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

17 **KARI LAKE,**

18 **Contestant/Plaintiff,**

19 **vs.**

20 **KATIE HOBBS, personally as Contestee;**
21 **ADRIAN FONTES in his official capacity**
22 **as the Secretary of State; *et al.*,**

23 **Defendants.**

No. CV2022-095403

PLAINTIFF KARI LAKE'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION TO
DEFENDANTS' SUPPLEMENTAL
AND RENEWED MOTIONS TO
DISMISS*

(ASSIGNED TO HON. PETER
THOMPSON)

(ORAL ARGUMENT REQUESTED)

24 _____
25 * This response is to the coordinated filing of three renewed or supplemental motions
26 to dismiss filed by Defendants. For the Court's convenience, the positions raised in those
27 Motions are addressed in one filing instead of three. Throughout, the brief filed by the
28 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."

1 **I. INTRODUCTION**

2 Plaintiff Kari Lake alleges in her Complaint that Maricopa disregarded A.R.S. § 16-
3 550(A) and thereby caused at least 175,000 early mail-in ballots out of the more than 1.3
4 million cast to be illegally counted in the November 2022 General Election. The Complaint
5 pleads specific facts, including the sworn testimony of three whistleblowers Maricopa hired
6 to perform signature verification in the November 2022 General Election, showing that
7 Maricopa’s signature verification is literally out of control. The flood of mail-in ballots
8 combined with Maricopa’s hiring far too few workers to process and verify voter signatures
9 resulted in Maricopa simply disregarding Arizona’s mandatory signature-verification laws.
10

11 The sole issue for the Court to decide at this stage of the litigation is whether
12 Defendants have met *their burden* to show that Plaintiff’s Complaint does not state a claim
13 for relief under “under any possible theory” when accepting all of Lake’s allegations “as
14 true” and drawing “all intendments” in her favor. *Griffin v. Buzard*, 86 Ariz. 166, 169-70
15 (1959). Here, the Complaint unequivocally identifies specific numbers of illegal votes tied
16 to Maricopa’s alleged misconduct that far exceed the 17,117-vote margin between Plaintiff
17 Kari Lake and Gov. Katie Hobbs. Defendants’ motions should be denied, and this case
18 should proceed to trial.
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22 **II. STANDARD OF REVIEW**

23 This Court evaluates motions to dismiss an election contest under the same standard
24 that applies to civil litigation generally. As the Arizona Supreme Court stated in *Griffin*:

25
26 The ultimate issue raised by this appeal is whether the statement of contest
27 filed herein states a claim upon which relief could be granted, for if it does
28 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

1 complaint (in this instance statement of contest) on a motion to dismiss, the
2 allegations must be treated as true, and whether they are susceptible of proof
3 at the trial does not concern us at this time, (2) all intendments lie in favor of
4 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.***

5 *Id.* at 169-70 (citations omitted) (emphasis added). “Dismissal is appropriate under Rule
6 12(b)(6) only if as a matter of law plaintiffs would not be entitled to relief under any
7 interpretation of the facts susceptible of proof,” *Coleman v. City of Mesa*, 230 Ariz. 352,
8 356, ¶8 (2012), with “all well-pleaded material allegations of the [complaint] ... taken as
9 true.” *Young v. Bishop*, 88 Ariz. 140, 143 (1960).

11 In addition, “a ‘copy of a written instrument which is an exhibit to a pleading is a
12 part thereof for all purposes.’” *Steinberger v. McVey*, 234 Ariz. 125, 131 (App. 2014) (citing
13 Arizona Rule of Civil Procedure 10(e)). Lake is thus entitled to cite and rely on the
14 statements in the declarations attached to the Complaint in responding to Defendants’ Rule
15 12(b)(6) motions to dismiss. In addition, Rule 12(d) does not apply to those attachments or
16 to judicially noticeable public documents:
17

19 A complaint’s exhibits, or public records regarding matters referenced in a
20 complaint, are not “outside the pleading,” and courts may consider such
21 documents without converting a Rule 12(b)(6) motion into a summary
judgment motion.

22 *Coleman v. City of Mesa*, 230 Ariz. 352, 356, ¶ 9 (2012); *Workman v. Verde Wellness Ctr.,*
23 *Inc.*, 240 Ariz. 597, 601, ¶ 10 (App. 2016); *cf.* Ariz. R. Evid. 201. Judicially noticeable
24 records include records on the Court’s own docket, *State v. Rhome*, 235 Ariz. 459, 461, ¶
25 8 (App. 2014) (“a court may properly take judicial notice of its own records”), and records
26 of government agencies and legislatures. *Roger S. v. James S.*, 251 Ariz. 555, 560 n.6 (Ct.
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1 App. 2021); *Pedersen v. Bennett*, 230 Ariz. 556, 559, ¶15 (2012).

2 **III. FACTS¹**

3 For purposes of a motion to dismiss, the applicable facts are the well-pleaded facts
4 in the complaint, *Zubia v. Shapiro*, 243 Ariz. 412, 414, ¶ 13 (2018), including—as here—
5 the exhibits and public records referenced in the Complaint. ARCP 10(c).
6

7 **A. Signature Verification Under Arizona Law**

8 Absentee ballots are “the largest source of potential voter fraud.” Building
9 Confidence In U.S. Elections: Report Of The Commission On Federal Election Reform, at
10 46 (Sept. 2005). ¶ 12. Pursuant to A.R.S. § 16-550, there is a two-step process to validate
11 and tabulate early ballots. A Maricopa County voter who chooses to cast an early ballot
12 must enclose the ballot in an envelope containing a sworn affidavit, signed by the voter,
13 that certifies the voter's qualifications and personal signature affixation, and affirms his or
14 her understanding of the criminal prohibition against casting multiple ballots in the same
15 election. *See id.* § 16-547(A).
16
17

18 The procedures for the examination and tabulation of the early ballots are also set
19 forth by statute: upon receipt of a returned early ballot envelope, the County Recorder or
20 the Recorder’s designee must “compare the signatures thereon with the signature of the
21 elector on the elector’s registration record.” *Id.* § 16-550(A). If “the signatures correspond,”
22 the early ballot is processed and tabulated. *Id.* If “the signature is inconsistent with the
23 elector’s signature on the elector’s registration record,” then the early ballot is invalid and
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27 ¹ All “¶” references are to the Complaint unless otherwise stated.
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1 cannot be tabulated, unless the assumed voter cures the signature discrepancy. *Id.* The 2019
2 EPM also sets forth specific requirements for MCTEC to attempt to cure the ballot: the
3 election worker must attempt to contact the voter to advise the voter of the inconsistent
4 signature and allow the voter to either (1) correct the ballot signature, or (2) confirm the
5 inconsistent signature. *See* 2019 Election Procedure Manual (“EPM”), at 68.

7 As a matter of law, if the signature on the voter’s ballot envelope does not match his
8 or her registration record the only way to count that ballot is to cure it by contacting the
9 voter. A.R.S. § 16-550(A); 2019 EPM, at 68. In the 2022 General Election, over 1.3 million
10 ballots were cast through the mail-in vote or placed in drop boxes in Maricopa County. ¶
11
12 12.

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14 **B. Former Attorney General Mark Brnovich’s Findings Concerning**
15 **Maricopa’s Failure to Follow Arizona’s Mandatory Signature**
16 **Verification Procedures**

17 On April 6, 2022, former Attorney General Mark Brnovich issued a report to the
18 Honorable Karen Fann concerning his investigation of “election failures and potential
19 misconduct that occurred in 2020” in Maricopa County.² AG Brnovich began that report
20 by stating: “[r]equiring a match between the signature on the ballot affidavit and the
21 signature on file with the State is *currently the most important election integrity measure*
22 *when it comes to early ballots.*” ¶ 46. AG Brnovich followed up that statement revealing
23 that:

24
25 there are problematic system-wide issues that relate to early ballot handling
26 and verification. The early ballot signature verification system in Maricopa

27 ² The Brnovich Report is attached as Exhibit 5 to the Olsen Declaration filed with the
28 Complaint.

1 County is insufficient to guard against abuse. At times election workers
2 conducting the verification process had only seconds to review a signature.
3 *For example, on November 4, 2020, the Maricopa County Recorder verified*
4 *206,648 early ballot affidavit signatures, which resulted in an average of*
5 *4.6 seconds per signature.* There are simply too many early ballots that must
be verified in too limited a period of time, thus leaving the system vulnerable
to error, fraud, and oversight.

6 *Id.* at 1-2 (emphasis added).

7 C. **Whistleblowers Testify About The Extraordinary Numbers of Non-**
8 **Matching Signatures During The November 2022 Election and That**
9 **“The Math Never Added Up”**

10 Three MCTEC part-time employees who performed signature verification in the
11 2022 General Election provided sworn declarations concerning how Maricopa conducted
12 signature verification.³ These three workers signed sworn declarations attesting to a deeply
13 flawed process, that on their face reveal consistent and improper counting of non-verified
14 early ballots, and acceptance of thousands of ballots that had been rejected for having
15 mismatched signatures that were not cured but were accepted as cast. ¶¶ 54-62.

17 In Maricopa, signature verification is broken down into Levels 1, 2, and 3. In the
18 November 2022 General Election, there were twenty-four Level 1 workers who take the
19 first turn at verifying voter signatures. Onigkeit Decl. ¶ 5, Nystrom Decl. ¶ 6. Signatures
20 that are rejected at Level 1 were sent to Level 2 which, while more experienced at signature
21 verification and had access to additional voter signatures, was comprised of *only three*
22 *workers*. Onigkeit Decl. ¶ 8, Nystrom Decl. ¶¶ 6-8. Level 2 signature verification could
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26 ³ See Declaration of Andrew Myers (“Myers Decl.”), Declaration of Yvonne Nystrom
27 (“Nystrom Decl.”), and Declaration of Jacqueline Onigkeit (Onigkeit Decl.”) attached as
28 Exhibts 6, 7, and 8, respectively, to the Olsen Declaration attached to the Complaint.

1 overrule a Level 1 rejection. *Id.* Level 3 reviewers consisted of five Maricopa “managers”
2 who were full-time Maricopa employees including Defendants William Gates. Onigkeit
3 Decl. ¶¶ 9-10, Nystrom Decl. ¶¶ 8-9.
4

5 Jacqueline Onigkeit testified that in her total time at MCTEC, she reviewed
6 approximately 42,500 ballots. Onigkeit Decl. ¶ 23. She further testified that she encountered
7 mismatched signature rejection rates in the 25-40% range, and correspondingly rejected
8 about 13,000 to 15,000 of the early ballots she reviewed. *Id.* ¶¶ 19-22. During the tabulation
9 process, her co-workers complained of similar rejection rates. *Id.* ¶¶ 23, 25. Yvonne
10 Nystrom has testified that the rejection rate for mismatched signatures was between thirty-
11 five and forty percent. Andy Myers testified to a rejection rate of 15-20% during the one
12 and only week he performed signature verification (before being reassigned to curing
13 ballots) and stated that MCTEC processed about 60,000 early ballot signatures a day. Myers
14 Decl. ¶ 18.
15
16

17 However, even with the tens of thousands of ballots being rejected, the witnessed
18 rejection rate never corresponded to the ballots set aside for curing. Myers Decl. ¶¶ 18, 21.
19 With MCTEC processing about 60,000 signatures a day and poll workers rejecting 20-30%,
20 there should have been “12,000 to 15,000 ballots in my pile for curing the next day.” Myers
21 Decl. ¶¶ 21. However, there consistently would be only about 1000 envelopes to be cured—
22 “*about one tenth of the rejected ballots [they] were told [they] would see.*” *Id.* (emphasis
23 added). As Meyers testified, “*the math never added up.*” *Id.* (emphasis added).
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1 **D. An Arizona Senate-Ordered Investigation and Review of 2020 Ballot**
2 **Signatures Corroborates The Whistleblowers’ Testimony and Confirms**
3 **“The Math Never Added Up”**

4 We the People AZ Alliance (“WPAA”), an organization whose purpose is to provide
5 oversight of and transparency for government to the public.⁴ ¶ 47. WPAA employs a robust
6 public records department and a highly skilled staff of data analysts, cybersecurity experts
7 and an investigative team. *Id.* 48. On April 15, 2021, WPAA was appointed by Former
8 Secretary of State and Senate Liaison, Ken Bennett, as Deputy Senate Liaisons to the 2020
9 Senate Election Audit. ¶ 48. After that, Senator Fann and other Senators provided WPAA
10 access to the Maricopa County election records and approved a full-scale investigation of
11 the voter signatures on the ballot envelopes from the 2020 General Election using actual
12 control signatures found on the hard drive for comparison, which were also apparently used
13 by Maricopa County for signature verification. ¶¶ 49-50.

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15
16 WPAA has four staff members that received Maricopa County electronic signature
17 verification training. Busch Decl. ¶¶ 16-17. WPAA recruited a team of workers, trained
18 them with Maricopa’s signature training materials. *Id.*⁵ WPAA created an equivalent model
19 of the Maricopa County Election signature verification system, and by the time the Lake
20 Complaint was filed, conducted signature review of 230,339 randomly selected ballot
21

22
23 ⁴ See Declaration of Shelby Busch attached as Ex. 12 to the Olsen Declaration.

24 ⁵ Fontes argument that Busch is not an “expert” at signature review is nonsensical.
25 Fontes Br. 6. Not even the Level 1 reviewers are “experts” in this field, and there is no
26 suggestion that Levels 2 or 3 workers are “experts” in signature review. WPAA conducted
27 at the direction of the Arizona Senate President with individuals trained *by Maricopa* in
28 signature verification or who were trained using the same materials as Maricopa uses to
train signature verification workers.

1 envelope signatures out of the 1.9 million 2020 General Election ballot envelopes (12.12%
2 of the total) using the same control signatures available to Maricopa County. *Id.* ¶ 18.

3
4 WPAAs found 9.97% of the approved early ballots had egregious signature
5 mismatches, equating to 184,300 ballots that should have been rejected for improper
6 signature verification, and 12.77% of ballots reviewed would fail the Arizona Secretary of
7 State signature review standards, equating to an additional 242,630 would fail those review
8 standards. *Id.* ¶ 19. By comparison, in the 2020 election, the Brnovich Report noted that
9 Maricopa *rejected just 587 ballots for mismatched signatures*. Olsen Decl. Ex. 5 at 5.

10
11 Applying the same audit percentages for egregious mismatches (9.97%) to the 2022
12 General Election reflects that 130,520 ballots would be rejected for improper signature
13 verification due to egregious signature mismatches. Applying the percentage failure rate to
14 meet Arizona Secretary of State standards (12.77%), reflects that 167,176 ballots would be
15 rejected due to questionable signature mismatches that fail those standards in the November
16 2022 General Election. *Id.* ¶ 20.

17 18 **IV. ARGUMENT**

19
20 In reversing the dismissal of Count III, the Arizona Supreme Court remanded with
21 the following instructions for proceedings in this Court:

22 **IT IS FURTHER ORDERED** remanding to the trial court to determine
23 whether the claim that Maricopa County failed to comply with A.R.S. § 16-
24 550(A) fails to state a claim pursuant to Ariz. R. Civ. P. 12(b)(6) for reasons
25 other than laches, or, whether Petitioner can prove her claim as alleged
26 pursuant to A.R.S. § 16-672 and establish that “votes [were] affected ‘in
27 sufficient numbers to alter the outcome of the election’” based on a
28 “competent mathematical basis to conclude that the outcome would plausibly
have been different, not simply an untethered assertion of uncertainty.”
(Opinion ¶ 11.)

1 *Id.* 4-5 (emphasis added). As discussed below, Plaintiff Lake meets the Supreme Court’s
2 mandate.

3
4 **A. Count III states a claim**

5 Defendants have launched a three-front attack on Count III. While their arguments
6 diverge in some respects, they all misstate Count III as alleging a challenge to individual
7 signature-verifications determinations to raise a strawman argument supporting dismissal.⁶
8 That is not Plaintiff’s claim. Rather, Lake alleges through facts and testimony that Maricopa
9 violated A.R.S. § 16-550(A) and did not, and could not, perform signature verification given
10 the influx of 1.3 million ballots during the voting period for the November 2022 General
11 Election. The Complaint sufficiently alleges this process was not followed by MCTEC
12 because in the 2022 election, Maricopa County officials, instead of attempting to cure
13 ballots, systematically pushed mismatched ballots through for tabulation without following
14 the required procedures.
15

16
17 **1. Count III credibly alleges that Maricopa failed to follow**
18 **signature-verification requirements for early ballots.**

19 To be clear, Lake does not seek to second-guess individual signature-verification
20 determinations that an election official actually made. Instead, she argues that the massive
21 influx of early ballots requiring signature-verification overwhelmed the system Maricopa
22 had in place, so Maricopa simply did not perform that mandatory facet of the election
23 process with respect to all ballots cast in the November 2022 General Election.
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28 ⁶ Maricopa Br. 4-12, Hobbs Br. 4-8, Sec’y of State Br. 7-12.

1 suggest that the Court can disregard aspects of Count III. *Jeter* supports Lake on the issue
2 of accepting the well-pleaded factual allegations in her Complaint:

3 [A]t the pleading stage ..., [courts] review the well-pleaded facts alleged in
4 the complaint as true. However, [they] do not accept as true allegations
5 consisting of conclusions of law, inferences or deductions that are not
6 necessarily implied by well-pleaded facts, unreasonable inferences or
7 unsupported conclusions from such facts, or legal conclusions alleged as
8 facts. [*Shannon v. Butler Homes*, 102 Ariz. 312, 315, 428 P.2d 990, 993
9 (1967)]; *Dockery v. Central Ariz. Light and Power Co.*, 45 Ariz. 434, 439, 45
10 P.2d 656, 658 (1935) (only well-pleaded facts accepted as true, not inferences
that are not necessarily implied by such facts); *Kellogg v. Nebraska Dep't of
Corr.*, 269 Neb. 40, 690 N.W.2d 574, 578 (Neb. 2005) (court will ignore legal
conclusions in form of factual allegations).

11 *Jeter*, 211 Ariz. at 389, ¶ 4. As discussed above, the facts pled in the Complaint are
12 detailed, grounded in sworn testimony, and damning.

13 c. **A.R.S. § 16-591 is irrelevant.**

14 Maricopa argues that A.R.S. § 16-552 requires making signature-verification
15 challenges before opening the ballot envelope. Maricopa Br. 5. That statute provides for
16 challenging early ballots only for “grounds set forth in section 16-591,” A.R.S. § 16-552(D),
17 which in turn applies only to unqualified voters and those voting multiple times. *See* A.R.S.
18 § 16-591. Failure to comply with signature-verification is actionable, *Reyes*, 191 Ariz. at
19 94, so Maricopa’s argument is inapposite here. This is simply a variant of Defendants’
20 trying to avoid Lake’s argument by disputing something else. *See* note 6, *supra*.

21 Maricopa relies on a Superior Court decision from Santa Cruz County for the
22 proposition that “[s]ignature verification is a function and responsibility of the County
23 Recorder's office and not the bases for an early ballot challenge.” *McEwen v. Sainz*, No.
24 CV-22-163, at 4 (Santa Cruz Super. Ct. Aug. 8, 2022) (Maricopa Br. Ex. A). By contrast,
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1 the Court of Appeals in *Reyes*, 191 Ariz. at 94, held that failure to conduct signature
2 verification was actionable under the election-contest statute. Lake brings a *Reyes* claim,
3 not a *McEwen* claim. She challenges Maricopa's failure to act, not its action on any
4 particular ballot.
5

6 **2. Count III affects a sufficient number of ballots to affect the**
7 **outcome of the election.**

8 Section IV.A.1 establishes that Count III adequately pleads misconduct in the form
9 of counting ballots with signature mismatches flagged at the first tier, but never either cured
10 pursuant to A.R.S. § 16-550 or resolved via Maricopa's higher-tier signature-verification
11 process. With the unlawfulness of the alleged conduct established, the question remains
12 whether Maricopa's violations affect a sufficient number of votes to affect the election.
13

14 The Complaint identifies a number of votes that must be rejected, although it is not
15 possible to determine the candidate for whom each specific ballots were cast. *See* Complaint
16 ¶¶ 106, 126. The remedy for misconduct resulting in illegal early ballots is either to set aside
17 the election under *Miller*, 179 Ariz. at 180; *Reyes*, 191 Ariz. at 94, or proportionately to
18 reduce each candidate's share of mail-in ballots under *Grounds v. Lawe*, 67 Ariz. 176, 183-
19 85 (1948). Plaintiff thus states a claim under A.R.S. § 16-672(A)(4). Either way, Count III
20 alleges a mathematically adequate basis for overturning the election.
21
22

23 **a. The Court could strike ballots proportionally under**
24 **Grounds.**

25 Maricopa recorded 1,311,734 early ballots that required signature verification, with
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1 the following vote totals: Lake (578,653), Hobbs (715,492), and Other (4407).⁷
2 Arithmetically subtracting those total candidate votes from total vote means that an
3 additional 13,182 ballots did not vote for *any* gubernatorial candidate. Taking these totals
4 yields the following percentages: Lake (44.114%), Hobbs (54.546%), Other (0.336%), and
5 None (1.005%) for 1,311,734 ballots (100.00%). For each 1,000 votes stricken, therefore,
6 Lake would lose approximately 441.11 votes, and Hobbs would lose approximately 545.55
7 votes, for a net difference of Lake's narrowing the margin by approximately 104 votes per
8 1,000 votes stricken. Using those same percentages, striking 164,090 ballots would eclipse
9 Hobbs' lead by having Lake make up 17,117.73 votes.⁸

12 The Complaint pleads two consistent factual bases for this Court to find that
13 Maricopa's misconduct resulted in counting at least 164,090 unlawful ballots:

- 15 • The Busch Declaration included with the complaint indicates that 130,520 2022
16 ballots would fail as egregious mismatches and another 167,176 2022 ballots would
17 fall into Maricopa's signature-verification process as suspicious. *See* Busch Decl. ¶
18 20(a)-(b). That is a total of 297,696 ballots that should have entered the signature-
19 verification process (*i.e.*, 22.695% of the 1,311,734 early ballots).

24 ⁷ See Maricopa County Elections Department, November General Election Canvass
25 November 8, 2022 (available at <https://elections.maricopa.gov/asset/jcr:b4cf8c23-01e6-4a18-8a77-96e5cb34cb0a/11-08-2022-0%20Canvass%20COMPLETE.pdf>).

26 ⁸ In other words, if the Court strikes 164,090 votes, Hobbs' loss of 54.546% of that
27 total (*i.e.*, 89,503.73 lost votes) would exceed Lake's loss of 44.114% of that total (*i.e.*,
28 72,386.00 lost votes) by 17,117.73 votes.

1 • The whistleblower declarations posit the need for further review of 15-40 percent of
2 early ballots, *see* Compl. ¶ 54, which is consistent with the Busch Declaration’s
3 22.695-percent figure and totals a minimum of 196,760 ballots that should have
4 entered the signature-verification process (*i.e.*, 15% of the 1,311,734 early ballots).
5
6 Since Maricopa cured fewer than 20,000 ballots pursuant to A.R.S. § 16-550,⁹ that means
7 an extraordinary number of non-matching signatures were not cured—*i.e.*, over 275,000
8 ballots (Busch) or over 175,000 ballots (which is calculated using a 15% rejection rate,
9 the lowest percentage of rejected signatures the whistleblowers testified about)—sent to
10 Levels 2 and 3 for review which had far fewer workers than Level 1. For each of these
11 scenarios as plausibly pleaded in support of Count III, there is simply not enough time for
12 the higher-tier reviewers to have completed the task of reviewing the ballot envelopes
13 against multiple signatures on file.

14
15
16 In sum, Count III plausibly alleges that Maricopa simply did not conduct the required
17 signature-verification for the questionable signatures. If this Court strikes a proportional
18 number of votes from the parties on a prorated basis under *Grounds*, 67 Ariz. at 183-85,
19 Lake will be left with more lawful votes than Hobbs under either the Busch or whistleblower
20 declarations. As such, Count III states a claim under A.R.S. § 16-672(A)(5).

21
22 **b) The Court could order a new election under *Miller and***
23 ***Reyes***

24 Alternatively, either the Busch (22.695%) or whistleblower (15-40%) scenarios
25

26
27 ⁹ *See* Busch Decl. ¶ 5(B) (May 10, 2023) (attached hereto as Exhibit A) (response to
28 public records request received from Maricopa County).

1 would warrant voiding the election. After allowing for less than 20,000 ballots actually
2 cured, the votes affected exceed the margin of victory by an order of magnitude. *Reyes*, 191
3 Ariz. at 94 (“[w]ithout the proper signature of a registered voter on the outside, an absentee
4 ballot is void and may not be counted”); *Miller*, 179 Ariz. at 180 (misconduct actionable if
5 ballots in violation of a non-technical statute occur in sufficient numbers to alter the
6 outcome of the election). Indeed, “[t]o rule otherwise would ‘affect the result or at least
7 render it uncertain’” under *Miller*. *Reyes*, 191 Ariz. at 94.

8
9
10 The Arizona Supreme Court has long reasoned that electoral manipulations with
11 unquantifiable impacts on an election are not immune from review, merely because their
12 impact cannot be quantified. *Hunt v. Campbell*, 19 Ariz. 254, 265-66 (1917) (emphasis
13 added); *cf. Huggins v. Superior Court*, 163 Ariz. 348, 350 (1990) (“it hardly seems fair that
14 as the amount of illegal voting escalates, the likelihood of redressing the wrong diminishes”
15 (quotation marks omitted)). Because the Legislature has never repudiated *Hunt*, the decision
16 remains central to defining the type of widespread malfeasance in an election that qualifies
17 as the type of misconduct that invalidates elections *in toto*, rather than leaves a contestant
18 to attempt to quantify the affected votes.

19
20
21 **3. No presumptions support Maricopa’s conduct.**

22 Although Defendants claim that presumptions support their good faith and the
23 validity of the votes that they report, *see* *Hobbs*. Br. 1, 6; Sec’y of State Br. 3, those non-
24 statutory presumptions evaporate in the face of rebuttal evidence. “Whenever evidence
25 contradicting a legal presumption is introduced the presumption vanishes.” *Silva v. Traver*,
26 63 Ariz. 364, 368 (1945); *Golonka v. GMC*, 204 Ariz. 575, 589-90, ¶48 (App. 2003)

1 (discussing “bursting bubble” treatment of presumptions). Absent a statute or rule to the
2 contrary, these default principles apply to presumptions. Ariz. R. Evid. 301. As Defendants
3 argue, “election contests are purely statutory,” Hobbs Br. 8 (quoting *Griffin*, 86 Ariz. at
4 168); *accord* County Br. 8 (“election contests are ‘purely statutory and dependent upon
5 statutory provisions for their conduct’”) (quoting *Fish v. Redeker*, 2 Ariz. App. 602, 605
6 (1966)), and nothing in the election-contest statute preserves Defendants’ claimed
7 presumptions in the face of rebuttal evidence.
8

9
10 The Brnovich Report put Maricopa officials on notice of their failures to follow
11 mandatory signature verification procedures before the 2022 General Election. In addition,
12 the whistleblowers’ sworn testimony shows that Maricopa continued to disregard these
13 mandatory requirements. The bottom line is that no presumptions favor Maricopa here with
14 respect to whether Maricopa indeed followed the mandatory signature-verification
15 procedures. Once that noncompliance is established, the votes identified as suspect but
16 never cured pursuant to A.R.S. § 16-550 are unlawful, such that no presumption can save
17 them.
18

19
20 **B. There are no pleading or jurisdictional defects.**

21 Defendants’ claims about the justiciability or adequacy of the pleadings lack merit.

22 **1. Lake’s verification of certain issues on information and belief is**
23 **neither fatal to nor even improper under the election contest**
24 **statute.**

25 Fontes argues that Lake’s making her verification partially on information and belief
26 falls outside the election-contest statute. Sec’y of State Br. 5 (citing *Wahl v. Crosby*, 18
27 Ariz. 251 (1916)). While he calls *Wahl* “instructive,” *id.*, that decision is wholly inapposite.
28

1 The statute in *Wahl* required verification by oath, *Wahl*, 18 Ariz. at 251 (quoting ¶
2 1554, Civil Code 1913), whereas the statute here requires the “statement ... be verified by
3 the affidavit of the contestor that he *believes* the matters and things therein contained are
4 true.” A.R.S. § 16-673(B) (emphasis added); *cf. Avery v. Calumet & Jerome Copper Co.*,
5 36 Ariz. 239, 249 (1930) (“verification was sufficient” where it combined facts known to the
6 affiant and statements on information and belief for issues known only to the opposing
7 party). When the Legislature wants to preclude resort to information and belief in
8 verifications, it knows how to do so. *McBride v. McDonald*, 25 Ariz. 207, 212-13 (1923)
9 (statute provided that “affidavit must be verified positively by the person making it, and not
10 on information and belief”). When the Legislature wants to achieve that end, moreover, it
11 certainly does not allow verification on the basis that the contestant “*believes* the matters
12 ... are true.” A.R.S. § 16-673(B) (emphasis added).

16 **2. This action is not moot.**

17 Hobbs argues that this election contest is moot because she already has been sworn
18 in as Arizona’s Governor. Hobbs. Br. 9 (arguing that only a *quo warranto* action can remove
19 her from office). “A case becomes moot when an event occurs which would cause the
20 outcome of the appeal to have no practical effect on the parties.” *Sedona Private Prop.*
21 *Owners Ass’n v. City of Sedona*, 192 Ariz. 126, 127, ¶ 5 (App. 1998). This Court still could
22 provide relief by reversing the election result under A.R.S. § 16-676(C) or setting the
23 election aside under A.R.S. § 16-676(B). If the Court took either action (and if Hobbs loses
24 any new election), there will be time enough for a *quo warranto* action. For now, however,
25 this Court still can provide effective relief.
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1 **3. Lake’s proposed remedies fall within this Court’s power.**

2 Defendants’ claims that a court cannot remedy Lake’s claims contradict the election-
3 contest statute’s plain language. *Compare* Hobbs Br. 8 with A.R.S. § 16-676(B)-(C).

4 **C. Defendants’ laches arguments are barred.**

5 By remanding to consider issues *other than laches*, Sup. Ct. Order at 4-5 (Mar. 22,
6 2023), the Supreme Court already has rejected Defendants’ arguments about timing.

7 **1. The Supreme Court’s mandate bars consideration of laches.**

8 Several of Defendants’ arguments concern the timeliness of the litigation. This Court
9 met all of the election-contest statute’s express statutory commands, A.R.S. § 16-676(A),
10 so Defendants’ concerns with timeliness fall under laches. The Arizona Supreme Court
11 remanded Count III for this Court to address Rule 12(b)(6) dismissal “for reasons other than
12 laches.” *See* Sup. Ct. Order at 4-5 (Mar. 22, 2023). The Supreme Court’s decision precludes
13 consideration of Defendants’ latter-day laches claims. *See, e.g., Bogard v. Cannon & Wendt*
14 *Elec. Co.*, 221 Ariz. 325, 334 (App. 2009) (“[o]n remand, a trial court must ‘strictly follow’
15 the mandate of an appellate decision”).
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19 **2. Appellate Rule 10 is not available in election contests under**
20 **A.R.S. § 16-672.**

21 Although barred as a laches argument, *see* Section IV.C.1, *supra*, Defendants argue
22 that Lake failed to utilize Appellate Rule 10 to expedited these proceedings. *See* County
23 Br. 10. By its terms, that rule is available only to “election matters designated by statute for
24 expedited appellate review.” ARCAP 10(a). Maricopa cites no statute calling for expedited
25 appellate review here, and Plaintiff is unaware of one.
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1 **D. Hobbs improperly seeks to inflate the page limit for motions and to**
2 **avoid the requirement to brief her arguments.**

3 Although Hobbs seeks to incorporate by reference her prior briefing, Hobbs. Br. 1
4 n.1, Rule 7.1 requires that motions “be accompanied by a memorandum indicating, as a
5 minimum, the precise legal points, statutes and authorities relied on, citing the specific
6 portions or pages thereof.” ARCP 7.1(a)(2). Rule 7.1 further limits motions and memoranda
7 to 17 pages. *Id.* Because the incorporation by reference of prior briefing violates both facets
8 of Rule 7.1, courts often deny parties’ attempt to adopt that process *by stipulation*. *See, e.g.,*
9 *Emmett McLoughlin Realty, Inc. v. Pima Cty.*, 2001 Ariz. Super. LEXIS 166, *1-2 (May 3,
10 2001). Lake opposes the procedural shortcut of incorporating documents by reference. To
11 the extent that the Court allows it, contrary to Rule 7.1, Lake incorporates her prior response
12 to the incorporated documents.
13
14

15 **V. CONCLUSION**

16 Defendants have not met their burden to have this case dismissed. The allegations in
17 the Complaint are detailed and factually supported, including by the testimony of multiple
18 whistleblowers. This Court—and the public—should see the evidence at trial. For the
19 foregoing reasons, Plaintiff requests that the Court deny Defendants’ motions to dismiss.
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Date: May 10, 2023

Respectfully submitted

Kurt B. Olsen (admitted *pro hac vice*)
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Washington, DC 20036
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/s/ Bryan James Blehm
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Counsel for Plaintiff-Contestant

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13 ko@olsenlawpc.com

14 *Attorneys for Contestant/Plaintiff*

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

17 **KARI LAKE,**

18 **Contestant/Plaintiff,**

19 **vs.**

20 **KATIE HOBBS, personally as Contestee;**
21 **ADRIAN FONTES in his official capacity**
22 **as the Secretary of State; *et al.*,**

23 **Defendants.**

No. CV2022-095403

CERTIFICATE OF SERVICE

(ASSIGNED TO HON. PETER THOMPSON)

24 I certify that, on May 10, 2023, I electronically filed with the Arizona Superior Court
25 for Maricopa County, using the AZ Turbo Court e-filing system, Plaintiff Kari Lake's
26 Memorandum of Points and Authorities in Opposition to Defendants' Supplemental and
27 Renewed Motions to Dismiss and the accompanying Exhibit A. On that date, I also caused
28 a copy of the same to be emailed to:

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

Alexis E. Danneman
Austin Yost
Samantha J. Burke
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and

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and

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/s/ Bryan James Blehm
Bryan James Blehm
Counsel for Plaintiff-Contestant Kari Lake

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EXHIBIT A

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

3 Kari Lake,

4 Contestor/Plaintiff,

5
6 v.

Case No.

7 Katie Hobbs, personally as Contestee and
8 in her official capacity as Secretary of
9 State; Stephen Richer in his official
10 capacity as Maricopa County Recorder;
11 Bill Gates, Clint Hickman, Jack Sellers,
12 Thomas Galvin, and Steve Gallardo, in
13 their official capacities as members of the
14 Maricopa County Board of Supervisors;
15 Scott Jarrett, in his official capacity as
16 Maricopa County Director of Elections;
17 and the Maricopa County Board of
18 Supervisors,

19 Defendants.

**DECLARATION OF
SHELBY BUSCH**

20 I, Shelby Busch, hereby declare as follows under penalty of perjury:

- 21 1. I am a citizen of the United States and competent to make this declaration.
22 2. I am a citizen of the United States of the State of Arizona.
23 3. I reside in the City of Phoenix, in the State of Arizona.
24 4. I am the Chairman of We the People AZ Alliance an Arizona PAC whose purpose is to
25 provide oversight of and transparency for government to the public. We accomplish this through
a robust public records department and a highly skilled staff of data analysts, cybersecurity
experts and investigative team.

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5. Attached hereto is a true and accurate copy of:

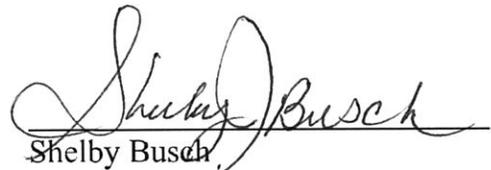
A. Public records request issued to Maricopa County assigned the following number PRR#1482, requesting in part the total number of ballots that were subject to curing and the final disposition of each ballot.

B. Document provided by Maricopa County as part of the disclosure for PRR#1482, Titled " PENDING STATUS (QS, PQ & NS) TOTAL vs. CURED". This document shows that 18,510 ballots went to curing; 15,411 were cured and 3,099 were ultimately rejected.

C. Email exchange between Maricopa County public records and our organization relevant to disclosure for PRR#1482.

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

Dated: May 9, 2023


Shelby Busch



We The People USA Alliance

4225 W Glendale Ave, E-116
Glendale AZ 85051
WeThePeopleUSAAlliance.com

February 3, 2023

Public Records
Maricopa County Recorder's Office, Elections Department
Sent Via Email – PRR@risc.maricopa.gov

Re: Public Records Request

Dear Public Records:

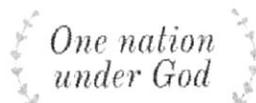
Pursuant to the Arizona Public Records Law, A.R.S. § 39-121 et seq., We the People AZ Alliance requests:

- A list of all ballot affidavit envelopes reviewed at Level 1 Signature Verification for the November, 2022 General Election. This list should include: VoterID, Unique Identifier for the worker performing the Signature Verification, date and time stamp of the review, review disposition;
- A list of all ballot affidavit envelopes reviewed at Level 2 and Level 3 (Managers' Queue) Signature Verification, including a record of each time each envelope was reviewed at these levels for the November, 2022 General Election. This list should include: VoterID, Unique Worker Identifier, Unique Identifier for the worker performing the Signature Verification, date and time stamp of the review, review disposition;
- A list of all ballot affidavit envelopes sent back to Level 1 for review, after having been reviewed at any Managers' Queue review level for the November, 2022 General Election. This list should include: VoterID, Unique Identifier for the worker performing the Signature Verification, date and time stamp of the review, review disposition, and
- List of all ballot affidavit envelopes that went to Curing, including a record of each attempt to cure for the November, 2022 General Election. This list should include: VoterID, Unique Identifier for the worker attempting the cure, date and time stamp of the attempted cure, curing method attempted, disposition of the attempted cure.

Definitions for the requests listed above:

“UNIQUE IDENTIFIER” for the “WORKER” refers to individuals, but does not need to encompass the workers name, employee ID, or other PII, **but must be consistent** across all reports and uniquely identify each worker from others. An arbitrary number assigned to each worker -- whether employee, volunteer, or worker with a subcontractor -- is adequate.

“REVIEW DISPOSITION” any of the statuses or results appropriate for the process in question, such as "Approved", "Excepted" for a Signature Verification.



February 3, 2023

Page 2

“CURING METHOD ATTEMPTED” should indicate the method used for each attempted cure, specifically identifying: curing attempted by Text-to-Cure, curing attempted by the Star Center, curing attempted by Signature Verification workers, curing attempted by all other methods specifying the method.

Where possible, please provide responsive materials in an electronic format by email. Requested file format shall be the file format using Comma Separated Values with quoted text (CSV) is preferred and is likely most convenient for both parties. Given the importance of free, fair, and transparent elections and the public's skepticism regarding the conduct of recent elections, We the People AZ Alliance PAC is seeking production of these documents on an expedited basis.

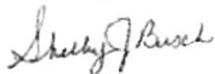
We the People AZ Alliance PAC is a reportorial organization (as referenced in A.R.S. § 16-168(F)) with a current focus on election integrity. We are requesting this information for the purpose of providing information to the public, they are not sought for commercial purposes. As such, we request a waiver of all fees for this request or at most fees be limited to copying and postage charges. A.R.S. § 39-121.01(D)(1). If such charges are required, We the People AZ Alliance agrees to pay up to \$25. If the costs for such fees will exceed \$25, please notify us prior to incurring such costs. This request is for noncommercial purposes and additional fees are not applicable to this request. Disclosure of the requested information to us is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and its election process. Please be aware that these documents, whether produced by the Custodian of Records or not, are public documents and they may be relevant to future litigation. Any deletion of said public documents can give rise to a negative inference in a court of law.

Please respond to this request within 10 days. If you expect any delays beyond this time, we ask that you notify us of such delay with an expected date of compliance with this lawful FOIA request.

If any of the items requested are denied, we ask for a written response that cites each specific exemption and your basis for refusing to comply with the request. If you conclude that only a portion of the items requested are exempt, please send the remainder of such records for inspection and copying, redacting only the exempt portion(s).

Please contact me at FOIA@wethepeopleazalliance.com or (602) 574-2376, if you require any additional information. I appreciate your cooperation and look forward to hearing from you soon.

Sincerely,



Shelby Busch

Chairman

We The People AZ Alliance PAC

DOC# 03-20220918-01

PENDING STATUS (QS, PQ & NS) TOTAL VS. CURED

NOVEMBER 8, 2022 GENERAL ELECTION

STATUS CODE DESCRIPTION	TOTAL
TOTAL INITIAL 'QUESTIONED SIGNATURE' STATUS SET >	16,346
TOTAL INITIAL 'NO SIGNATURE' STATUS SET >	2,164
TOTAL INITIAL PQ, QS & NS (minus Address Protected) >	18,510

TOTAL TO BE 'CURED (QS & NS) >	18,510
QS SET AS FINAL 'BAD SIGNATURE' (UNCURED) >	1,800
NS SET AS FINAL 'NO SIGNATURE' STATUS (UNCURED) >	1,299
QS & NS CURED BY VOTER >	15,411

BALLOT DISPOSITION DESCRIPTION	BALLOT STATUS CODED
PENDING QUESTIONED SIGNATURE	PQ
QUESTIONED SIGNATURE	QS
NO SIGNATURE	NS
GOOD SIGNATURE	GS
DECEASED	DE
BAD SIGNATURE	BS
VOIDED (EV CANCELLED)	V3
VOIDED (EV REISSUED)	V6

* Total 'Address Protected' Voters that were in the "cure" queue = 311



MARICOPA COUNTY
Elections Department

Early Voting Rejections Summary

Nov 8 2022 General Election

1800	Bad Signatures (BS)
1299	No Signature (NS)
3099	Total Early Voting Rejections (BS & NS)
1527	Late Returns (L)
4626	Total Rejected and Late

REMOVED FROM DEMOCRACYDOCKET.COM

Subject: RE: Open Record Request: 1478, 1482
From: "PRR (MCRO)" <prr@risc.maricopa.gov>
Date: 3/28/2023, 2:41 PM
To: "FOIA Requests" <Foia@wethepeopleazalliance.com>

Good afternoon We the People,

Your follow-up email has been shared with a Subject Matter Expert. Our office will reach out with additional information as it becomes available.

Respectfully,



Public Records Custodian
Recorder's Office

111 S. 3rd Ave., Suite 103, Phoenix, AZ 85003

O: 602-506-5106

Recorder.Maricopa.Gov | Elections.Maricopa.Gov

[Facebook](#) | [Instagram](#) | [Twitter](#) | [YouTube](#) | [LinkedIn](#)

Confidentiality Notice: This message, with any attachments, is intended only for the use of the individual or entity to whom it is addressed, and may contain information that is confidential and exempt from disclosure. If you are not the intended recipient, any dissemination, distribution, or copying of this message or any attachment is strictly prohibited. If you have received this message in error, please notify the original sender immediately by return E-mail and delete this message and all attachments. Thank you.

From: FOIA Requests <Foia@wethepeopleazalliance.com>
Sent: Monday, March 27, 2023 4:35 PM
To: PRR (MCRO) <prr@risc.maricopa.gov>
Subject: Open Record Request: 1478, 1482

Caution: This email originated from outside of Maricopa County. Do not click links or open attachments unless you recognize the sender, expect this communication, and know the content is safe.

Good afternoon, Maricopa County Records,

Please disregard our error in the last paragraph of the previous email. Our final paragraph read, in part:

"... we would like to pause our requests under PRR # 1482 (the 2020 election reporting) to allow you to focus the available resources on fulfilling the requirements of PRR #1478 (the 2022 election reporting). "

This paragraph should have read: We would like to pause our requests under PRR # 1478 (the 2020 election reporting) to allow you to focus the available resources on fulfilling the requirements of PRR #1482 (the 2022 election reporting).

The response time for these records has expired. Please provide your proposed schedule for prompt delivery.

Thank you,
We the People AZ Alliance

On 3/22/2023 11:41 PM, FOIA Requests wrote:

Dear PRR,

Please see our response regarding PRR 1478 and 1482;

1. A list of all ballot affidavit envelopes reviewed at Level 1 Signature Verification for the **November, 2022 General Election**. This list should include: VoterID, Unique Identifier for the worker performing the Signature Verification, date and time stamp of the review, review disposition; - All Early Voting affidavits received from a voter undergo the initial "Level 1" review. Lists of those voters where "ballot affidavit envelopes reviewed at Level 1 Signature Verification" occurred exist and will be provided. However, these existing lists do not contain a "Unique Identifier for the worker performing the Signature Verification, date and time stamp of the review, review disposition" as this is not a requirement of any data report or list generated. There are no responsive documents or reports that contain a "unique identifier".

We appreciate your thorough response and careful use of terms. We understand that Maricopa County may never have produced the reports as we have requested them ... the "existing lists" may not satisfy these requests and these may never have been "a requirement of any data report or list generated."

However, Maricopa County records the disposition (or status) at each step, as well as the identity of the election workers as they perform signature verification at each level, and keeping a timestamp of each evaluation would be expected as a best practice. All data tracked by Maricopa County is subject to PRR.

The signature verification system is part of a suite of tools that is Maricopa County designed and owned. This necessitates that Maricopa County has development and support personnel that are able to create any new "data report or list" requested, wherever the raw data exists. Please use any and all data available to produce the above reports as requested, with the requested columns, in CSV format.

To provide what is available as it relates to a list of voters that underwent a "Level 1" review, we have two data sets that will be provided:

VOTED (VM55) file - Contains a list of all voters that cast an Early ballot that counted (see "**2 PRR #1482-VOTED VM55 VOTER FILE-NOV 2022-BPQR-1.563.363 TOTAL.txt**" file).

The VM55 does not satisfy any of the requests herein. We are not interested in and will not be paying for this extra data as it is not part of the original PRR request. Please cancel the invoice and address the additional items in this PRR.

SENT TO CURING Voter List – Contains a list of 18,199 voters (excludes address protected voters) that were sent to Level 2 Manager Review queue that were then set with a pending status code (PQ, QS, NS) indicating the voter needed to be contacted to confirm (cure) their signature (PQ or QS) or provide their signature (NS). This list contains voters whose packets were set with a FINAL disposition of GOOD SIGNATURE (GS) upon being cured. Those GOOD SIGNATURE (GS) records would also appear in the VOTED file as an "R code" (see "**3 PRR #1482-2022 SENT TO CURING-PQ QS NS Status vs Cured VOTER LIST-18.199 TOTAL.xlsx**"). The TOTAL number of "exception" records that went to curing (18,510) and the total number that had a final disposition set as Bad Signature (BS=1,800)

or No Signature (NS=1,299) are indicted in the document titled **"4 PRR #1482-2022 BS NS Status TOTALS & CODE Sheet.pdf"**.

Thank you for the summary and code sheet contained in **"4 PRR #1482-2022 BS NS Status TOTALS & CODE Sheet.pdf"** as information in excess of the included requests.

2. A list of all ballot affidavit envelopes reviewed at Level 2 and Level 3 (Managers' Queue) Signature Verification, including a record of each time each envelope was reviewed at these levels for the November, 2022 General Election. This list should include: VoterID, Unique Worker Identifier, Unique Identifier for the worker performing the Signature Verification, date and time stamp of the review, review disposition; - **As noted in Item 1 response, we have the list of regular voters that moved into Level 2 Manager's Queue that were set as needing to be "cured" (see "3 PRR #1482-2022 SENT TO CURING-PQ QS NS Status vs Cured VOTER LIST-18.199 TOTAL.xlsx").** This list does not contain a **"Unique Identifier for the worker performing the Signature Verification, date and time stamp of the review, review disposition"**.

"3 PRR #1482-2022 SENT TO CURING-PQ QS NS Status vs Cured VOTER LIST-18.199 TOTAL.xlsx" does not satisfy this request. As stated above, we understand that this report may not exist as requested. Please use any and all data available to produce the above reports as requested, with the requested columns, in CSV-format.

3. A list of all ballot affidavit envelopes sent back to Level 1 for review, after having been reviewed at any Managers' Queue review level for the November, 2022 General Election. This list should include: VoterID, Unique Identifier for the worker performing the Signature Verification, date and time stamp of the review, review disposition; and - **There are no responsive records for this request as there are no reports that exist that identify records that may have been sent back to Level 1 for rereview.**

As stated above, we understand that **"there are no reports that exist"** that satisfy this request. Please use any and all data available to produce the above reports as requested, with the requested columns, in CSV format.

4. List of all ballot affidavit envelopes that went to Curing, including a record of each attempt to cure for the November, 2022 General Election. This list should include: VoterID, Unique Identifier for the worker attempting the cure, date and time stamp of the attempted cure, curing method attempted, disposition of the attempted cure. - **The previously noted "SENT TO CURING Voter List" in Item 1 would show the records that went to curing. However, as for the number of attempts made to contact the voter to cure, that is not a statutorily required data entry item and is not tracked. Therefore, there are no responsive records that exist for this particular "number of attempts to cure" request.**

"3 PRR #1482-2022 SENT TO CURING-PQ QS NS Status vs Cured VOTER LIST-18.199 TOTAL.xlsx" satisfies our request for a **"List of all ballot affidavit envelopes that went to Curing"**, and it includes the final disposition. However, it does not include a **"Unique Identifier for the worker attempting the cure, date and time stamp of the attempted cure, curing method attempted, disposition of the attempted cure."** In this case, it is stated that the curing process has no **"data entry item and is not tracked"** and **"no responsive records exist."** Please confirm that it is not possible to produce a report with any additional detail,

because there are **no records kept** regarding any of the steps taken, the basis on which decisions were made, when, and by whom, during the entire Curing process.

For the "**November, 2020 General Election**", there are items and datasets that exist for the 2022 General Election that do not exist for 2020 General Election. In 2020 we were not tracking or retaining "**exception**" status as those are "**pending**" disposition codes. By "**pending**" we mean that once a true FINAL disposition code (GS, BS or NS) was set on a given "**exception**" record (*i.e., was cured or not cured by the deadline*), that pending "**exception**" status was overwritten with that a FINAL status disposition (*i.e., changed from an "exception" to a final status of GOOD SIG (GS), BAD SIG (BS) or NO SIG (NS)*). For our internal tracking needs, a "**pending**" code has no significance and only the FINAL disposition is what is statutorily required to be reported.

For any elections held prior to the November 2022 General, there are no records of any "**exception**" statuses set and the only thing tracked and reported, as outlined, and required in State Statute is the final GOOD SIG, BAD SIG or NO SIG status.

Our system features were changed for the 2022 General Election not because it is a required reporting or tracking element, but instead to be responsive to past requests for the TOTAL NUMBER OF EXCEPTIONS MADE THAT WENT INTO THE "CURING" PROCESS. There is then no dataset for the 2020 General Election or any elections prior to 2022 General.

With that, below are the responses for PRR #1478:

Thank you for the additional insight. In light of this we would like to pause our requests under PRR # 1482 (the 2020 election reporting) to allow you to focus the available resources on fulfilling the requirements of PRR #1478 (the 2022 election reporting).

Regards,

We the People AZ Alliance

----- Original Message -----

On Monday, March 20th, 2023 at 1:37 PM, PRR (MCRO) <pr@risc.maricopa.gov> wrote:

Hello We the People,

As of today, we have not received payment for invoice PR23-1478; therefore, the status of your request changed to "suspended."

Should you want to pay for your invoice, please submit payment at 602-506-5106 within the next four business days, or this case will be "closed" on 03/24/23.

Respectfully,



Public Records Custodian
Recorder's Office

111 S. 3rd Ave., Suite 103, Phoenix, AZ 85003

O: 602-506-5106

[Recorder.Maricopa.Gov] [Elections.Maricopa.Gov]

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From: PRR (MCRO) <pr@risc.maricopa.gov>

Sent: Friday, March 10, 2023 2:44 PM

To: FOIA@wethepeopleazalliance.com

Subject: RE: New Record Request: 1478

Good afternoon Shelby,

We are writing to inform you that your public records request is available. A separate email invitation to view the files was shared with your email address. Please check your spam folder if you do not see a second email within fifteen minutes of receiving this email.

The password for your folder is arK7K7LDU5h2. The files will be available until 3/24/23.

After this date, the link will expire, and your files will become unavailable to download using the link.

In addition, we have included your invoice to obtain our Voted File (VM55) from the 2020 General Election to complement our response. A folder containing the data will be shared via email upon receipt of payment.

You may submit payment for the request in the following ways during regular business hours:

- o **Phone:** 602-506-5106
- o **Mail or in person:** Custodian of Public Records, Office of the Recorder Stephen Richer, 111 S 3rd Ave, Ste 103, Phoenix, AZ 85003

Respectfully,



Public Records Custodian
Recorder's Office

111 S. 3rd Ave., Suite 103, Phoenix, AZ 85003

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From: PRR (MCRO) <pr@risc.maricopa.gov>

Sent: Monday, February 6, 2023 9:49 AM

To: FOIA@wethepeopleazalliance.com

Subject: RE: New Record Request: 1478

Good morning We the People,

We have received your public records request. Your request is currently being processed and will be added to the queue.

Please note, as the Public Records Custodian for the Maricopa County Elections Department, the Recorder's Office is required to promptly respond to public record requests. Our response depends on the scope of the request and the resources necessary to process your request.

Respectfully,



Public Records Custodian

RECORDER'S OFFICE

111 S. 3rd Ave Phoenix, AZ 85003

PHONE: 602-506-5106

EMAIL: pr@risc.maricopa.gov

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Public Disclosure Notice: This message and any messages in response to the sender of this message may be subject to a public records request.

Record Number: 1478

Requester Name: Shelby Busch

Requester Address: 4225 W. Glendale Avenue, Suite 116

Requester Email: FOIA@wethepeopleazalliance.com

Requester Phone: 6025742376

Request Description:

1. A list of all ballot affidavit envelopes reviewed at Level 1 Signature Verification for the November, 2020 General Election. This list should include: VoterID, Unique Identifier for the worker performing the Signature Verification, date and time stamp of the review, review disposition;
2. A list of all ballot affidavit envelopes reviewed at Level 2 and Level 3 (Managers' Queue) Signature Verification, including a record of each time each envelope was reviewed at these levels for the November, 2020 General Election. This list should include: VoterID, Unique Worker Identifier, Unique Identifier for the worker performing the Signature Verification, date and time stamp of the review, review disposition;
3. A list of all ballot affidavit envelopes sent back to Level 1 for review, after having been reviewed at any Managers' Queue review level for the November, 2020 General Election. This list should include: VoterID, Unique Identifier for the worker performing the Signature Verification, date and time stamp of the review, review disposition; and
4. List of all ballot affidavit envelopes that went to Curing, including a record of each attempt to cure for the November, 2020 General Election. This list should include: VoterID, Unique identifier for the worker attempting the cure, date and time stamp of the attempted cure, curing method attempted, disposition of the attempted cure.