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10 ARIZONA SUPERIOR COURT

11 MARICOPA COUNTY

12 IN THE MATTER OF the November 8, 2022,  
13 General Election for Attorney General;  
Superintendent of Public Instruction; and State  
14 Representative for District 13

No. CV2022-015915

**RESPONSE TO AMICUS CURIAE  
ABRAHAM HAMADEH'S BRIEF**

(Assigned to the Hon. Timothy J. Thomason)

1 Relying on A.R.S. § 16-667, amicus curiae Abraham Hamadeh asks this Court to enter  
2 an order that “the recount be abated during the pendency of” his election contest.  
3 Defendant/Contestee Kris Mayes opposes his request because he has no right to that relief.

4 A.R.S. § 16-667 requires “a proceeding begun under this article” to “abate” when an  
5 elector initiates an election contest. It’s undisputed that Mr. Hamadeh initiated such a contest.  
6 Thus, this Court should enter an order “abat[ing]” this “proceeding.” That means that this Court  
7 should wait to deliver an order setting forth its determination of the results of the recount to the  
8 Secretary of State until Mr. Hamadeh’s election contest is complete. A.R.S. § 16-665(A), (B)(2).

9 But Mr. Hamadeh’s request exceeds what A.R.S. § 16-667 requires. Mr. Hamadeh is not  
10 merely asking this Court to abate this “proceeding.” Rather, he is asking this Court to abate “the  
11 recount.” That’s not what the statute authorizes. *See, e.g., Babnew v. Linneman*, 154 Ariz. 90,  
12 95 (App. 1987) (“Assuming arguendo, that A.R.S. § 16-667 applies when the recount is  
13 commenced after the statement of contest is filed, we believe that the trial court did not err in  
14 allowing the recount to go forward and in entering a determination of its results.”).

15 Even if A.R.S. § 16-667 authorized what Mr. Hamadeh seeks, laches would bar his  
16 request. “In the context of election matters, the laches doctrine seeks to prevent dilatory conduct  
17 and will bar a claim if a party’s unreasonable delay prejudices the opposing party or the  
18 administration of justice.” *Ariz. Libertarian Party v. Reagan*, 189 F. Supp. 3d 920, 922–23 (D.  
19 Ariz. 2016) (citation omitted). Prejudice to the administration of justice includes prejudice to  
20 “election officials[] and the voters of Arizona.” *Sotomayor v. Burns*, 199 Ariz. 81, 83 ¶ 9 (2000).  
21 Here, the canvass was completed on Monday, December 5, yet Mr. Hamadeh waited to bring his  
22 election contest until Friday, December 9, and waited to seek an “abatement” of the recount until  
23 Monday, December 12. This unreasonable delay significantly prejudices the administration of  
24

1 justice because the recount is now well underway and nearly complete. Therefore, even if A.R.S.  
2 § 16-667 authorized the requested abatement, laches would bar Mr. Hamadeh's belated request.  
3

4 Dated: December 12, 2022

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5 By: s/ Daniel C. Barr

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