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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
COUNTY BOARD OF SUPERVISORS, in
their official capacity; PATTY HANSEN, in her
official capacity as the Coconino County
Recorder; COCONINO COUNTY BOARD OF

Case No. S8015CV-2022-01468

**YAVAPAI COUNTY DEFENDANTS'
RESPONSE IN OPPOSITION TO
PLAINTIFFS' MOTION TO
EXPEDITE DISCOVERY AND
PETITION TO INSPECT BALLOTS**

(Assigned to the Honorable Lee F.
Jantzen)

1 SUPERVISORS, in their official capacity;
2 SADIE JO BINGHAM, in her official capacity
3 as Gila County Recorder; GILA COUNTY
4 BOARD OF SUPERVISORS, in their official
5 capacity; WENDY JOHN, in her official
6 capacity as Graham County Recorder;
7 GRAHAM COUNTY BOARD OF
8 SUPERVISORS, in their official capacity;
9 SHARIE MILHEIRO, in her official capacity as
10 Greenlee County Recorder; GREENLEE
11 COUNTY BOARD OF SUPERVISORS, in
12 their official capacity; RICHARD GARCIA, in
13 his capacity as the La Paz County Recorder; LA
14 PAZ COUNTY BOARD OF SUPERVISORS,
15 in their official capacity; STEPHEN RICHER,
16 in his official capacity as the Maricopa County
17 Recorder; MARICOPA COUNTY BOARD OF
18 SUPERVISORS, in their official capacity;
19 KRISTI BLAIR, in her official capacity as the
20 Mohave County Recorder; MOHAVE
21 COUNTY BOARD OF SUPERVISORS, in
22 their official capacity; MICHAEL SAMPLE, in
23 his official capacity as Navajo County Recorder;
24 NAVAJO COUNTY BOARD OF
25 SUPERVISORS, in their official capacity;
26 GABRIELLA CAZARES-KELLY, in her
27 official capacity as the Pima County Recorder;
28 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
SUPERVISORS, in their official capacity;
RICHARD COLWELL, in his official capacity
as the Yuma County Recorder; and YUMA
COUNTY BOARD OF SUPERVISORS, in
their official capacity,

1 Defendants.

2
3 Rather than repeating the arguments made by the other parties regarding the
4 limitations of discovery to ballot inspection, Defendants Yavapai County Board of
5 Supervisors and Recorders' (hereinafter the "County") response in opposition to Plaintiffs'
6 *Motion to Expedite Discovery* addresses the insurmountable practical and logistical hurdles
7 the County would face if the Court were to grant Plaintiffs' Motion. In addition, the
8 County's response to the *Verified Petition to Inspect Ballots* addresses the Plaintiffs'
9 overreach in expecting the Counties to pre-sort certain categories of ballots and the
10 Plaintiffs' failure to recognize the statutory limitation on inspecting the original ballots.
11

12
13 **I. Plaintiffs' request for images of 103,417 voters' signatures in mere days is**
14 **absurd and should be denied.**

15 "[T]he Plaintiffs/Contestants seek from all counties images of the signature
16 specimens used to verify early ballot affidavits pursuant to A.R.S. § 16-550(A)." (Plaintiffs'
17 *Motion to Expedite Discovery*, Pg. 4, Lines 8-10). In other words, Plaintiffs are seeking
18 copies of all examples of voters' signatures on the voter registration record for all voters
19 who cast an early ballot in the November 8, 2022 General Election.¹ The County requests
20 the Court take judicial notice of Yavapai County's General Election Canvass,
21 [2022 General Canvass Yavapai.pdf \(azsos.gov\)](https://www.azsos.gov/elections/2022-general-canvass-yavapai) at 17.
22

23
24 Yavapai County verified 103,417 early ballots in the November 8, 2022 General
25 Election. If the Court orders the relief Plaintiffs request, the County will have to produce
26

27
28 ¹ Despite the language in the body of Plaintiffs' Motion, the sample subpoena attached to
that Motion contains somewhat different language.

1 images of all signature examples from each of the 103,417 voter registration records.
2 Additionally, Plaintiffs expect the County to produce these 103,417 images no later than
3 seven (7) days prior to trial. With the evidentiary hearing scheduled for December 23, 2022,
4 seven days prior to that date is Friday, December 16, 2022.
5

6 Even if the Plaintiffs wanted the images one (1) day before the evidentiary hearing,
7 it would be impossible in the compressed statutory timelines for the County – currently
8 running a statewide recount, no less – to assemble all signature images for the voters who
9 cast those early ballots. Therefore, Plaintiffs’ request for expedited discovery through their
10 *Motion to Expedite Discovery* – in the form of requests for production – should be denied.
11

12 **II. Plaintiffs’ petition to compel the County to pre-sort tens of thousands of**
13 **ballots and then hand over the original ballots lacks statutory authority**
14 **and should be denied.**

15 Plaintiffs *Verified Petition to Inspect Ballots* should be denied because it drastically
16 strays from the clear and unambiguous statutory language that allows for inspection of
17 ballots. The statute simply states that “[e]ither party may have the ballots inspected before
18 preparing for trial.” A.R.S. § 16-677(A). Nothing in the statute would require the County to
19 sort through the 124,871 voted ballots to find those where there is a recorded undervote in
20 the contest for Arizona Attorney General, or to find ballots that were duplicated or
21 adjudicated.
22

23 Plaintiffs’ *Petition* not only mistakenly assumes that the County shall pre-sort and
24 categorize the ballots for a contestant, but the *Petition* also fails to recognize the strict
25 logistical requirements of having the ballots be inspected by a three-person panel and in the
26 presence of the legal custodian.
27
28

1 The County cannot simply hand over the original ballots for an unknown number of
2 individuals to handle and inspect. A contestant may only be permitted to inspect ballots
3 upon the Court's appointment of "three persons, one selected by each of the parties and one
4 selected by the court." A.R.S. § 16-677(B). Also, "[t]he inspection of the ballots shall be
5 made in the presence of the legal custodian of the ballots," A.R.S. § 16-677(A).
6 Therefore, any inspection of the original ballots cast in the November 8, 2022 General
7 Election should only be permitted as specifically prescribed by statute.
8

9 **Conclusion**

10 For all the reasons discussed above, the Court should deny Plaintiffs' *Petition* and
11 *Motion to Expedite Discovery*.
12

13 RESPECTFULLY SUBMITTED this 15th day of December, 2022.
14

15 SHEILA POLK
16 YAVAPAI COUNTY ATTORNEY

17 By: /s/Colleen Connor

18 Colleen Connor

19 Deputy County Attorney

20 Copy of the foregoing emailed
21 this 15th day of December, 2022, to the
22 following:

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By /s/Jeanie Mikels