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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

DAVID MAST and TOM CROSBY,

Plaintiffs,

v.

KRIS MAYES, in her official capacity as Attorney General of Arizona; ADRIAN FONTES, in his official capacity as Secretary of State of Arizona; STEPHEN RICHER, in his official capacity as Maricopa County Recorder; SCOTT JARRETT, in his official capacity as Maricopa County Director of Elections; REY VALENZUELA, in his official capacity as Maricopa County Director of Elections; BILL GATES, CLINT HICKMAN, JACK SELLERS, THOMAS GALVIN, AND STEVE GALLARDO in their official capacities as Members of the Maricopa County Board of Supervisors; and the MARICOPA COUNTY BOARD OF SUPERVISORS,

Defendants.

No. CV2023-053465

MARICOPA COUNTY DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR SANCTIONS

Assigned to: Hon. Susanna Pineda

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Introduction

The Maricopa County Defendants do not seek sanctions based on "political" disagreements that would chill future cases, but rather based on basic objective rules of conduct that exist regardless of the subject matter of the case at hand. From the outset of this case, it was apparent that the Consolidated Plaintiffs' claims were untimely, should have been or actually were raised in prior cases, requested unavailable relief, and that the *Mast* Plaintiffs lacked standing.[1] In their Response, the Consolidated Plaintiffs fail to appreciate that it is these *preliminary* defects which render their claims sanctionable under A.R.S. § 12-349(A). Thus, the Consolidated Plaintiffs largely devote their response to other irrelevant issues — like whether their arguments regarding the definition of the term "registration record" was correct or whether the application of estoppel to Hamadeh's claims was "debatable." The Consolidated Plaintiffs' Rule 11 procedural arguments are similarly irrelevant; the Maricopa County Defendants did not request Rule 11 sanctions.

To the extent that the Consolidated Plaintiffs do address the preliminary defects with their claims, they fail to show that they brought *Mast* or *Hamadeh II* with "substantial justification." On the issue of timeliness, Rey Valenzuela's May 2023 testimony in *Lake v. Hobbs*, No. CV2022-095403 (Mar. Cty. Sup. Ct. 2022), simply affirmed the Maricopa County signature verification procedures that had already been disclosed in the May 2022 Elections Plan and the 2019 EPM. In any event, the Consolidated Plaintiffs cannot use May 2023 testimony to evade the statutory five-day period to bring an election contest. Nor can they justify waiting several months until after that May 2023 testimony to actually assert their claims. Moreover, the Consolidated Plaintiffs still cannot point to *any* authorities supporting their positions on standing or the extraordinary relief they sought.

The Supreme Court's recent decision in *Arizona Party Republican Party v. Richer*, --- P.3d ---, 2024 WL 1922203, No. CV-23-0208-PR (May 2, 2024) ("*Richer*") does not save Plaintiffs. *Richer* explains that, under A.R.S. 12-349, practicing lawyers in Arizona

[1] This Reply uses the same defined terms as the Maricopa County Defendants' motion.

are obligated to present rational arguments, supported by the law and evidence, and avoid claims they know or should know are groundless—so as to avoid the needless waste of party and judicial resources. That is the precise reason why sanctions are appropriate here. *Richer* is also factually distinguishable, including because it did not involve any request to "undo" the results of a prior election based on an announced election procedure.

For all these reasons, the Court should sanction the Consolidated Plaintiffs and Mr. Heath and award the Maricopa County Defendants $135,938 in fees.[2]

Argument

I. Plaintiffs Brought Their Claims Without Substantial Justification.

"[T]he Court *shall* assess reasonable attorney fees … against an attorney or party" that "[b]rings or defends a claim without substantial justification." A.R.S. § 12-349(A)(1) (emphasis added). In order to show that a claim was made "without substantial justification," a party must establish: (1) that the claim or defense was groundless and (2) that the party asserting the claim knew or should have known that the claim was groundless or was "indifferent to its groundlessness, but purse[d] [the claim] anyway."[3] *Richer*, 2024 WL 1922203, at *8-9 ¶¶ 34, 38–40. Both prongs are evaluated from an objective viewpoint. *See id.* at **4, 9 ¶¶ 15, 38, 40.

Here, the Consolidated Plaintiffs' claims were "groundless" because their claims were plainly untimely, barred by laches and standing, and they asked unavailable relief. *See* Mar. Cty. Mtn. for Sanctions, 4/22/2024, at 8–10. Because the Consolidated Plaintiffs were, or should have been, aware of these obvious deficiencies before filing suit, they also acted in objective bad faith in pursuing their claims. *See id.* at 10.

[2] In accordance with the Court's MTD Ruling, the Maricopa County Defendants will not address the Consolidated Plaintiffs' objections to the County's requested fees. *See* MTD Ruling at 12 ("No replies" to the defendants' applications for attorneys fees "shall be permitted unless specifically requested by the Court"). The Maricopa County Defendants request an opportunity to respond in the event that the Court determines any of the Consolidated Plaintiffs' objections have merit (which they do not).

[3] At the time the sanctions motion was filed, the second prong required a "subjective" showing of bad faith. *See e.g.*, *Takieh v. O'Meara*, 252 Ariz. 51, 61 ¶ 37 (App. 2021).

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A. The Consolidated Plaintiffs' Claims Were Objectively Groundless.

1. The Consolidated Plaintiffs' Claims Were Plainly Untimely.

On the first prong of the A.R.S. § 12-349(A) analysis, the Consolidated Plaintiffs claims were "groundless" because it was clear from the outset that they were untimely for a variety of reasons, including laches, the *Tilson/Kerby* doctrine, and the five-day election contest deadline in Title 16. *See e.g.* Mar. Cty. Defs.' Mtn. for Sanctions, 4/22/2024, at 9; *Mast* Mar. Cty. MTD at 6–10; *Hamadeh II* Mar. Cty. MTD at 7–10; *see also* MTD Ruling at 5–7. In the face of these substantial defects, the Consolidated Plaintiffs offer two rebuttals. As explained below, both fail badly.

i. Rey Valenzuela's Testimony was Consistent with the Elections Plan and the 2019 EPM.

Plaintiffs first argue that they could not have filed this case until May 2023, when Rey Valenzuela testified in *Lake v. Hobbs* that during the 2022 General Election, Maricopa County signature reviewers were permitted to "exclusively" review the most recent signature from a verified early ballot affidavit as part of the signature verification process. Until this testimony, Plaintiffs contend (at 7) that Maricopa County had not disclosed its practice that early ballots could be verified by comparing the most recent, previously-verified signature for the voter—including a historical mail-in, early ballot affidavit.

The problem with the Consolidated Plaintiffs' position is that Mr. Valenzuela's testimony was entirely consistent with the Elections Plan, published in *May 2022*. *See* MTD Ruling at 5. In particular, the Elections Plan gave clear notice that: (1) during verification, election workers might consult previously-verified "historical reference signatures," including previously-verified, mail-in early ballots; and (2) signature reviewers might only review *one* (or two or three) of these "historical reference" signatures during verification.[4] *See id.* (explaining that the Elections Plan gave notice of "what

[4] Because Maricopa County did not "conceal" their intent to "exclusively" use previously-verified, mail-in early ballot affidavits for verification purposes, Plaintiffs' argument (at 7-10) that the time period to file an elections contest is tolled where an official "conceal[s] misconduct" is irrelevant. In any event, Plaintiffs cite no authority to apply tolling principles

documents contained in the voter's 'registration record' could be used to verify voter signatures during the 2022 elections"); *see also Mast* Mar. Cty. Reply ISO MTD at 2–4 (explaining how the Elections Plan gave notice that the County might "exclusively" use previously-verified, mail-in early ballot affidavits during verification).

The Consolidated Plaintiffs argue (at 6 n. 1) that they were entitled to disregard the plain language of the Elections Plan because "the general rule of law" is that actions of "public officials are presumed to be correct and legal." But this "general rule" only applies "in the absence of clear and convincing evidence to the contrary." *Verdugo v. Industrial Comm'n*, 108 Ariz. 44, 48 (1972). The Elections Plan was "clear and convincing" evidence that the Maricopa County Defendants would act in the exact way that Plaintiffs (incorrectly) believe violated A.R.S. § 16-550. The Consolidated Plaintiffs also do not explain why this "general rule" would apply here—the question is not whether the Maricopa County Defendants actually violated A.R.S. § 16-550 (they did not), but instead whether the Consolidated Plaintiffs were on notice in May 2022 of the election procedure they decided to challenge more than a year later. *See id.* (the presumption that public officials follow the law does not apply "where the question is not whether the Commission acted properly . . . but whether the Commission acted at all."). Clearly, they were.

Mr. Valenzuela's testimony was also consistent with the 2019 EPM, "which allows the County Recorder to 'consult additional known signatures from other election documents in the voter's registration record . . . in determining whether the signature on the early ballot affidavit was made by the same person who registered to vote.'" MTD Ruling at 4 (quoting 2019 EPM § VI.A.1). The Consolidated Plaintiffs argue (at 15-16) that this language "does not provide for including vote-by-mail affidavit signatures in the voter's 'registration record'" and requires counties to consult the "registration form" *and* another "specifically enumerated, 'registration record.'" These arguments fail, however, because: (1) the term "additional known signatures" encompasses previously-verified, mail

in the context of challenges that seek to overturn election results, filed long after the statutory period to file an election contest has expired.

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in affidavit signatures; and (2) "registration form" is necessarily included within the broader term "registration record," and thus the EPM makes clear that elections workers may consult a registration form signature *or* "additional known signatures" in the registration record. *See Mast* Mar. Cty. Reply ISO MTD at 4–5.

In relying on Mr. Valenzuela's testimony to try to excuse their late filings, the Consolidated Plaintiffs also ignore two additional critical facts. First, *Lake v. Hobbs* was a timely-filed election contest. *See Hamadeh II* Compl. at ¶ 45 n. 18. The Consolidated Plaintiffs cannot provide any reason why they could not have questioned Mr. Valenzuela about the verification procedure in their own timely-filed contests. Second, even if Mr. Valenzuela's testimony did somehow constitute "new evidence," that testimony was given in *May* 2023—and the Consolidated Plaintiffs still waited many months to file their claims. *See Mast* Compl. (filed Sept. 6, 2023); *Hamadeh II* Compl. (filed Dec. 28, 2023).

The Consolidated Plaintiffs simply cannot justify their decision to file these cases well after the conclusion of the 2022 General Election. Their decision to move forward with their claims, despite the obvious timing issues associated with them, was groundless.

ii. *Richer* is Distinguishable.

Plaintiffs also argue (at 8, 24) that the *Tilson/Kerby* doctrine "arguably" did not apply to their claims, and that those claims were "colorable", citing the Supreme Court's recent decision in *Richer*. Although not entirely clear, the Consolidated Plaintiffs seem to assert that their claims were at least arguably timely because, in *Richer*, the Supreme Court stated that it was "debatable" whether the *Tilson/Kerby* doctrine applied to a legal challenge to the hand-count audit procedures set forth in the 2019 EPM. *See Richer*, 2024 WL 1922203 at *7 ¶ 29. This argument fails from the start because Plaintiffs do not argue that *Richer* somehow renders the separate doctrine of laches inapplicable to their claims or allows them to avoid the statutory, five-day period for an election contest. Thus, whether Plaintiffs can fairly debate that *Tilson/Kerby* doctrine applies here is academic.

Regardless, *Richer* is easily distinguished. In that case, the plaintiffs filed suit before the 2020 election canvass seeking: (1) a declaratory judgment that the 2019 EPM violated

A.R.S. § 16-602 by allowing hand count audits to be conducted at voting centers *and* voting precincts, instead of only at voting precincts; (2) a writ of mandamus requiring Maricopa County to conduct a hand count at voting precincts; and (3) an injunction preventing the County from certifying the election until after it had conducted a hand count of only voting precincts. *Id.* at * 2 ¶ 6. The Superior Court and Court of Appeals determined, among other things, that the plaintiffs' claims were groundless because they were clearly barred by *Tilson/Kerby* and laches. *Id.* at * 4 ¶¶ 16–17.

The Supreme Court disagreed on both issues. On *Tilson/Kerby*, the Supreme Court held that that doctrine arguably did not apply to the hand count audit because the structure of the audit was not consistent with a pre-election procedure. *See id.* at * 7 ¶¶ 28–29. Regarding laches, the Supreme Court reasoned that because the plaintiffs had filed their claims two weeks before the election canvass, their requested relief (a precinct-only hand count before the canvass) "was not untenable." *Id.* at * 7 ¶ 33.

There are several factual distinctions between *Richer* and this case. First, with regards to the application of the *Tilson/Kerby* rule, *Richer* explained that "the actual selection of polling places" to provide the sample for the hand count audit "does not commence until *after* the election." *Richer*, 2024 WL 1922203 at * 7 ¶ 28, *see also id*. at *1 ¶ 3. That is very different from the circumstances here, where the Elections Plan specifically described the types of previously-verified historical signatures that would be used for verifications purposes, months before the General Election. Second, the *Richer* plaintiffs filed their claims before the canvassing deadline for the 2020 General Election—not months after the canvass as is the case here. *See Richer*, 2024 WL 1922203 at * 2 ¶ 6; *compare* MTD Ruling at 1–2, 5. Third, there is no evidence that the plaintiffs in *Richer* had unsuccessfully asserted the "exact same" claims in a prior litigation. *See* MTD Ruling at 7, 9. Fourth, the plaintiffs in *Richer* sought *future* relief, rather than a "redo" of a past election. *Compare Richer*, 2024 WL 1922203 at * 2 ¶ 6 *with* MTD Ruling at 1–3. *Richer* thus does not justify the Consolidated Plaintiffs' inexplicable delay in filing their claims.

2. Plaintiffs Have No Authority Supporting their Requested Relief.

The Consolidated Plaintiffs' claims are also groundless because there is no authority that would allow this Court to order one specific County to "decertify" the 2022 election results in that county, "redo" the signature verification for the 2022 General Election, conduct an entirely "new election," or "purge" the registration record. *See* MTD Ruling at 7; Mar. Cty. Mtn. for Sanctions, 4/22/2024, at 9-10. The Consolidated Plaintiffs ignore this critical defect—effectively conceding that they never had any basis to request this relief. This is the very definition of a "groundless" claim. *See Rogone v. Correia*, 236 Ariz. 43, 50 ¶ 22 (App. 2014) (a claim is groundless if "the proponent can present no rational argument based upon the evidence or law in support of that claim" (quotation omitted)).

3. The *Mast* Plaintiffs Clearly Lacked Standing.

The *Mast* Plaintiffs' claims were groundless for a third reason: their theory of standing was that their "constitutional rights" had been "diluted" by "illegal votes." *Mast* FAC at ¶¶ 59, 62. It is well established, however, that "vote dilution" is not a cognizable injury for standing, outside of the limited apportionment context that is inapplicable here. *See* Mot. for Sanctions at 10; *Mast* Mar. Cty. MTD at 14–17; *see also* Mar. Cty. Mtn. for Sanctions, 4/22/2024, Ex. C at 4 n. 3 (notifying the *Mast* Plaintiffs that vote dilution could not give rise to an equal protection claim). The *Mast* Plaintiffs have never cited a case supporting the opposite position, and they still do not do so in their Response. They instead assert (at 10–11), without citation, that it was "reasonable" for them to believe that a voter has a cause of action where his or her votes have been diluted. But regardless of what the *Mast* Plaintiffs or their counsel intuitively believe is "reasonable," a prudent attorney would have evaluated the actual case law on vote dilution before relying on this "injury" for standing purposes. *Cf. Boone v. Superior Court*, 145 Ariz. 235, 240 (1985) (attorneys may not "file a claim or raise a defense based on nothing more than the fervent hope that prolonged discovery may reveal some basis for the claim or defense").

Unable to put forth any real argument in support of their "vote dilution" theory, the *Mast* Plaintiffs claim (at 12–13) they had a good faith basis to file their claims based on

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Arizona Public Integrity Alliance v. Fontes, 250 Ariz. 58 (2020) ("*APIA*"), which held that "Arizona Citizens and voters" have standing to seek mandamus relief to compel elections officials to comply with elections laws. *APIA*, 250 Ariz. at 62 ¶ 12. *APIA* is distinguishable because the *Mast* Plaintiffs did not actually assert a mandamus claim, but rather used the "shroud of … mandamus" to disguise an untimely Title 16 election contest. MTD Ruling at 10; *see also See Donaghey v. Attorney General*, 120 Ariz. 93, 95 (1978) (explaining that mandamus cannot be used to avoid election contest procedures established in Title 16). Moreover, like *Richer*, *APIA* involved a claim for *future* relief, not an effort to undo *past* election results. *See APIA*, 250 Ariz. at 61 ¶ 6 (claims sought to prevent county recorder from including certain instructions in upcoming mail-in ballot packets).

4. Because Plaintiffs' Claims Suffered From Blatant Preliminary Defects, Their Arguments on the "Merits" Are Irrelevant.

Attempting to deflect from the timing, standing, and relief issues discussed above, the Consolidated Plaintiffs (at 21–22) argue that they had a good faith to bring their claims because there are "clear differences of opinion with respect to what the term registration record means." In other words, the Consolidated Plaintiffs argue that because the merits of their underlying "signature verification" argument was "fairly debatable," it follows that their claims were somehow not groundless.

The Consolidated Plaintiffs do not cite any authority to support the notion that claims barred by issues like *Tilson/Kerby* or standing suddenly become non-frivolous merely because a plaintiff's arguments on the "merits" are fairly debatable. The whole point of those doctrines is that the merits of the underlying claims are *not* addressed. And, courts routinely award fees where a party's claims are barred by the same problems faced by the Consolidated Plaintiffs here: "statute of limitations, standing," and the fact that the court did not have the "power to grant the relief sought." *See Reid v. Dalton*, 100 P.3d 349, 354–55 ¶¶ 27-29 (Wash. App. 2004) (upholding fee award in election contest); *see also e.g.*, *Merideth v. Merideth*, 987 So.2d 477, 485 ¶¶ 27-30 (Miss. App. 2008) (holding that claims barred by the statute of limitations were brought "without substantial justification").

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The Consolidated Plaintiffs (at 24) again cite *Richer*, but that decision does not require an assessment of the merits of a claim before awarding sanctions under A.R.S. § 12-349(A). Although *Richer* vacated a sanctions ruling in part because the Supreme Court determined that the plaintiffs' claims on the merits were "colorable" and "fairly debatable", it did so for two specific reasons—neither of which is applicable here. First, the Supreme Court made clear that "if the trial court's characterization of the merits of [plaintiffs'] legal theory as 'barely colorable' contributed to its attorney fees award, it erred." *Richer*, 2024 WL 1922203 at * 3 ¶ 12. Second, it explained that because plaintiffs' reading of the statute was colorable, the plaintiffs also had a fairly debatable ground for seeking mandamus relief preventing officials from using voting centers for the hand count audit. *Id.* at * 5 ¶ 21.

However, *Richer* did not overturn the lower court's sanctions award purely because the merits were "fairly debatable" or "colorable." As discussed above, it also evaluated whether the plaintiffs' claims were groundless because they were bared by the *Tilson/Kerby* doctrine or laches. *See id.* at ** 6–7, ¶¶ 25–33.

5. Preclusion Did Not Give Rise to the Court's Prior Sanctions Ruling or to Maricopa County's Sanction Request.

Hamadeh's arguments (at 13–15) regarding claim and issue preclusion are irrelevant. The Maricopa County Defendants did not assert that Hamadeh's claims were groundless because they were barred by preclusion. *Cf.* Mar. Cty. Mtn. for Sanctions, 4/22/2024, at 8–10 (listing reasons why the Consolidated Plaintiffs' claims were groundless, none of which included claim preclusion). Nor did preclusion form the basis for the Court's sanctions ruling against Hamadeh.[5] *See* MTD ruling at 8-10 (similar).

For all these reasons, the Consolidated Plaintiffs' claims were groundless.[6]

[5] To the extent that the Court's MTD Ruling discussed Hamadeh's prior unsuccessful "verification" lawsuits in its discussion of sanctions, this was to highlight the untimeliness of his claims. *See* MTD Ruling at 10 ("Waiting until December of 2023 to mount a second identical challenge to the Maricopa County process is unjustified and groundless.").

[6] The Consolidated Plaintiffs argument (at 17-18) that judicial estoppel prevents the Maricopa County Defendants from "adopt[ing] the Court's finding" fails because judicial estoppel only prevents a party from taking an "inconsistent position in *successive* or *separate* actions." *State v. Towery*, 186 Ariz. 168, 182 (1996) (emphasis added).

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B. Plaintiffs Knew or Should Have Known Their Claims Were Groundless.

On the second prong of the A.R.S. § 12-349(A) analysis, the Consolidated Plaintiffs claims were also objectively brought without good faith because they knew, or should have known, that their claims were groundless. *See Richer*, 2024 WL 1922203 at * 9 ¶ 38. They knew, or should have known, that their claims were untimely before filing suit. *See supra* Section I.A.1. Indeed, Hamadeh had asserted similar verification theories in *Kentch* but had them dismissed on timeliness grounds. MTD Ruling at 7. The Maricopa County Defendants alerted the Consolidated Plaintiffs to the timing problems at the outset of this litigation. *See* Mar. Cty. Mtn. for Sanctions, 4/22/2024, Exs. C at 2-4, D at 2-3. Similarly, the Consolidated Plaintiffs knew, or should have known, that there was no authority authorizing this Court to enter their requested relief—such as an election "redo"—and that the *Mast* Plaintiffs' "vote dilution" theory could not give rise to standing. *See supra* Section IA.2-IA.3. The Maricopa County Defendants likewise gave them advance notice of these defects. *See* Mar. Cty. Mtn. for Sanctions, 4/22/2024, Exs. C at 5, D at 4-5.

II. The A.R.S. § 12-350 Factors are in the Maricopa County Defendants' Favor.

In awarding attorneys fees pursuant to A.R.S. § 12-349, courts are "guided" by the "statutory factors set forth in A.R.S. § 12-350." *See* MTD Ruling at 11. The Motion for Sanctions explained why the first, second, third, fifth, sixth, and seventh A.R.S. § 16-350 factors favor sanctions here.[7] *See* Mar. Cty. Mtn. for Sanctions, 4/22/2204, at 10-12. The Consolidated Plaintiffs (at 25) concede that the seventh factor "weighs in favor of defendants." Their arguments regarding the remaining contested factors overlap with their arguments regarding A.R.S § 12-349(A) and therefore fail for the same reasons.

In particular, the Consolidated Plaintiffs (at 20-22, 24-25) claim that the first, third, and sixth factors favor them because: (1) Rey Valenzuela's trial testimony in *Lake* was "new evidence" supporting their claims; and (2) that the Supreme Court's ruling in *Richer* rendered the timeliness of their claims "debatable." These arguments fail for the reasons

[7] The parties agree that the eight factor is inapplicable and that the fourth factor favors the Consolidated Plaintiffs. *See* Cons. Plfs.' Resp. Mtn. for Sanctions, 5/10/2024, at 23, 25.

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stated *supra* Sections I.A.1. Regarding the second and fifth factors, Plaintiffs assert (at 21-23) they had a good faith basis to bring this suit because the merits of their claims are fairly debatable. This position fails for reasons stated *supra* Section I.A.4.

III. The Maricopa County Defendants Did Not Request Rule 11 Sanctions.

Oddly, the Consolidated Plaintiffs (at 4–6) argue that the Maricopa County Defendants did not comply with the procedural requirements of Rule 11 before filing their Motion for Sanctions. However, there was no need for such compliance; the Maricopa County Defendants did not request Rule 11 sanctions in the Motion. *See* Ariz. R. Civ. P. 11(c)(2) (explaining that the procedural requirements described in the rule apply to "[a] motion for sanctions" arguing that the opposing party violated Rule 11(b)).

The Consolidated Plaintiffs vaguely assert that the Maricopa County Defendants' Motion for Sanctions also "does not comply with . . . A.R.S. § 12-349," but do not identify which part of A.R.S. § 12-349 has been violated here. The statute itself contains no procedural prerequisites to filing a sanctions request and it is undisputed that the Maricopa County Defendants complied with Rule 54(g)(1) by requesting fees within their "Rule 12 motion[s]." *See* Ariz. R. Civ. P. 54(g)(1); Cons. Plfs.' Resp. Mtn. for Sanctions, 5/10/2024, at 5; *see also Mast* Mar. Cty. MTD at 17; *Hamadeh II* Mar. Cty. MTD at 17.

Conclusion

Plaintiffs' effort to seek redemption from *Richer* because this case relates to an "election" should be rejected. The case had no merit and without a scintilla of any other redeeming value for which judicial (or other taxpayer) resources should have been expended. The Consolidated Plaintiffs and Mr. Heath had many months, if not years, to challenge signature verification procedures before the 2022 General Election. Instead, they waited until well after the election—and after it was clear that their preferred politicians and ballot initiatives had lost—to file suit. They also ignored on-point legal authority on standing and requested relief that they should have known this Court had no power to give. The Consolidated Plaintiffs and Mr. Heath should be sanctioned, and the Court should award the Maricopa County Defendants $135,938 in fees.

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DATED this 22nd day of May, 2024.

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