

Josh Barnett  
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Plaintiff (Pro Per)

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

**Josh Barnett,**

**Plaintiff,**

**v.**

KATIE HOBBS, in her official capacity as  
Secretary of State of Arizona,

Defendant

) Case No.  
)  
) **EMERGENCY MOTION**  
) **FOR TEMPORARY**  
) **RESTRAINING ORDER**  
) **OR PRELIMINARY**  
) **INJUNCTION**

Under Ariz. R. Civ. P. 65(a)(b), and ARS 12-1801, Plaintiff, Josh Barnett, hereby moves this Court for the issuance of:

1. A Temporary Restraining Order or Preliminary Injunction prohibiting Defendant, Katie Hobbs, in her official capacity as Secretary of State of Arizona, from conducting the statewide canvass of races for Governor; Secretary of State; Attorney General; United States Senator and any other races the Court may, in the interests of justice, find should also not be canvassed on, before, or after December 5, 2022. (See ARS 16-648(A));
2. A Temporary Restraining Order or Preliminary Injunction prohibiting Defendant, Katie Hobbs, in her official capacity as Secretary of State of Arizona, from awarding certificates of election for the statewide races of Governor; Secretary of State; Attorney General; United States Senator and any other races the Court may, in the interests of justice, find should also not be canvassed. (See ARS 16-650);
3. An Order to Set Hearing on Preliminary Injunction providing Defendant, Katie Hobbs, in her official capacity as Secretary of State of Arizona, with notice of the date and time of the hearing on Plaintiff's Application for a Preliminary Injunction as to why a preliminary injunction should not be issued in the same force and effect as the TRO.

This Motion is supported by the following Memorandum of Points and Authorities and the Complaint for Declaratory and Injunctive Relief.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. FACTUAL BACKGROUND**

Plaintiff relies on the General Allegations in the Complaint for Declaratory and Injunctive Relief, and incorporates by reference the allegations, and factual background therein.

### **II. LEGAL ARGUMENT**

Plaintiff is entitled to injunctive relief when the following conditions are established: “1) A strong likelihood that he will succeed at trial on the merits; 2) The possibility of irreparable injury to him not remediable by damages if the requested relief is not granted; 3) A balance of hardships favors himself; and 4) Public policy favors the injunction.” *Shoen v. Shoen*, 167 Ariz. 58, 63 (App. 1990).

Injunctive relief is a proper remedy when public officials do not follow published statutes, and rules, issued by proper Arizona authorities, or act in a manner that exceeds their authority. *See McCluskey v. Sparks*, 80 Ariz. 15, 20–21 (1955), where injunctive relief was granted to plaintiffs who desired to force “officials to comply with the statutes and constitutions of Arizona and of the United States”).

#### **A. Plaintiff Is Likely To Succeed On the Merits**

In this case, Maricopa County election officers failed to follow the law as enacted in Title 16 of the Arizona Revised Statutes, and Rules which have authority of law promulgated in the Election Procedures Manual issued by the Defendant, Secretary of State. Because of official misconduct, the General Election on November 8th was a chaotic event, the likes of which Arizona has never seen before. The results in the statewide races of Governor; Secretary of State; Attorney General; and United States Senator, are incurably

uncertain due to the maladministration of the Maricopa County election officials who executed this election. Plaintiff will bring an election contest if winners are declared, as discussed more fully in the Complaint for Declaratory Judgment, but injunctive relief is necessary before that happens, to prevent this chaotic election from being canvassed and certified by the Defendant, which would cloak it with a presumption of certainty that it should not receive, and does not deserve. Injunctive relief will allow Plaintiff's Complaint for Declaratory Judgment to be fairly considered, prior to any positive presumption adhering to the election results.

“Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy.” *Purcell v. Gonzales*, 549 U.S. 1, 4 (2006). There can be no confidence in an election so tainted with chaos. Chaos was the overarching result of maladministration of the County Recorder, the Board of Supervisors, Election Boards, and other election officers, and such malfeasance was admitted to by Chairman of the Board of Supervisors, Bill Gates, as is more fully discussed, and cited in the Complaint for Declaratory Judgment. This admission — *by the official most responsible statutorily for running the election* — is the most compelling reason why Plaintiff is likely to succeed on the merits. It is an admission of maladministration before the assembled world media in an official press conference designed to give information about the catastrophic election to a very concerned public. The admission was candid, and not under duress. The admission alone is enough to grant injunctive relief.

Voting is “a fundamental political right because [voting is] preservative of all rights”. *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886). There can be no preservation of rights if the process by which those rights are protected is taken over by chaos.

### **B. Plaintiff Will Suffer Irreparable Harm Unless Defendant Is Enjoined.**

Because voting is the strongest thread that can preserve our Republican form of Government, Plaintiff will suffer irreparable harm if the chaotic election is canvassed and certified, and winners are declared by Defendant, Secretary of State, in the statewide races for Governor; Secretary of State; Attorney General; and United States Senator. This is because if Plaintiff doesn't succeed in this case, the descent into administrative tyranny

will surely destroy the Republic for Plaintiff, his posterity, and the community he loves.

### **C. The Balance of Hardships Tips Sharply In Plaintiff's Favor.**

Plaintiff incorporates Points A and B above, and adds that the hardships involved with delaying any canvass or certification, or delaying the subsequent declaration of winners, are nothing compared to the hardships of allowing chaos to determine who governs.

### **III. CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests that this Court issue a temporary restraining order or preliminary injunction to enjoin Defendant from canvassing or certifying the elections for Governor; Secretary of State; Attorney General; and United States Senator; or from declaring winners thereof; and for the same to apply in any other races the Court may find in need of receive similar relief.

DATED this 29<sup>th</sup> day of November, 2022.

Josh Barnett, Plaintiff

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Plaintiff (Pro Per)