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APACHE CO SUPERIOR COURT

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF APACHE  
MICHAEL LATHAM, PRESIDING JUDGE**

**Michael Latham, Presiding Judge**

By: Brittany R. McNeil, Judicial Administrative Assistant

<p><b>NAVAJO NATION</b> on behalf of itself and all others similarly situated,  Plaintiff,  vs.  <b>LARRY NOBLE et. al.,</b>  Defendant.</p>	<p>Case No: <b>S0100CV202400242</b>  Date: November 19, 2024</p>
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**ORDER**

Before the Court is Defendant's Motion to Dismiss and Opposition to Request for Temporary Restraining Order ("Defendant's Motion"). The Court has reviewed Defendant's Motion, Plaintiff's Reply to Defendant's Motion, the Complaint, the Application for Temporary Restraining Order, and the exhibits attached thereto. The Court will also note the parties also joined as parties to an Emergency Petition for Special Action filed in the ACLU v. Richer Supreme Court case (CV-24-0263-SA (Ariz. Nov. 10, 2024)) with similar facts, although under a different procedural posture. The Court has reviewed the Arizona Supreme Court's opinion in that case and the attached exhibits submitted as part of this case.

A hearing regarding these issues was also held on November 19, 2024 at 10:00 A.M. Arizona Time where the Court heard argument from both parties and received additional information from the Apache County Recorder's Office.

The County's deadline to certify the election results to the State of Arizona is November 21<sup>st</sup>. Therefore, like all election challenge cases, the timelines for the Court to issue orders is expedited. During oral argument the Plaintiff noted many of the infrastructure challenges that the residents on the Navajo Nation face (lack of home mail delivery, inconsistent internet service, etc.). The Plaintiff asserts associated standing in the case to ensure the voting rights of citizens living on the Navajo Nation are being protected.

It appears to the Court, that the Complaint and the Application for Temporary Restraining Order were filed as a protective measure based on the Plaintiff's inability to gather relevant data from the County. Specifically, Plaintiff wanted to ensure that ballots of voters in Apache County who were otherwise qualified to vote, had a meaningful opportunity to cure deficiencies in the early ballots cast in accordance with the rights of other Arizona

voters. Page 9, paragraph 27 of the Complaint states "Upon information and belief, the County failed to contact these voters and inform them of their need to cure their mismatched signatures before November 9 because they were not included on the list of ballots that were rejected that was provided to the Nation." In paragraph 30 on that same page, the Plaintiff alleges "[u]pon information and belief, the County did not make reasonable and meaningful attempts to contact voters with mismatched signatures between Wednesday, November 6 and Saturday, November 9 and before."

Based on the information the Court received in this case, however, Defendants demonstrated that voters were contacted and noted the reasonable and meaningful attempts to contact voters. Based on this information, the Court finds that all voters in Apache County, including the voters on the Navajo Nation were properly notified, pursuant to statutory requirements, regarding inconsistent signatures within the applicable deadline. Apache County allowed all voters to cure deficiencies with a phone call or text message. All voters were notified, at the latest, by November 9<sup>th</sup>. Therefore, similar to the finding of the Arizona Supreme Court, this Court is not presented with evidence that any voters, on the Navajo Nation or otherwise, were prevented from curing a defective ballot by the statutory deadline. Therefore, there is no evidence of disenfranchisement before the Court. The Court, of course, recognizes and is familiar with the infrastructure and access challenges many of our citizens on the Navajo Nation face due to dirt roads, inconsistent internet access, limited at-home mail service, etc. The Court, however, is not authorized to expand statutory requirements and remedies provided by the Arizona State Legislature. Similar issues plague many rural communities across the State. However, the Court lacks authority to craft legal remedies beyond what the law allows even though certain remedies may assist rural communities. That is something the Arizona State Legislature has the power to address.

In Arizona the County's legal requirement is to make "reasonable efforts" to contact voters for the purpose of curing defective ballots. The Election Procedures Manual defines "reasonable and meaningful attempts" as contacting the voter by "mail, phone, text message and/or email." The Court finds the County completed this legal requirement. Therefore, the Court finds that Plaintiff is unlikely to prevail on their claims. The Court finds that Defendant did not deprive any voters their right to due process and no irreparable injury is at risk.

Based on these findings, Defendant's Motion is GRANTED.

Date: \_\_\_\_\_

11/19/24



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Honorable Michael Latham  
Presiding Judge  
Apache County Superior Court

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