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Attorneys for Plaintiffs/Contestant Abraham Hamadeh

IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MOHAVE

JEANNE KENTCH, an individual; TED
BOYD, an individual; ABRAHAM
HAMADEH, an individual; and
REPUBLICAN NATIONAL COMMITTEE,
a federal political party committee

Plaintiffs/Contestants,

v.

KRIS MAYES,

Defendant/Contestee,

and

No. CV-2022-01468

**AMENDED MOTION FOR NEW
TRIAL**

(assigned to the Honorable Lee F.
Jantzen)

(ORAL ARGUMENT REQUESTED)

1 KATIE HOBBS, in her official capacity as the
2 Secretary of State; LARRY NOBLE, in his
3 official capacity as the Apache County
4 Recorder; APACHE COUNTY BOARD OF
5 SUPERVISORS, in their official capacity;
6 DAVID W. STEVENS, in his official capacity
7 as Cochise County Recorder; COCHISE
8 COUNTY BOARD OF SUPERVISORS, in
9 their official capacity; PATTY HANSEN, in
10 her official capacity as the Coconino County
11 Recorder; COCONINO COUNTY BOARD
12 OF SUPERVISORS, in their official capacity;
13 SADIE JO BINGHAM, in her official
14 capacity as Gila County Recorder; GILA
15 COUNTY BOARD OF SUPERVISORS, in
16 their official capacity; WENDY JOHN, in her
17 official capacity as Graham County Recorder;
18 GRAHAM COUNTY BOARD OF
19 SUPERVISORS, in their official capacity;
20 SHARIE MILHEIRO, in her official capacity
21 as Greenlee County Recorder; GREENLEE
22 COUNTY BOARD OF SUPERVISORS, in
23 their official capacity; RICHARD GARCIA,
24 in his capacity as the La Paz County Recorder;
25 LA PAZ COUNTY BOARD OF
26 SUPERVISORS, in their official capacity;
27 STEPHEN RICHER, in his official capacity as
28 the Maricopa County Recorder; MARICOPA
COUNTY BOARD OF SUPERVISORS, in
their official capacity; KRISTI BLAIR, in her
official capacity as the Mohave County
Recorder; MOHAVE COUNTY BOARD OF
SUPERVISORS, in their official capacity;
MICHAEL SAMPLE, in his official capacity
as Navajo County Recorder; NAVAJO
COUNTY BOARD OF SUPERVISORS, in
their official capacity; GABRIELLA
CAZARES-KELLY, in her official capacity
as the Pima County Recorder; PIMA
COUNTY BOARD OF SUPERVISORS, in
their official capacity; DANA LEWIS, in her
official capacity as the Pinal County Recorder;
PINAL COUNTY BOARD OF
SUPERVISORS, in their official capacity;

1 SUZANNE SAINZ, in her official capacity as
2 the Santa Cruz County Recorder; SANTA
3 CRUZ COUNTY BOARD OF
4 SUPERVISORS, in their official capacity;
5 MICHELLE M. BURCHILL, in her official
6 capacity as the Yavapai County Recorder;
7 YAVAPAI COUNTY BOARD OF
8 SUPERVISORS, in their official capacity,

9 Defendants.
10

11 Rule 59(b) provides that a motion for a new trial “may be amended at any time before
12 the court rules on it.” Pursuant to Rule 59(b), Contestants file this Amended Motion for
13 New Trial. This amendment simply supplements the previous original Motion on a point
14 that was made in that original Motion, and thus the original Motion is incorporated by
15 reference.

16 Contestants referenced the hand count that occurred pursuant to the recount under
17 A.R.S. Section 16-663. By law this recount encompasses 5% of the precincts. *Id.* There
18 were four counties that included the Attorney General’s race and had a discrepancy between
19 the handcount and the machine count, and the net effect of these discrepancies revealed the
20 following net change in vote totals:

21
22 Gila County, Hamadeh +3
23 Pima County, Hamadeh +3
24 Santa Cruz County, Mayes +1
Yavapai County, Hamadeh +2

25 (Exhibit D to original Motion).

26 So in other words, this would be a gain of seven votes for Mr. Hamadeh over a small
27 sample (and would undoubtedly increase over a larger size, 140 net votes for Mr. Hamadeh
28

1 if the same trend prevailed), but the statute, which was not written for a race in which
2 statewide candidates are separated by 280 votes, does not provide for an adjustment.¹

3
4 This means that Mr. Hamadeh's vote total is likely understated by approximately
5 140 votes. Additionally, for the reasons set forth in the Motion for a New Trial, it is also
6 likely that the limited partial hand count failed to identify discrepancies caused by machines
7 erroneously reading votes for Mr. Hamadeh as undervotes – leading to his vote total being
8 even more understated.²

9
10
11 RESPECTFULLY SUBMITTED this 4th day of January, 2023.

12 By: /s/ Timothy A. La Sota
13 Timothy A La Sota, SBN # 020539
14 **TIMOTHY A. LA SOTA, PLC**
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16 Phoenix, Arizona 85016

17 ¹ Therefore, no additional votes were factored into the total for Hamadeh as a result of the
18 5% hand count which took place as part of the automatic recount.

19 ² Critically, Maricopa County not only conducted a hand count on just 2% of the voting
20 centers and 2% of early ballots, despite the statutory requirement of conducting a hand
21 count on “five percent of the precincts for the recounted race for hand count” (A.R.S. §
22 16-663(B)), but the total number of Election Day ballots hand counted for the Attorney
23 General's race was a meager 2,406 ballots out of 248,070 Election Day ballots verified
24 and counted (or just 0.96%). Exhibit A (Maricopa County Hand Count & Audit Report);
25 *see also* https://apps.azsos.gov/election/files/2022_General_Canvass_Maricopa_1.pdf
26 (Maricopa County November General Election Canvass which reports that 248,070
27 Election Day ballots were verified and counted) (last accessed Jan 4, 2023).
28 Comparatively, Maricopa County hand counted 31,201 early ballots for the recount
(although that was still only 2% of early votes despite a statutory requirement of 5%).
Given the tabulation errors exclusively occurred on Election Day, hand counting less than
1% of Election Day ballots (especially from two vote centers (First Baptist Church-
Chandler and Desert Oasis Aquatic Center) that did not have significant problems with
rejected ballots) was not likely a large enough sample set to identify discrepancies,
especially as it relates to undervotes. *See also* Exhibit G to original Motion (identifying
First Baptist Church as having 116 rejected ballots and Desert Oasis as having 293).

Attorney for Plaintiffs/Contestants

/s/ Alexander Kolodin

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ORIGINAL efiled and served via electronic means
this 4th day of January, 2023, upon:

Honorable Lee F. Jantzen
Mohave County Superior Court c/o
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/s/ Yuka Bacchus

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