

IN THE  
**Court of Appeals**  
STATE OF ARIZONA  
DIVISION ONE

**CASE MANAGEMENT STATEMENT**

MARK FINCHEM

v.

ADRIAN FONTES, et al.

1 CA-CV 23-0064

Maricopa County Superior Court

Superior Court case number: CV2022-053927

Judge Melissa Julian

Mark Finchem  
Name of Filing Party

/s/Daniel J. McCauley III, Esq.  
Signature of Counsel

February 24, 2023  
Date

## A. APPELLATE JURISDICTION

1. State the basis for appellate jurisdiction (*See* A.R.S. § 12-2101):

A.R.S. § 12-2101(A)(1)

2. State the date the superior court filed the judgment/order you are appealing and state whether the court signed the ruling.

December 16, 2022 Final Judgment signed by the Honorable Melissa Julian

3. Provide the date each notice of appeal or cross-appeal was filed and identify the filing party.

Notice of Appeal filed by Plaintiff/Contestant, Mark Finchem, on December 21, 2022

4. If the time for appeal was extended by one of the motions identified in Arizona Rule of Civil Appellate Procedure 9(e)(1), identify the motion, the date it was filed, the date the superior court filed its ruling on the motion, and state whether the ruling was signed.

None

5. If any motions are currently pending in superior court, identify the name of each motion and the date it was filed.

Secretary of State-Elect Adrian Fontes' Motion for Sanctions - Filed 12/28/22

6. Is the judgment/order appealed from certified as final pursuant to Arizona Rule of Civil Procedure 54(c)?

Yes

7. If any claims remain pending in the superior court, including claims for attorneys' fees, was the judgment/order made appealable pursuant to Arizona Rule of Civil Procedure 54(b) or Arizona Rule of Family Law Procedure 78(B)?

Yes

## B. CASE INFORMATION

1. List all parties to the superior court action and, if represented, provide the names of their counsel.

Plaintiff/Contestant Mark Finchem represented by Daniel J. McCauley

Defendant/Contestee Adrian Fontes, personally,  
represented by Craig A. Morgan

Defendant/Contestee Adrian Fontes, in his official capacity as Secretary of State,  
represented by Amy B. Chan

Defendant Katie Hobbs represented by Andy Gaona

2. List any party in superior court that is not a party to this appeal and explain in detail why the party is not included in this appeal, e.g., the party was dismissed, not served, or other. Include specific relevant references to the record.

None

3. Describe briefly all claims (including counterclaims, cross-claims and third-party claims) asserted in the superior court and the manner each such claim was resolved in the superior court (i.e., bench trial, jury verdict, dismissal, summary judgment, or default judgment). Include specific relevant references to the record.

Applicability of Civil Rules 8 and 12(b)(6) in election law contests

Laches

Voting Machine Certification

Voting Software Certification

Illegal Votes

Misconduct by then Secretary of State Hobbs

Recusal of then Secretary of State Hobbs

Candidate Finchem's Twitter account suspended at the request of then

Secretary of State Hobbs

4. Identify the issues to be raised on appeal.

Each issue raised in #3 above.

5. If this case involves an assertion or allegation that a state statute, ordinance, franchise, or rule is unconstitutional on its face, or that a municipal ordinance or franchise is facially invalid, have you complied with A.R.S. § 12-1841?

N/A

### **C. TRANSCRIPTS**

1. State the date you complied with Arizona Rule of Civil Appellate Procedure 11(c)(1) and (2) by ordering the transcript(s) necessary for proper consideration of the issues on appeal.

February 21, 2023

Identify the certified court reporter or authorized transcriber responsible for preparing the transcript(s):

eSribers, LLC

Provide the court reporter's estimated date of completion of the transcript(s):

February 28, 2023

2. State the date you complied with Arizona Rule of Civil Appellate Procedure 11(c)(3) by filing a notice of transcript order and, if applicable, a statement of the issues.

February 23, 2023

#### **D. OTHER PENDING AND PRIOR PROCEEDINGS**

1. If any party to this appeal is the subject of a pending petition in bankruptcy court, identify the court and provide the case name and number.

None

2. Provide the case name and number of any other appeal, special action, or petition for review filed from the same, or a consolidated superior court action.

None

3. Provide the case name and number of any other appeal(s) pending in the Court of Appeals that involve the same parties, events, or transactions giving rise to this appeal.

None

4. Provide the case name and number of any known pending appeals in the Court of Appeals that raise the same or closely related issues.

Lake v. Hobbs. No. 1 CA-CV 22-0779 / No. 1 CA-SA 22-0237 (Consolidated)

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**E. CONTACT INFORMATION**

1. Filing Party

This Case Management Statement is filed by or on behalf of:

Name of Party: Mark Finchem

Counsel: Daniel J. McCauley III

Address: McCauley Law Offices, P.C.

6638 E Ashler Hills Dr, Cave Creek, AZ 85331

Email address: Dan@MLO-AZ.com

Telephone: (480) 595-1378

Check one:  Appellant  Cross-Appellant  Appellee

For a joint statement by multiple appellants, provide contact information for additional appellants on a separate sheet accompanied by certification that they concur in the contents of this statement.

2. Opposing Party

Name of Party: Adrian Fontes, personally

Counsel for Opposing Party: Craig A. Morgan

Address: Sherman & Howard, LLC

2555 E. Camelback Road, Suite 1050, Phoenix, AZ 85016

Email address: [cmorgan@shermanhoward.com](mailto:cmorgan@shermanhoward.com)

Telephone: 602.240.3062

Opposing Party

Name of Party: \_\_\_\_\_ Adrian Fontes, in his official capacity as SoS \_\_\_\_\_

Counsel for Opposing Party: \_\_\_\_\_ Amy B. Chan \_\_\_\_\_

Address: \_\_\_\_\_ Arizona Secretary of State's Office \_\_\_\_\_

\_\_\_\_\_ 2555 E. Camelback Road, Suite 1050, Phoenix, AZ 85016 \_\_\_\_\_

Email address: \_\_\_\_\_ [achan@azsos.gov](mailto:achan@azsos.gov) \_\_\_\_\_

Telephone: \_\_\_\_\_ 602.542.6167 \_\_\_\_\_

Opposing Party

Name of Party: \_\_\_\_\_ Katie Hobbs \_\_\_\_\_

Counsel for Opposing Party: \_\_\_\_\_ Andy Gaona \_\_\_\_\_

Address: \_\_\_\_\_ Coppersmith Brockelman PLC \_\_\_\_\_

\_\_\_\_\_ 2800 N. Central Ave., Ste. 1900, Phoenix, AZ 85004 \_\_\_\_\_

Email address: \_\_\_\_\_ [agaona@cblawyers.com](mailto:agaona@cblawyers.com) \_\_\_\_\_

Telephone: \_\_\_\_\_ 602.381.5486 \_\_\_\_\_

## CERTIFICATION OF SERVICE

I certify that on the 24<sup>th</sup> day of February, 2023, I served copies of the above *Case Management Statement* on all counsel/parties of record by email or by depositing a true copy thereof in the United States mail addressed as follows:

Name: Daniel J. McCauley

Address: McCauley Law Offices, P.C.  
6638 E Ashler Hills Dr.  
Cave Creek, AZ 85331

/s/ Daniel J. McCauley  
Signature

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