

**ARIZONA COURT OF APPEALS**  
**DIVISION ONE**

KARILAKE,  
*Plaintiff/Appellant,*

v.

KATIE HOBBS, *et al.*,  
*Defendants/Appellees.*

KARILAKE,  
*Petitioner,*

v.

THE HONORABLE PETER  
THOMPSON, Judge of the SUPERIOR  
COURT OF THE STATE OF  
ARIZONA, in and for the County of  
MARICOPA,

*Respondent Judge,*

KATIE HOBBS, personally as  
Contestee; ADRIAN FONTES, in his  
official capacity as Secretary of State;  
STEPHEN RICHER, in his official  
capacity as Maricopa County Reporter,  
*et al.*,

*Real Parties in Interest.*

Court of Appeals  
Division One

No. 1 CA-CV 22-0779  
No. 1 CA-SA 22-0237  
(CONSOLIDATED)

Maricopa County  
Superior Court  
No. CV2022-095403

**MOTION FOR A PROCEDURAL  
ORDER ACCELERATING  
CONSOLIDATED APPEAL AND  
SPECIAL ACTION**

ARCAP 29(b)(2). ARPSA 7(d)

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## INTRODUCTION

Kari Lake—appellant in No. 1 CA-CV 22-0779 and special action petitioner in No. 1 CA-SA 22-0237—hereby moves the Court for a procedural order pursuant to Rule 29(b)(2), Ariz.R.Civ.App.P., and Rule 7(d), Rule 7(d), Ariz.R.P.Spec.Act., to accelerate these consolidated actions for the following reasons:<sup>1</sup>

1. As relevant to these consolidated actions, Lake’s election contest challenges the 2022 gubernatorial election—and particularly the election in Maricopa County—for misconduct and illegal votes under Arizona laws for testing and certifying election equipment (Count II), verifying signatures on mail-in voting (Count III), and keeping chain-of-custody records for ballots (Count IV), as well as the due-process and equal-protection violations of the Arizona and federal constitutions (Counts V and VI).

2. On December 27, 2022, the Maricopa County Superior Court entered its judgment against Lake on all counts, and Lake noticed her appeal (No. 1 CA-CV 22-0779) to this Court.

3. On December 30, 2022, Lake petitioned this Court for special action

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<sup>1</sup> Pursuant to Rule 27(c)(2), Ariz.R.Civ.App.P., Adrian Fontes in his official capacity as Arizona Secretary of State has replaced the former Secretary of State, Katie Hobbs, who remains a party in her individual capacity as contestee. The Court’s Order dated January 9, 2023, directed the parties to continue Ms. Hobbs as an official-capacity real party in interest in the caption.

with regard to Counts II, III, IV, V, and VI (No. 1 CA-SA 22-0237), alternatively asking this Court to treat her petition as her opening brief in the appeal and expedite the appeal.

4. On December 31, 2022, Lake petitioned the Arizona Supreme Court to transfer the special action to that court pursuant to Rule 19(a)(1), (a)(3), Ariz.R.Civ.App.P., based on the exigency of the electoral calendar, the extraordinary circumstances of Maricopa's chaotic 2022 election, and the need to qualify or reconcile various election-related decisions of the Arizona Supreme Court.

5. On January 2, 2022, Lake's election rival—appellee-respondent Katie Hobbs—was sworn in as Arizona's Governor.

6. By Order dated January 3, 2023, this Court issued an expedited briefing schedule and reserved an oral argument date of January 24, 2023, for the special action appeal (No. 1 CA-SA 22-0237), which was within two weeks of the end of the Order's briefing schedule.

7. By Order dated January 4, 2023, the Arizona Supreme Court noted this Court's entry of the scheduling order for expedited briefing and possible oral argument on January 24, 2023 and denied the petition at least in part because the expedited briefing schedule set by the Court showed no good cause existed to transfer the matter to the Supreme Court.

8. By Order dated January 9, 2023, this Court accepted jurisdiction in the

special action, consolidated Lake's two appellate actions, and issued a revised expedited briefing schedule, scheduling the matter for conference on February 1, 2023.

9. Rule 29(d), Ariz.R.Civ.App.P., provides for accelerating both the hearing of oral argument—if any—and the disposition of the appeal.

10. Although Rule 29(d), Ariz.R.Civ.App.P., sets ninety-day windows for appellate courts to act to hear oral argument or decide cases, Lake respectfully submits that this Court should accelerate the hearing and disposition of these consolidated actions, consistent with the two-week timeframe that the Arizona Supreme Court deemed expeditious enough to make transfer unnecessary.

11. Rule 29(e), Ariz.R.Civ.App.P., authorizes deciding an accelerated appeal by summary order or by an oral decision from the bench following oral argument in addition to providing a written order.

12. Rule 29(f), Ariz.R.Civ.App.P., provides that the Arizona Supreme Court will give priority to petitions for review in accelerated appeals.

13. Urgent action is needed in this matter to safeguard Arizona voters' right to free and equal elections. Ariz. Const. art. II, §21.

14. Although this Court's Order dated January 9, 2023, expedited the briefing of these consolidated actions, the Order also vacated the expeditious oral argument date in this Court's Order dated January 3, 2023, on which the Arizona

Supreme Court relied in part to deny transfer to the Supreme Court.

15. On January 23, 2023, the Arizona Senate Committee on Elections heard testimony that Maricopa’s tabulator system log files show that, on Election Day, vote center tabulators ejected over 7,000 ballots *every thirty minutes* beginning almost immediately upon opening of the vote centers at 6:00 am and continuing past 8:00 pm—totaling over 217,000 rejected ballot insertions *vis-à-vis* approximately 248,000 votes cast.<sup>2</sup> Contrary to Maricopa’s claims of mere “hiccups,” the tabulator ballot rejections were massive, widespread, and lasted all day. Publicly available records on government websites are judicially noticeable, Ariz.R.Evid. 201; *Pedersen v. Bennett*, 230 Ariz. 556, 559, ¶15 (2012), and appellant-petitioner Lake respectfully submits that this Court should weigh the information presented to the Senate in assessing the good cause for accelerating the resolution of these consolidated actions.

16. On January 24, 2023, Lake petitioned the Arizona Supreme Court to transfer these consolidated actions to that court pursuant to Rule 19(a)(1), (a)(3), Ariz.R.Civ.App.P., based on the extraordinary circumstances of Maricopa’s chaotic 2022 election and the need to qualify or reconcile various election-related decisions of the Arizona Supreme Court.

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<sup>2</sup> See <https://www.azleg.gov/videoplayer/?eventID=2023011091> at 2:00:30, 2:13:20-2:14:37 (last visited Jan. 25, 2023).

17. On January 24, 2023, Lake filed her reply in these consolidated actions.

WHEREFORE, appellant-petitioner Lake respectfully requests that this Court accelerate these actions pursuant to Special Rule 7(d) and Appellate Rule 29(b). If the Court deems oral argument necessary, the Court should expeditiously calendar an oral argument; if not, this Court should expeditiously issue its decision.

Dated: January 25, 2023

Respectfully submitted,

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