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12 **ARIZONA SUPERIOR COURT**

13 **MARICOPA COUNTY**

14 DAVID MAST and TOM CROSBY,

15 Plaintiffs,

16 v.

17 KRIS MAYES, in her official capacity as
18 Arizona Attorney General; ADRIAN
19 FONTES, in his official capacity as
Arizona Secretary of State; STEPHEN
20 RICHER, in his official capacity as
Maricopa County Recorder; SCOTT
21 JARRETT, in his official capacity as
Maricopa County Director of Elections;
22 REY VALENZUELA, in his official
capacity as Maricopa County Director of
23 Elections; BILL GATES, CLINT
HICKMAN, JACK SELLERS, THOMAS
24 GALVIN, and STEVE GALLARDO, in
their official capacities as members of the
25 Maricopa County Board of Supervisors;
and the MARICOPA COUNTY BOARD
26 OF SUPERVISORS,

27 Defendants.

Nos. CV2023-053465

**STATE DEFENDANTS'
REPLY IN SUPPORT OF
MOTION FOR SANCTIONS**

1 ABRAHAM HAMADEH,

No. CV2023-054988

2 Petitioner,

3 v.

4 KRIS MAYES, in her official capacity as
5 Arizona Attorney General,

6 Respondent,

7 ADRIAN FONTES, in his official capacity
as Arizona Secretary of State; STEPHEN
8 RICHER, in his official capacity as
Maricopa County Recorder; BILL
9 GATES, CLINT HICKMAN, JACK
SELLERS, THOMAS GALVIN, and
10 STEVE GALLARDO, in their official
capacities as members of the Maricopa
11 County Board of Supervisors; and the
MARICOPA COUNTY BOARD OF
12 SUPERVISORS,

13 Defendants.
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15 **INTRODUCTION**

16 Following this Court's entry of final judgment in this action, subject only to
17 reservation of the question of sanctions under Ariz. R. Civ. P. 54(b), Plaintiffs David
18 Mast and Tom Crosby, Petitioner Abraham Hamadeh, and Ryan Heath, counsel to all
19 three, (collectively, when appropriate, "Plaintiffs") now seek to relitigate the merits of
20 this case in response to the motions for sanctions filed against Mast and Crosby. But the
21 Court's charge here is much more limited. Because Plaintiffs have already filed a Notice
22 of Appeal, Hamadeh cannot challenge in this Court the determination that he should be
23 sanctioned. And Mast and Crosby should be sanctioned for the same reasons that this
24 Court previously determined warranted sanctioning Hamadeh and counsel. In addition,
25 Plaintiffs have not met their burden to demonstrate that the amount of attorneys' fees that
26 Attorney General Kris Mayes and Secretary of State Adrian Fontes (collectively, the
27 "State Defendants") have requested is unreasonable. Indeed, they concede that "[n]either
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1 Plaintiffs nor Petitioner contend that the fees sought by Attorney General Mayes are
2 unreasonable.” (Consolidated Obj. to Defs.’ Mots. for Award of Sanctions and Attorney
3 Fees, at 20) (the “Objection”). Accordingly, for the reasons set forth below and in the
4 State Defendants’ Motion for Sanctions and Application for Attorneys’ Fees (the
5 “Motion”), this Court should grant the State Defendants’ Motion and award them the full
6 amount of requested attorneys’ fees—\$34,265.00.

7 **PROCEDURAL BACKGROUND**

8 Without first obtaining leave of Court, or even asking Defendants if they would
9 agree, Plaintiffs filed a 25-page Objection. While the State Defendants have previously
10 agreed to counsel’s requests for consolidated briefing and exceeding page limits, the
11 consolidated format of the Objection confuses both the substantive issues and the
12 procedural posture of the various parties’ requests for sanctions in this case.
13 Consequently, the following is a brief road map of the parties, their counsel, and the
14 issues presently before the Court.

15 1. In the lead case in this consolidated action, *Mast v. Mayes*, Plaintiffs Mast
16 and Crosby sued the State Defendants, Attorney General Kris Mayes and Secretary of
17 State Adrian Fontes, as well as the Maricopa County Recorder, members of the Maricopa
18 County Board of Supervisors, and Maricopa County’s Co-Directors of Elections
19 (collectively, the “County Defendants”). (See *Mast* First Am. Verified Compl., ¶¶ 9-14).
20 In *Mast*, both of the State Defendants are represented by attorneys from the Attorney
21 General’s Office. (See *Mast* State Defs.’ Mot. to Dismiss, at 1).

22 2. In the second action, *Hamadeh v. Mayes*, Petitioner Abraham Hamadeh
23 sued all of the same parties. (See *Hamadeh* Verified Pet. for Writ of Quo Warranto and
24 Writ of Mandamus, at ¶¶ 18-19, 21-22). In that action, however, only Attorney General
25 Mayes is represented by attorneys from the Attorney General’s Office. (See *Hamadeh*
26 *Mayes*’ Mot. to Dismiss, at 1). Secretary Fontes retained counsel from the law firm of
27 Sherman and Howard to represent him in *Hamadeh*. (See *Hamadeh* Fontes’ Mot. to
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1 Dismiss, at 2).

2 3. Before filing their motion to dismiss in *Mast*, the County Defendants sent
3 Plaintiffs' counsel a letter pursuant to Ariz. R. Civ. P. 11(c)(2). (*See* County Defs.' Mot.
4 for Sanctions, Ex C). The State Defendants did not send such a letter. Rather, in the
5 State Defendants' motion to dismiss in *Mast*, they asserted that "because these claims
6 have been repeatedly defeated, and Plaintiffs have been not just on notice of those cases,
7 but actual or attempted participants, the State Defendants are entitled to sanctions
8 pursuant to A.R.S. § 12-349." (*Mast* State Defs. Mot. to Dismiss, at 17). Pursuant to
9 Ariz. R. Civ. P. 12(j), the State Defendants filed a Rule 7.1 Good Faith Consultation
10 Certificate with their Motion to Dismiss.

11 4. Before filing their motions to dismiss in *Hamadeh*, all Defendants sent
12 Petitioner's counsel letters pursuant to Ariz. R. Civ. P. 11(c)(2). (*See* County Defs.' Mot.
13 for Sanctions, Ex. D; Mayes' Mot. to Dismiss, at 8 & n.6).

14 5. On January 24, 2024, counsel for Attorney General Mayes met and
15 conferred with Hamadeh's counsel regarding the issues identified in her Rule 11 letter.
16 In Attorney General Mayes' Motion to Dismiss the *Hamadeh* Complaint, she asserted
17 that the Court should award her sanctions under A.R.S. § 12-349 and Ariz. R. Civ. P. 11.
18 A Rule 7.1 good faith consultation certificate accompanied Attorney General Mayes'
19 motion to dismiss in *Hamadeh*. (Mayes' Mot. to Dismiss, at 10).

20 6. In this Court's April 1, 2024 Under Advisement Ruling (the "Ruling"), as
21 amended *nunc pro tunc* by the Court's April 17, 2024 Order (the "Order *Nunc Pro*
22 *Tunc*"), the Court stated that "[a]ll Defendants ask that Plaintiffs Mast, Crosby, and
23 Petitioner Hamadeh, as well as their counsel be sanctioned for bringing the two causes of
24 action addressed here." (Ruling, at 8). The Court ordered that "as a sanction, this Court
25 will award reasonable attorneys' fees incurred by all State Defendants in defending
26 against Petitioner Hamadeh's Petition and it will allocate those fees, as appropriate,
27 between Petitioner Hamadeh and his counsel." (*Id.* at 12). The Court further ordered
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1 “granting Defendants Attorney General Kris Mayes and Secretary of State Adrian Fontes
2 leave to seek sanctions against Plaintiffs Mast and Crosby and their counsel.” (Order
3 *Nunc Pro Tunc*, at 1-2).

4 8. On April 2, 2024, Secretary Fontes’ counsel in the *Hamadeh* case filed an
5 application for attorneys’ fees. (*See* Fontes’ App. for Attys.’ Fees); Hamadeh and
6 counsel did not timely object to the award of sanctions or the reasonableness of the
7 requested fees. *See* Ariz. R. Civ. P. 7.1(a)(3).

8 9. On April 17, 2024, at Plaintiffs’ request, the Court entered final judgment,
9 pursuant to Ariz. R. Civ. P. 54(b), reserving only “issues concerning the monetary
10 amount for the awarded attorneys’ fees, costs, and sanctions.” (Order Granting Req. for
11 Rule 54(b) Final J., at 1) (the “Judgment”). That same day, Plaintiffs filed a notice of
12 appeal, divesting this Court of jurisdiction regarding all issues not reserved. (Not. of
13 App.)

14 10. On April 22, 2024, pursuant to the Court’s Orders, the State Defendants
15 filed a motion for sanctions under A.R.S. § 12-349 against Plaintiffs Mast and Crosby
16 and their counsel. (*See* Mot.). In addition, Attorney General Mayes submitted her
17 application for attorneys’ fees in connection with the *Hamadeh* case. (*Id.*).

18 11. On May 10, 2024, Plaintiffs filed their Objection. (*See* Obj.). Shortly
19 thereafter, Secretary Fontes’ counsel in *Hamadeh* communicated with Plaintiffs’ counsel
20 to request that he withdraw his objection to the Secretary of State’s fee application
21 against Hamadeh that detailed the work of Sherman and Howard attorneys because the
22 time to do so had passed. (*See* May 10, 2024 email communications between C. Morgan
23 and R. Heath, attached hereto as Ex. 1).

24 12. On May 13, 2024, Plaintiffs filed a notice stating that they “withdraw their
25 previously filed Consolidated Objection . . . insofar as that filing pertains to the Secretary
26 of State’s Motion.” (Pls.’ Not. Withdrawing Obj. at 1). Plaintiffs asserted, however, that
27 “[t]he remainder of the previously filed Consolidated Objection (as it pertains to the
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1 Maricopa County Defendants and the Attorney General) should be considered by this
2 Court.” (*Id.*). Because Plaintiffs’ May 13, 2024 notice was filed after communications
3 from Secretary Fontes’ counsel in *Hamadeh*, it seems likely that this withdrawal relates
4 to the fee application detailing the work of attorneys at Sherman and Howard. However,
5 it is not clear whether they intend to withdraw all objections to the Secretary of State’s
6 requests for sanctions or if they intend to maintain their objection to the Secretary of
7 State’s motion for sanctions in *Mast*. In an abundance of caution, this Reply shall treat
8 the May 13 notice as relating only to the Secretary’s fee application in *Hamadeh*.

9 **I. The State Defendants’ Motion for Sanctions Is Procedurally Proper.**

10 Plaintiffs assert that Secretary Fontes “submitted his motion for attorney fees
11 without a Rule 11(3)(C) [*sic*] letter and without a Rule 7.1 affidavit.” (Obj. at 5).
12 Following Plaintiffs’ withdrawal of their objection to the sanctions awarded to Secretary
13 Fontes in connection with the *Hamadeh* complaint, the State Defendants treat this
14 assertion as relating to the motion filed by both State Defendants seeking sanctions
15 related to the *Mast* Complaint (although they do not assert that Attorney General Mayes
16 failed to comply with the rules in connection with her request for sanctions).

17 Because the State Defendants moved for sanctions under A.R.S. § 12-349, not
18 Rule 11, they were not required to attach a copy of the letter that they sent in connection
19 with the *Hamadeh* case pursuant to Ariz. R. Civ. P. 11(c)(2)(B), nor a Rule 7.1(h)
20 certificate. Indeed, a good faith consultation certificate need only be submitted “[w]hen
21 these rules require.” Ariz. R. Civ. P. 7.1(h). Nothing in the Arizona Rules of Civil
22 Procedure requires such a certificate when seeking sanctions under A.R.S. § 12-349.¹
23 Moreover, the Court granted the State Defendants leave to file a motion for sanctions
24 against *Mast*, Crosby, and their counsel and did not indicate that a Rule 7.1(h) certificate
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26 ¹ As set forth above, in compliance with Ariz. R. Civ. P. 12(j), the State Defendants filed
27 a Rule 7.1 good faith consultation certificate contemporaneously with the Motion to
28 Dismiss in *Mast* and Attorney General Mayes attached such a certificate to her Motion to
Dismiss in *Hamadeh*.

1 was required. (Order *Nunc Pro Tunc*, at 1-2).

2 Plaintiffs further complain that Secretary Fontes’ “request is associated with a
3 Motion to Dismiss in violation of Rule 11(3)(A) [*sic*].” (Obj. at 5). Presumably, this
4 assertion relates to Ariz. R. Civ. P. 11(c)(3)(A)’s requirement that a motion for Rule 11
5 sanctions “be made separately from any other motion.” Plaintiffs’ argument fails with
6 respect to all of the State Defendants’ requests for sanctions. *First*, the State Defendants’
7 Motion for Sanctions related to *Mast* was a separate motion—its “associat[ion]” with the
8 motion to dismiss does not change that. Moreover, the *Mast* Motion seeks sanctions only
9 pursuant to A.R.S. § 12-349. (Mot. at 1). Rule 11’s separate motion requirement does
10 not apply. *Second*, Attorney General Mayes’ sought, and this Court has already awarded,
11 sanctions regarding the *Hamadeh* case under A.R.S. § 12-349.² *Third*, to the extent that
12 Plaintiffs are attempting to challenge anything but the amount of sanctions awarded in the
13 *Hamadeh* case, this Court’s entry of judgment at Plaintiffs’ request and Plaintiffs’ filing
14 of a Notice of Appeal divests this Court of jurisdiction over that issue. *See Sw. Gas*
15 *Corp. v. Irwin ex rel. Cochise County*, 229 Ariz. 198, 201-02, ¶¶ 8-10 (App. 2012).
16 Indeed, the Rule 54(b) language in the judgment reserves only the issue of the monetary
17 amount of the sanctions. (Judgment, at 1).

18 **II. Mast and Crosby’s Claims Were Made Without Substantial Justification.**

19 **A. Mast and Crosby Have Provided No Reason to Treat Their Claims**
20 **Differently From Those in *Hamadeh*.**

21 In its April 1, 2024 Ruling, this Court concluded that the claims made in the
22 *Hamadeh* Complaint were groundless and not made in good faith, warranting imposition
23 of sanctions under A.R.S. § 12-349(A)(1). (Ruling, at 12 (concluding that *Hamadeh* and
24 counsel filed the Complaint “without substantial justification”). Plaintiffs’ claims about
25 the conduct of the 2022 election, and in particular the way that Maricopa County

26 ² Attorney General Mayes’ Motion to Dismiss the *Hamadeh* Complaint reserved her right
27 to seek sanctions under both A.R.S. § 12-349 and Rule 11, but the Court awarded
28 sanctions solely under A.R.S. § 12-349, and the Attorney General has not asked this
Court to also impose sanctions under Rule 11.

1 conducted signature verification, were essentially the same in both the *Mast* and
2 *Hamadeh* complaints. (See *Mast* Compl. ¶¶ 22-26; *Hamadeh* Compl. ¶¶ 30-33).
3 Nothing in the Objection establishes that Mast and Crosby were differently situated than
4 Hamadeh with respect to their knowledge of the lack of rational support for the
5 signature verification claims or the breathtakingly broad and disruptive relief they sought.
6 *A fortiori*, the claims in the *Mast* complaint are groundless and not made in good faith.

7 **B. The Arizona Supreme Court’s Decision in *Arizona Republican Party***
8 **Demonstrates that Sanctions Are Appropriate Here.**

9 After this Court’s Ruling on the parties’ motions to dismiss and the motions for
10 sanctions in *Hamadeh*, and after the State Defendants filed their Motion for Sanctions
11 against Mast, Crosby, and their counsel, the Arizona Supreme Court decided *Arizona*
12 *Republican Party v. Richer*, No. CV-23-0208-PR, 2024 WL 1922203 (Ariz. May 2,
13 2024) (“*ARP*”), a case arising out of a challenge to how Maricopa County selected the
14 ballots to be included in the statutory hand-count of ballots cast in the 2020 General
15 Election. The Court’s opinion in *ARP* provides guidance to Arizona courts in applying
16 A.R.S. § 12-349. Following that guidance, award of sanctions against Mast, Crosby, and
17 their counsel, is warranted.

18 An award of sanctions under A.R.S. § 12-349(A)(1) is required when a claim is
19 groundless and not made in good faith. A.R.S. § 12-349(F) (defining “without
20 substantial justification”); see *Democratic Party of Pima County v. Ford*, 228 Ariz. 545,
21 548, ¶ 10 (App. 2012). In *ARP*, the Court explained that a claim “devoid of rational
22 support” is groundless and that “[w]hether a claim is groundless is viewed through an
23 objective lens, without regard to the attorney’s or party’s subjective beliefs.” *ARP*, 2024
24 WL 1922203, at *4, ¶ 15. A groundless claim is “not made in good faith” if “the party or
25 attorney knows or should know that it is groundless, or is indifferent to its
26 groundlessness, but pursues it anyway. *Id.* at *9, ¶ 38. Like groundlessness, the absence
27 of good faith is evaluated under “an objective standard of what a professional, competent
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1 attorney would do in similar circumstances.” *Id.* at *9, ¶ 40. Under this recently-refined
2 framework, Mast, Crosby, and their counsel are subject to sanctions. This is made plain
3 when reviewing the differences between the case initiated by the Arizona Republican
4 Party in *ARP* and Plaintiffs’ claims in this case.

5 *First*, the underlying claim in *ARP*, that the language of A.R.S. § 16-602
6 conflicted with the provisions in the Elections Procedures Manual, had not previously
7 been made to a court. The Court found the argument “more than ‘barely colorable.’” *Id.*
8 at *4, ¶ 13. In contrast, the claims that Mast and Crosby made here—that Maricopa
9 County’s signature verification process was conducted unlawfully—had already been
10 rejected by another division of this Court. *See, e.g., Lake v. Hobbs*, No. CV 2022-
11 095403, Minute Entry, at 4-5 (Ariz. Super. Ct. Maricopa Cnty. May 22, 2023). Plaintiffs’
12 counsel had previously informed another Superior Court that claims regarding signature
13 verification were adequately addressed by the *Lake* case, and Plaintiff Mast had
14 participated as amicus curiae in that case regarding the signature verification issues. *See*
15 *Borrelli v. Hobbs*, No. S8015CV202201480 (Ariz. Super. Ct. Mohave Cnty.). In short,
16 there was ample evidence that Plaintiffs’ signature verification claims were groundless
17 from the outset of this litigation.

18 *Second*, the relief that plaintiff sought in *ARP*, a second hand count of ballots, was
19 narrow in scope and would not have affected which ballots Maricopa County tabulated
20 and included in the election results. *See* A.R.S. § 16-602 (describing the hand count and
21 its purpose). The court concluded that such relief was “not untenable.” *ARP*, at *7, ¶ 33.
22 Here, in contrast, Plaintiffs sought to throw out the votes of all 1.3 million Maricopa
23 County voters who voted by early ballot in 2022. As explained in the State Defendants’
24 Motion to Dismiss, such drastic relief was clearly untenable, thereby revealing a lack of
25 rational support to bring this action. (*See Mast Mot. to Dismiss*, at 15-17).

26 *Third*, the timing of plaintiff’s claim in *ARP*, both with respect to laches and the
27 related doctrine that election procedures must be challenged before voters have cast their
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1 ballots meant that the effect of those procedural defenses were “fairly debatable.”³ In
2 particular, ARP filed its lawsuit nine *days* after the 2020 election, before the canvass and
3 certification of election results. Here, Plaintiffs did not file this action until nine *months*
4 after the election was certified and long after the winners of the 2022 election had taken
5 office. Indeed, even if the Court were to credit their claim that they did not know the
6 precise contours of Maricopa County’s signature verification process until May of 2023,
7 they provide no valid explanation for why they waited four *more* months before filing
8 their Complaint in September 2023. Moreover, because the relief that Mast and Crosby
9 sought in this case was the relief that is only available in a statutory election contest, they
10 were required to file their claim within five days of the statewide canvass. *See* A.R.S.
11 § 16-673(A); *Donaghey v. Attorney Gen’l*, 120 Ariz. 93, 95 (1978) (holding that when the
12 “gravamen of [a] complaint is that [an] Election was improperly conducted,” the
13 challenge must be structured in conformity the election contest statutes). Under these
14 circumstances, Plaintiffs’ case was so obviously procedurally barred that it was and is
15 groundless.

16 **C. The A.R.S. § 12-350 Factors Weigh in Favor of Sanctions.**

17 In connection with its discussion of what renders a claim “not made in good faith,”
18 the court in *ARP* relied in particular on the duty to investigate whether a claim is viable
19 before making it and maintaining it after filing. *ARP*, at *9, ¶ 38 (citing A.R.S. § 12-
20 350(1)-(3)). Given the availability of facts regarding Maricopa County’s signature
21 verification process for years before Plaintiffs filed their complaint, these factors weigh
22 heavily in the State Defendants’ favor and demonstrate that Plaintiffs knew, should have
23 known, or were indifferent to the groundlessness of their claims yet pursued them

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25 ³ Dicta in *ARP* introduces some uncertainty to the long-established rule that one cannot
26 challenge the manner in which an election is held after the voters have voted and the will
27 of the people has been expressed at the ballot box. *ARP*, 2024 WL 1922203, at *7, ¶ 29;
28 *cf. Sherman v. City of Tempe*, 202 Ariz. 339, 342, ¶ 11 (2002). But there is no question
that challenging how a county conducted signature verification for early ballots ten
months or more after the county had completed that process, separated ballots from their
affidavit envelopes, and counted the votes cannot be viewed as timely under any rubric.

1 anyway. *Id.*

2 Plaintiffs repeatedly accuse Maricopa County of concealing information about its
3 signature verification process. (Obj. at 6 (the County “admitted for the first time”), at 7
4 (the County “surreptitiously allowed its employees to conduct signature verification” in
5 an illegal manner), at 9 (complaining about “wrongdoing” that is “concealed” beyond the
6 five-day period for election contests), at 16 (asserting that information about Maricopa
7 County’s signature verification process “came out over half a year after the election”).⁴
8 But this could not be further from the truth. As this Court recognized, the Maricopa
9 County 2022 Elections Plan identifies “early voting affidavits from previous elections” as
10 a potential source of signatures for comparison. (Ruling, at 5 (quoting 2022 Elections
11 Plan § 6.3.8)). Signature verification is conducted at Maricopa County facilities where
12 the process is live-streamed.⁵ And political party observers are permitted to be in the
13 room during signature verification. Indeed, in 2020, one such observer testified about the
14 signature verification process in *Ward v. Jackson*, No. CV2020-015285, Minute Entry, at
15 3 (Ariz. Super. Ct. Maricopa Cty. Dec. 4, 2020).⁶

16 What is conspicuously absent from Plaintiffs’ Objection is any allegation that they
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18 ⁴ Plaintiffs characterize the Maricopa County Co-Director of Elections’ May 2023
19 testimony in *Lake*, as an “admission” that Maricopa County’s signature verification
20 process was illegal. (See Obj. at 1, 6). This could not be further from the truth. The
21 court in *Lake* concluded that Maricopa County complied with the law regarding signature
22 verification. *Lake*, No. CV2022-095403, Minute Entry, at 4-5 (Ariz. Super. Ct. Maricopa
23 Cnty. May 22, 2023); see also *Ward v. Jackson*, No. CV2020-015285, Minute Entry, at 7
24 (Ariz. Super. Ct. Maricopa Cnty. Dec. 4, 2020) (holding that “Maricopa County election
25 officials followed [the signature verification] process [in the EPM] faithfully in 2020.”).
26 Despite multiple challenges, no court has determined that Maricopa County’s signature
27 verification process in 2022 (or 2020) was illegal.

28 ⁵ Maricopa County’s 24-hour livestream videos are available here:
<https://elections.maricopa.gov/news-and-information/live-video-feeds.html>. A viewer
may watch four different camera views at one time, and has the option of selecting
“Signature Verification View 1” and “Signature Verification View 2.”

⁶ The Minute Entry reflects that Liesl Emerson, a credentialed observer, testified in *Ward*.
No transcript of the testimony was prepared, but the For the Record recording of
proceedings is available from the Superior Court. Ms. Emerson testified that the level
one signature reviewers often looked at only one signature exemplar, which she
presumed was the most recent signature. *Ward*, No. CV202-015285, Dec. 4, 2020 FTR,
at 11:25:15 to 11:27:03.

1 actually requested information about the signature verification process at any time before
2 or after the 2022 General Election. Similarly absent is any allegation that upon such a
3 request, the County denied it. Simply put, the only reason Plaintiffs did not learn about
4 Maricopa County's signature verification process until May 2023 is that they made no
5 effort to learn about it before then. As such, the factors in A.R.S. § 12-350 regarding
6 investigation of claims weigh heavily in the State Defendants' favor.

7 **III. Plaintiffs Have Waived Any Objection to the Reasonableness of the State**
8 **Defendants' Requested Fees.**

9 "Once a party establishes entitlement to fees and meets the minimum requirements
10 in an application and affidavit, as [the State Defendants] did here, the burden shifts to the
11 party opposing the fee award to demonstrate the impropriety or unreasonableness of the
12 requested fees." *Assyia v. State Farm Mut. Auto Ins. Co.*, 229 Ariz. 216, 223, ¶ 29 (App.
13 2012). Plaintiffs assert that they do not "contend that the fees sought by Attorney
14 General Mayes are unreasonable." (Obj. at 20). And Plaintiffs are completely silent
15 regarding the attorneys' fees related to work done on behalf of Secretary Fontes in the
16 *Mast* case. The State Defendants further understand that Plaintiffs have withdrawn their
17 objection to Secretary Fontes' request for \$36,820.00 in attorneys' fees for the work of
18 Sherman and Howard attorneys related to the *Hamadeh* complaint. (Pls.' Not.
19 Withdrawing Obj. at 1).

20 To the extent that Plaintiffs have any remaining objection to the reasonableness of
21 the attorneys' fees set forth in the State Defendants' Motion for Sanctions and
22 Application for Attorneys' Fees, they have not even attempted to meet their burden.
23 Consequently, they have waived any objection to the amount of \$34,265.00 in attorneys'
24 fees that the State Defendants seek.

25 **Conclusion**

26 For the foregoing reasons, the State Defendants respectfully request that the Court
27 award them \$34,265.00 in reasonable attorneys' fees incurred in this action.

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RESPECTFULLY SUBMITTED this 22nd day of May, 2024.

Kristin K. Mayes
Attorney General

/s/Karen J. Hartman-Tellez
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Kara Karlson
Senior Litigation Counsel
Kyle Cummings
Assistant Attorney General
*Attorney for Attorney General Kris Mayes and
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ORIGINAL of the foregoing filed
via TurboCourt this 22nd day of May, 2024.

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By: /s/ Monica Quinonez
Monica Quinonez, Legal Assistant

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Exhibit 1

Hartman-Tellez, Karen

From: Ryan Heath <ryan.heath@heathlaw.com>
Sent: Monday, May 13, 2024 9:38 AM
To: Morgan, Craig
Cc: Hannah Hsu; Stuart, Shayna; Rapp, Jake Tyler; Johnson, Brett W. (PHX); Spencer, Eric H.; Ahler, Colin; Joyce, Ian; Karlson, Kara; Hartman-Tellez, Karen; Cummings, Kyle; Meshke, Ella
Subject: RE: Mast, et al. v. Mayes, et al., No. CV2023-053465; Hamadeh v. Mayes, et al., No. CV2023-054988

Hi Craig,

I will file a notice before the end of today withdrawing the motion and objection as it pertains to the Secretary.

Kind regards,
Ryan

Ryan Heath
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16427 N. Scottsdale Road, Suite 370
Scottsdale, Arizona 85254

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On Monday, May 13th, 2024 at 7:15 AM, Morgan, Craig <CMorgan@shermanhoward.com> wrote:

Ryan, please let me know your position before Noon. If this is not resolved by then, we will have to file something. This correspondence will be an exhibit to what we file.

Craig Morgan

Member | He/Him/His

Sherman & Howard

Sherman & Howard L.L.C. | 2555 East Camelback Road, Suite 1050, Phoenix, Arizona 85016

T: [602.240.3062](tel:602.240.3062) | O: [602.240.3000](tel:602.240.3000) | M: [480-332-6321](tel:480-332-6321)

E: cmorgan@shermanhoward.com

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From: Ryan Heath <ryan.heath@heathlaw.com>

Sent: Friday, May 10, 2024 4:18 PM

To: Morgan, Craig <CMorgan@shermanhoward.com>

Cc: Hannah Hsu <hannah.hsu@heathlaw.com>; Stuart, Shayna <SStuart@shermanhoward.com>; Rapp, Jake Tyler <JRapp@shermanhoward.com>; Johnson, Brett W. (PHX) <bwjohnson@swlaw.com>; Spencer, Eric H. <espencer@swlaw.com>; Ahler, Colin <cahler@swlaw.com>; Joyce, Ian <ijoyce@swlaw.com>; kara.karlson@azag.gov; karen.hartman@azag.gov; kyle.cummings@azag.gov; Meshke, Ella <EMeshke@shermanhoward.com>

Subject: RE: Mast, et al. v. Mayes, et al., No. CV2023-053465; Hamadeh v. Mayes, et al., No. CV2023-054988

Yes. Thanks!

Ryan Heath
Founding Partner, Heath Law, PLLC
Office: (480) 432-0208
16427 N. Scottsdale Road, Suite 370
Scottsdale, Arizona 85254

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On Friday, May 10th, 2024 at 4:17 PM, Morgan, Craig <CMorgan@shermanhoward.com> wrote:

Sure. I will hold tight until noon Monday. Will that work?

Craig Morgan

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From: Ryan Heath <ryan.heath@heathlaw.com>
Sent: Friday, May 10, 2024 4:16 PM
To: Morgan, Craig <CMorgan@shermanhoward.com>
Cc: Hannah Hsu <hannah.hsu@heathlaw.com>; Stuart, Shayna <SStuart@shermanhoward.com>; Rapp, Jake Tyler <JRapp@shermanhoward.com>; Johnson, Brett W. (PHX) <bwjohnson@swlaw.com>; Spencer, Eric H. <espencer@swlaw.com>; Ahler, Colin <cahler@swlaw.com>; Joyce, Ian <ijoyce@swlaw.com>; kara.karlson@azag.gov; karen.hartman@azag.gov; kyle.cummings@azag.gov; Meshke, Ella <EMeshke@shermanhoward.com>
Subject: RE: Mast, et al. v. Mayes, et al., No. CV2023-053465; Hamadeh v. Mayes, et al., No. CV2023-054988

Hi Craig,

I'm with my daughter at the moment. If we can work this out Monday morning. I'd appreciate it.

Thank you,

Ryan

Ryan Heath
Founding Partner, Heath Law, PLLC
Office: (480) 432-0208
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Scottsdale, Arizona 85254

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On Friday, May 10th, 2024 at 4:13 PM, Morgan, Craig <CMorgan@shermanhoward.com> wrote:

Ryan,

I'd appreciate to know your final position on our fee application today. If I do not hear from you I am going to file the objection I have prepared. Please let me know.

Thanks,

Craig

Craig Morgan

Member | He/Him/His

Sherman & Howard

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From: Morgan, Craig <CMorgan@shermanhoward.com>

Sent: Friday, May 10, 2024 3:41 PM

To: Ryan Heath <ryan.heath@heathlaw.com>

Cc: Hannah Hsu <hannah.hsu@heathlaw.com>; Stuart, Shayna <SStuart@shermanhoward.com>; Rapp, Jake Tyler <JRapp@shermanhoward.com>; Johnson, Brett W. (PHX) <bwjohnson@swlaw.com>; Spencer, Eric H. <espencer@swlaw.com>; Ahler, Colin <cahler@swlaw.com>; Joyce, Ian <ijoyce@swlaw.com>;

kara.karlson@azag.gov; karen.hartman@azag.gov; kyle.cummings@azag.gov; Meshke, Ella <EMeshke@shermanhoward.com>

Subject: RE: Mast, et al. v. Mayes, et al., No. CV2023-053465; Hamadeh v. Mayes, et al., No. CV2023-054988

Ryan,

You mention mutually exclusive issues. If you are agreeing to withdraw any objection to the Secretary of State's fee application against Mr. Hamadeh, filed by my firm, then I accept and you can merely file a notice saying you withdraw the motion and objection as it pertains to the Secretary. Please confirm you agree to and will do so immediately. Otherwise I need to file our objection so it's promptly resolved and we can avoid further expense.

As for other defense brief, they can speak for themselves. But I will not allow those briefs to be leverage for the issue of Mr. Hamadeh's untimely objection. So you know, I think your calculations are off. Check Rule 6. The fee applications were due after entry of the order. An order is "entered" when electronically filed with the Clerk. The order at issue was entered by the clerk on 4/1. 20 days from 4/1 is April 21, a Sunday. So that makes them due the next business day, which is Monday April 22. So, those were timely filed.

Craig Morgan

Member | He/Him/His

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From: Ryan Heath <ryan.heath@heathlaw.com>
Sent: Friday, May 10, 2024 3:27 PM
To: Morgan, Craig <CMorgan@shermanhoward.com>
Cc: Hannah Hsu <hannah.hsu@heathlaw.com>; Stuart, Shayna <SStuart@shermanhoward.com>; Rapp, Jake Tyler <JRapp@shermanhoward.com>; Johnson, Brett W. (PHX) <bwjohnson@swlaw.com>; Spencer, Eric H. <espencer@swlaw.com>; Ahler, Colin <cahler@swlaw.com>; Joyce, Ian <ijoyce@swlaw.com>; kara.karlson@azag.gov; karen.hartman@azag.gov; kyle.cummings@azag.gov
Subject: RE: Mast, et al. v. Mayes, et al., No. CV2023-053465; Hamadeh v. Mayes, et al., No. CV2023-054988

Hi Craig,

I did not send you a letter or any other correspondence. The order was issued on 3/28, and the motions for sanctions from the AG and MC were sent beyond the 20 day due date (both filed on 4/22).

If I recall correctly, I mention your client's application for fees once. If you would like, I'd be happy to refile without that mention. However, if that's the case, I will also object to the MC's and AG's applications as untimely.

Thank you,

Ryan

Ryan Heath
Founding Partner, Heath Law, PLLC
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On Friday, May 10th, 2024 at 2:14 PM, Morgan, Craig
<CMorgan@shermanhoward.com> wrote:

Ryan,

I want to make sure I am not missing anything. You had 20 days from our filing of a fee application to respond. We filed on 4/2. Your response was due 4/22. It is now 5/10. I have no record of an email or letter from you asking for an extension. And I know we never discussed one. Did I miss an email or letter from you asking for an extension or to discuss one? If I did, please send me a copy of the email or letter. Whether this happened, and when, is relevant to what I file concerning this request.

Please let me know.

Brett, Eric Kara or Karen – was there a request made I am unaware of?

Thanks,

Craig

Craig Morgan

Member | He/Him/His

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From: Hannah Hsu <hannah.hsu@heathlaw.com>

Sent: Friday, May 10, 2024 1:42 PM

To: Morgan, Craig <CMorgan@shermanhoward.com>; Stuart, Shayna <SStuart@shermanhoward.com>; Rapp, Jake Tyler <JRapp@shermanhoward.com>; bwjohnson@swlaw.com; espencer@swlaw.com; cahler@swlaw.com; ijoyce@swlaw.com; kara.karlson@azag.gov; karen.hartman@azag.gov; kyle.cummings@azag.gov

Cc: Ryan Heath <ryan.heath@heathlaw.com>

Subject: Mast, et al. v. Mayes, et al., No. CV2023-053465;
Hamadeh v. Mayes, et al., No. CV2023-054988

Hello All,

Please see the attached Motion to File a Consolidated Response and Proposed Order Granting the Request that were just filed.

Thank you,

Hannah Hsu

Legal Assistant

Heath Law, PLLC.

480-432-0208

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