloting.⁵ The chaos and confusion at Maricopa County's Vote Centers on
17 Election Day adversely and disproportionately affected Lake's vote total in the election. Voters
18 deterred from voting by the long lines and tabulator malfunctions would have voted in favor of
19 Lake by a margin of 70% to 30%.

22 Richard Baris, a recognized expert pollster for the Epoch Times, and the founder of Big
23 Data Poll, conducted an exit poll in Arizona from November 1 to November 8, 2022, obtaining

26 ⁵ See <https://results.arizona.vote/#/state/33/0>

1 responses from voters who voted in a variety of different ways: early in-person, depositing an
2 early ballot in a ballot dropbox, and mail-in voting. *See* Olsen Decl. Ex. 11; Baris Decl.⁶ The
3 sample included 813 residents of Maricopa County. Baris Decl., at 1. This poll provides a
4 scientific basis to determine a predictable turnout for the election as a whole based on accepted
5 metrics. *Id.*, at 4. Importantly, Election Day respondents were also asked, “Did you have any
6 issues or complications when trying to vote in person, such as tabulators rejecting the ballot or
7 voting locations running out of ballots?” *Id.*, at 5.

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10 A much larger proportion of poll respondents identifying as Republicans reported having
11 issues while trying to cast a ballot on Election Day, as compared to respondents identifying as
12 Democrats, by a margin of 58.6% to 15.5%. *Id.* The rate of those reporting issues was 39.7% for
13 voters who identified as “independent” or as an “other” party. *Id.* Even taking into account the
14 already Republican-leaning cohort of election day voters, Republicans were more burdened than
15 Democrat voters, with instances of Republican voters being burdened occurring more than 15
16 standard deviations more than a random or “even” distribution of the burden among election day
17 voters. Compl. ¶ 165.

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20 Baris’s expert opinion, based on accepted mathematical principles and Maricopa County
21 voter histories, is that the widespread tabulator breakdowns in Maricopa County suppressed
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24 ⁶ Defendants do not dispute the validity of the expert report to prove voter suppression, nor could
25 they: “[S]urvey evidence should be admitted ‘as long as [it is] conducted according to accepted
26 principles and [is] relevant.’” *Fortune Dynamic, Inc. v. Victoria's Secret Stores Brand Mgmt., Inc.*, 618 F.3d 1025, 1037 (9th Cir. 2010) (second and third alterations in original) (quoting *Wendt v. Host Int'l, Inc.*, 125 F.3d 806, 814 (9th Cir. 1997)).

1 Election Day turnout, and that absent the machine breakdowns at Vote Centers across Maricopa
2 County, Kari Lake would conservatively have gained between 15,603 and 29,257 votes over
3 Katie Hobbs in Maricopa's final election canvass. Baris Decl., at 10.
4

5 Despite Hobbs's claim that the current vote margin is "insurmountable," Hobbs Br., at 1,
6 Plaintiffs have identified more than enough votes to alter the outcome of the election.

7 **III. Defendants' Coordinated and Multi-Faceted Attack on Plaintiffs' Claims Is**
8 **Meritless.**

9 Defendants have launched a three-front, coordinated attack on the Complaint. They raise
10 the same points—and repeat them—in apparent belief that repetition will eventually overcome
11 established Arizona law, firmly rooted Constitutional principles, and basic common sense.
12 Defendants' various arguments are addressed in turn.
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14 **A. Defendants' Assertions that Intentional Conduct is Improperly Pled is**
15 **Legally Wrong and Misreads the Complaint.**

16 Two Defendants contend that Contestant/Petitioner has not pled her claims regarding
17 intentional misconduct with particularity. Hobbs Br., at 13-14; Sec'y of State Br., at 8-9. Not
18 only does this argument misstate the pleading requirements of Arizona Rule of Civil Procedure
19 9(b), it also grossly misreads the claims in the Complaint.
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21 **1. Allegations of Intent Need Not be Pled with Particularity.**

22 Defendants first contend that if the Complaint alleged that any Defendant acted
23 committed intentional misconduct, it must have pled such allegations with particularity under
24 the heightened pleading standard found in Arizona Rule of Civil Procedure 9(b). That rule
25 provides, in part, that "[i]n alleging fraud or mistake, a party must state with particularity the
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1 circumstances constituting fraud or mistake.” Ariz. R. Civ. P. 9(b).⁷ But the very next sentence
2 states, in relevant part, that “intent . . . and other conditions of a person’s mind may be pled
3 generally.” *Id.* While a fraud claim must include an allegations of “the fraudfeasor’s intent to
4 induce reliance upon [a] misrepresentation,” *Parks v. Macro-Dynamics, Inc.*, 121 Ariz. 517, 520
5 (Ariz. App. 1979), that is not what Contestant/Petitioner has pled, nor does she need to. The
6 Complaint instead refers to intentional *conduct*. *E.g.* Complaint ¶¶ 10, 76, 100, 104, 142, 145-
7 147, 164, 171, 183. The Complaint does not need to allege intent to induce reliance upon a
8 misrepresentation to survive a motion to dismiss. Therefore, the heightened pleading standards
9 of Rule 9(b) do not apply. Intent may be pled generally. Ariz. R. Civ. P. 9(b).

12 **2. Even if Pleading with Particularity Is Required, the Complaint**
13 **Satisfies that Standard.**

14 Even if the Complaint were subject to the heightened pleading standard found in the first
15 sentence of Rule 9(b), the Complaint and its attachments do just that. As noted above, the
16 Complaint alleges that some or all Defendants engaged in some type of intentional conduct that
17 gives rise to the claims. The Complaint and the expert declaration prepared by Clay Parikh, a
18 certified forensic investigator,⁸ set forth in detail the facts supporting the claims of intentional
19 conduct.
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22 ⁷ Significantly, “a showing of fraud is not a necessary condition” for finding misconduct or
23 illegal votes under the election-contest statute.” *Miller v. Picaho Elementary Sch. Dist. No. 33*,
24 179 Ariz. 178, 180, 877 P.2d 277, 279 (1994).

25 ⁸ See Declaration of Clay Parikh attached as Ex. 13 to the Olsen Declaration. No Defendant
26 seriously challenges Mr. Parikh’s credentials, and it is indisputable that he is qualified to offer
them. Complaint ¶¶ 101-02.

1 First, the Complaint itself details the conduct alleged to be intentional. The Complaint
2 alleges that tabulator errors across the county that resulted in rejected ballots on election day
3 occurred because of intentional conduct. Complaint ¶¶ 10, 100, 142. The Complaint further
4 alleges that the co-mingling of tabulated and non-tabulated ballots by county officials was done
5 intentionally, which resulted in a violation of applicable regulations. *Id.* It goes on
6 to claim that the use of uncertified components of the voting systems in use on Election Day was
7 intentional. *Id.* ¶ 104. And it cites public admissions by the members of the Maricopa County
8 Board of Supervisors that they had intentionally violated election deletion procedures related to
9 prior elections. *Id.* ¶ 124. These instances of misconduct could not have occurred accidentally.
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12 Mr. Parikh’s detailed report, which was attached to the Complaint, further explains the
13 intentional conduct undertaken by Maricopa County and its officials during the 2022 Election.
14 Contrary to some of Defendants’ arguments, the Complaint does “identify [a] law, rule, or
15 procedure that was actually violated.” Hobbs Br., at 10.
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17 For example, Mr. Parikh detailed how the plans and procedures that ***Maricopa County***
18 ***itself*** drafted were not followed. Parikh Decl. ¶¶ 26-31. He first identifies a worker at a voting
19 center—one with a 62.5% tabulator fail rate—who called a Troubleshooter hotline before the
20 polls opened and was told that it would be several hours before a technician could deliver
21 replacement equipment. *Id.* ¶ 27. The 2019 Elections Procedures Manual provides that—“if
22 geographically feasible”—the officer in charge of election should “[a]ssign troubleshooters or
23 equivalent staff who are capable of reaching any voting location within 30 minutes of being
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1 dispatches.” 2019 EPM, at 242.⁹ Troubleshooters, who are poll workers’ “main support
2 throughout the election,” 2022 Training Manual,¹⁰ at 11, are required to respond well within
3 “several hours.” On Election Day, they did not.
4

5 Further, it is undisputed that part of the 2022 Maricopa County Elections Plan required
6 set up crews to “provide a second set of onsite test prints that further confirm [printer]
7 functionality on site.” 2022 Maricopa County Elections Plan, at 53.¹¹ A printer that creates a
8 ballot that cannot be read is not functioning properly. The fact that Maricopa County officials
9 knew this in advance demonstrates that their failure to confirm that printed ballots could be read
10 by the tabulators (as required in the Election Plan) shows their inaction was intentional. Parikh
11 Decl. ¶ 28.
12

13 Mr. Parikh also notes that Maricopa County officials directed poll workers to not follow
14 published procedures. *Id.* ¶ 29. Some voters were told to give ballots to poll workers, who would
15 then mark them. *Id.* ¶ 29. *But see* 2022 Training Manual, at 115 (providing that “the only time
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19 ⁹ The 2019 EPM is the State of Arizona 2019 Elections Procedure Manual. *See*
20 https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf.

21 ¹⁰ The 2022 Training manual is the 2022 Training Manual for Poll Workers that was used in
22 Maricopa County for the 2022 general election. *See*
23 https://elections.maricopa.gov/asset/jcr:2f02b340-4bc1-4782-8fa1-9813afabb37a/FINAL%202022%20Primary%20General%20Manual_Redacted1.pdf.

24 ¹¹ The 2022 Maricopa County Elections Plan was published by the Maricopa County Elections
25 Department for use in the August 2022 primary election and the November 2022 general
26 election. *See* <https://recorder.maricopa.gov/site/pdf/FINAL%20-%202022%20Elections%20Plan.pdf>.

1 any poll worker should touch a voter's ballot" is to spoil a ballot). Some voters were allowed to
2 spoil three ballots. Parikh Decl. ¶ 29. *But see* 2022 Training Manual, at 115 ("A voter may spoil
3 **two** ballots at a voting location" (emphasis in original)). Another poll worker was told to
4 not offer use of the Accessible Voting Device, which must be offered to a voter having difficulty
5 completing his or her ballot. Parikh Decl. ¶ 29. *See* 2022 Training Manual at 115. These are
6 examples of instructions intentionally given by Maricopa County officials to poll workers to
7 disregard Maricopa County's own policies and procedures.
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10 Finally, as Mr. Parikh notes, the fact that Maricopa County experienced a widespread
11 technical breakdown across a significant portion of their vote centers—whether it be the 70 Vote
12 Center sites out of 223 (31.8%) as Maricopa reported or the 132 Vote Center sites out of 223
13 (59.2%) that were affected as shown in Vote Center Spreadsheet—given the required standards
14 and procedures involved with the election process, a widespread failure of this magnitude
15 occurring could not arise absent intentional misconduct. Parikh Decl. ¶ 7.
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17 None of these key areas identified by Mr. Parikh are "simple mistakes or administrative
18 difficulties." *Hobbs Br.*, at 9. They amount to conduct that is intentional and attributable to
19 Maricopa County and its officials. The Complaint more than adequately makes these allegations.
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21 **B. Defendants' Laches Defenses are Meritless.**

22 Several Defendants also claim that some or most of all of the claims in the Complaint are
23 barred by the doctrine of laches. *Hobbs Br.*, at 2-5; *Sec'y of State Br.*, at 10-11. Accepting this
24 argument depends on ignoring the allegations of the Complaint.
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1 No one disputes that complaints about pre-election violations must be brought before an
2 election occurs. *See Sherman v. City of Tempe*, 202 Ariz. 339, 342 (2002). For example, a
3 candidate cannot wait until after an election to contest whether a proposition included on a ballot
4 in an election should have been on the ballot at all. *Id.* at 342. But that is not what the Complaint
5 does. Instead, the Complaint alleges *violations of those procedures* that could not have occurred
6 before Election Day. Even Defendant Hobbs concedes that “elections have flaws, and
7 understandably, many of those issues are not revealed until Election Day.” Hobbs Br., at 14.
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10 For example, with respect to Count II, which alleges unlawful voter tabulator
11 configurations, Complaint ¶¶ 136-48, none of the violations pled could have occurred before the
12 election. In fact, those violations could not have been discovered until the intentional misconduct
13 described above was unearthed.
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15 With respect to Counts III and IV, as Defendants know, mail-in ballots are not processed
16 until Election Day, and the chain of custody violations Plaintiff alleges arose after Election Day
17 and by their very nature could not be known until after the election had occurred. Comp. ¶¶ 106-
18 20. There is no way to challenge a chain of custody until the documentation—or lack thereof—
19 proving that a chain of custody exists is known. The same is true with respect to Plaintiff’s
20 claims regarding tens of thousands of ballots associated with mismatched signatures that were
21 not properly cured were counted in this election. Comp. ¶¶ 14-16, 44-62. Plaintiff’s claims are
22 not based on a supposed defect in the Election Procedures Manual as Hobbs argues. Hobbs Br.,
23 at 10-11. Rather, Plaintiff’s claims are based on specific allegations, including sworn testimony
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1 by Maricopa County employees, showing that tens of thousands of votes with clearly
2 mismatched signatures, that were not properly cured, were counted in this election.

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4 In the context of election challenges, laches applies to extinguish post-election claims
5 which could have—and should have—been brought before the election occurs. That is not the
6 case here. Laches does not apply.

7 **C. The Complaint States a Contest Claim Based on Irregularities Concerning**
8 **Signature Verification**

9 Plaintiff contends that because illegal votes were counted, the person declared elected did
10 not in fact receive the highest number of votes for the office. This gives rise to a cause of action.
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12 See A.R.S. § 16-672(A)(1), (4), (5).

13 Plaintiff has submitted critical pieces of evidence that the signature verification process
14 for early ballots review at MCTEC was not properly carried out under Arizona law. *Id.* § 16-
15 550. The process to validate early ballots are statutory, and if not properly done, the early ballots
16 are illegal votes and must be rejected.

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18 Election contests are “purely statutory and dependent upon statutory provisions for their
19 conduct.” *Fish v. Redeker*, 2 Ariz. App. 602, 411 P.2d 40 (1966). In this case, the signature
20 verification process at MCTEC **did not** follow statutory requirements or 2019 EPM
21 requirements.
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23 For the 2022 general election, there were approximately 32 workers per shift involved in
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1 Maricopa County's signature verification and signature curing process.¹² Out of those 32
2 workers, three workers signed sworn declarations attesting to a deeply flawed process, that on
3 their face reveal consistent and improper counting of non-verified early ballots, and acceptance
4 of thousands of ballots that had been rejected for having mismatched signatures that were not
5 cured but were accepted as cast.
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7 Pursuant to A.R.S. § 16-550, there is a twostep process to validate and tabulate early
8 ballots. A Maricopa County voter who chooses to cast an early ballot must enclose the ballot in
9 an envelope containing a sworn affidavit, signed by the voter, that certifies the voter's
10 qualifications and personal signature affixation, and affirms his or her understanding of the
11 criminal prohibition against casting multiple ballots in the same election. *See id.* § 16-547(A).
12 The examination and tabulation of the early ballots are also set out: upon receipt of a returned
13 early ballot envelope, the County Recorder or the Recorder's designee must "compare the
14 signatures thereon with the signature of the elector on the elector's registration record." *Id.* § 16-
15 550(A). If "the signatures correspond," the early ballot is processed and tabulated. *Id.* If "the
16 signature is inconsistent with the elector's signature on the elector's registration record," then
17 the early ballot is invalid and cannot be tabulated, unless the assumed voter cures the signature
18 discrepancy. *Id.* The 2019 EPM also sets forth specific requirements for MCTEC to attempt to
19 cure the ballot: the election worker must attempt to contact the voter to advise the voter of the
20 discrepancy. *Id.* The 2019 EPM also sets forth specific requirements for MCTEC to attempt to
21 cure the ballot: the election worker must attempt to contact the voter to advise the voter of the
22 discrepancy. *Id.* The 2019 EPM also sets forth specific requirements for MCTEC to attempt to
23 cure the ballot: the election worker must attempt to contact the voter to advise the voter of the
24 discrepancy. *Id.*

25 ¹² See Declaration of Andrew Myers ("Myers Decl."), Declaration of Yvonne Nystrom
26 ("Nystrom Decl."), and Declaration of Jacqueline Onigkeit (Onigkeit Decl.") attached as Exhibits
6, 7, and 8, respectively, to the Olsen Declaration attached to the Complaint.

1 inconsistent signature and allow the voter to either (1) correct the ballot signature, or (2) confirm
2 the inconsistent signature. *See* 2019 EPM, at 68.

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4 As a matter of law, if the signature on the voter's ballot does not match his or her registration
5 record the only way to count that ballot is to first cure it by contacting the voter. A.R.S. § 16-
6 550(A); 2019 EPM, at 68. The Complaint sufficiently alleges this process was not followed by
7 MCTEC because in the 2022 election, Maricopa County officials, instead of attempting to cure
8 ballots, systematically pushed mismatched ballots through for tabulation.

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10 Jacqueline Onigkeit, an MCTEC early vote checker, has testified that in her total time at
11 MCTEC, she reviewed approximately 42,500 ballots. Onigkeit Decl. ¶ 23. She further testified
12 that she encountered mismatched signature rejection rates in the 25% - 40% range, and
13 correspondingly rejected about 13,000 to 15,000 of the early ballots she reviewed. *Id.* ¶¶ 19-22.
14 During the tabulation process, her co-workers complained of similar rejection rates. *Id.* ¶¶ 23,
15 25; *see also* Nystrom Decl. ¶ 13. Andy Myers, another MCTEC signature verification worker,
16 also testifies to a similar rejection rate, Myers Decl. ¶ 18, and stated that MCTEC processed about
17 60,000 early ballot signatures a day, with rejection rates of 15%-20%. Yvonne Nystrom has
18 testified that the rejection rate for mismatched signatures was between thirty-five and forty
19 percent. Nystrom Decl. ¶ 13.

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22 However, even with the tens of thousands of ballots being rejected, the witnessed
23 rejection rate never corresponded to the ballots set aside for curing. With MCTEC processing
24 about 60,000 signatures a day and poll workers rejecting 20-30%, there should have been
25 "12,000 to 15,000 ballots in my pile for curing the next day." Myers Decl. ¶¶ 21. However, there
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1 consistently would be only about 1000 envelopes to be cured—“about one tenth of the rejected
2 ballots [they] *were told [they] would see.*” *Id.* (emphasis added).

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4 Taken together, these three election workers provide compelling testimony relating to
5 MCTEC’s review of tens of thousands of early ballot signatures. All three MCTEC workers
6 concluded that based on their analysis of voter registration records, there should have been a
7 rejection rate at a minimum of 15% and at a maximum of 40%. After these tens of thousands of
8 signatures were found to be mismatched, somehow, without going through the curing process,
9 these ballots were improperly pushed through to tabulation in violation of A.R.S. § 16-550 and
10 the 2019 EPM requirements.

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12 MCTEC’s authority is limited to those powers expressly or impliedly delegated to it by
13 statute. *Associated Dairy Prods. Co. v. Page*, 68 Ariz. 393, 395, 206 P.2d 1041 (1949).¹³ Like
14 all public officials, the Recorder may be “enjoined from acts” that are beyond that office’s power.
15 *Berry v. Foster*, 180 Ariz. 233, 235-36, 883 P.2d 470 (App. 1994) (quoting *Crane Co. v. Ariz.*
16 *State Tax Comm’n*, 63 Ariz. 426, 445, 163 P.2d 656 (1945)). Once adopted, the 2019 EPM had
17 the same force of law as statute. *Ariz. Pub. Integrity All. v. Fontes*, 250 Ariz. 58, 63, 475 P.3d
18 303, 308 (2020). A.R.S. § 16-550 does not permit a lower standard to match early ballot
19 signatures. The only way to cure a mismatched signature is to contact the voter. That was not
20 done. The Complaint more than adequately pleads that illegally cast votes were counted.
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25 ¹³ See also *Boruch v. State ex rel. Halikowski*, 242 Ariz. 611, 618 ¶ 22, 399 P.3d 686 (App.
26 2017); see also Ariz. Const. art. 12, § 4 (stating that “[t]he duties, powers, and qualifications” of
county officers “shall be as prescribed by law”).

Moreover, having tens of thousands of mismatched signatures is not a new issue for Maricopa County. After a lengthy investigation into “election failures and potential misconduct that occurred in 2020,” Attorney General Brnovich issued a report on April 6, 2022, making numerous findings including that “the early ballot affidavit signature verification system in Arizona, and particularly when applied to Maricopa County, may be insufficient to guard against abuse” and noting that Maricopa County only rejected 587 ballots for a signature mismatch in 2020. *See* Olsen Decl. Ex. 5, at 6. The Attorney General admitted that early ballot voters do not present identification before filling out and casting their ballot, “[r]equiring a match between the signature on the ballot affidavit and the signature on file with the State is currently the most important election integrity measure when it comes to early ballots.” *Id.*, at 4.

On precisely this point, the We the People AZ Alliance (“WPAA”), an Arizona organization with the purpose of providing oversight of and transparency for government to the public, conducted a signature audit of 12.12% of the early ballots cast in the 2020 election. This audit was sanctioned and approved by Former Secretary of State Ken Bennett, Deputy Senate Liaisons to the 2020 Senate Election Audit. The signature audit revealed, that using the same control signatures as examined by MCTEC, 8.5% of the approved early ballots had egregious signature mismatches, and 9.1% of ballots reviewed would probably fail the Arizona Secretary of State signature review standards.¹⁴ This is clear evidence of a signature review system that is

¹⁴ *See* Declaration of Shelby Busch at ¶¶ 19-20, attached as Exhibit 12 to the Olsen Declaration

1 broken. Even more shocking is the fact that tens of thousands of voters with improper signatures
2 were discovered to have voted again in the November 8, 2022, election. Busch Decl. ¶ 20(a)-(b).
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4 Taken together, the testimony from the three MCTEC election workers and the data from
5 the 2020 election allows Plaintiff to proceed to trial and present evidence that enough illegal
6 votes cast in the 2022 election would have changed the outcome of the election. *See* sway the
7 outcome.
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9 Taken as true, which this Court must, *Griffin* 86 Ariz. at 169-70, Plaintiff's Complaint
10 adequately pleads that MCTEC's already broken signature verification system counted
11 thousands, and likely tens of thousands, of illegal ballots in 2022.

12 **D. The Complaint's Chain of Custody Allegations Give Rise to a Claim.**

13 Defendants argue that Plaintiff's allegations regarding Maricopa's chain of custody
14 failures affecting over 300,000 votes are speculative and that there is evidence or inference that
15 ballots were lost or illegal ballots added. Sec'y of State Br. 14-15; Hobbs Br. 14-5; County Br.
16 9-10. All Defendants treat chain of custody procedures an administrative formality. Defendants'
17 "nothing to see here" approach ignores four central and well-pled allegations in the Complaint
18 that are fatal to their argument.
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21 First, chain of custody violations are not ministerial as Defendants claim. The 2021
22 Election Assistance Commission Best Practices guidelines¹⁵ instruct that that "[c]hain of custody
23 is essential to a transparent and trustworthy election. . . . and demonstrate that election outcomes
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25 ¹⁵ See https://www.eac.gov/sites/default/files/bestpractices/Chain_of_Custody_Best_Practices.pdf.
26

1 can be trusted.” Complaint ¶ 108; 2019 EPM, at 2. Arizona law requires that “[t]he county
2 recorder or other officer in charge of elections shall maintain records that record the chain of
3 custody for all election equipment and ballots during early voting through the completion of
4 provisional voting tabulation.” A.R.S. § 16-621(E). Underscoring the seriousness that the
5 Arizona legislature places on following chain of custody procedures, any person who violates
6 chain of custody requirements is committing a crime. *Id.* § 16-452(C), *ee also id.* A.R.S. § 16-
7 1016(7), (8); 2019 EPM, at 61-62.

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10 Second, the Complaint alleges that Attorney General Mark Brnovich publicly castigated
11 Maricopa County before the 2022 general election in a report dated April 6, 2022, addressed to
12 Senate President Karen Fann. The Attorney General concluded that Maricopa County violated
13 Arizona law by failing to maintain proper chain of custody for 100,000-200,000 early ballots
14 retrieved from ballot drop boxes in connection with the 2020 Election. Complaint ¶ 116 & n.9
15 (citing Olsen Decl. Ex. 5, at 8).

16
17 Third, the Complaint alleges that eyewitnesses at Runbeck and MCTEC confirmed under
18 oath that Maricopa County failed to maintain chain of custody for over 300,000 ballots through
19 multiple failures of required procedures. Complaint ¶¶ 112-15.

20
21 Fourth, the Complaint alleges that Arizona’s chain of custody procedures required
22 Maricopa to know have an exact count of the total number ballots at the end of Election Day. *Id.*
23 ¶ 118. The Complaint alleges that there was an increase of over 25,000 ballots *added after*
24 *Election Day* for which no explanation exists regarding where these ballots came from or how
25 they got added to the total. *Id.* ¶¶ 119-20. There is nothing “speculative” about this 25,000
26

1 ballot discrepancy. And this amount of ballots exceeds the margin between Lake and Hobbs.
2 Defendants' motions to dismiss these claims must be denied.

3
4 **E. Count I States a Misconduct Claim under A.R.S. § 16-672(A)(1)**

5 Based on Secretary Hobbs' and Recorder Richer's actions to suppress election-related
6 speech, Count I seeks to vacate their work in this election and to recuse them from any further
7 election-related actions (e.g., a new election or a recount) by their respective offices. Complaint
8 ¶¶ 133-135. Defendants argue that Count I does not fit into an election contest, that it did not
9 affect the election, and does not state a claim under the First Amendment. *See* Sec'y of State
10 Br, 4-5; Hobbs Br. 5-6; Maricopa Br.4-5. This Court should reject those arguments.

11
12 Misconduct under A.R.S. § 16-672(A)(1) does not require that Plaintiff have a First
13 Amendment claim against Defendants, much less that she has a First Amendment claim against
14 private actors like Twitter. *See Griffin v. Buzard*, 86 Ariz. 166, 168 (1959) (finding misconduct
15 in the running of a "diversionary candidate: with a similar name as the frontrunner to siphon off
16 votes); *see also* A.R.S. Stat. § 16-1013(A)(2) (prohibiting use of "any . . . fraudulent device or
17 contrivance whatever, . . . to . . . induce or to prevail upon a voter . . . to cast or refrain from
18 casting his vote for any particular person or measure at an election"); *supra* Part III.A (discussing
19 misconduct generally). Because no statute expressly addresses how an election contest should
20 address that misconduct, the "non-compliance may or may not invalidate the vote depending on
21 its effect," *Miller*, 179 Ariz. at 180, 877 P.2d at 279, and—at the hearing—Plaintiff will present
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1 expert testimony that this misconduct could have resulted in a shift of a dispositive number of
2 votes in the 2022 general election.¹⁶

3
4 Count I alleges that Hobbs and Maricopa County censored public postings and other
5 information pursuant to a secret government reporting portal created by DHS and CISA in April
6 2020 for state and local election officials to report purported “misinformation.” Complaint ¶¶
7 91-99. This DHS/CISA created portal included a direct connection with social media companies
8 like Twitter and Facebook enabling a seamless censorship operation for election officials like
9 Hobbs and Maricopa County as revealed recently from documents produced in *Missouri. v.*
10 *Biden*, No. 3:22 cv 01213 (W.D. La.).¹⁷ These state and local election officials used this
11 unlawful scheme to censor whatever information these government officials thought damaged
12 the narrative they sought to promote.
13

14
15 Plaintiff has introduced direct evidence Hobbs participated in this censorship scheme in
16 November 2020 through January 2021.¹⁸ It is reasonable to infer that her participation in this
17 scheme continued through the 2022 general election. In addition, Plaintiff introduced documents
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20

21 ¹⁶ Ms. Hobbs’ suggestion that Arizona’s speech protections are “interpreted in line with the
22 free speech protections of the U.S. Constitution,” Hobbs Br., 6 n.4, is incorrect: “Arizona’s free
23 speech provision, in contrast, guarantees each individual’s right to speak freely.” *State v.*
Stummer, 219 Ariz. 137, 142, 194 P.3d 1043, 1048 (2008).

24 ¹⁷ See Exhibit 1 attached to the Olsen Decl.

25 ¹⁸ See Exhibits 2 and 4 attached to the Olsen Decl. In addition, Plaintiff requested that the Court
26 grant expedited discovery with respect to other emails Defendants sent to censor private citizens’
speech.

1 showing Defendant Richer's participation in this scheme as of March 2022 *which is during the*
2 *campaign period for the 2022 election.*¹⁹

3
4 In participating in this illegal censorship scheme, Hobbs and Maricopa County officials
5 violated the United States Constitution and the Arizona Constitution, and other laws, in a manner
6 that, upon information and belief, materially affected the outcome of the election. Complaint ¶¶
7 132-35. Plaintiff will be introducing expert testimony showing that this illegal censorship
8 scheme would in fact shift votes far in excess of the margin of votes between Hobbs and Lake.
9 At this stage of the litigation, drawing all reasonable inferences in Plaintiff's favor, as the Court
10 must, Defendants' motion should be denied. In addition, Plaintiff also seeks as relief that these
11 Defendants be excluded from overseeing any new election that might be ordered because of their
12 illegal conduct. This provides an additional basis to deny Defendants' motion.²⁰

13
14
15 **F. The Remedies Sought in the Complaint are Available Under Arizona Law.**

16 Defendants next argue that the Complaint seeks remedies that are not within the
17 purportedly narrow bounds of the five grounds for contesting an election under A.R.S. § 16-
18 672(A)(1)-(5). *See* Hobbs Br., at 5; Sec'y of State Br. At 20; County Br. at 3-4. This argument
19 loses sight of the goal of an election: "In all elections held by the people in this state, the person,
20 or persons, receiving the highest number of *legal votes* shall be declared elected." Ariz. Const.
21 art. VII, § 7 (emphasis added). Contrary to Defendants' cramped construction of Arizona's
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25 ¹⁹ *See* Exhibit 3 attached to the Olsen Decl.

26 ²⁰ *See* Complaint Relief section at paragraphs g-h.

1 election statutes, Plaintiff claims that misconduct occurred, illegal votes were counted, and that
2 a different winner would emerge when *legal* votes are counted properly. Complaint ¶ 130. That
3 is what the law requires. A.R.S. § 16-672(A)(1), (A)(4)-(5).
4

5 At the outset, Plaintiff has no quarrel that issues truly extraneous to the elective franchise
6 can fall outside the election-contest statute. *See, e.g., Fish*, 411 P.2d 40 at 44 (improper
7 electioneering at polling place is neither offense against the elective franchise nor within the
8 statutory definition of grounds for an election contest).²¹ Plaintiff does, however, dispute
9 Defendants' disingenuous attempt to narrow the scope of the election-contest statute. Arizona
10 precedent proves why. For example, in *Donaghey v. Att'y Gen.*, 120 Ariz. 93, 95 (1978), the
11 Arizona Supreme Court declined to allow a petition for a writ of mandamus that could instead
12 have been brought under the election-contest statute. The Court denied a petition for a writ of
13 mandamus because the petitioner had an adequate alternate remedy in an election contest, *id.*, at
14 94-95, cannot plausibly limit the right to bring an election challenge. Indeed, it means precisely
15 the opposite of that.
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17

18 As Defendants themselves argue, Hobbs Br., at 8-9; County Br., at 3; Sec'y of State Br.,
19 at 4, "[t]he law is well settled in this jurisdiction that election contests are purely statutory,
20 unknown to the common law, and are neither actions at law, nor suits in equity, but are special
21 proceedings." *Harless v. Lockwood*, 85 Ariz. 97, 99, 332 P.2d 887, 888 (1958). In *Harless*,
22 however, the Arizona Supreme Court held that "[t]he problem presented is largely one of
23
24

25 ²¹ *Arizona City Sanitary District v. Olson*, 224 Ariz. 331, 334 ¶ 12 (App. 2010) concerns
26 recall elections and is thus inapposite.

1 statutory construction,” *id.* at 100, 332 P.2d at 889, and—as part of a court’s analysis of the
2 statutory issues presented—it can be “inconceivable that the legislature in providing for election
3 contests—the very purpose of which is to aid in securing ‘the purity of elections and guard
4 against abuses of the elective franchise’—[would] purposely [leave] without redress” an issue
5 central to elections. *Id.* at 101, 332 P.2d at 889-90. For example, while acknowledging the purely
6 statutory nature of an election challenge, the Arizona Supreme Court allowed a challenge in a
7 case of first impression against running a “diversionary candidate” with a similar name to the
8 frontrunner. *Griffin*, 86 Ariz. 166 at 168. An integral part of that statutory analysis is that “when
9 [the Arizona Supreme Court] has interpreted a statute and the legislature re-enacts the same or
10 substantially similar language, the legislature approves of the judicial construction of the
11 statutory language.” *Bohart v. Hanna*, 213 Ariz. 480, 482, 143 P.3d 1021, 1023 (2006). In short,
12 courts in election contests must interpret the laws as enacted by the Legislature to protect the
13 elective franchise of Arizona voters. As explained below, Defendants try to narrow election
14 contests in “inconceivable” ways contrary to longstanding Arizona law.
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19 **1. Misconduct.**

20 With respect to the misconduct, the Complaint alleges intentional violations of ballot-
21 integrity protections for voting equipment and the chain of custody for ballots. *See supra* Part
22 III.A These claims fall under A.R.S. § 16-672(A)(1), and give this Court jurisdiction under the
23 election-contest statute.
24
25
26

1 Statutory requirements are not merely advisory if the violation of a statutory protection
2 “affect[s] the result, or at least render it uncertain.” *Findley v. Sorenson*, 35 Ariz. 265, 269, 276
3 P. 843, 844 (1929). Indeed, the Arizona Supreme Court subsequently narrowed *Findley*:
4

5 Contrary to *Findley*, election statutes are mandatory, not “advisory,” or else they
6 would not be law at all. If a statute expressly provides that non-compliance
7 invalidates the vote, then the vote is invalid. If the statute does not have such a
8 provision, non-compliance may or may not invalidate the vote depending on its
9 effect. In the context of this case, “affect the result, or at least render it uncertain,”
10 *id.* at 269, 276 P. at 844, means ballots procured in violation of a non-technical
11 statute in sufficient numbers to alter the outcome of the election.

12 *Miller*, 179 Ariz. at 180, 877 P.2d at 279.

13 While the statutes on which plaintiff relies for misconduct to not automatically strike
14 ballots for noncompliance, they do fail the “may or may not” clause that follows. The question
15 is whether the provisions advance constitutional goals “by setting forth procedural safeguards
16 to prevent undue influence, fraud, ballot tampering, and voter intimidation.” *Id.*

17 The Arizona Supreme Court has long reasoned that electoral manipulations with
18 unquantifiable impacts on an election are not immune from review, merely because their impact
19 cannot be quantified:

20 It is to be observed that the fraud imputed to this precinct by contestee in his
21 answer and assignment is not that kind of fraud, such as intimidation, bribery, or
22 violence, or other misconduct so flagrant that the extent of its influence may rarely,
23 if ever, be exactly computed, and the evil influence of which is so diffusive that
24 the result of the election is made uncertain. It is said in 9 R.C.L., Elections, § 107:

25 “There is a distinction between particular illegal votes the effect of which may be
26 proven and exactly computed and fraudulent combinations, coercion, and
intimidation. *It can never be precisely estimated how far the latter extends. Their
effect cannot be arithmetically computed. It would be to encourage such things as
part of the ordinary machinery of political contests to hold that they shall avoid*

only to the extent that their influence may be computed. So wherever such practices or influences are shown to have prevailed, not slightly and in individual cases, but generally, so as to render the result uncertain, the entire vote so affected must be rejected.”

It is influence of this sort in those cases where the extent thereof may be determined with reasonable certainty, which is rarely the case, that it is the duty of the court to purge the returns of such fraud. A court, however, will exercise the power to reject the votes of an entire precinct and disfranchise a body of electors only where an imperative public necessity requires. It will do so as a last resort where it is found impossible to compute the wrong. If the illegal effect may be proven and computed with reasonable certainty, the returns will be purged to that extent only. But it is obvious here that, if the asserted fraud exists at all, it consists in the election officers fraudulently changing specific ballots which were marked and voted for contestee to appear as if marked and voted for contestant and counting them as voted for contestant. It is apparent that, if the proofs adduced are sufficient to justify the trial court in finding that such ballots were so fraudulently changed and counted, the identical proof that would sustain it must necessarily and with reasonable precision compute the extent of the fraud perpetrated.

Hunt v. Campbell, 19 Ariz. 254, 265-66, 169 P. 596, 601 (1917) (emphasis added); cf. *Huggins v. Superior Court*, 163 Ariz. 348, 350, 788 P.2d 81, 83 (1990) (“it hardly seems fair that as the amount of illegal voting escalates, the likelihood of redressing the wrong diminishes” (quotation marks omitted)). Because the Legislature has never repudiated *Hunt*, the decision remains central to defining the type of widespread interference with an election that qualifies as the type of misconduct that invalidates elections *in toto*, rather than leaves a contestant to attempt to quantify the affected votes.

2. Illegal Votes.

The Complaint identifies a number of votes that must be rejected, although it is not possible to determine the candidate for whom each specific ballots were cast. *See* Complaint ¶¶ 106, 126.. The remedy for illegal absentee ballots is either to set aside the election under *Miller*,

1 179 Ariz. at 180, or proportionately to reduce each candidate's share of mail-in ballots under
2 *Grounds v. Lawe*, 67 Ariz. 176, 183-85 (1948). Plaintiff thus states a claim under A.R.S. § 16-
3 672(A)(4).
4

5 **3. Incorrect County of Votes.**

6 If this Court strikes a proportional number of illegal votes from the parties on a prorated
7 basis under *Grounds*, 67 Ariz. at 183-85, Plaintiff will be left with more lawful votes than the
8 Secretary Hobbs. Plaintiff thus states a claim under A.R.S. § 16-672(A)(5).
9

10 **G. Plaintiff's Constitutional Claims Are Properly Pled.**

11 In addition to the claims of specific illegal votes and misconduct, Plaintiff also raises
12 equal-protection claims (Count V) and due-process claims (Count VI) under the federal and
13 Arizona constitutions. Defendants' arguments to dismiss these claims lack merit.
14

15 At the outset, before wading into statistics, this Court should—indeed, *must*—deny the
16 motions to dismiss Plaintiffs' constitutional claims because “the Equal Protection and Due
17 Process Clauses protect against government action that is [arbitrary], irrational, or not reasonably
18 related to furthering a legitimate state purpose.” *Coleman v. City of Mesa*, 230 Ariz. 352, 362,
19 284 P.3d 863, 873 (2012). Maricopa County's chaotic 2022 general election deviated from
20 required procedures and plans in so many ways that clearly fail that test. *See, e.g., Service v.*
21 *Dulles*, 354 U.S. 363, 372 (1957) (citing *Accardi v. Shaughnessy*, 347 U.S. 260 (1954))
22 (government must follow its own rules).
23
24

25 But Maricopa County's 2022 general election was worse than mere chaos because the
26 failings were not only *intentional*, *see supra* Part III.A, but also *targeted*. Maricopa County

1 weakened ballot-integrity measures for mail-in votes, which benefits Democrats, and created a
2 chaotic election-day scenario by administering a chaos on election day, which harms
3 Republicans. *See* Olsen Decl. Ex. 11; Baris Decl. at 5 (Republican-versus-Democrat disparity of
4 58.6% to 15.5%); Complaint, at ¶ 165. Seeking to evade that charge, the County invokes
5 *Personnel Adm'r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979), and *Village of Arlington Heights*
6 *v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265 (1977). *See* County Br., at 11. Neither decision
7 aids the County.
8

9
10 In *Feeney*, the passed-over female civil servant alleged that Massachusetts' veteran-
11 preference law for civil-service promotions and hiring constituted gender discrimination.
12 Although women then represented less than two percent of veterans, *Feeney*, 442 U.S. at 270
13 n.21, Massachusetts did not discriminate *because of sex* when it acted because of another,
14 permissible criterion (veteran status). *Id.* at 272. Here, however, even among the Republican-
15 heavy cohort of election-day voters, Republican election-day voters were more than burdened
16 than Democrat election-day voters by more than 15 standard deviations beyond what a random
17 distribution would expect. Complaint, ¶ 165.²² At that wide level of disparity, this Court must
18
19

20 ²² The standard deviation for a binomial distribution is the square root of the multiple of the
21 expected probability and one minus the expected probability divided by the sample size (i.e., the
22 square root of $(p)(1-p)/n$). For example, with a coin toss, both (p) and $(1-p)$ are both 50% for a
23 fair coin. The odds of getting 60% heads vary with the sample size: (a) 6 of 10 heads is
24 unsurprising (standard deviation is 0.158 or 15.8%, so the difference between the expected 50%
25 and experienced 60% is within one standard deviation. As n get larger, a 60% result gets more
26 and more unlikely: (a) 60 heads out of 100 tosses has a standard deviation of 0.050 or 5.0%,
putting the experienced 60% two full standard deviations from the expected 50%; (b) 600 heads
out of 1,000 tosses has a standard deviation of 0.016 or 1.6%, putting the experienced 60% 6.32
standard deviations from the expected 50%.

1 reject the claims of non-targeted randomness and shift the burden to explain the disparity to
2 Defendants. *See Castaneda v. Partida*, 430 U.S. 482, 496 n.17 (1977). It may well be that a non-
3 discriminatory factor—such as a lawful preference for veterans in *Feeney*—explains the wide
4 disparity here, but that is Defendants’ burden to explain, given the wide gulf in treatment.
5

6 *Arlington Heights* makes this clear. While holding there that “official action will not be
7 held unconstitutional solely because it results in a ... disproportionate impact,” *Arlington*
8 *Heights*, 429 U.S. at 264-65, the Court explained that that basic holding does not apply when the
9 results are wildly out of proportion, as they are here:
10

11 Sometimes a clear pattern, unexplainable on grounds other than race, emerges
12 from the effect of the state action even when the governing legislation appears
13 neutral on its face. *Yick Wo v. Hopkins*, 118 U.S. 356 (1886); *Guinn v. United*
14 *States*, 238 U.S. 347 (1915); *Lane v. Wilson*, 307 U.S. 268 (1939); *Gomillion v.*
15 *Lightfoot*, 364 U.S. 339 (1960). The evidentiary inquiry is then relatively easy.
16 But such cases are rare. Absent a pattern as stark as that in *Gomillion* or *Yick*
17 *Wo*, impact alone is not determinative, and the Court must look to other
18 evidence.

19 1. *Id.* at 266 (footnotes omitted).

20 Courts “are not required to exhibit a naiveté from which ordinary citizens are free.” *Dep’t*
21 *of Commerce v. New York*, 139 S.Ct. 2551, 2575 (2019) (internal quotation marks omitted).
22 Especially at the motion-to-dismiss stage, this Court must reject Defendants’ “stuff happens”
23 defense.

24 **H. Plaintiff’s Declaratory and Constitutional Claims Are Properly Included.**

25 Defendants argue that the Complaint improperly includes Count IX for declaratory relief
26 under Arizona’s Uniform Declaratory Judgments Act, A.R.S. §§ 12-1831 to 1846 (“DJA”) and

1 Count X for federal constitutional claims under 42 U.S.C. § 1983. *See* Hobbs Br., at 7-8; Sec’y
2 of State Br., at 20; County Br., at 13. As the Secretary of State puts it, “Arizona courts reject
3 attempts to use other legal and equitable mechanisms to achieve the same ends as an election
4 contest when the ‘gravamen’ of the complaint is an election contest.” Sec’y of State Br., at 20
5 (citing *Donaghey*, , 120 Ariz. at 95). Instead, “[e]lection contests are purely statutory, unknown
6 to the common law, and are neither actions at law nor suits in equity, but are special
7 proceedings.” *Id.* (quoting *Griffin*, 86 Ariz. at 169-70). Defendants take a too-narrow view of
8 this Court’s jurisdiction and Arizona pleading standards.
9

11 *Donaghey* is inapposite. There, the Arizona Supreme Court declined to allow a petition
12 for a writ of mandamus because the petitioner had an adequate alternate remedy in an election
13 contest. *Donaghey*, 120 Ariz. at 94-95. Denying a stand-alone mandamus action because an
14 elector could bring an election challenge is not the same as holding that an election challenge
15 cannot include additional claims.
16

17 While it is true that the “[l]egislature shall direct by law in what manner and in what
18 courts suits may be brought against the State,” Ariz. Const. art. IV, pt. 2, § 18, that rule is easily
19 surmounted where a public officer is violating state or federal law. *Armstrong v. Exceptional*
20 *Child Ctr., Inc.*, 575 U.S. 320, 326-27 (2015). *Accord Ansley v. Banner Health Network*, 248
21 Ariz. 143, 149, 459 P.3d 55, 61 (2020) (same for private officers). Further, Arizona Rule of Civil
22 Procedure 18(a) generally allows joining claims: “A party asserting a claim, counterclaim,
23 crossclaim, or third-party claim may join, as independent or alternative claims, as many claims
24 as it has against an opposing party.” Ariz. R. Civ. P. 18(a). Moreover, claims may be pleaded
25
26

1 alternatively, even if they are inconsistent. *Id.* R. 8(e)(2)-(3); *Gosewisch v. Am. Honda Motor*
2 *Co.*, 153 Ariz. 400, 403, 737 P.2d 376, 379 (1987). While election contests themselves are purely
3 statutory, nothing in the statute upsets the normal course of pleading.
4

5 **1. Declaratory Relief Is Properly before the Court.**

6 Plaintiff's DJA count, Complaint ¶¶ 180-81, pleads—in the alternative—that this Court
7 should declare the election-contest statute inadequate to assert claims that the Court holds it
8 cannot reach in an election contest. Because Defendants argue some of Plaintiff's claims fall
9 outside the election-contest statute, *see, e.g.*, *Hobbs Br.*, at 3-5; *Sec'y of State Br.*, at 4-5; *County*
10 *Br.*, at 3-4. Defendants should not begrudge Plaintiff that minimal relief to the extent that the
11 Court agrees with defendants on the merits of those arguments.
12

13 “The declaratory judgment act is remedial and is to be liberally construed,” *Citizens’*
14 *Comm. for Recall of Jack Williams v. Marston*, 109 Ariz. 188, 192, 507 P.2d 113, 117 (1973),
15 but it requires a justiciable issue between the parties. *Arizona State Bd. of Dirs. for Junior Colls.*
16 *v. Phoenix Union High Sch. Dist.*, 102 Ariz. 69, 73, 424 P.2d 819, 823 (1967). Here, the Court
17 has a justiciable controversy as to whether it may consider at trial claims in an election-contest
18 action. If the Court holds that the election-contest statute excludes certain claims, the DJA
19 authorizes the Court to declare that extent of its authority. That is true “whether or not further
20 relief is or could be claimed.” *Thornsberry v. Superior Court*, 146 Ariz. 517, 519, 707 P.2d 315,
21 317 (1985) (quoting A.R.S. § 12-1831). Accordingly, Count IX is properly before this Court in
22 conjunction with an election challenge.
23
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26 ///

1 **2. Relief under § 1983 Is Properly before the Court.**

2 In general, under the doctrine of “concurrent jurisdiction” federal claims can be brought
3
4 in state court: “Although § 1983, a Reconstruction-era statute, was passed to interpose the federal
5 courts between the States and the people, as guardians of the people's federal rights, state courts
6 as well as federal courts are entrusted with providing a forum for the vindication of federal rights
7 violated by state or local officials acting under color of state law.” *Haywood v. Drown*, 556 U.S.
8 729, 735 (2009) (interior quotation marks and citations omitted); *accord Baker v. Rolnick*, 210
9 Ariz. 321, 325 ¶ 18, 110 P.3d 1284 (App. 2005). That specifically includes federal election laws,
10 as well as § 1983, *Hathorn v. Lovorn*, 457 U.S. 255, 269-70 (1982). While defendants do not—
11 and cannot—dispute the doctrine of concurrent jurisdiction generally, they argue that the election
12 contest action does not allow the assertion, in the alternative, of federal claims.
13

14 Because federal law underlies and supports Plaintiff’s state-law claims, the stand-alone
15 federal claim (Count X) supplements this action. To the extent that Plaintiff cannot bring that
16 claim here because of the unique and purely statutory nature of election contests, the Court
17 should enter a declaratory judgment about the inadequacy of the election-contest statute to assert
18 such claims. *See supra* Part III.H.1. In the alternative, however, the Court should allow the
19 federal claim to proceed in conjunction with the election contest or separately. While the
20 election-contest statute is purely statutory, nothing in it displaces this Court’s concurrent
21 jurisdiction over federal claims.
22

23 If Arizona’s 2022 general election violated the federal Constitution, Arizona cannot evade
24 review under the election-contest statute: “When there is an unavoidable conflict between the
25
26

1 federal and a State Constitution, the Supremacy Clause of course controls.” *Arizonans for Second*
2 *Chances, Rehab., & Pub. Safety v. Hobbs*, 249 Ariz. 396, 426, 471 P.3d 607, 637 (2020) (quoting
3 *Reynolds v. Sims*, 377 U.S. 533, 584 (1964)). This Court can and should reach the merits of
4 Plaintiffs’ arguments under the federal Constitution as part of resolving Count V (Equal
5 Protection) and Count VI (Due Process). If the Court bypasses the merits, however, based on
6 any procedural or other non-merits basis under Arizona law, then Plaintiffs’ Count X must
7 proceed under 42 U.S.C. § 1983.
8

9
10 **IV. Conclusion.**

11 This case must proceed to trial. The purpose of election contest actions is to contest
12 elections. For the foregoing reasons, Plaintiff requests that the Court deny Defendants’ motions
13 to dismiss.
14

15 DATED this 17th day of December 2022.

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EXHIBIT 1

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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV2022053927

12/16/2022

HONORABLE MELISSA IYER JULIAN

CLERK OF THE COURT

A. Delgado

Deputy

MARK FINCHEM, ET AL.

DANIEL J MCCAULEY III

v.

ADRIAN FONTES, ET AL.

CRAIG A MORGAN

DAVID ANDREW GAONA

SAMBO DUL

DOCKET CV TX

COURT ADMIN-CIVIL-ARB DESK

JUDGE JULIAN

UNDER ADVISEMENT RULING

Re: Order Granting Motions to Dismiss First Amended Verified Statement of Election Contest

The Court has considered the filings and arguments of the Parties, the relevant authorities and applicable law, as well as the entire record of the case, and—considering all facts and reasonable inferences therefrom in the light most favorable to the non-movant Contestant—hereby finds as follows regarding the Motions.

PROCEDURAL HISTORY

This case was initiated by Contestants Mark Finchem (“Mr. Finchem”) and Jeff Zink (“Mr. Zink”) with the filing of their Verified Statement of Election Contest, on December 9, 2022. As noted on the record during the December 13, 2022, return hearing, Mr. Zink stipulated with Contestee Ruben Gallego to the voluntary dismissal of his election challenge. (See 12/13/2022

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Minute Entry at 2). Accordingly, and as set forth in the First Amended Verified Statement of Election Contest (“Amended Statement”), the only remaining contestant is Mr. Finchem, who filed suit pursuant to A.R.S. § 16-672 to contest the election of Contestee Adrian Fontes (“Mr. Fontes”) as Arizona’s Secretary of State following the November 8, 2022, election. On December 5, 2022, Secretary of State Katie Hobbs (“Ms. Hobbs” or the “Secretary”) published the official canvas for the general election, identifying 1,200,411 votes for Mr. Finchem and 1,320,619 votes for Mr. Fontes.

Pending before this Court is Ms. Hobbs’s Motion to Dismiss Plaintiff’s First Amended Verified Statement of Election Contest, filed December 13, 2022, and Mr. Fontes’s Motion to Dismiss, filed December 13, 2022. Mr. Finchem filed a combined response to both motions as ordered on December 14, 2022. Both Mr. Fontes’s and Ms. Hobbs’s reply briefs were filed December 15, 2022. This Court heard oral argument on the pending motions on December 16, 2022.¹

ANALYSIS AND FINDINGS

The ire of political opponents following a contested election is not a new concept in the history of election jurisprudence in Arizona. Over one hundred years ago, the Arizona Supreme Court explained that individual judgment in election matters is “often tintured . . . with party bias or with party prejudice,” noting that “[i]n the fervor of political contests this must be expected.” *Hunt v. Campbell*, 19 Ariz. 254, 263 (1917). *Hunt* further emphasized the important role of the judiciary in maintaining political neutrality when considering election contests. In fulfilling this role, trial courts must not be swayed by emotional entreaties, but should be guided instead by the fundamental purpose of election contests – to ensure Arizona’s election results effectuate the will of its voters. *Territory ex rel. Sherman v. Bd. of Supervisors of Mohave Cnty.*, 2 Ariz. 248, 253 (1887) (“It is the object of elections to ascertain a free expression of the will of the voters.”).

In keeping with that premise, this Court must apply “all reasonable presumptions” in “favor [of] the validity of an election.” *Moore v. City of Page*, 148 Ariz. 151, 155 (Ct. App. 1986). “[H]onest mistakes or mere omissions on the part of election officers, or irregularities in directory matters, even though gross, if not fraudulent, will not void an election, unless they affect the result, or at least render it uncertain.” *Findley v. Sorenson*, 35 Ariz. 265, 269 (1929).

¹ The Court notes that the Amended Statement requested to inspect the ballots under A.R.S. § 16-677. Mr. Finchem did not file the required bond or seek the appointment of inspectors as the law requires. Furthermore, at oral argument, Mr. Finchem’s counsel confirmed that he was not seeking to inspect the ballots, effectively withdrawing the request.

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Further, a valid election contest may not rely “upon public rumor or upon evidence about which a mere theory, suspicion, or conjecture may be maintained.” *Id.* at 263-64. In such cases, fraud must be specifically alleged and “ought never to be inferred.” *Hunt*, 19 Ariz. at 264.

As explained in detail below, this Court has considered the merits of this election contest with these governing principles in mind.

A. Applicability of Civil Rules 8 and 12(b)(6)

At the outset, it appears necessary to explain why an election contest is subject to scrutiny under Rules 8 and 12(b)(6). In opposing dismissal, Mr. Finchem’s counsel devotes the first ten pages of his response to the argument that “[a]n election contest is not a civil action” to which the Arizona Rules of Civil Procedure may be applied. Counsel continued to insist during oral argument that Mr. Finchem’s election contest is not subject to evaluation as a pleading under Rule 8 and cannot be dismissed for the failure to state a claim under Rule 12(b)(6), while later suggesting that he should nevertheless be able to seek summary judgment under civil Rule 56. This argument is frivolous.

While an election contest is a “purely statutory” and “special proceeding,” *Griffin v. Buzard*, 86 Ariz. 166, 168 (1959), the legislature has mandated that such actions be “brought in the superior court of the county in which the person contesting resides or in the superior court of Maricopa County.” A.R.S. § 16-672(B). In turn, Arizona Rules of Civil Procedure “govern the procedure in all civil actions **and proceedings in the superior court of Arizona**,” Ariz. R. Civ. P. 1 (emphasis added). An election contest is a “proceeding in the superior court of Arizona.”

For this reason, Arizona appellate courts have repeatedly and consistently applied Rules 8 and 12(b)(6) in considering whether a statement of election contest contains sufficient facts to survive dismissal. *See, e.g., Griffin v. Buzard*, 86 Ariz. 166, 169-70 (1959) (“The ultimate issue raised by this appeal is whether the statement of contest filed herein states a claim upon which relief could be granted”); *Hancock v. Bisnar*, 212 Ariz. 344, 348, ¶ 17 (2006) (Evaluating election contest allegations “under the notice pleading requirements of Rule 8(a).”); *Prutch v. Town of Quartzsite*, 231 Ariz. 431, 436, ¶ 17 (App. 2013) (motion to dismiss election contest was sufficient responsive pleading to avoid entry of default); *Burk v. Ducey*, No. CV-20-0349-AP/EL, 2021 WL 1380620, at *2 (Ariz. Jan. 6, 2021), *cert. denied*, 209 L. Ed. 2d 735, 141 S. Ct. 2600 (2021) (affirming dismissal of election contest); *Williams v. Fink*, No. 2 CA-CV 2018-0200, 2019 WL 3297254, at *1 (Ariz. App. July 22, 2019) (same); *Camboni v. Brnovich*, No. 1 CA-CV 15-0014, 2016 WL 388933, at *1 (Ariz. App. Feb. 2, 2016) (same).

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This court can and should assess the validity of Mr. Finchem's election contest under Rules 8 and 12(b)(6). In so doing, this Court will "assume the truth of the well-pled factual allegations and indulge all reasonable inferences therefrom." *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 419, ¶ 7 (2008). Under Rule 12(b)(6), a motion to dismiss for failure to state a claim is properly granted if the plaintiff is not entitled to relief as a matter of law "under any interpretation of the facts susceptible of proof." *Coleman v. City of Mesa*, 230 Ariz. 352, 356, ¶ 8 (2012) (quoting *Fid. Sec. Life Ins. Co. v. State Dep't of Ins.*, 191 Ariz. 222, 224, ¶ 4 (1998)). Exhibits to the verified statement, or public records, are not outside the pleading and courts may consider such documents without converting a motion to dismiss into a motion for summary judgment. *Id.* at 356, ¶ 9.

The Court will not, however, "speculate about hypothetical facts that might entitle the plaintiff to relief." *Cullen*, 218 Ariz. at 420, ¶ 14. Nor will the Court "accept as true allegations consisting of conclusions of law, inferences or deductions that are not necessarily implied by well-pleaded facts, unreasonable inferences or unsupported conclusions from such facts, or legal conclusions alleged as facts." *Jeter v. Mayo Clinic Ariz.*, 211 Ariz. 386, 389, ¶ 4 (App. 2005).

Applying this standard, the court addresses the arguments in the order raised in the Secretary's pending motion.

B. Laches

The Secretary argues that the laches bars Mr. Finchem's claims as to voting machine certification. Laches is an equitable doctrine that precludes a claim when the plaintiff delays unreasonably in filing a suit, and the delay "results in prejudice to the opposing party," *League of Ariz. Cities and Towns v. Martin*, 219 Ariz. 556, 558, ¶ 6 (2009), or the public. *Prutch*, 231 Ariz. at 435, ¶ 13 (App. 2013).

A procedural challenge to an election filed after the election has taken place is particularly vulnerable under this doctrine. *See e.g., Allen v. State*, 14 Ariz. 458, 462 (1913). The Arizona Supreme Court as far back as *Allen* noted, in denying a post-election procedural challenge, "[t]imely appeal to the courts upon the questions now raised, if meritorious, would have settled the matter before the election was had," and noted the heightened prejudice to both voters and the public purse that arises from a later challenge. *Id.* Our courts continue to take this view. *See e.g., Kerby v. Griffin*, 48 Ariz. 434, 444 (1936) (*abrogated in part on other grounds by, Fann v. State*, 251 Ariz. 425, 441, ¶ 58 (2021)) ("It has been frequently determined that if parties allow an election to proceed in violation of the law which prescribes the manner in which it shall be held, they may not, after the people have voted, then question the procedure."); *Zajac v. City of Casa Grande*, 209 Ariz. 357, 360, ¶ 14 (2004) (citing various).

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The challenge to voting machine certifications is a procedural challenge. “Election procedures generally involve ‘the manner in which an election is held.’” *Sherman v. City of Tempe*, 202 Ariz. 339, 342, ¶ 10 (2002) (quoting *Tilson v. Mofford*, 153 Ariz. 468, 470 (1987)). It goes without saying that a challenge to the machines used to tabulate votes wholly implicates “the manner in which an election is held.” Thus, Mr. Finchem’s claims with respect to the certification of voting machines and software is subject to laches. In applying laches, this Court considers both the unreasonable delay and resulting prejudice caused by this post-election procedural challenge.

First, the court considers unreasonable delay. Mr. Finchem’s proposed expert avers that the original Certificate of Accreditation for Pro V&V (which was issued in 2015) expired in 2017 and the purportedly defective certificate was issued on February 1, 2021. SLI’s most recent certificate (according to Mr. Finchem) was issued that same day. Mr. Finchem was constructively on notice that – under their theory – the Pro V&V machines were not properly accredited *for five years* before this challenge. See *Mathieu v. Mahoney*, 174 Ariz. 456, 459 (1993) (applying laches to election challenge based on publicly available documents). At the latest, the reissued certificate was issued twenty-two months before the election; and still Mr. Finchem did not object. Mr. Finchem offers no justification in their verified statement or in their response to the motions to dismiss for a delay of five years, a delay of twenty-two months, or for the decision to wait until after the election to raise these concerns. The court finds this delay unreasonable.

Second, the court considers prejudice. Because Mr. Finchem’s certification challenges comes post-election, Mr. Finchem, like the challengers in *Sherman*, “essentially ask us to overturn the will of the people as expressed in the election.” *Id.* at ¶ 11. This certainly prejudices the Secretary and Secretary-Elect given the enormous time and expense necessary to run a statewide election (as noted by *Allen, supra*). But it also prejudices the voting public, “imbued with the conviction that they were performing one of the highest functions of citizenship, and not going through a mere hollow form, we may assume, investigated the [candidates] and went to the polls and voted thereon.” *Allen*, 14 Ariz. at 462. The court finds that the delay of five years greatly prejudices the parties and the public.

Mr. Finchem makes a perfunctory argument that the software certification of EVS 6.0.4.0 is also “irredeemably flawed.” In support of this argument, Mr. Finchem points us to another purported expert report, which states that the allegedly deficient certification for the software was issued in 2019. Again, no explanation for the delay in bringing a procedural challenge to this software’s use for a general election in 2022 is offered. This too, is barred by laches.

Because Mr. Finchem could have brought a challenge regarding the laboratory testing of voting machines anytime in the last five years (or minimally at any time since February 2021), Mr. Finchem’s unjustifiable delay resulted in an election being conducted under conditions he belatedly finds objectionable. Thus, the court finds that laches bars Mr. Finchem’s challenge as to

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voting machine certification as a matter of law, but out of an abundance of caution, will consider whether Mr. Finchem states a claim on the merits.

C. Voting Machine Certification

Mr. Finchem argues that the voting machines used by the Secretary and Maricopa County in conducting the 2022 General Election were not properly certified under A.R.S. § 16-442(B) which requires that “[m]achines or devices used at any election for federal, state or county offices” must be “tested and approved by a laboratory that is accredited” under the Help America Vote Act (“HAVA”). *See generally* Pub. L. 107-252, 116 Stat. 1666 (2002) (codified as amended at 52 U.S.C. § 20901–21145). As the Secretary points out, Congress vested the Election Assistance Commission (“EAC”) with the authority to “provide for the testing, certification, decertification, and recertification of voting system hardware and software,” that states may then voluntarily adopt. 52 U.S.C. § 20971(a).

Mr. Finchem alleges that the Secretary’s certified vote count is inaccurate “because the electronic ballot tabulation machines were not certified and could not be certified as the laboratory engaged [to certify election equipment] was itself not certified.” Mr. Finchem argues that because the Voting System Test Laboratory manual requires the certificate to be signed by the chair of the EAC, a certificate signed by the EAC’s executive director nullifies the accreditation altogether.

But the VSTL manual does not have the force of statute, and under HAVA the EAC not only retains the power to certify laboratories, but further provides that “the accreditation of a laboratory for purposes of this section *may not* be revoked unless the revocation is approved by a vote of the commission.” 52 U.S.C. § 20971(c)(2) (emphasis added). Mr. Finchem did not allege that the *initial* accreditation of Pro V&V or SLI Compliance was defective – only the recertification in 2021. Consequently, even if the recertification was somehow irregular, federal law requires that the EAC vote to remove accreditation from a laboratory in order for the accreditation to be lost. It is not automatic. Mr. Finchem has not alleged that the EAC has voted to revoke either Pro V&V or SLI Compliance’s accreditation, and therefore the two laboratories remain accredited for the purposes of the instant motions.

Thus, taken as true for the purposes of a motion to dismiss, the allegation that the executive director rather than the chair of the EAC signed the certification does not give rise to a reasonable inference that the testing laboratories were not properly accredited.

It bears noting that in his response and during oral argument, Mr. Finchem’s counsel repeatedly referred to the election certificates as being “forged.” This allegation appears nowhere in the Amended Statement and was asserted for the first time in response to the pending motions. This new allegation is wholly unsupported by the record.

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Indeed, even if the voting machines were incorrectly certified: what then? What, apart from a general pall of suspicion could result from such a conclusion? The law in Arizona does not permit an election challenge to proceed based solely upon a vague sense of unease. *See generally* A.R.S. § 16-672(A)(1)-(5). Mr. Finchem's Amended Statement draws no through-line from the lack of certification to a specific effect on the election results. There is no allegation that the Executive Director, rather than the Chair, signing the testing laboratory certificates caused any illegal vote to be cast. The EAC has affirmed that Pro V&V and SLI Compliance retain their testing certification. There was no misconduct stemming from this allegation. Consequently, assuming laches did not already bar these claims, this argument fails to state a meritorious challenge and must be dismissed.

D. Voting Software Certification

As quickly as Mr. Finchem raises this issue, the court can reject it. Mr. Finchem objects to the certification of EVS 6.0.4.0 due to technical issues raised by his expert. But state law and HAVA vest the authority to certify software in accredited laboratories. To the extent this court can parse an unsworn PowerPoint presentation for a technical argument (that, for what it's worth, is nowhere discussed in the body of the Amended Statement), Mr. Finchem offers no legal theory under which the court can invalidate voting software certification under HAVA after it has been conferred by an accredited testing laboratory. *See* 52 U.S.C. § 20971(a)(2); A.R.S. § 16-442(B). Neither federal nor state law permit this court to second guess the technical judgement of accredited laboratories. This argument also fails on its merits.

E. Illegal Votes

Mr. Finchem argues that "tabulating machine failures" and a change in the estimated number of votes remaining to be counted on the Secretary of State website indicate that illegal votes were cast.

At the outset, this court notes that these allegations challenge, again, election procedures. As set forth above, a claimant seeking to challenge an election after it is conducted must allege either "fraud, or [allege that] had proper procedures been used, the result would have been different." *Moore*, 148 Ariz. at 159. "[E]ven though gross," procedural errors or omissions in the election process, without more, do not qualify as grounds for an election contest. *See Findley*, 35 Ariz. at 269.

Official election returns by an election board are prima facie evidence of the number of votes cast for the contestant. *Hunt*, 19 Ariz. at 276 (1917). Procedural irregularities as to some votes in a precinct is not sufficient cause to reject the remaining ballots. *Grounds v. Lawe*, 67 Ariz. 176, 185 (1948). An illegal vote is one that is cast in violation of a statute providing that non-compliance invalidates the vote, or cast by one who is not eligible to vote. *See Miller v. Picacho*

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Elementary Sch. Dist. No. 33, 179 Ariz. 178, 180 (1994) (where a statute provides that non-compliance invalidates a vote, that vote is invalid); *Moore*, 148 Ariz. at 156-7 (inclusion of ineligible names on voter list was insufficient to demonstrate illegal votes where it was not established, ineligible persons actually voted).

Here, Mr. Finchem simply does not allege that any of the votes cast were actually illegal. He does not allege participation by non-registrants, or anyone else who ought not to have voted. He does not allege that a single ballot was cast in violation of a statute that invalidated that vote. What Mr. Finchem argues is a case of *missing* votes.

To the extent that Mr. Finchem argues that the use of Pro V&V or SLI Compliance for testing tabulators or software renders votes cast on them illegal; this court has already rejected those arguments. Mr. Finchem's contest on the basis of "illegal votes" is unsupported by *any* alleged fact and fails to state a claim under § 16-672(A)(4).

Although not alleged by Mr. Finchem's Original or Amended Statements, his counsel argued for the first time in response to the pending motions that his contest could proceed under subsection (A)(5). Subsection (A)(5) allows an election contest "by reason of erroneous count of votes." Given that it was not raised in either the Original or Amended Statements, this belated new challenge is untimely. *See Burk*, 2021 WL 1380620, at *2 (Ariz. Jan. 6, 2021) ("a statement of contest in an election contest may not be amended, after the time prescribed by law for filing such contest has expired.")

Even if subsection (A)(5) had been asserted as a ground for the contest, the Amended Statement never alleges that any legally cast vote was not counted; it only relays the speculation that votes *might* not have been counted. Similarly, the appendices to the Amended Statement (which consist of anecdotal, mostly unsworn hearsay statements) allege the "possibility" of disenfranchisement based upon frustration with machine malfunctions, delays, and "suspicions" that some votes may not have been counted. Under *Hunt* and its progeny, these kinds of allegations cannot sustain an election contest even if Mr. Finchem had timely asserted such a claim. *See Hunt*, 19 Ariz. at 264, 276.

F. Misconduct

Finally, Mr. Finchem contests the election under § 16-672(A)(1). That subsection permits election challenges "[f]or misconduct on the part of election boards or any members thereof in any of the counties of the state, or on the part of any officer making or participating in a canvas for a state election." As with illegal vote contests, a contest based on "misconduct" cannot survive dismissal if predicated only "upon public rumor or upon evidence about which a mere theory, suspicion, or conjecture may be maintained." *Hunt*, 19 Ariz. at 263-64. Errors and omissions in

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the election process also cannot sustain a “misconduct” claim in the absence of fraud or allegations that the error affected the election result. *Findley*, 35 Ariz. at 269.

Mr. Finchem asserts that Ms. Hobbs engaged in the following instances of “misconduct” by:

- (1) failing to recuse herself after her opponent expressed a “perceived a conflict of interest”;
- (2) failing to ensure proper certification of the ballot tabulating machines and software;
- (3) “threatening county officials with criminal charges and indictment for failure to certify a defective election process.”
- (4) Flagging alleged misinformation posted by Mr. Finchem’s Twitter account.

None of these alleged acts constitutes “misconduct” sufficient to survive dismissal.

1. Recusal/Perceived Conflict

Mr. Finchem first alleges that Ms. Hobbs “had an ethical duty to recuse herself” after her gubernatorial opponent “perceived a conflict of interest” and then “repeatedly and publicly called for Ms. Hobbs to recuse herself.” The only authority cited in the Amended Statement is to A.R.S. § 38-503, which prohibits self-dealing by public employees.

These are not well-pled facts; they are legal conclusions masquerading as alleged facts. As such, this court is not obliged to assume their truth. *See Jeter*, 211 Ariz. 386, 389, ¶ 4. Further, and even as “legal conclusions,” Arizona law does not support them.

Section 38-503 applies to public officers who have a “substantial interest in any contract, sale, purchase or service.” A.R.S. § 38-503(A). Recusal is required only when a public officer or employee has a “nonspeculative pecuniary or proprietary interest, either direct or indirect, other than a remote interest.” A.R.S. § 38-502(11). Put simply, “[p]ecuniary means money and proprietary means ownership.” *Shepherd v. Platt*, 177 Ariz. 63, 65 (App. 1993). Seeking or holding a public office does not grant elected officials a financial or ownership interest in the job they hold or seek. To the contrary, “the nature of the relation of a public officer to the public is inconsistent with either a property or a contract right. Every public office is created in the interest and for the benefit of the people, and belongs to them.” *Ahearn v. Bailey*, 104 Ariz. 250, 254 (1969) (citation omitted).

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The plain terms of the self-dealing statute did not require the Secretary's recusal merely because she was seeking election at the same time, she carried out her election duties as a public officer. Arizona law does not recognize a "pecuniary or proprietary interest" in either the office she held or in the office she sought.

Mr. Finchem failed to cite any other rule, statute, or Arizona appellate decision that imposes an "ethical" or "legal" duty upon an election official to recuse herself from carrying out her official duties when she is also a candidate for re-election or election to a different public office. And there is no "presumption" under Arizona law that the Secretary committed misconduct in the election canvass merely because her opponent "perceived" an earlier conflict of interest.

2. *Lab Certification*

Next, the Amended Statement alleges the Secretary "negligently or intentionally" breached her "duty to enforce current rules and statutes related to Arizona elections" by failing to ensure proper certification of the ballot tabulating machines. Reframed as an allegation of "misconduct," this claim alleges the Secretary breached her official duties because the wrong executive from the EAC signed a certificate of accreditation for the accredited laboratory that conducted testing on Arizona's ballot tabulation machines.

The Amended Statement does not assert any facts explaining how the Secretary was responsible for determining who at the EAC signed the accreditation certificate, apart from a general reference to her statutory oversight duties. Even assuming misconduct could be implied by the existence of these duties, there is also no allegation that Ms. Hobbs's engaged in any fraud. And even if the certification process had one or more errors, the Amended Statement does not allege that Mr. Finchem would have prevailed in the election if a different EAC official had signed the lab's certificate of accreditation in February 2021, some 22 months before the 2022 general election took place. For these reasons, and as explained in detail above, Mr. Finchem's misconduct claim based upon the alleged certification errors fails as a matter of law.

Additionally, an election contest under subsection (A)(1) applies only to alleged misconduct "on the part of any officer *making or participating in a canvass for a state election.*" A.R.S. § 16-672(A)(1) (emphasis added). Given that the questioned signatures on the lab certificates occurred long before the challenged election, there can be no argument that the claimed certificate error could qualify as misconduct "in the canvas." See *Williams*, 2019 WL 3297254, at *3, ¶ 14 (affirming dismissal of "misconduct" claim based upon pre-canvass events). This is an independent basis for dismissal.

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3. *Threats to Other County Officials*

Next, Mr. Finchem asserts the Secretary engaged in misconduct by “threatening county officials with criminal charges and indictment for failure to certify a defective election process.”² Specifically, the Amended Statement alleges that Ms. Hobbs’s subordinate (Kori Lorick) sent a letter to the Mohave County Board indicating that the canvass or certification of the election was “not discretionary” and advising that “[if] Mohave County does not perform their ministerial duty to canvass your election results, we will have no other choice but to pursue legal action.” The Amended Statement then references a post from <https://twitter.com/KariLakeWarRoom> for the proposition that two Mohave County supervisors “said they were voting to certify the election ‘under duress’” as a “direct result of Ms. Hobbs threats.” The Amended Statement refers to similar alleged threats made to Cochise County officials.³

Assuming these allegations are true, they still do not establish that Ms. Hobbs’ engaged in “misconduct.” As with the alleged “duty to recuse” allegations, Mr. Finchem cites no state law that prohibits the Secretary of State from communicating with other elected officials regarding their respective duties to canvass or barring her from conveying her interpretation of applicable state laws.

Although other county officials also have certain duties with respect to the canvass, the law does place the final burden on the Secretary to ensure the canvass and certification of a general election is completed within the statutorily prescribed timeframes. *See* A.R.S. § 16-648(A). It is not “misconduct” for the Secretary of State to communicate with other governing bodies to ensure the canvass and certification are completed.

Nothing in the verified statement reflects that the Secretary or her subordinates made any false or fraudulent statement regarding the applicable law in the cited communications to county officials. As Ms. Lorick’s email pointed out, A.R.S. § 16-642(C) does permit canvass delays only where “the returns from any polling place . . . are found to be missing.” Moreover, legal action to compel a county board to perform its canvassing duties “within the required time,” is an appropriate remedy where there is evidence that the county board has not carried out its duties as state law requires. *Hunt*, 19 Ariz. at 279 (noting that mandamus writ is appropriate remedy for

² The Amended Statement also refers to emails between counsel regarding other lawsuits in different jurisdictions as support for the claim that Hobbs engaged in abusive conduct or intimidation. These emails between the parties’ attorneys regarding the merits of other lawsuits are irrelevant to this election contest here and will not be considered.

³ Counsel for Mr. Fontes also argues that all county election officials and supervisors are indispensable parties to this action and seek dismissal on that basis. Because the court finds that the claim fails independently, it need not address this argument.

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unlawful canvass delays). Accordingly, communications from the Secretary's office regarding the consequences of a canvass delay and her threat to seek enforcement via litigation cannot be construed as "misconduct" for purposes of an election contest.

Moreover, this court is bound to apply a presumption that Ms. Hobbs acted in "good faith" in communicating with county officials regarding the canvass. *Hunt*, 19 Ariz. at 268 ("[T]he returns of the election officers are prima facie correct and free from the imputation of fraud."). Allegations that the Secretary communicated with other elections officers in an attempt to fulfill her canvass duties cannot, as a matter of law, amount to "misconduct."

4. *Flagged/Suspended Twitter Account*

Lastly, Mr. Finchem claims that it was "misconduct" for the Secretary of State's Office to flag for review two tweets from a Twitter account. This claim is also fatally flawed.

First, as with the other "misconduct" allegations analyzed above, the Amended Statement makes no claim that these alleged Twitter misdeeds were "fraudulent" or that they altered the outcome of the election.

Second, the emails appended to the complaint were from January 2021 and Mr. Finchem's account was alleged to be suspended in October 2022. These allegations do not relate at all to the Secretary's participation in the 2022 canvass. These allegations cannot, therefore, be construed as misconduct in the canvass, which is required to assert an election contest under subsection (A)(1).

Finally, Twitter's independent decision to suspend Mr. Finchem's account cannot create a valid basis for an election challenge under Arizona law, as Twitter is not an "election official." *See also O'Handley v. Padilla*, 579 F. Supp. 3d 1163, 1183 (N.D. Cal. 2022) (Twitter decision to suspend account with flagged tweets did not constitute "state action" by state government officials who relayed concerns about accuracy of information reported in account posts).

In summary, the misconduct allegations also fail to state a claim for relief. Dismissal of the Amended Statement is appropriate.

SANCTIONS REQUESTS

Both Ms. Hobbs and Mr. Fontes have requested leave to file applications for sanctions pursuant to A.R.S. § 12-349 and Rule 11 of the Arizona Rules of Civil Procedure. The Court has set a briefing schedule on those requests below. However, any such motion cannot delay entry of a final judgment as Arizona law requires this court to pronounce its judgment immediately to ensure the expedited appellate process can begin. Thus, this court will enter a final judgment

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MARICOPA COUNTY

CV2022053927

12/16/2022

pursuant to Rule 54(b), to ensure any expedited appeal may be perfected in accordance with Rule 10 of the Arizona Rules of Civil Appellate Procedure.

IT IS THEREFORE ORDERED granting Defendant Arizona Secretary of State Katie Ms. Hobbs' Motion to Dismiss Plaintiff's First Amended Verified Statement of Election Contest, filed December 13, 2022, and Secretary of State-Elect Mr. Adrian Fontes' Motion to Dismiss, filed December 13, 2022.

IT IS FURTHER ORDERED dismissing with prejudice the First Amended Verified Statement of Election Contest, filed December 12, 2022.

IT IS FURTHER ORDERED confirming the election of Mr. Adrian Fontes as Arizona Secretary of State-Elect.

IT IS FURTHER ORDERED vacating the virtual status conference set for December 19, 2022, at 8:30 a.m. as moot in light of the ruling above.

IT IS FURTHER ORDERED that within **10 days** from the entry of this Order, Counsel for Ms. Hobbs and Mr. Fontes may file a motion for sanctions as requested. The court will thereafter rule upon any such motion upon receipt of briefing and argument in accordance with Rule 7.1.

THE COURT FINDS that, notwithstanding the parties' outstanding sanctions requests, there is no just reason for delay in the entry of this judgment.

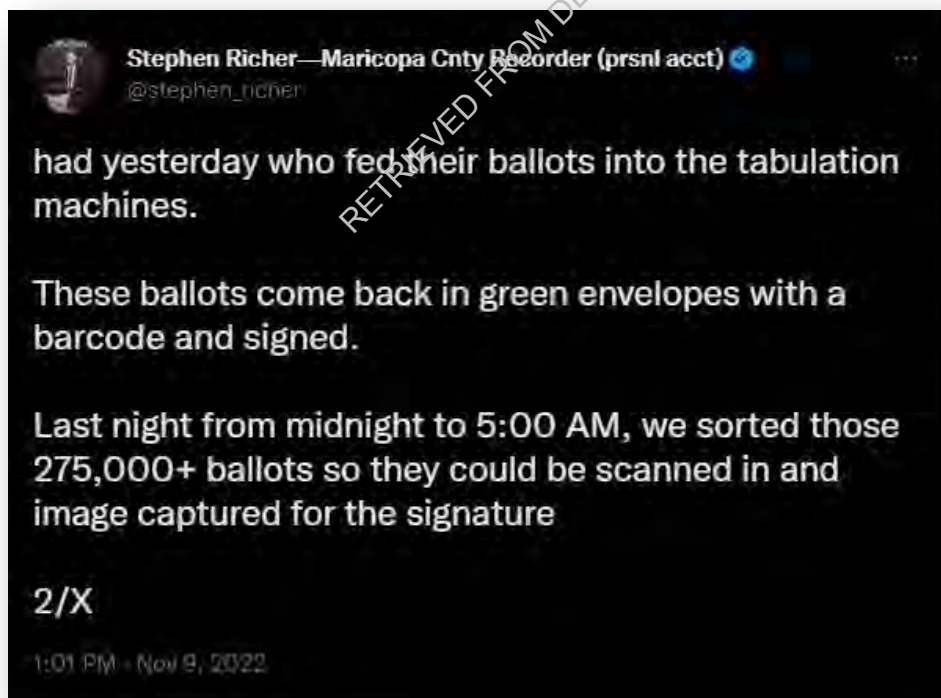
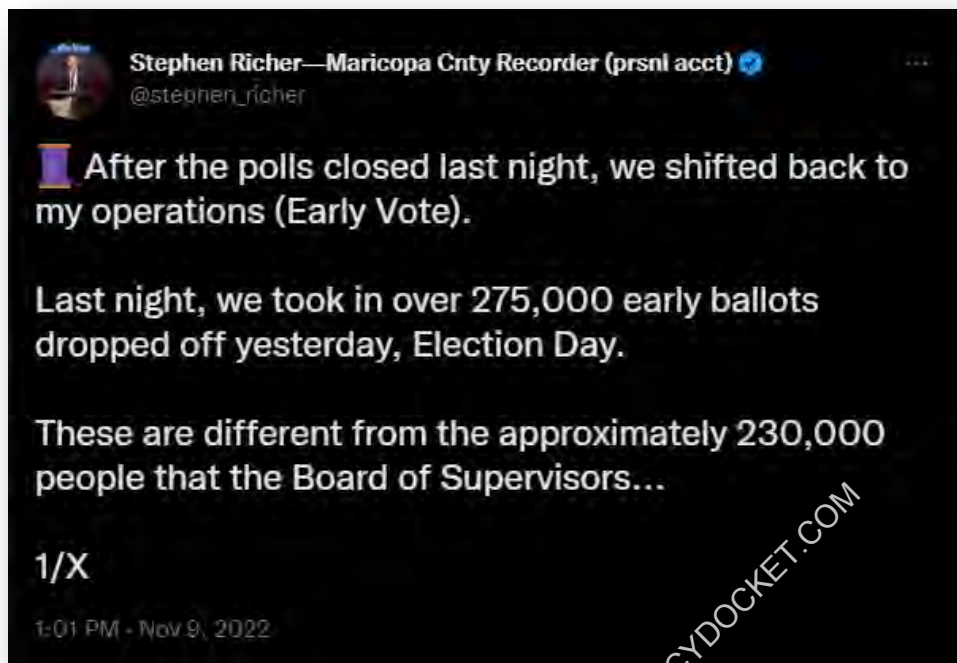
IT IS THEREFORE ORDERED entering this as a final judgment in accordance with Rule 54(b) of the Arizona Rules of Civil Procedure.



HONORABLE MELISSA JULIAN
JUDICIAL OFFICER OF THE SUPERIOR COURT

Stephen Richer Twitter Account

https://twitter.com/stephen_richer/status/1590404218061717504





Stephen Richer—Maricopa Cnty Recorder (prsnl acct)

@stephen_richer

We began signature verification of those 275,000+ at 7:00 AM.

They must be signature verified to confirm identity.

Once they are signature verified, they are sent ahead to a bipartisan ballot processing team.

That team removes the ballot from the envelope...

3/X

1:01 PM · Nov 8, 2022

RETRIEVED FROM DEMOCRACYDOCKET.COM

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ARIZONA SUPERIOR COURT
MARICOPA COUNTY

KARI LAKE,
Plaintiff/Contestant,
v.
KATIE HOBBS,
Defendant/Contestee.

No. CV2022-095403

**CONTESTEE KATIE HOBBS'S
MOTION TO EXCLUDE
PLAINTIFFS' EXPERTS CLAY
PARIKH AND RICHARD BARIS
AND STRIKE EXPERT REPORTS**
Assigned to Hon. Peter Thompson

1 Defendant Governor-Elect Katie Hobbs moves under Arizona Rule of Evidence 702
2 for an order (1) excluding the declarations of Clay Parikh and Richard Baris; and
3 (2) excluding their testimony at trial.
4

5 **Introduction**

6 Yesterday, this Court dismissed eight of Plaintiff Kari Lake's ten claims, allowing
7 only Counts II and IV to proceed to trial. Those claims relate to alleged misconduct with
8 (a) Maricopa County's printing issues (Count II) and (b) Maricopa County's compliance
9 with chain of custody laws (Count IV).

10 To support her allegations, Lake relies on the testimony of two supposed experts:

11 *First*, Clay Parikh submitted a declaration opining that, among other things,
12 Maricopa County's printing issues must have been "intentional" because (1) these printing
13 issues arose at multiple voting centers, (2) Maricopa County "downplayed" the issue, and
14 (3) Maricopa County did not tweet out all five possible solutions to fixing the problem.
15 [Compl. Ex. A-13 at 9–10] He also opined—with no explanation—that "the most serious"
16 issue was a "break[]" in "the chain of custody." [Compl. Ex. A-13 at 21 ¶ 31]
17

18 *Second*, Richard Baris submitted a declaration opining that Maricopa County's
19 printing issues affected the outcome of the election because (1) some Election Day voters
20 answered in the affirmative when asked whether they had "any issues or complications
21 when trying to vote in person," [Compl. Ex. A-11 at 1], and (2) if an additional 2.5% of
22 people had cast ballots on Election Day and if 75% of those votes favored Lake, then Lake
23 could have won. [Compl. Ex. A-11 at 10]

24 Neither one of these so-called experts has any business testifying at trial. Their
25 anticipated testimony is, in various parts, unreliable, unhelpful, and irrelevant. That's
26 especially true given that these "experts" are unqualified to offer these opinions to begin
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1 with. As a result, under Arizona Rule of Evidence 702, this Court should exclude their
2 declarations and bar these witnesses from testifying.

3 **Legal Standard**

4 “A witness who is qualified as an expert by knowledge, skill, experience, training,
5 or education” may offer expert testimony only if (a) “the expert’s scientific, technical, or
6 other specialized knowledge will help the trier of fact to understand the evidence or to
7 determine a fact in issue”; (b) “the testimony is based on sufficient facts or data”; (c) “the
8 testimony is the product of reliable principles and methods”; and (d) “the expert has
9 reliably applied the principles and methods to the facts of the case.” Ariz. R. Evid. 702.
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11 The “proponent of the expert” has the burden of “proving admissibility.” *Cooper v.*
12 *Brown*, 510 F.3d 870, 942 (9th Cir. 2007) (citation omitted). “Rule 702 embodies the twin
13 concerns of reliability and helpfulness.” *Stilwell v. Smith & Nephew, Inc.*, 482 F.3d 1187,
14 1192 (9th Cir. 2007) (cleaned up). Because “expert testimony can be both powerful and
15 quite misleading,” judges should exclude expert testimony “unless they are convinced that
16 [the testimony] speaks clearly and directly to an issue in dispute in the case.” *Senne v.*
17 *Kansas City Royals Baseball Corp.*, 2022 WL 783941, at *9 (N.D. Cal. Mar. 15, 2022)
18 (cleaned up). This is true even in a bench trial, where the gatekeeper and the trier of fact
19 are one and the same, because the Rule 702 inquiry concerns the admissibility—not the
20 weight—of expert evidence. *F.T.C. v. BurnLounge, Inc.*, 753 F.3d 878, 888 (9th Cir. 2014).
21

22 Here, as explained below, Lake cannot carry her burden of proving that the
23 anticipated testimony of either Clay Parikh or Richard Baris is admissible.
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Argument

A. Neither of Lake's proposed experts is qualified to provide expert testimony.

Lake first must establish that both of her proposed experts are qualified to testify in this election case. She cannot do so, as neither is qualified, and both have developed their opinions solely for the purpose of undermining confidence in Arizona's 2022 election.

First, Baris lacks the qualifications to testify on his proposed opinion that, for example, there is “a reasonable degree of mathematical certainty that a modest depression in turnout on Election Day would be significant enough to cast doubt on the overall result.” [Compl. Ex. A-11 at 10] In support of this opinion, Baris does not reference any “training[] or education,” Ariz. R. Evid. 702, including in mathematics or statistics. Nor does Baris have any experience in election administration—including in Maricopa County or Arizona. Rather, the basis for Baris's testimony is only that he conducted an “exit poll in the state of Arizona [sic] from November 1 to November 8, 2022,” and that for several years he has worked as a “pollster,” including as the Director of Big Data Poll.¹ [Compl. Ex. A-11 at 1] That is not enough—and would permit *any* pollster to qualify as an expert on election administration. *See Koppell v. N.Y. State Bd. of Elections*, 97 F.Supp.2d 477, 481–82 (S.D.N.Y. 2000) (excluding testimony of political scientist who had “significant political experience” but “lack[ed] any particular expertise” on the election practices at issue, and where his work had “neither been tested nor subject to peer review”).²

Indeed, rather than “proposing to testify about matters growing naturally and directly out of research [he] ha[s] conducted independent of litigation,” Baris has “developed [his] opinions expressly for purposes of testifying.” *Daubert*, 43 F.3d at 1317.

¹ Big Data Poll is not well regarded in the polling community. It is one of 11 pollsters (out of 493 total pollsters) that is banned from FiveThirtyEight due to receiving an “F” grade for unreliable methodology, nontransparent methods, or inaccurate results. *See* <https://projects.fivethirtyeight.com/pollster-ratings/big-data-poll>. It also does not appear to be included in RealClearPolitics polling aggregations, or to be a member of any of the major national associations of polling professionals. *See* DEFS00013 & n.19.

² Baris also claims he has “served as an expert . . . in both state and federal court cases” involving “elections” (and “civil rights” cases) but does not identify any such case. [Compl. Ex. A-11 at 1.] Nor has undersigned counsel been able to locate any so far.

1 For example, Baris posted on social media just yesterday about how “[p]eople have become
2 so accustomed to an unelected administrative state influencing elections.”³ And he
3 similarly has criticized the “lack of universal condemnation over Maricopa—or, rather, the
4 acceptance of such blatant voter suppression.”⁴ Baris is not qualified to testify here.

5 *Second*, Parikh similarly is not qualified to testify, including as he proposes about
6 how alleged printing issues and “numerous procedural violations . . . can only be
7 categorized as *intentional*.” [Compl. Ex. A-13 ¶ 7] In contrast to Baris, Parikh outlines
8 some education and training, including in computer science, cybersecurity, and
9 information technology. [*Id.* ¶ 2–3] But the extent of Parikh’s experience in the field of
10 elections appears to be that he has worked in laboratories that attempt to hack voting
11 systems. [*See id.* ¶ 5] Of course, expertise in one field does not “automatically translate
12 into expert status” in another field. *Aloe Vera of Am. Inc. v. United States*, No. CV-99-
13 01794, 2014 WL 3072981, at *7 (D. Ariz. July 7, 2014). Therefore, even to the extent that
14 Parikh has some training and education in IT issues, he is not an expert on the topics he
15 proposes to testify about—including actual election administration, election-day
16 operations, the reliability of election results, as well as his opinions that “[t]here were many
17 disenfranchised Maricopa County voters” or that “the most serious violation by a county
18 official was breaking the chain of custody.” [Compl. Ex. A-13 ¶¶ 31, 33] And there is
19 certainly no basis to believe that his technical background qualifies him to opine on the
20 “demeanor” of election officials as indicative of intent. [*Id.* ¶ 16]

21 In another case challenging Arizona election results, in fact, Parikh was asked
22 whether he had ever “actually examine[d] in any way the Electronic Voting Systems that

23 ³

24 [https://twitter.com/Peoples_Pundit/status/1604968376790487042?s=20&t=pczOTeH3IN](https://twitter.com/Peoples_Pundit/status/1604968376790487042?s=20&t=pczOTeH3INWLozmzONUsYA)
25 [WLozmzONUsYA](https://twitter.com/Peoples_Pundit/status/1601735915923046406?s=20&t=pczOTeH3INWLozmzONUsYA); *see also* [https://twitter.com/Peoples_Pundit/status/1601735915923046406?s=20&t=pczOTeH3IN](https://twitter.com/Peoples_Pundit/status/1601735915923046406?s=20&t=pczOTeH3INWLozmzONUsYA)
26 [WLozmzONUsYA](https://twitter.com/Peoples_Pundit/status/1601735915923046406?s=20&t=pczOTeH3INWLozmzONUsYA) (“The 2022 Arizona midterm elections were not conducted
27 legitimately.”).

28 ⁴ [https://twitter.com/Peoples_Pundit/status/1597650900767895552?s=20&t=pczOTeH3IN](https://twitter.com/Peoples_Pundit/status/1597650900767895552?s=20&t=pczOTeH3INWLozmzONUsYA)
[WLozmzONUsYA](https://twitter.com/Peoples_Pundit/status/1597650900767895552?s=20&t=pczOTeH3INWLozmzONUsYA).

1 are currently being used in either Maricopa County,” to which Parikh responded: “Not
2 physically, no.” [*Lake v. Hobbs*, No. 2:22-cv-00677-JJT (D. Ariz.), 07/21/2022 Hr’g Tr. at
3 119:21-24, attached as Ex. 1] Parikh similarly offers no indication that he has actually
4 inspected the voting equipment at issue in this case. He therefore “lack[s] any particular
5 expertise” on these issues, and his work has “neither been tested nor subject to peer
6 review.” See *Koppell*, 97 F.Supp.2d at 481–82.

7 As demonstrated by his involvement in this and other litigation, in fact, Parikh is
8 biased in favor of undermining election systems and results wherever possible. In an
9 October 2022 interview about a case challenging Alabama’s voting machines, Parikh
10 admitted that he views *no* election hardware or software to be adequate and that he views
11 this as a matter of “good versus evil.”⁵ This viewpoint is evident from Parikh’s declaration
12 in this case, theorizing that unspecified actors committed *intentional* misconduct—without
13 citing any evidence or data or identifying any such individual. Parikh thus is not qualified
14 to testify as an expert in this case.⁶

15 **B. The anticipated testimony of Clay Parikh and Richard Baris is unreliable.**

16 An expert’s proponent “must explain the expert’s methodology and demonstrate in
17 some objectively verifiable way that the expert has both chosen a reliable scientific method
18 and followed it faithfully.” *State ex rel. Montgomery v. Miller*, 234 Ariz. 289, 298 ¶ 23
19 (App. 2014) (quoting *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 43 F.3d 1311, 1319
20 n.11 (9th Cir. 1995)). To assess an expert opinion’s reliability, courts consider:

22 ⁵ Andrea Tice, *Black box voting: Confessions of an elections hacker (Part 2)*, 1819 News
23 (Oct. 16, 2022), [https://1819news.com/news/item/black-box-voting-confessions-of-an-](https://1819news.com/news/item/black-box-voting-confessions-of-an-elections-hacker-part-2)
24 [elections-hacker-part-2](https://1819news.com/news/item/black-box-voting-confessions-of-an-elections-hacker-part-2) (“Parikh spent nine years as a hacker in an election systems lab
25 and, as such, considers all election hardware and software to be woefully inadequate when
it comes to voting security. ... ‘This is about power,’ [Parikh] said. ‘The haves against the
have-nots and who is willing to pay to keep the power. Ultimately, I sum it up as good
versus evil.’”).

26 ⁶ Many of Parikh’s erroneous conclusions also undermine the credibility of his other
27 opinions. For example, Parikh opines that malfunctions nullify the election’s certification.
28 That opinion, however, clearly contradicts Arizona law, as this Court knows. [Dkt. 926
at 6.]

1 (1) whether the expert's theory or technique can be or has been tested; (2)
2 whether the theory or technique has been subjected to peer review and
3 publication; (3) whether the technique or theory is generally accepted within
4 the relevant scientific community; (4) the known or potential rate of error of
the technique or theory when applied; and (5) the existence and maintenance
of standards controlling application of the technique.

5 *Id.* at 299 ¶ 24 (citing *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 593–
6 94 (1993)). Other factors include whether: (1) “the expert’s testimony is prepared solely in
7 anticipation of litigation[] or is based on independent research; (2) the expert’s field of
8 expertise/discipline is known to produce reliable results; [and] (3) other courts have
9 determined that the expert’s methodology is reliable.” *Id.* ¶ 25. Under this standard, an
10 expert’s testimony is properly excluded when it is based only on “subjective beliefs or
11 unsupported speculation” that amounts to no more than “unreliable *ipse dixit* guesswork.”
12 *Friend v. Time Mfg. Co.*, 422 F. Supp. 2d 1079, 1081 (D. Ariz. 2005).

13 Lake’s purported experts do not even come close to meeting these requirements.
14 Citing YouTube, Twitter, and public news sites, Parikh suggests that Maricopa County’s
15 printing issues “can only be categorized as intentional” because (1) they happened at more
16 than one vote center, (2) Maricopa County “downplayed” the issue, and (3) Maricopa
17 County did not tweet out all five possible solutions to fixing the problem. [Compl. Ex. A-
18 13 ¶¶ 7, 16, 17, 18] This is as unscientific as it gets. Far from establishing a reliable, tested,
19 peer-reviewed, generally accepted scientific method for reaching his “conclusion” that
20 someone, somewhere, intentionally did something, Clay Parikh stitches together one
21 speculative belief after the next having never even inspected the voting machines at issue.
22 This is “the antithesis of the scientifically reliable expert opinion admissible under *Daubert*
23 and Rule 702.” *Cabrera v. Cordis Corp.*, 134 F.3d 1418, 1423 (9th Cir. 1998); *see also*
24 *Haynes ex rel. Haynes v. Nat’l R.R. Passenger Corp.*, 319 F. App’x 541, 543 (9th Cir.
25 2009) (affirming the exclusion of testimony that was based on a Google search and a
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1 CNN.com report because they would “ordinarily be a basis for little more than lay
2 speculation” and “do not provide an appropriate basis for expert opinion”).

3 Parikh’s opinion on chain of custody issues fares no better. He baldly opines that
4 “the most serious” issue that he learned about was a “break[]” in “the chain of custody.”
5 [Compl. Ex. A-13 ¶ 31] He offers no explanation about the methodology that he applied to
6 reach his opinion that one poll worker’s observations raised “the most serious” issue that
7 occurred on Election Day. Nor does he try to show that an expert in the relevant field would
8 “reasonably rely” on this poll worker’s observations in the first place. Ariz. R. Evid. 703.
9 “Rule 703 does not authorize admitting hearsay on the pretense that it is the basis for expert
10 opinion when, in fact, the expert adds nothing to the out-of-court statements other than
11 transmitting them to the [factfinder].” *State v. Carlson*, 237 Ariz. 381, 391 ¶ 26 (2015)
12 (citation omitted); *see also State v. Lundstrom*, 161 Ariz. 141, 148 (1989) (holding that
13 expert testimony that merely parrots or summarizes another’s opinion is inadmissible).
14 Because Clay Parikh adds nothing to this poll worker’s observations besides the gloss that
15 he believes that the observations are “serious,” this Court should exclude this testimony.
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17 Equally unreliable is Richard Baris’ anticipated testimony. His whole analysis is
18 based on an exit interview of Election Day voters—all of whom cast a ballot. [Compl. Ex.
19 A-11 at 5] He does not report a single person who said that they were unable to vote. Utterly
20 lacking from his declaration is any effort to establish a reliable, tested, peer-reviewed,
21 generally accepted scientific method that would allow anyone to infer anything about the
22 motivations of hypothetical non-voters based only on the experiences of voters.
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24 His analysis only devolves from there. He bases his conclusions on one (and only
25 one) question: “Did you have any issues or complications when trying to vote in person,
26 such as tabulators rejecting the ballot or voting locations running out of ballots?” [*Id.*] But
27 basing anything on answers to this question defies all logic because it encompasses “any
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1 issue[]” that a voter may have experienced (including issues unrelated to this case) and
2 includes a false premise (there is no allegation of any vote centers “running out of ballots”).
3 Then, he leaps to speculate about what might have happened if an additional 2.5% of voters
4 had cast ballots on Election Day. [*Id.* at 10] But he plucks this number out of thin air. At
5 no point does he estimate that 2.5% of voters were discouraged from voting because of
6 printing issues.

7
8 Compounding this error, he next applies this 2.5% to the total number of votes cast
9 in Maricopa County (1,562,758), including the more than one million voters who had
10 already voted absentee and could not have been affected by printing issues on Election
11 Day. [*Id.*] Even then, he finds that Governor-Elect Hobbs still would have won if 70% of
12 those hypothetical 2.5% additional voters had voted for Lake. [*Id.* (finding that Hobbs still
13 would have won by 2,000 votes)] It is only when he calculates what would have happened
14 if Lake had won 75% of those additional votes—an outcome that he fails to establish
15 occurred in any precinct for Lake—that he claims that Lake could have won. [*Id.*] This is
16 nonsense, not science. Putting one speculative assertion on top of another is precisely the
17 type of unreliable “guesswork” that courts exclude. *Friend*, 422 F. Supp. at 1081.

18 **C. The anticipated testimony of Clay Parikh and Richard Baris will not help**
19 **resolve Lake’s remaining claims.**

20 As set forth in the Court’s dismissal order, Lake “specifically alleges [in Count II]
21 that a person employed by Maricopa County interfered with BOD printers in violation of
22 Arizona law.” [Dkt. 926 at 6] The Court laid out a specific roadmap for what Lake must
23 therefore prove at trial for her claim for misconduct, *see* A.R.S. § 16-672(A)(1): “Plaintiff
24 must show at trial that the BOD printer malfunctions were intentional, and directed to affect
25 the results of the election, and that such actions did actually affect the outcome.” [Dkt. 926
26 at 7] Moreover, because of Lake’s specific allegations that a particular person interfered
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1 with the BOD printers, the Court clarified that, as to the first element, Lake must prove
2 “the malfeasant person was covered under” A.R.S. § 16-672(A)(1). [Dkt. 926 at 6]

3 Neither Parikh nor Baris provide any assistance to the trier of fact in resolving any
4 of these issues. The Court should therefore issue an Order precluding Plaintiff from
5 presenting opinions or testimony from either “expert” for this additional, independent
6 reason.

7 **1. Clay Parikh**

8 The Court’s December 19, 2022 dismissal order renders much of Parikh’s
9 commentary completely irrelevant, including all of his statements that certain components
10 of the voting system, such as the BOD printers and others, did not meet certification
11 requirements under Arizona and federal law. [Compl. Ex. A-13 ¶¶ 8-15] Because the
12 certification portion of Lake’s claim was dismissed [Dkt. 926 at 5], Parikh’s certification
13 opinions will not only *not* assist the trier of fact in resolving any claim still at issue in the
14 case, but would also confuse and mislead the issues actually before the Court.

15 The rest of Parikh’s opinions fare no better in terms of assisting the trier of fact on
16 anything still at issue in the case. Although sometimes difficult to discern, the remaining
17 portion of Parikh’s declaration offers commentary on the following topics:

- 18 (1) That a percentage of tabulators was not functioning properly on election day and
19 that election officials downplayed the issue and did not adequately inform voters
20 of all of their options in the event of a tabulation error [Compl. Ex. A-13 ¶¶ 16-19];
- 21 (2) The mechanics of how a tabulator reads a ballot and how a ballot is printed—such
22 as the size of the paper—may impact its tabulation [*id.* ¶¶ 20-25]; and
- 23 (3) That County officials did not properly follow “plans and procedures.” In support
24 of this point, Parikh states that: (i) in troubleshooting the printers, the County did
25 not act quickly enough, adapt well enough, and sometimes did not fix the printer
26 issue [*id.* ¶¶ 27, 28, 30]; (ii) County officials did not properly spoil ballots
27 [*id.* ¶ 29]; (iii) one poll worker tried to shut down two printers that were not
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1 working properly and a County Inspector turned them back on [*id.*]; and (iv) pre-
2 election Logic and Accuracy tests were invalid because of updates to the printers
3 that Maricopa County performed prior to election day [*id.* ¶ 32].

4 Not one of Parikh’s statements would assist the trier of fact in determining whether
5 the “BOD printer malfunctions were intentional,” the first element of Claim II as set forth
6 in the Court’s dismissal order. [See Dkt. 926 at 7]⁷ Rather, except for his statements
7 regarding how a tabulator objectively reads a ballot and what factors may objectively
8 impact that (none of which suggest anything about malfunctioning or intentionality)
9 [Compl. Ex. A-13 ¶¶ 20-25], nearly all of Parikh’s statements concern actions that occurred
10 *post-malfunctioning*.

11 Assuming without conceding that Parikh’s characterization of events was true, the
12 fact that troubleshooters did not arrive (in Parikh’s opinion) fast enough or were sometimes
13 unable to fix the printing issue has nothing to do with whether the malfunctioning was
14 intentional in the first place. Similarly, Parikh’s statements that certain Tweets by election
15 officials sent after malfunctioning was discovered did not adequately convey to voters all
16 of their options says nothing about the malfunctioning itself being intentional. Likewise,
17 who and how officials spoiled ballots *after* particular *tabulators* failed to read them does
18 not aid the trier of fact in determining that BOD *printer* problems were intentionally caused
19 by anyone.

20 Indeed, Parikh’s only statement regarding any action that purportedly took place
21 *before* the malfunctioning occurred is in regard to the pre-election Logic and Accuracy
22 tests. [Compl. Ex. A-13 ¶ 32] But Parikh’s single paragraph on this topic utterly fails to
23 support an inference that any printer malfunctioning was intentional. Instead, he merely
24 asserts that Maricopa County did not conduct testing on every ballot style before the
25 election. But the fact that the County allegedly did not perform unspecified testing on every

26 ⁷ Parikh’s conclusory deduction that these discreet issues lead to the conclusion that
27 the malfunctioning was intentional (Compl. Ex. A-13 ¶ 7) does not help the trier of fact
28 because none of his underlying statements themselves support that inference.

1 single type of ballot in no way supports a conclusion that the printer malfunctioning on
2 election day was intentional.

3 Nor does any of Parikh's commentary assist the trier of fact in resolving the other
4 two issues that the Court held Plaintiff must prove to succeed under Count II: that the
5 "intentional" BOD printer malfunctions were "directed to affect the results of the election,"
6 and that "such actions did actually affect the outcome." [See Dkt. 926 at 7] Parikh does not
7 purport to offer opinions on either of these issues in any event.

8 **2. Richard Baris**

9 Baris purports to offer opinions on the "likely voter suppression" that he claims
10 occurred on election day by providing purported statistics about voting preferences and
11 voter exit-polling opinions. [Compl. Ex. A-11 at 3] He does not purport to offer opinions
12 regarding whether the malfunctioning of the printers was intentional, the first element
13 required to prove Plaintiff's misconduct claim under Count II, as set forth in the Court's
14 dismissal order. [See Dkt. 926 at 6, 7] Rather, ostensibly, Baris is being offered by Plaintiff
15 to attempt to show that the printing malfunctioning affected the outcome of the election.
16 But none of Baris's statements would aid the trier of fact in making that determination, and
17 he should therefore be precluded from offering any testimony.

18 Baris's declaration is primarily made up of repetitive statistics aimed at
19 demonstrating the well-known fact that voters are more likely to vote for Republicans on
20 Election Day and more likely to vote for Democrats in early voting. [Compl. Ex. A-11 at
21 2-5] This does not help the trier of fact determine any fact in issue in Claim II.

22 Beyond that, Baris states that in an exit poll of 813 voters, 58.6% of voters
23 identifying as Republicans "reported having issues while trying to cast a ballot on Election
24 Day," whereas Democrats and Independents reported having issues in lower numbers. For
25 several reasons, these limited exit poll responses do not assist the trier of fact in determining
26 whether the malfunctioning printers affected the outcome of the election. First, the question
27 itself that was allegedly posed to voters, Question 6, includes "tabulators rejecting the
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1 ballot” as just one example of “issues” that voters may have had on election day. [*See*
2 Compl. Ex. A-11 at 5] The very question also provides another example—“voting locations
3 running out of ballots”—as being an “issue” that a voter could report, which has nothing
4 to do with the remaining claim regarding the BOD malfunctions. [*Id.*] Second, and
5 importantly, Baris does not state that these alleged “issues” actually caused any of the
6 polled voters to *not cast a vote*. In other words, simply because voters had “issues” “when
7 trying to vote in person” in no way supports an inference that they did not, let alone that
8 those “issues” affected the outcome of the election.

9 In short, Baris and Parikh offer nothing that could aid the trier of fact to resolve the
10 very limited remaining issues in this case. Under this Court’s gatekeeping function, they
11 should therefore be precluded from offering an opinion.

12 **Conclusion**

13 For the above reasons, this Court should exclude the purported expert testimony of
14 Clay Parikh and Richard Baris.

1 Dated: December 20, 2022

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1 Rule 7.1(h) Good Faith Consultation Certificate

2 I certify that Defendant/Contestee Katie Hobbs has endeavored in good faith to
3 resolve the matters raised herein. Undersigned counsel attempted to speak with counsel
4 for Plaintiff, including arranging a telephone conference for that purpose. Due to the
5 expedited nature of this proceeding, counsel for Plaintiff were unavailable to speak with
6 Plaintiff's counsel.
7

8 Dated: December 20, 2022

9 /s/ Alexis Danneman

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1 Original efiled with the Maricopa County
2 Superior Court and served through
3 AZTurboCourt this 20th day of December,
4 2022:

5 Honorable Peter Thompson
6 Maricopa County Superior Court
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EXHIBIT 1

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2:22-cv-00677-JJT, July 21, 2022

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF ARIZONA
3

4 Kari Lake, et al.,)
5)
6 Plaintiffs,)
7 vs.) 2:22-cv-00677-JJT
8)
9 Katie Hobbs, named as Kathleen)
10 Hobbs, as Secretary of State, et)
11 al.,)
12)
13 Defendants.) Phoenix, Arizona
14) July 21, 2022
15) 9:06 a.m.
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

BEFORE: THE HONORABLE JOHN J. TUCHI, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MOTION HEARING

Official Court Reporter:
Elaine Cropper, RDR, CRR, CCP
Sandra Day O'Connor U.S. Courthouse
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Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

United States District Court

2:22-cv-00677-JJT, July 21, 2022

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United States District Court

2:22-cv-00677-JJT, July 21, 2022

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Also Present:

Ms. Emily Brodner

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United States District Court

2:22-cv-00677-JJT, July 21, 2022

I N D E X**TESTIMONY**

WITNESS	Direct	Cross	Redirect	Recross
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Plaintiffs' Witnesses

BENJAMIN R. COTTON	15	33 46	52	
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DOUGLAS L. LOGAN	57	66 78	83	
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JOHN R. MLLS	87	99 106		
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CLAY U. PARIKH	114	118 122	125	
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Defendants' Witnesses

RYAN MACIAS	129	157		
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SCOTT JARRETT	171	204		
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MISCELLANEOUS NOTATIONS

Item	Page
Plaintiffs' opening statement	12
Plaintiff rests	127

RECESSES

	Page	Line
(Recess at 9:13; resumed at 9:42.)	9	24
(Recess at 11:03; resumed at 11:11.)	66	6
(Recess at 12:22; resumed at 1:23.)	112	22
(Recess at 2:44; resumed at 3:02.)	170	9
(Recess at 4:01; resumed at 4:09.)	209	24

United States District Court

1 MR. PARKER: We are ready, Your Honor. 01:23:11

2 MR. GAONA: Nothing from us, Your Honor.

3 THE COURT: All right.

4 MR. LARUE: Nothing from us, Your Honor.

5 THE COURT: Okay. Mr. Parker, if you have any more 01:23:20

6 witnesses, please call your next witness.

7 MR. PARKER: Thank you, Your Honor. The plaintiffs

8 call Clay Parikh.

9 THE COURT: Mr. Parikh, if you would step up to my

10 courtroom deputy, she'll swear you in. 01:23:34

11 COURTROOM DEPUTY: If you can please state your first

12 and last name for the record, please.

13 THE WITNESS: My name is Clay Uday Parikh. That's

14 P-A-R-I-K-H.

15 COURTROOM DEPUTY: And Clay is just C-L-A-Y? 01:23:52

16 THE WITNESS: Yes.

17 THE COURT REPORTER: And your middle name?

18 THE WITNESS: Uday. U-D-A-Y.

19 (CLAY U. PARIKH, a witness herein, was duly sworn or

20 affirmed.) 01:23:57

21 THE COURT: Sir, I think I mispronounced your name.

22 Is it Parikh?

23 THE WITNESS: Yes. It gets mispronounced a lot.

24 THE COURT: You are free to take off your mask if you

25 like, or not; that's up to you. 01:24:19

United States District Court

CLAY U. PARIKH - Cross

- 1 A. The law firm. 01:32:00
- 2 Q. Mr. Parker's firm?
- 3 A. Yes.
- 4 Q. Do you have some understanding that an entity controlled
5 by Mike Lundell may be actually funding your services here 01:32:06
6 today?
- 7 A. My services here today are provided to technical data and
8 the findings that I know happened.
- 9 Q. That wasn't my question, Mr. Parikh. My question was
10 whether you have some understanding that Mike Lundell is 01:32:21
11 actually financing this case and your testimony today?
- 12 A. I was unaware of that.
- 13 Q. Have you ever had any conversations with Mr. Lundell?
- 14 A. No, I have no.
- 15 Q. Do you know who Mr. Lundell is? 01:32:36
- 16 A. Yes, I do. I use several of his products.
- 17 Q. I never have. You'll have to tell us if they are
18 comfortable sometime.
- 19 A. They are the best pillows.
- 20 Q. Have you -- let me back up a moment. 01:32:54
- 21 Before testifying here today, did you actually
22 examine in any way the Electronic Voting Systems that are
23 currently being used in either Maricopa County or Pima County?
- 24 A. Not physically, no.
- 25 Q. And are you aware of any third party maliciously hacking 01:33:21

United States District Court

CLAY U. PARIKH - Cross

1 in to any of the electronic voting systems that are currently
2 used in either Maricopa County or Pima County?

01:33:24

3 A. I am going to state that on what was provided for forensic
4 audit was inadequate and you cannot make a determination based
5 off what was provided.

01:33:44

6 Q. My question though, Mr. Parikh, was whether, as you sit
7 here now under oath, are you aware of any third party
8 maliciously hacking into the Electronic Voting Systems
9 currently used in Maricopa County, Arizona, or Pima County,
10 Arizona?

01:34:04

11 A. You cannot simply answer that yes or no.

12 Q. You don't have any direct evidence of that, do you, sir?

13 A. What I do know --

14 Q. Sir, this was a yes-or-no question. Do you have --

15 A. And you cannot --

01:34:17

16 Q. Do you have any direct evidence of any third party
17 maliciously hacking into any of the Electronic Voting Systems
18 used in either Maricopa County or Pima County? Yes or no?

19 A. You can not answer that yes or no.

20 Q. Fair enough, sir.

01:34:33

21 A. I could expand on why.

22 Q. I don't want you to do that, sir. It seems like an easy
23 question to answer and you are being evasive and not giving me
24 a yes or no to it.

25 Are you -- where do you live, sir?

01:34:47

United States District Court

CLAY U. PARIKH - Cross

- 1 A. I live in Huntsville, Alabama. 01:34:49
- 2 Q. Have you been to Arizona before today?
- 3 A. Yes, sir, I have.
- 4 Q. When was the last time you were here?
- 5 A. In Tempe, Arizona, probably about 2008, 2009. 01:34:57
- 6 Q. Sir, do you believe that President Trump was the actual
- 7 winner of the 2020 general election?
- 8 A. Sir, I believe that Joe Biden is the duly elected
- 9 president.
- 10 Q. Okay. 01:35:18
- 11 A. Now, from my security professional opinion, do I believe
- 12 there were issues with the voting system? Yes, that require
- 13 further things. That's why this hearing is being conducted.
- 14 Q. Okay. Backing up a minute. You said you stopped working
- 15 as a contractor for the EAC testing labs or the EAC approved 01:35:42
- 16 testing labs, rather, back in 2017; is that right?
- 17 A. That is correct.
- 18 Q. So you've not had occasion to actually attempt to hack
- 19 into the, for example, the current version of the voting
- 20 system, Dominion Voting System, in use in Maricopa County; is 01:35:57
- 21 that correct?
- 22 A. Not physically, no. I have reviewed the reports and
- 23 analysis and they are basically the same system and if given
- 24 opportunity, probably could be executed, yes.
- 25 Q. Okay. But you haven't actually done that; correct? 01:36:17

United States District Court

CLAY U. PARIKH - Cross

1 A. No.

01:36:19

2 Q. And the same is true with respect to the ES&S system that
3 is currently used in Pima County; correct?

4 A. I'm unaware of what exactly what version that is so I
5 can't speak to that.

01:36:29

6 Q. You mentioned you are currently employed with Northrop
7 Grummon?

8 A. Grummon, yes.

9 Q. Grummon, I'm sorry. Can you remind me of your title again
10 there?

01:36:44

11 A. I'm the Lead Information System Security Officer.

12 Q. And you had mentioned that's for Ground Missile Defense
13 Systems I wrote down. Is that correct?

14 A. Yes, it is.

15 Q. Does your employer know that you are here testifying here
16 today?

01:36:54

17 A. Yes, they do.

18 Q. All right. I don't have any further questions. Thank
19 you.

20 THE COURT: All right. Gaona, thank you.

01:37:04

21 Mr. LaRue?

22 **CROSS - EXAMINATION**

23 BY MR. LARUE:

24 Q. Thank you, sir, for being here today. We appreciate it.

25 You testified that part of your job when you were with one of

01:37:15

United States District Court

C E R T I F I C A T E

05:29:03

I, ELAINE M. CROPPER, do hereby certify that I am
duly appointed and qualified to act as Official Court Reporter
for the United States District Court for the District of
Arizona.

05:29:03

I FURTHER CERTIFY that the foregoing pages constitute
a full, true, and accurate transcript of all of that portion of
the proceedings contained herein, had in the above-entitled
cause on the date specified therein, and that said transcript
was prepared under my direction and control, and to the best of
my ability.

05:29:03

DATED at Phoenix, Arizona, this 26th day of July,
2022.

05:29:03

s/Elaine M. Cropper

05:29:03

Elaine M. Cropper, RDR, CRR, CCP

05:29:03

United States District Court