

1 Timothy A. La Sota, Ariz. Bar No. 020539

2 **TIMOTHY A. LA SOTA, PLC**

3 2198 East Camelback Road, Suite 305

4 Phoenix, Arizona 85016

(602) 515-2649

5 tim@timlasota.com

6 *Attorney for Plaintiffs/Contestants*

7 Alexander Kolodin (030826)

8 Veronica Lucero (030292)

9 Arno Naeckel (026158)

10 James C. Sabalos (*pro hac vice*)

11 **Davillier Law Group, LLC**

12 4105 North 20th Street, Suite 110

13 Phoenix, Arizona 85016

14 T: (602) 730-2985

15 F: (602) 801-2539

16 akolodin@davillierlawgroup.com

17 vlucero@davillierlawgroup.com

18 anaeckel@davillierlawgroup.com

19 jsabalos@davillierlawgroup.com

20 phxadmin@davillierlawgroup.com

Jennifer J. Wright (027145)

JENNIFER WRIGHT ESQ., PLC

4350 E. Indian School Road Ste #21-105

Phoenix, Arizona 85018

T: (602) 842-3061

jen@jenwesq.com

Sigal Chattah Esq. (*pro hac vice*)

CHATTAH LAW GROUP

5875 S. Rainbow Blvd #204

Las Vegas, Nevada 89118

Tel: (702) 360-6200

Fax: (702) 643-6292

Chattahlaw@gmail.com

Attorneys for Plaintiff/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

ADRIAN FONTES, *et al.*,

Defendants.

No. S8015CV202201468

**PLAINTIFFS' FOURTH
NOTICE OF SUPPLEMENTAL
AUTHORITY**

(assigned to Hon. Lee F. Jantzen)

1 Plaintiffs hereby give notice of supplemental authority. The Arizona Supreme Court
2 issued the attached ruling in *Lake v. Hobbs*, Arizona Supreme Court No. CV-23-0046-PR.
3 In a portion of the ruling with relevance to the proceedings before this Court, the Arizona
4 Supreme Court noted that candidates are free to institute election challenges, there is a
5 strong public interest in the integrity of elections, and that the Court must ensure that legal
6 sanctions are never wielded against candidates or their attorneys for asserting their legal
7 rights in good faith.

8 RESPECTFULLY SUBMITTED this 9th day of May, 2023.

9 By: /s/ Jennifer J. Wright

10 Jennifer J. Wright (027145)

JENNIFER WRIGHT ESQ., PLC

11 4350 E. Indian School Road Ste #21-105
12 Phoenix, AZ 85018

/s/ Alexander Kolodin (with permission)

13 Alexander Kolodin (030826)

14 Veronica Lucero (030292)

Arno Naeckel (026158)

15 James C. Sabalos (*pro hac vice*)

Davillier Law Group, LLC

16 4105 North 20th Street, Suite 110
17 Phoenix, AZ 85016

/s/ Sigal Chattah (with permission)

18 Sigal Chattah Esq. (*pro hac vice*)

CHATTAH LAW GROUP

19 5875 S. Rainbow Blvd #204
20 Las Vegas, Nevada 89118

21 *Attorneys for Plaintiff/Contestant Abraham*
Hamadeh

/s/ Timothy La Sota (with permission)

22 Timothy A La Sota, SBN # 020539

TIMOTHY A. LA SOTA, PLC

23 2198 East Camelback Road, Suite 305
24 Phoenix, Arizona 85016

25 *Attorney for Plaintiffs/Contestants*
26
27
28

1 ORIGINAL efiled and served via electronic means
2 this 9th day of May, 2023, upon:

3 Honorable Lee F. Jantzen
4 Mohave County Superior Court c/o
5 Danielle Lecher
6 division4@mohavecourts.com

7 Craig Alan Morgan (AZ Bar No. 023373)
8 Shayna Stuart (AZ Bar No. 034819)
9 Jake T. Rapp (AZ Bar No. 036208)
10 LAW OFFICES SHERMAN & HOWARD L.L.C.
11 2555 East Camelback Road, Suite 1050
12 Phoenix, Arizona 85018
13 Telephone: (602) 240-3000
14 Fax: (602) 240-6600
15 CMorgan@ShermanHoward.com
16 SStuart@shermanhoward.com
17 JRapp@ShermanHoward.com

18 Maithreyi Ratakondan (*pro hac vice pending*)
19 STATES UNITED DEMOCRACY CENTER
20 1 Liberty Plaza
21 165 Broadway, 23rd Floor, Office 2330
22 New York, NY 10006
23 T: (202) 999-9305
24 mai@statesuniteddemocracy.org
25 *Attorneys for Defendant Secretary of State Adrian Fontes*

26 Paul F. Eckstein
27 Alexis E. Danneman
28 Matthew R. Koerner
Margo R. Casselman
Samantha J. Burke
Perkins Coie LLP
2901 North Central Avenue
Suite 2000
Phoenix, AZ 85012
peckstein@perkinscoie.com
adanneman@perkinscoie.com
mkoerner@perkinscoie.com
mcasselman@perkinscoie.com
sburke@perkinscoie.com
docketphx@perkinscoie.com
Attorneys for Defendant Kris Mayes

1 Thomas P. Liddy
2 Joseph J. Branco
3 Joseph E. LaRue
4 Karen J. Hartman-Tellez
5 Jack L. O'Connor III
6 Sean Moore
7 Rosa Aguilar
8 Maricopa County Attorney's Office
9 225 West Madison St.
10 Phoenix, AZ 85003
11 liddy@mcao.maricopa.gov
12 brancoj@mcao.maricopa.gov
13 laruej@mcao.maricopa.gov
14 hartmank@mcao.maricopa.gov
15 oconnorj@mcao.maricopa.gov
16 moores@mcao.maricopa.gov
17 aguilarr@mcao.maricopa.gov

18 Emily Craiger
19 The Burgess Law Group
20 3131 East Camelback Road, Suite 224
21 Phoenix, Arizona 85016
22 Emily@theburgesslawgroup.com
23 *Attorneys for Defendant, Stephen Richer, Maricopa County Recorder,*
24 *And Maricopa County Board of Supervisors*

25 Celeste Robertson
26 Joseph Young
27 Apache County Attorney's Office
28 245 West 1st South
St. Johns, AZ 85936
crobertson@apachelaw.net
jyoung@apachelaw.net
Attorneys for Defendant, Larry Noble, Apache County Recorder,
and Apache County Board of Supervisors

29 Christine J. Roberts
30 Paul Correa
31 Cochise County Attorney's Office
32 Bisbee, AZ 85603
33 croberts@cochise.az.gov
34 pcorrea@cochise.az.gov
35 *Attorneys for Defendant, David W. Stevens, Cochise County Recorder,*

1 *and Cochise County Board of Supervisors*

2 Bill Ring

3 Coconino County Attorney's Office 110

4 East Cherry Avenue

5 Flagstaff, AZ 86001

6 wring@coconino.az.gov

7 *Attorney for Defendant, Patty Hansen, Coconino County Recorder,*
8 *and Coconino County Board of Supervisors*

9 Jeff Dalton

10 Gila County Attorney's Office 1400

11 East Ash Street

12 Globe, AZ 85551

13 jdalton@gilacountyaz.gov

14 *Attorney for Defendant, Sadie Jo Bingham, Gila County Recorder,*
15 *and Gila County Board of Supervisors*

16 Jean Roof

17 Graham County Attorney's Office

18 800 West Main Street

19 Safford, AZ 85546

20 jroof@graham.az.gov

21 *Attorneys for Defendant, Polly Merriman, Graham County Recorder,*
22 *and Graham County Board of Supervisors*

23 Scott Adams

24 Greenlee County Attorney's Office

25 P.O. Box 1717

26 Clifton, AZ 85533

27 sadams@greenlee.az.gov

28 *Attorney for Defendant, Sharie Milheiro, Greenlee County Recorder,*
and Greenlee County Board of Supervisors

Ryan N. Dooley

La Paz County Attorney's Office

1320 Kofa Avenue

Parker, AZ 85344

rdooley@lapazcountyaz.org

Attorney for Defendant, Richard Garcia, La Paz County Recorder,
and La Paz County Board of Supervisors

Ryan Esplin

1 William Davis
2 Mohave County Attorney's Office Civil Division
3 P.O. Box 7000
4 Kingman, AZ 86402-7000
5 esplir@mohave.gov
6 davisw@mohave.gov
7 caocivil.court@mohave.gov
8 *Attorney for Defendant, Kristi Blair, Mohave County Recorder,*
9 *and Mohave County Board of Supervisors*

10 Jason Moore
11 Navajo County Attorney's Office
12 P.O. Box 668
13 Holbrook, AZ 86025-0668
14 jason.moore@navajocountyaz.gov
15 *Attorney for Defendant, Michael Sample, Navajo County Recorder,*
16 *and Navajo County Board of Supervisors*

17 Daniel Jurkowitz
18 Ellen Brown
19 Javier Gherna
20 Pima County Attorney's Office
21 32 N. Stone #2100
22 Tucson, AZ 85701
23 Daniel.Jurkowitz@pcao.pima.gov
24 Ellen.Brown@pcao.pima.gov
25 Javier.Gherna@pcao.pima.gov
26 *Attorney for Gabriela Cázares-Kelley, Pima County Recorder,*
27 *and Pima County Board of Supervisors*

28 Craig Cameron
Scott Johnson
Allen Quist
Jim Mitchell
Pinal County Attorney's Office
30 North Florence Street
Florence, AZ 85132
craig.cameron@pinal.gov
scott.m.johnson@pinal.gov
allen.quist@pinal.gov
james.mitchell@pinal.gov
Attorneys for Defendant, Dana Lewis, Pinal County Recorder,
and Pinal County Board of Supervisors

1 Robert F. May
2 Kimberly Hunley
3 Santa Cruz County Attorney's Office
4 2150 North Congress Drive, Suite 201
5 Nogales, AZ 85621-1090
6 khunley@santacruzcountyaz.gov
7 *Attorneys for Defendant, Suzanne Sainz, Santa Cruz County Recorder,*
8 *and Santa Cruz County Board of Supervisors*

9 Thomas M. Stoxen
10 Michael J. Gordon
11 Yavapai County Attorney's Office
12 255 East Gurley Street, 3rd Floor
13 Prescott, AZ 86301
14 Thomas.Stoxen@yavapaiaz.gov
15 Michael.Gordon@yavapaiaz.gov
16 *Attorney for Defendant, Michelle M. Burchill, Yavapai County Recorder,*
17 *and Yavapai County Board of Supervisors*

18 Bill Kerekes
19 Yuma County Attorney's Office
20 198 South Main Street
21 Yuma, AZ 85364
22 bill.kerekes@yumacountyaz.gov
23 *Attorney for Defendant, Richard Colwell, Yuma County Recorder,*
24 *and Yuma County Board of Supervisors*

25 /s/ Timothy A. La Sota
26
27
28

SUPREME COURT OF ARIZONA

KARI LAKE,) Arizona Supreme Court
) No. CV-23-0046-PR
Plaintiff/Appellant,)
) Court of Appeals
v.) Division One
) No. 1 CA-CV 22-0779
KATIE HOBBS, et al.,) 1 CA-SA 22-0237
) (Consolidated)
Defendants/Appellees.)
) Maricopa County
KARI LAKE,) Superior Court
) No. CV2022-095403
Petitioner,)
) **FILED 05/04/2023**
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 Recorder, et al.,)
)
Real Parties in Interest.)
)

ORDER

In their responses to Petitioner Lake's Petition for Review, Respondents Secretary of State Fontes and Governor Hobbs moved for sanctions against Lake and her attorneys pursuant to Ariz. R. Civ. App. P. (ARCAP) 25 and A.R.S. § 12-349 (collectively, "Motions for Sanctions"). This Court entered its Order affirming the trial court

and Court of Appeals on most issues, but reversing those courts on their dismissal of the signature verification claim on the basis of laches and remanding that issue to the trial court.

On the issue of whether votes were improperly added by a third-party vendor, we stated that “[t]he record does not reflect that 35,563 unaccounted ballots were added to the total count.” We instructed the parties to “address as a basis for sanctions only Petitioner’s factual claims in her Petition for Review (i.e., that the Court of Appeals should have considered ‘the undisputed fact that 35,563 unaccounted for ballots were added to the total [number] of ballots at a third party processing facility’).” The parties filed briefs on this issue, and Lake filed a Motion for Leave to file a motion for reconsideration of the Court’s denial of review on the chain-of-custody issue.

Candidates are free to timely challenge election procedures and results, and the public has a strong interest in ensuring the integrity of elections. Sometimes campaigns and their attendant hyperbole spill over into legal challenges. But once a contest enters the judicial arena, rules of attorney ethics apply. Although we must ensure that legal sanctions are never wielded against candidates or their attorneys for asserting their legal rights in good faith, we also must diligently enforce the rules of ethics on which public confidence in our judicial system depends and where the truth-seeking function of our adjudicative process is unjustifiably

hindered.

ARCAP 25 authorizes an appellate court to impose sanctions on an attorney if the court determines that an appeal or a motion is frivolous, and provides that “[a]n appellate court may impose sanctions that are appropriate in the circumstances of the case, and to discourage similar conduct in the future.” Other rules similarly require candor in court proceedings. See, e.g., Ariz. R. Civ. P. 11(b) (providing that “[b]y signing a pleading, motion, or other document,” an attorney “certifies that to the best of the person’s knowledge, information, and belief” that “the factual contentions have evidentiary support”); see also Ariz. R. Sup. Ct. 42, Ethical Rule (“ER”) 3.3 (“A lawyer shall not knowingly . . . make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.”).

Under A.R.S. § 12-349(A), claims are sanctionable if they are brought “without substantial justification.” Further, “without substantial justification” means that the “claim or defense is groundless and is not made in good faith.” § 12-349(F). Groundlessness is “determined objectively,” and a claim is groundless “if the proponent can present no rational argument based upon the evidence or law in support of that claim.” *Takieh v. O'Meara*, 252 Ariz. 51, 61 ¶ 37 (App. 2021), review denied (Apr. 7, 2022) (quoting *Rogone v. Correia*, 236 Ariz. 43, 50 ¶ 22 (App. 2014)).

ARCAP 25 gives an appellate court broad authority to impose sanctions "that are appropriate in the circumstances of the case" on an attorney or a party if it determines that an appeal or motion is frivolous. This includes "contempt, dismissal, or withholding or imposing costs." ARCAP 25.

In her Complaint, Lake set forth colorable claims, including ballot chain-of-custody claims, that were rejected following an evidentiary hearing in the trial court, and she duly but unsuccessfully (except for the laches issue) challenged those rulings on appeal. However, she has repeatedly asserted that it is an "undisputed" fact that 35,563 ballots were added or "injected" at Runbeck, the third-party vendor. Not only is that allegation strongly disputed by the other parties, this Court concluded and expressly stated that the assertion was unsupported by the record, and nothing in Lake's Motion for Leave to file a motion for reconsideration provides reason to revisit that issue. Thus, asserting that the alleged fact is "undisputed" is false; yet Lake continues to make that assertion in her Motion for Leave.

Lake's Petition for Review stated that it was an "undisputed fact that 35,563 unaccounted for ballots were added to the total number of ballots at a third party processing facility." In her Opposition to Motion for Sanctions and Motion for Leave, she repeats this contention, stating that "[t]he record indisputably reflects at least 35,563 Election Day early ballots, for which there is no record

of delivery to Runbeck, were added at Runbeck,” As the Court of Appeals observed, Lake’s argument was focused on one exhibit that included an estimate of the number of early ballot packets based on the number of trays and a different exhibit showing a precise count. Although Lake may have permissibly argued that an inference could be made that some ballots were added, there is no evidence that 35,563 ballots were and, more to the point here, this was certainly disputed by the Respondents. The representation that this was an “undisputed fact” is therefore unequivocally false.¹

Because Lake’s attorney has made false factual statements to the Court, we conclude that the extraordinary remedy of a sanction under ARCAP 25 is appropriate.

The Governor and Secretary seek sanctions for attorney fees and in the Secretary’s reply he seeks additional sanctions. Because Lake prevailed in her argument that the trial court improperly found her signature verification argument barred by laches, an additional sanction is not warranted. Therefore,

IT IS ORDERED denying the Motion for Leave.

¹ See ER 3.3 Comment 2: “This rule sets forth the special duties of lawyers as officers of the court to avoid conduct that undermines the integrity of the adjudicative process. A lawyer acting as an advocate in an adjudicative proceeding has an obligation to present the client’s case with persuasive force. Performance of that duty while maintaining confidences of the client, however, is qualified by the advocate’s duty of candor to the tribunal. Consequently, . . . the lawyer must not mislead the tribunal by false statements of law or fact or evidence that the lawyer knows to be false.”

IT IS FURTHER ORDERED denying the Secretary's Motion to Strike.

IT IS FURTHER ORDERED granting the Motions for Sanctions filed by Governor Hobbs and Secretary Fontes pursuant to ARCAP 25 as to the statement in Lake's Petition for Review asserting "the undisputed fact that 35,563 unaccounted for ballots were added to the total number of ballots," and for repeating such false assertions in an additional filing in this proceeding.

IT IS FURTHER ORDERED counsel for Lake is directed to pay to the Clerk of the Supreme Court the sum of \$2,000.00 as a sanction for this conduct, jointly and severally, such payment to be made not later than ten days from the date of this order. It is further ordered that failure to timely comply with this order may result in a termination of pro hac vice status and other sanctions as appropriate.

IT IS FURTHER ORDERED denying the requests for attorney fees as sanctions.

IT IS FURTHER ORDERED that the trial court shall forthwith conduct such proceedings as appropriate to resolve the unrelated question previously remanded.

IT IS FURTHER ORDERED directing the Clerk of Court to enter the mandate forthwith.

DATED this 4th day of May, 2023.

/s/
ROBERT BRUTINEL
Chief Justice

TO:

Bryan James Blehm
Kurt Olsen
Alexis E Danneman
Abha Khanna
Lalitha D Madduri
Christina Ford
Elena Rodriguez Armenta
Shayna Gabrielle Stuart
Jake Tyler Rapp
Craig A Morgan
Thomas P Liddy
Joseph Eugene La Rue
Joseph Branco
Karen J Hartman-Tellez
Jack O'Connor
Sean M Moore
Rosa Aguilar
Emily M Craiger
Hon Peter A Thompson
Amy M Wood
David T Hardy
Ryan L Heath
Alexander Haberbush
Raymond L Billotte
Hon Joseph C Welty
Hon Jeff Fine,
Hon Danielle J Viola