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9
10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **IN AND FOR THE COUNTY OF MOHAVE**

12 **JEANNE KENTCH, an individual; TED**
13 **BOYD, an individual; ABRAHAM**
14 **HAMADEH, an individual; and the**
15 **REPUBLICAN NATIONAL**
16 **COMMITTEE, a federal political party**
17 **committee,**

18 Plaintiffs,

19 vs.

20 **KRIS MAYES,**

21 Defendant/Contestee.

22 And

23 **KATIE HOBBS et. al;,**

24 Defendants.

Case No. CV2022-01468

RESPONSE TO REQUEST FOR
APPOINTMENT OF BALLOT INSPECTORS
PURSUANT TO A.R.S. § 16-677

25 Navajo County Defendants hereby respond to the Plaintiff's Response to Court's Order
26 Requiring Written Submissions Regarding Issues on Which No Agreement Has Been Reached,
27 filed with the Court earlier this afternoon and which requested the appointment of inspectors as
28 follows:

1 1.) Navajo County has asked the Plaintiffs to obtain an Order of this Court appointing
2 inspectors. As Plaintiffs note, this is a requirement of A.R.S. §16-677. Navajo
3 County reads this as requiring names of three specific individuals authorized to access
4 and inspect the ballots. Neither Plaintiff Hamadeh or Defendant Mayes has, to the
5 Navajo County's knowledge, named a specific appointee for the Court to inspect
6 ballots here in Navajo County.
7

8 2.) The Court's order and ruling on the motions to dismiss did not name an inspector
9 who would be the court's appointee in this matter. This issue was pointed out to the
10 Plaintiff's counsel yesterday very soon after the Court's ruling was released.
11 Plaintiffs now suggest that the Court's appointed inspector be the, ". . . County
12 official with custody of the ballots . . ."
13

14 3.) A.R.S. § 16-624(A) provides as follows:

15 16-624. Disposition of official returns and ballots

16 A. After the canvass has been completed, the officer in charge of elections shall
17 deposit the package or envelope containing the ballots in a secure facility
18 managed by the county treasurer, who shall keep it unopened and unaltered for
19 twenty-four months for elections for a federal office or for six months for all other
20 elections, at which time he shall destroy it without opening or examining the
21 contents.

22 Under the statute, and since the statewide canvass has been completed, the County
23 Treasurer is now, technically, the custodian of the ballots. It is respectfully suggested
24 that the County Treasurer is a poor choice to serve as an inspector as Treasurers have
25 nothing to do with elections except for storing the ballots under the statute until the
26 time comes for them to be destroyed.

27 Even if the Plaintiffs instead mean that the Navajo County Elections Director
28 Rayleen Richards should be appointed and be considered the custodian of the ballots,

1 Navajo County still objects to her appointment. Although Ms. Richards is neutral as
2 between candidates Hamadeh and Mayes, she defends the results of Navajo County's
3 canvass as being accurate as submitted to the Secretary of State. Paragraph fifty-two
4 of Plaintiff's Complaint specifically alleges that Navajo County's election equipment
5 malfunctioned or was not set up properly, something Navajo County adamantly
6 disputes. As such, the Navajo County Elections Director cannot be considered a
7 neutral third party in this matter.
8

9 Navajo County Defendants would specifically request that if willing to serve,
10 Lynn Constabile, the former Elections Director from Yavapai County, Arizona be
11 appointed as the Court's inspector on the three-person panel. Someone who is
12 impartial and has experience in election matters is whom this Court needs to appoint
13 regardless of whom it ultimately chooses.
14

15 4.) Navajo County respectfully disagrees with the Plaintiffs assertion that the statute
16 authorizes multiple inspection teams. A.R.S. §16-677 is clear and unambiguous in
17 stating that, ". . . the court shall appoint three persons, one selected by each of the
18 parties and one by the court, by whom the inspection shall be made. If either party
19 fails to name a person to act in making the inspection, the court shall make the
20 appointment."
21

22 As has already been noted multiple times during this litigation, the election
23 challenge statute is statutorily driven. The statute here allows the appointment of
24 "three persons" and no more. The legislature in drafting the statute may have come
25 well short of providing the number of inspectors that would actually be needed in a
26 order to inspect the world of possible ballots in the Attorney General's race that could
27
28

1 be inspected where north of 2.5 millions votes were cast. But it is the statute the
2 legislature has tasked the Court with implementing and it is without the authority to
3 judicially re-write it to suit the needs of the real parties in interest.
4

5 RESPECTFULLY SUBMITTED this 21st day of December, 2022.

6 /s/ Jason S. Moore .

7 Jason S. Moore
8 Deputy County Attorney

9 The foregoing was e-filed via AZTurboCourt with the
10 Clerk of the Superior Court of Mohave
11 County on December 21, 2022.

12 COPY of the foregoing emailed this
13 13th day of December, 2022 to:

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