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Attorneys for Plaintiffs/Contestants

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

KATIE HOBBS, in her official capacity as the
Secretary of State; LARRY NOBLE, in his
official capacity as the Apache County
Recorder; APACHE COUNTY BOARD OF
SUPERVISORS, in their official capacity;
DAVID W. STEVENS, in his official capacity
as Cochise County Recorder; COCHISE

No. CV-2022-01468

**MOTION TO EXPEDITE
DISCOVERY**

(assigned to the Honorable Lee F.
Jantzen)

1 COUNTY BOARD OF SUPERVISORS, in
2 their official capacity; PATTY HANSEN, in
3 her official capacity as the Coconino County
4 Recorder; COCONINO COUNTY BOARD
5 OF SUPERVISORS, in their official capacity;
6 SADIE JO BINGHAM, in her official
7 capacity as Gila County Recorder; GILA
8 COUNTY BOARD OF SUPERVISORS, in
9 their official capacity; WENDY JOHN, in her
10 official capacity as Graham County Recorder;
11 GRAHAM COUNTY BOARD OF
12 SUPERVISORS, in their official capacity;
13 SHARIE MILHEIRO, in her official capacity
14 as Greenlee County Recorder; GREENLEE
15 COUNTY BOARD OF SUPERVISORS, in
16 their official capacity; RICHARD GARCIA,
17 in his capacity as the La Paz County Recorder;
18 LA PAZ COUNTY BOARD OF
19 SUPERVISORS, in their official capacity;
20 STEPHEN RICHER, in his official capacity as
21 the Maricopa County Recorder; MARICOPA
22 COUNTY BOARD OF SUPERVISORS, in
23 their official capacity; KRISTI BLAIR, in her
24 official capacity as the Mohave County
25 Recorder; MOHAVE COUNTY BOARD OF
26 SUPERVISORS, in their official capacity;
27 MICHAEL SAMPLE, in his official capacity
28 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;
SUZANNE SAINZ, in her official capacity as
the Santa Cruz County Recorder; SANTA
CRUZ COUNTY BOARD OF
SUPERVISORS, in their official capacity;
MICHELLE M. BURCHILL, in her official
capacity as the Yavapai County Recorder;
YAVAPAI COUNTY BOARD OF

1 SUPERVISORS, in their official capacity;
2 RICHARD COLWELL, in his official
3 capacity as the Yuma County Recorder; and
4 YUMA COUNTY BOARD OF
SUPERVISORS, in their official capacity,

5 Defendants.
6

7 Pursuant to Arizona Rules of Civil Procedure 26(f) and 34(b)(3)(A),
8 Plaintiffs/Contestants respectfully request that the Court (1) grant leave to serve
9 immediately on the county Defendants requests for production of documents substantially
10 in the form attached hereto, and (2) order the county Defendants to provide or make
11 available to Plaintiffs/Contestants all responsive records in their possession, custody and
12 control no later than seven (7) days prior to trial.¹

13 ARGUMENT

14 The Rules of Civil Procedure empower the Court to dispense with the customary
15 deadlines that govern the initiation and conduct of civil discovery for “good cause.” Ariz.
16 R. Civ. P. 26(f). “Good cause” is a flexible rubric that “depends upon the particular
17 circumstances of each case and considerations of practical convenience are important.” *City*
18 *of Phoenix v. Peterson*, 11 Ariz. App. 136, 141 (App. 1969). At least two factors supply
19 good cause for expediting discovery in this case.

20 **First**, the default deadlines prescribed the Rules are irreconcilable with the extremely
21 compressed statutory timetable for litigating and adjudicating this election contest. A
22 contestee must answer a statement of contest within five days of service, *see* A.R.S. § 16-
23 675(A), and the trial must conclude no later than 15 days after that, *id.* § 16-676(A). Absent
24 a modification of the presumptive deadlines contemplated by Rules 26 and 34, a party to an
25

26
27 ¹ To facilitate a prompt disposition of this Motion, the Plaintiffs/Contestants request
28 that the Court require the Contestee and the other Defendants to file any response to the
Motion on an expedited basis.

1 election contest would be deprived of any opportunity to conduct discovery or otherwise to
2 develop facts underpinning its claims.

3 ***Second***, the scope of the proposed discovery is tailored as narrowly as possible to
4 the contours of the Plaintiffs/Contestants' claims. The prospective Rule 34 requests consist
5 of two principal components. First, the Plaintiffs/Contestants seek from the Maricopa
6 County Defendants documents sufficient to identify qualified electors whose ballots may
7 have been voided or otherwise not counted because of poll workers' erroneous failures to
8 properly "check-out" these voters. *See* Statement of Contest ¶¶ 22–38, 60–74. Second, the
9 Plaintiffs/Contestants seek from all counties images of the signature specimens used to
10 verify early ballot affidavits pursuant to A.R.S. § 16-550(A). Although this request
11 implicates a much larger volume of materials, it bears a direct and immediate nexus to Count
12 V of the Statement of Contest.

13 ***Third***, much of the documents and information sought are not reasonably available
14 through alternative means. To wit, any document containing a voter signature (such as an
15 early ballot envelope or voter registration record) generally is obtainable only through
16 judicial proceedings. *See* A.R.S. § 16-168(F).²

17 CONCLUSION

18 For the foregoing reasons, the Court should (1) grant leave to serve immediately on
19 the county Defendants requests for production of documents substantially in the form
20 attached hereto as Exhibit A, and (2) order the county Defendants to provide or make
21 available to Plaintiffs/Contestants all responsive records in their possession, custody and
22 control no later than seven (7) days prior to trial.

23
24
25
26
27 ² For this reason, Plaintiffs/Contestants do not object to strictures limiting the transfer
28 or sharing of signature images and providing for their destruction upon the conclusion of
this litigation, as set forth in the proposed order.

1 RESPECTFULLY SUBMITTED this 13th day of December, 2022.

2
3
4 By: /s/ Timothy A. La Sota
5 Timothy A La Sota, SBN # 020539
6 **TIMOTHY A. LA SOTA, PLC**
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8 Phoenix, Arizona 85016

9 /s/ David A. Warrington
10 David A. Warrington*
11 Gary Lawkowski*
12 **DHILLON LAW GROUP, INC.**
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14 Alexandria, VA 22314

15 *Pro hac vice forthcoming

16 *Attorneys for Plaintiffs/Contestants*

17 ORIGINAL efiled and served via electronic means
18 this 13th day of December, 2022, upon:

19 Honorable Lee F. Jantzen
20 Mohave County Superior Court c/o
21 Danielle Lecher
22 division4@mohavecourts.com

23 David A. Warrington
24 Gary Lawkowski
25 Dhillon Law Group, Inc.
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18 *Yavapai County Board of Supervisors*

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25 *Supervisors*

26
27
28
/s/ Timothy A. La Sota

EXHIBIT A

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Recorder; APACHE COUNTY BOARD OF
SUPERVISORS, in their official capacity;
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No. CV-2022-01468

**REQUESTS FOR THE
PRODUCTION OF DOCUMENTS**

(assigned to the Honorable Lee F.
Jantzen)

1 COUNTY BOARD OF SUPERVISORS, in
2 their official capacity; PATTY HANSEN, in
3 her official capacity as the Coconino County
4 Recorder; COCONINO COUNTY BOARD
5 OF SUPERVISORS, in their official capacity;
6 SADIE JO BINGHAM, in her official
7 capacity as Gila County Recorder; GILA
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13 SHARIE MILHEIRO, in her official capacity
14 as Greenlee County Recorder; GREENLEE
15 COUNTY BOARD OF SUPERVISORS, in
16 their official capacity; RICHARD GARCIA,
17 in his capacity as the La Paz County Recorder;
18 LA PAZ COUNTY BOARD OF
19 SUPERVISORS, in their official capacity;
20 STEPHEN RICHER, in his official capacity as
21 the Maricopa County Recorder; MARICOPA
22 COUNTY BOARD OF SUPERVISORS, in
23 their official capacity; KRISTI BLAIR, in her
24 official capacity as the Mohave County
25 Recorder; MOHAVE COUNTY BOARD OF
26 SUPERVISORS, in their official capacity;
27 MICHAEL SAMPLE, in his official capacity
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the Santa Cruz County Recorder; SANTA
CRUZ COUNTY BOARD OF
SUPERVISORS, in their official capacity;
MICHELLE M. BURCHILL, in her official
capacity as the Yavapai County Recorder;
YAVAPAI COUNTY BOARD OF

1 SUPERVISORS, in their official capacity;
2 RICHARD COLWELL, in his official
3 capacity as the Yuma County Recorder; and
4 YUMA COUNTY BOARD OF
SUPERVISORS, in their official capacity,

5 Defendants.

6
7 **TO: The Maricopa County Recorder & Maricopa County Board of**
8 **Supervisors**

9 Pursuant to Arizona Rule of Civil Procedure Rule 34, Plaintiffs/Contestants request
10 that you produce for inspection and/or copying all documents in your possession, custody
11 or control that fall within the scope of the categories set forth below. The production should
12 be made to the undersigned no later than seven (7) days prior to the date of trial, or such
13 other date as the Court may order.
14

15 **DEFINITIONS**

- 16 1. “And” and “or” and any other conjunctions or disjunctions used herein shall be read
17 both conjunctively and disjunctively so as to require the production of all documents
18 (as hereinafter defined) responsive to all or any part of each particular request for
19 production in which any conjunction or disjunction appears.
- 20 2. “Any,” “each” and “all” shall be read to be all inclusive, and to require the production
21 of each and every document (as hereinafter defined) responsive to the particular
request for production in which such term appears.
- 22 3. “Document” includes all electronic media or other tangible forms in which
23 information is stored and includes all written or graphic matter of every kind and
24 description, however produced or reproduced, whether draft or final, original or
25 reproduction, including, but not limited to letters, correspondence, memoranda,
26 notes, films, transcripts, contracts, agreements, licenses, memoranda of telephone
27 conversations or personal conversations, microfilm, telegrams, books, newspaper
28 articles, magazines, advertisements, periodicals bulletins, circulars, pamphlets,
statements, notices, reports, rules, regulations, directives, teletype messages, minutes
of meetings, interoffice communications, reports, financial statements, ledgers,
books of account, proposals, prospectuses, offers, orders, receipts, working papers,

1 desk calendars, appointment books, diaries, time sheets, logs, movies, tapes for
2 visual or audio reproduction, computer files, computer disks, computer backup tapes,
3 recordings or materials similar to any of the foregoing, however denominated, and
4 including writings, drawings, graphs, charts, photographs, data processing results,
5 printouts and computations (both in existence and stored in memory components),
6 and other compilations from which information can be obtained or translated, if
7 necessary, through detection devices into reasonably usable form. The term
“document” includes all copies of a document which contain any additional writing,
underlining, notes, deletions, or any other markings or notations, or are otherwise
not identical copies of the original.

8 4. The singular form of any word shall include the plural and *vice versa*.

9 5. Any entity, agency, group or individual referenced is defined as the entity, group or
10 individual and all past and present officers and directors, managers, employees,
11 representatives, agents and attorneys of such entity, group or individual.

12 **INSTRUCTIONS**

13 1. These requests apply to all documents in your possession, custody, or control at the
14 present time or that come into your possession, custody or control prior to the date
15 of production. If you know of the existence of any documents requested below but
16 are unable to produce such documents because they are not presently in your
possession, custody or control, please so state and identify such documents and the
person(s) who has possession, custody or control of the same.

17 2. If no documents are responsive to a request, please so state.

18 **REQUESTS FOR PRODUCTION**

19
20 1. Records reflecting or sufficient to identify, for **each** vote center operated in
21 Maricopa County on November 8, 2022, the following:

22 a. The number of individuals who were successfully “checked-in” at the vote
23 center;

24 b. The name, address, voter ID number, and designated political party
25 registration (if any) of each individual who was successfully “checked-in”
at the vote center;

26 c. The name, address, voter ID number, and designated political party
27 registration (if any) of each individual who was successfully “checked-out”
28 at the vote center;

- d. The total number of ballots issued at the vote center;
 - e. The total number of ballots tabulated at the vote center;
 - f. The total number of ballots deposited in Drawer 3 at the vote center; and
 - g. The “Official Ballot Report” for the vote center prepared pursuant to Ariz. Rev. Stat. § 16-607 and Chapter 9, Section VIII.B of the 2019 Elections Procedures Manual.
 - h. A list of persons who cast a provisional ballot that was not tabulated.
2. The name, address, voter ID number, and designated political party registration (if any) of each individual who was issued a provisional ballot because the individual was recorded in the e-pollbook as having previously “checked-in” and/or cast a ballot in the November 8, 2022 general election, and documents sufficient to identify whether each such provisional ballot has been tabulated.
 3. The name, address, voter ID number, and designated political party registration (if any) of each individual whose early ballot was voided, canceled or otherwise not tabulated because the individual was recorded in the e-pollbook as having previously “checked-in” and/or cast a ballot in the November 8, 2022 general election.
 4. Electronic images of the following in connection with the November 8, 2022 general election:
 - a. All early ballot affidavits containing a signature that the County Recorder determined did not match or correspond to the signature on the voter’s registration card or registration form, but that the County Recorder or his/her designee determined did match or correspond to a signature contained in some other document on file with the County Recorder.
 - b. All signature specimens used to make signature comparisons with respect to the early ballot affidavits described in subpart (a).
 - c. All early ballot affidavits containing a signature that was initially determined not to match or correspond to the signature on the voter’s registration card or registration form, but which were subsequently determined by a person with superior authority to match or correspond to the signature on the voter’s registration card or registration form and thus tabulated.

1 RESPECTFULLY SUBMITTED this 13th day of December, 2022.

2
3
4 By: /s/ Timothy A. La Sota
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9 /s/ David A. Warrington
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2 RICHARD COLWELL, in his official
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4 YUMA COUNTY BOARD OF
SUPERVISORS, in their official capacity,

5 Defendants.

6
7 **TO: The [Insert] County Recorder & [Insert] County Board of**
8 **Supervisors**

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10 that you produce for inspection and/or copying all documents in your possession, custody
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17 both conjunctively and disjunctively so as to require the production of all documents
18 (as hereinafter defined) responsive to all or any part of each particular request for
19 production in which any conjunction or disjunction appears.
- 20 2. “Any,” “each” and “all” shall be read to be all inclusive, and to require the production
21 of each and every document (as hereinafter defined) responsive to the particular
request for production in which such term appears.
- 22 3. “Document” includes all electronic media or other tangible forms in which
23 information is stored and includes all written or graphic matter of every kind and
24 description, however produced or reproduced, whether draft or final, original or
25 reproduction, including, but not limited to letters, correspondence, memoranda,
26 notes, films, transcripts, contracts, agreements, licenses, memoranda of telephone
27 conversations or personal conversations, microfilm, telegrams, books, newspaper
28 articles, magazines, advertisements, periodicals bulletins, circulars, pamphlets,
statements, notices, reports, rules, regulations, directives, teletype messages, minutes
of meetings, interoffice communications, reports, financial statements, ledgers,
books of account, proposals, prospectuses, offers, orders, receipts, working papers,

1 desk calendars, appointment books, diaries, time sheets, logs, movies, tapes for
2 visual or audio reproduction, computer files, computer disks, computer backup tapes,
3 recordings or materials similar to any of the foregoing, however denominated, and
4 including writings, drawings, graphs, charts, photographs, data processing results,
5 printouts and computations (both in existence and stored in memory components),
6 and other compilations from which information can be obtained or translated, if
7 necessary, through detection devices into reasonably usable form. The term
“document” includes all copies of a document which contain any additional writing,
underlining, notes, deletions, or any other markings or notations, or are otherwise
not identical copies of the original.

8 4. The singular form of any word shall include the plural and *vice versa*.

9 5. Any entity, agency, group or individual referenced is defined as the entity, group or
10 individual and all past and present officers and directors, managers, employees,
11 representatives, agents and attorneys of such entity, group or individual.

12 **INSTRUCTIONS**

13 1. These requests apply to all documents in your possession, custody, or control at the
14 present time or that come into your possession, custody or control prior to the date
15 of production. If you know of the existence of any documents requested below but
16 are unable to produce such documents because they are not presently in your
possession, custody or control, please so state and identify such documents and the
person(s) who has possession, custody or control of the same.

17 2. If no documents are responsive to a request, please so state.

18 **REQUESTS FOR PRODUCTION**

19
20 1. Electronic images of the following in connection with the November 8, 2022
21 general election:

22 a. All early ballot affidavits containing a signature that the County Recorder
23 determined did not match or correspond to the signature on the voter’s
24 registration card or registration form, but that the County Recorder or his/her
designee determined did match or correspond to a signature contained in
some other document on file with the County Recorder.

25
26 b. All signature specimens used to make signature comparisons with respect to
27 the early ballot affidavits described in subpart (a).
28

1 RESPECTFULLY SUBMITTED this 13th day of December, 2022.
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4
5 By: /s/ Timothy A. La Sota
6 Timothy A La Sota, SBN # 020539
7 **TIMOTHY A. LA SOTA, PLC**
8 2198 East Camelback Road, Suite 305
9 Phoenix, Arizona 85016

10 /s/ David A. Warrington
11 David A. Warrington*
12 Gary Lawkowski*
13 **DHILLON LAW GROUP, INC.**
14 2121 Eisenhower Avenue, Suite 608
15 Alexandria, VA 22314

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**Pro hac vice forthcoming*

Attorneys for Plaintiffs/Contestants