

Andrew Gould (No. 013234)
Dallin B. Holt (No. 037419)
Daniel Tilleman (No. 037422)
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIK PLLC
2555 East Camelback Road, Suite 700
Phoenix, Arizona 85016
(602) 388-1262
agould@holtzmanvogel.com
dholt@holtzmanvogel.com
dtilleman@holtzmanvogel.com
minuteentries@holtzmanvogel.com

Attorneys for Petitioners

ARIZONA SUPREME COURT

GINA SWOBODA, as Chair of the
Republican Party of Arizona, an Arizona
non-profit company; BELINDA
RODRIGUEZ, a qualified Arizona elector;
KRISTIN BAUMGARTNER, a qualified
Arizona elector,

Petitioners,

vs.

KATIE HOBBS, in her official capacity as
Governor of the State of Arizona,

Respondent.

Case No. _____

Petition for Special Action

**(Declaratory Judgment,
Injunctive Relief, Writ of Quo
Warranto)**

Pursuant to Rules 1 through 4, Ariz. R. Proc. Spec. Act., Petitioners, Gina Swoboda as Chair of the Republican Party of Arizona (“AZ GOP”), Belinda Rodriguez, and Kristin Baumgartner (collectively, “Petitioners”), petition this Court for declaratory judgment, injunctive relief, and a writ of quo warranto against Governor Katie Hobbs, and allege as follows:

Nature of the Action

1. This special action addresses the scope and extent of the Governor's lawful authority to use executive orders to change election statutes.

2. In November 2023, Governor Hobbs signed two executive orders designating certain new state agencies as locations where a person can register to vote and drop off completed ballots.

3. Specifically, in issuing Executive Order 2023-25 ("EO 25" and attached hereto as "Attachment B"), Governor Hobbs directed the Arizona Department of Corrections, Rehabilitation, and Reentry ("ADCRR") and the Arizona Department of Juvenile Corrections ("ADJC"), as well as other state agencies, to "make voter registration forms" and information available to the public. EO 25 also requires ADCRR and ADJC, as well as other state agencies, once they accept paper voter registration forms, to return or mail them to the Secretary of State or appropriate county recorder.

4. Additionally, in Executive Order 2023-23 ("EO 23" and attached hereto as "Attachment A"), Governor Hobbs designated ADCRR and ADJC, as well as other state agencies, as ballot drop-off locations.

5. In issuing EO 23 and EO 25, Governor Katie Hobbs has acted, or is threatening to proceed, in excess of her legal authority as Governor of Arizona.

6. Petitioners bring this action to obtain a declaratory judgment and writ of quo warranto stating that Governor Hobbs has exceeded, and is therefore unlawfully exercising, her authority as Governor, in issuing EO 23 and EO 25; as a result, EO 23 and EO 25 are unconstitutional and void. *See* A.R.S. §§ 12-2041(A), -2042(A); *State v. Ariz. Bd. of Regents*, 253 Ariz. 6, 11, ¶¶ 14-18 (2022) (holding that a quo warranto action may prohibit the unlawful “exercise” of an office by an otherwise legitimate office holder). Further, Petitioners seek to enjoin Governor Hobbs from enforcing EO 23 and EO 25 on the grounds they exceed the powers granted her by the Arizona Constitution and Arizona statutes, violate the separation of powers regarding the Legislature’s authority to enact election laws; and usurp the powers lawfully granted to the Secretary of State regarding the designation of Voter Registration Agencies and county recorders regarding ballot drop-off locations. *See, id.*

Jurisdictional Statement

7. This Court has original jurisdiction over quo warranto and injunction actions directed towards state officers. Ariz. Const. art. VI, § 5(1); *see* Ariz. R. Proc. Spec. Act. 3(b) (stating a special action may address “[w]hether the defendant has proceeded or is threatening to proceed without or in excess of jurisdiction or legal authority”); *see also* Ariz. R. Proc. Spec. Act. 4(a)

(permitting special action to be brought in Arizona Supreme Court in a “proper case”).

8. This Court also has original quo warranto jurisdiction pursuant to A.R.S. §§ 12-2041(A) through 12-2043 because, following a request by Petitioners (attached hereto as “Attachment C” and “Attachment E”, respectively), neither the Arizona Attorney General Kris Mayes nor Maricopa County Attorney Rachel Mitchell brought this action under § 12-2041 or 12-2042, respectively, against Governor Hobbs, for unlawfully exercising her powers as Governor. Responses from both the Arizona Attorney General and Maricopa County Attorney’s Office declining to bring this action are attached hereto as “Attachment D” and “Attachment F”, respectively.¹

9. This Court also has jurisdiction under the Arizona Declaratory Judgment Act because there is an actual and live controversy between the Parties as to the limits of the Governor’s statutory and constitutional authority to issue EO 23 and EO 25.

10. Finally, and alternatively, this Court has special action jurisdiction pursuant to Rule 4(b), Ariz. R. Proc. Spec. Act., because this case involves pure legal questions of statewide importance that hinge on this Court’s interpretation

¹ To the extent the Court deems it necessary that Petitioners first seek leave before requesting a writ of quo warranto, Petitioners respectfully request that the Court construe this filing as such a request for leave.

of the Arizona Constitution and statutes that have immediate ramifications for the impending 2024 elections throughout the state. *See Dobson v. State ex rel. Comm'n on Appellate Court Appointments*, 233 Ariz. 119, 121 ¶¶ 7-8 (2013) (“Special action jurisdiction is appropriate here because the petition presents purely legal questions of statewide importance that turn on interpreting Arizona’s Constitution” and “because the case requires an immediate and final resolution”); *Ariz. Indep. Redistricting Comm’n v. Brewer*, 229 Ariz. 347, 351 ¶ 14 (2012) (“We exercised our discretion to accept special action jurisdiction because the legal issues required prompt resolution and are of . . . statewide importance.”).

11. Petitioners provided Governor Hobbs the opportunity to either modify or rescind EO 23 and EO 25 in a manner that would be consistent with her authority under Arizona statutes and the Arizona Constitution. The Governor responded and stated her belief that she acted within her authority when issuing both EO 23 and EO 25. The letter to Governor Hobbs and her response are attached hereto as “Attachment G” and “Attachment H,” respectively.

12. The unique circumstances surrounding this case make it necessary to file initially in this Court. The Governor is acting *ultra vires* on matters of statewide importance that relate to elections and have the ability to impact the integrity of the upcoming general election. This matter needs to be decided and her conduct stopped immediately. Thus, filing directly in this Court is necessary.

Parties

13. Petitioner AZ GOP is a political non-profit organization. The mission of the AZ GOP is to promote Republican principles and policies through both volunteers and paid members. AZ GOP is heavily interested in this lawsuit because these executive orders severely harm and diminish the public and voter's confidence in election integrity. Changes to voter registrations, voting locations, and ballot-drop off locations are key to ensuring a clean and honest election, and should only be done through the proper legislative means.

14. Petitioner Belinda Rodriguez is a qualified Arizona elector who is concerned about Arizona elections and will vote in the upcoming general election in 2024. Changes to voter registration forms, voting locations, and ballot drop-off locations through executive order severely harm and diminish her confidence in the integrity of Arizona elections.

15. Petitioner Kristin Baumgartner is a qualified Arizona elector who is concerned about Arizona elections and will vote in the upcoming general election in 2024. Changes to voter registration forms, voting locations, and ballot drop-off locations through executive order severely harm and diminish her confidence in the integrity of Arizona elections.

16. All Petitioners have a beneficial interest in ensuring that public officials, such as the Governor, perform their duties in the manner imposed by law. *See Ariz. Pub. Integrity All. v. Fontes*, 250 Ariz. 58, 62 (2020).

17. Defendant Katie Hobbs is Governor of Arizona and is only being sued in her official capacity as governor of the State of Arizona.

Facts

EO 23

18. In EO 23, Governor Hobbs recites that Arizona counties are responsible for designating voting and ballot drop-off locations prior to elections.

19. However, despite this acknowledgment, in EO 23 she orders the Arizona Department of Administration to “coordinate with State agencies and counties to identify and make available State-owned facilities ... for use as voting locations or ballot drop-off locations in any statewide election in this State.”

20. Further, EO 23 directs ADCRR and ADJC and other state agencies to designate their facilities as ballot drop-off locations for the upcoming 2024 Election and beyond.

21. However, despite imposing this duty on ADCRR and ADJC, as well as other specified state agencies, to serve as ballot drop-off locations, EO 23 is silent about important issues regarding completed ballots and voting procedures including, for example, where to store completed ballots until they can be sent to

the appropriate election officials or keeping a chain-of-custody log for these completed ballots.

22. Nevertheless, Governor Hobbs asserts in EO 23 that she has the authority to designate ADCRR and ADJC, as well as other specified state agencies, as ballot drop-off locations based on Article 5, section 4 of the Arizona Constitution, which provides that the “governor shall transact all *executive* business with officers of the government ... [and] take care that the laws be faithfully executed.” (Emphasis added).

23. However, the Governor cannot, as is more fully alleged below, rely solely upon her general executive authority to issue EO 23.

24. Nothing in EO 23 limits the duration of the order, meaning it is now the law unless revoked by a future executive order or adjudicated unconstitutional by a court. *Compare to* Executive Order 2020-16 (“EO 20-16”) by former Governor Doug Ducey (“This Executive Order shall be in effect for one-hundred and eighty days unless terminated earlier.”).

25. Finally, in issuing EO 20-16, Governor Ducey did so under the grant of authority that vests with the Governor of Arizona during times of *emergency*. *See* Executive Order 2020-16; *see also* A.R.S. §§ 26-303(E)(1), 26-307(A), 36-787(A). In contrast, here, in issuing EO 23, Governor Hobbs cites to no emergency, but rather relies on her limited and general grant of executive

authority contained in “Article 5, Section 4, of the Arizona Constitution and Title 41, Chapter 1, Article 1, of the Arizona Revised Statutes”. *See* “Attachment A”.

EO 25

26. In EO 25, Governor Hobbs orders multiple state agencies, including ADCRR and ADJC, among other State agencies, to “make voter registration forms available in conspicuous public locations.”

27. EO 25 also orders ADCRR and ADJC, among other State agencies, to “[i]dentify and evaluate potential opportunities, consistent with Arizona and federal law, to increase access to voter registration.”

28. To ensure that ADCRR and ADJC, as well as other State agencies, comply with EO 25, Governor Hobbs has ordered the directors of these State agencies to “provide a report to the Governor and Secretary of State” that includes, *inter alia*, “whether there are opportunities, *regardless of whether the State Agency qualifies as a Public Assistance Agency* [under A.R.S. § 16-140(F)(3)], *Disabilities Agency*, [under § 16-140(F)(2)] *or other Voter Registration Assistance Agency*, to provide voter registration assistance to citizens served by the State Agency.” (Emphasis added).

29. Governor Hobbs ordered the subject reports be submitted by June 30, 2024.

30. Upon information and belief, neither ADCRR nor ADJC, or any State agency, has submitted a report required under EO 25.

31. EO 25 directs ADCRR and ADJC, as well as other State agencies, to make voter registration forms available to the public, and to receive completed voter registration forms.

32. EO 25 further directs that when ADCRR and ADJC, as well as other State agencies, receive completed voter registrations, they must return them within a certain time period, depending on when the completed form is received, to either the Secretary of State or the appropriate county recorder.

33. The Governor again invokes Article 5, section 4 of the Arizona Constitution as her authority for EO 25, despite the fact, as alleged more fully below, that she cannot issue EO 25 based only on her *executive* powers.

34. Governor Hobbs specifically states that EO 25 “shall take effect immediately upon signature, and shall remain in effect until repealed, replaced, or rescinded by future Executive Order.”

35. In her response letter to Petitioners, Attorney General Mayes defended the purported validity of EO 25 by referencing Governor Hobbs’s inclusion of the phrase, “to the greatest extent practicable and permitted by law,” in EO 25. In effect, according to General Mayes, by including the subject phrase into EO 25, the Governor made her otherwise unlawful exercise of authority

lawful simply by injecting this phrase into EO 25. *See* “Attachment D.” Such is not the case.

36. The Governor cannot, however, as matter of law, rely on the phrase, “to the greatest extent practicable and permitted by law,” to issue an executive order that substantively and fundamentally exceeds her constitutional and statutory authority. Simply including the “as permitted by law” language does not save an otherwise unconstitutional executive order from overreach that, by its terms, is *ultra vires*. *See Georgia v. President of the United States*, 46 F.4th 1283, 1298 (11th Cir. 2022) (holding that an executive order cannot rest merely on policy objectives and must be grounded in specific statutory authority); *Nuclear Pac., Inc. v. U.S. Dep't of Commer.*, No. C84-49R, 1984 U.S. Dist. LEXIS 16060 (W.D. Wash. June 8, 1984) (implying that the mere inclusion of “to the extent permitted by law” language does not grant executive powers beyond what was constitutionally permissible); *see also* 1986 Ariz. AG LEXIS 64, *8 (stating that the Governor lacks authority to issue an executive order that is “inconsistent with Arizona statutory and constitutional provisions”).

Statutory Framework

37. Section 16-131 grants to county recorders, justices of the peace, and deputy registrars the authority to supply “without charge, a registration form to any qualified person requesting registration information.”

38. Additionally, it is the county recorder, and, as applicable, the county recorders' deputy registrars, who distribute "state mail in registration forms at locations throughout the county such as government offices, fire stations, public libraries and other locations open to the general public."

39. Consistent with § 16-131, § 16-134 states in part that it is the county recorder who "shall authorize persons to accept registration forms," "designate places for receipt of registration forms and shall designate additional locations for distribution of voter registration form."

40. Section 16-134 also provides that "[p]ublic assistance agencies and disabilities agencies ... shall return or mail completed voter registrations to the county recorder of the county in which the applicant resides within five days after receipt of those registrations."

41. Section 16-140(A) states that all "public assistance agencies and disabilities agencies ... shall provide the opportunity to register to vote for those persons who apply for benefits or appear at the agency to renew, recertify[,] or change address information."

42. Section 16-140(F)(2) defines "disabilities agency" as "all offices of an agency in this state that provide state funded programs primarily engaged in providing services to persons with disabilities."

43. Section 16-140(F)(3) defines “Public Assistance Agency” as “all offices of an agency in this state that provide public assistance.”

44. Section 16-248(A) grants to the board of supervisors for each county the authority to “designate a reasonable and adequate number of polling places where the election shall be held.”

45. Finally, § 16-411(A)-(B) further requires the board of supervisors for each county to “by order, ... establish a convenient number of election precincts in the county,” and designate at least one polling place “within each precinct where the election shall be held.”

Agency Authority

46. Section 41-1602(B) states that the powers and duties of ADCRR encompass “the various institutions, facilities and programs which are now or may become a part of the correctional program of the state, and to provide the supervisory staff and administrative functions at the state level of all matters relating to the institutionalization, rehabilitation and community supervision functions of all adult offenders.”

47. The director of the ADCRR in turn has the authority, among other things, to “administer all institutions and programs within the department, including prisons, reception and diagnostic centers, ... community correctional centers, and such other facilities and programs as may be required and established

for the custody, correction, treatment and rehabilitation of all adult offenders who are committed to the department.” A.R.S. § 41-1604(A)(2).

48. Section 41-2802(B) states that the powers and duties of ADJC encompass “supervision, rehabilitation, treatment and education of all committed youth.”

49. Section 41-2803(B) also requires the director of the ADJC to have “administrative experience in youth rehabilitative and treatment programs and educational qualifications and training which enable the director to manage the department in a manner consistent with the mission and purpose of the department.”

Count 1: Declaratory Judgment – EO 23

50. Petitioners reincorporate each paragraph above as though fully stated herein.

51. Arizona law establishes that only the board of supervisors for each county can establish voting locations and drop-off locations for completed ballots.

52. Governor Hobbs, via EO 23, acting *ultra vires*, usurps the power of the boards of supervisors of each Arizona county by designating ADCRR and ADJC, as well other state agencies, as voting and ballot drop-off locations.

53. Petitioners request a declaratory judgment under A.R.S. § 12-1831 finding that Governor Hobbs acted *ultra vires* and exceeded her jurisdiction and authority as Governor, in issuing this order, and, as such, EO 23 is unconstitutional, and therefore, void and of no legal effect.

Count 2: Declaratory Judgment – EO 25

54. Petitioners reincorporate each paragraph above as though fully stated herein.

55. Arizona law provides that county recorders, justices of the peace, and county recorder's designees, are authorized to provide voter registration forms and handle completed voter registration forms. The Governor was delegated this authority.

56. Arizona law additionally provides that public assistance agencies and disabilities agencies are authorized to provide voter registration forms and handle completed registration forms. Once again, the Arizona Legislature has not delegated authority to the Governor to designate public assistance or disabilities agencies.

57. However, despite her clear lack of authority, Governor Hobbs, via EO 25, acting *ultra vires*, usurped the authority of the county recorders and justices of the peace by attempting to require ADCRR and ADJC, as well as other

specified agencies, to provide voter registration forms and handle completed registration forms in violation of A.R.S. §§ 16-131; 16-134; and 16-140.

58. Further, Governor Hobbs via EO 25, acted *ultra vires* by attempting to designate ADCRR and ADJC, as well as other specified state agencies, as de facto public assistance agencies by granting these agencies the authority to provide voter registration forms and handle completed registration forms—despite none of the specified agencies being authorized to do so by a county recorder, justice of the peace, or by Arizona statute. ADCRR and the ADJC, as well as the other specified state agencies, are not and cannot be lawfully designated as de facto public assistance agencies by the Governor.

59. Therefore, Petitioners request a declaratory judgment under A.R.S. § 12-1831 finding that Governor Hobbs acted *ultra vires* and exceeded her jurisdiction and authority as Governor, and, as such, EO 25 is unconstitutional and therefore null and of no legal effect.

Count 3: Writ of Quo Warranto – EO 23 & EO 25

60. Petitioners reincorporate each paragraph above as though fully stated herein.

61. A writ of quo warranto, which is translated as “by what authority” or “by what warrant,” is a common law writ formerly used by the kings “to bring a public proceeding to correct the wrong caused by someone unlawfully holding

or misusing the king's power.” *Jennings v. Wood*, 194 Ariz. 314, 318 ¶ 15 (1999).

62. In Arizona, there is also a statutory quo warranto action that can be brought by the Arizona Attorney General under A.R.S. § 12-2041 against any person who “unlawfully holds or *exercises* any public office.” (Emphasis added). *See also Ariz. Bd. of Regents*, 253 Ariz. at 11, ¶¶ 14-18.

63. Quo warranto actions directed at public officials seek to “prevent[] a continued exercise of authority unlawfully asserted.” *State ex rel. Woods v. Block*, 189 Ariz. 269, 272 (1997).

64. Arizona law designates the board of supervisors of each county to have authority to decide voting locations in the county and where ballot drop-off boxes will be located.

65. Arizona law further designates county recorders, justices of the peace, and public assistance agencies as having the authority to pass out voter registration forms and handle completed voter registration forms.

66. Governor Hobbs unlawfully exercised her office by attempting to establish voting locations, drop-off locations for completed ballots, and make ADCRR and ADJC, as well as other state agencies, de facto public assistance agencies, which is outside her lawful authority.

67. The Court should issue a writ of quo warranto prohibiting Governor Hobbs from designating ADCRR and ADJC, as well as other state agencies, as de facto public assistance or disabilities agencies, and from exercising her purported authority set forth in EO 23 and EO 25.

Count 4: Injunction Against EO 23 & EO 25

68. Petitioners reincorporate each paragraph above as though fully stated herein.

69. EO 23 and EO 25 are contrary to law because, in issuing these executive orders, the Governor usurped the authority of the Legislature by unilaterally changed duly-enacted election laws.

70. The people of Arizona will be irreparably harmed if Governor Hobbs is permitted to change election laws by executive authority.

71. The balance of equities and considerations of public policy strongly support enjoining Governor Hobbs from changing election laws by executive order because, in violation of the separation of powers, Ariz. Const. Art. III, §1, EO 23 and EO 25 allow the Governor to intrude into the constitutional province of the Legislature to enact elections laws.

72. The Court should enjoin Governor Hobbs from enforcing EO 23 and EO 25.

Prayer for Relief

The Arizona law is clear on who can distribute and accept voter registration forms and completed ballots: (1) public assistance or disabilities agencies as defined by statute; or (2) a location/agency as designated by a county recorder (or designee of a county recorder) or justice of the peace. The Governor is nowhere included in this clear line of authority. The same is true for determining voting locations.

Wherefore, Petitioners request judgment in their favor and against Governor Hobbs as follows:

- A. Declare EO 23 unconstitutional under § 12-1831, and therefore, that EO 23 is void and of no legal effect;
- B. Declare EO 25 unconstitutional under § 12-1831, and therefore, that EO 25 is void and of no legal effect;
- C. Issue a writ of quo warranto to prohibit Governor Hobbs from unlawfully exercising authority she lacks to change election laws as set forth in EO 23 and EO 25 agencies;
- D. Enjoin Governor Hobbs from enforcing EO 23 or EO 25;
- E. Award Petitioners their reasonable attorneys' fees and costs under the private attorney general doctrine and/or pursuant to Rule 4(g), Ariz. R. Proc. Spec. Act.; and

F. Award such other relief as the Court deems proper.

Dated this 21st day of August, 2024.

HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIK PLLC

By  _____

Andrew Gould
Dallin B. Holt
Daniel Tilleman
2555 E. Camelback Road, Suite 700
Phoenix, Arizona 85016

Attorneys for Petitioners

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VERIFICATION

I, Gina Swoboda, on behalf of the Republican Party of Arizona, certify that I have read the foregoing Verified Complaint and know the contents thereof by personal knowledge. I know the allegations of the Verified Complaint to be true, except the matters stated therein on information and belief, which I believe to be true.

Executed under penalty of perjury this 30 day of July, 2024.


Gina Swoboda

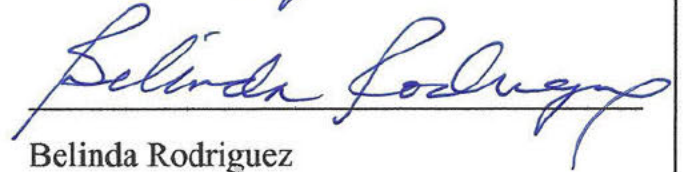
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VERIFICATION

I, Belinda Rodriguez certify that I have read the foregoing Verified Complaint and know the contents thereof by personal knowledge. I know the allegations of the Verified Complaint to be true, except the matters stated therein on information and belief, which I believe to be true.

Executed under penalty of perjury this 15th day of August 2024.


Belinda Rodriguez

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VERIFICATION

I, Kristin Baumgartner, certify that I have read the foregoing Verified Complaint and know the contents thereof by personal knowledge. I know the allegations of the Verified Complaint to be true, except the matters stated therein on information and belief, which I believe to be true.

Executed under penalty of perjury this 14 day of August, 2024.

Kristin Baumgartner
Kristin Baumgartner

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ATTACHMENTS A – H

- A. Executive Order 2023-23
- B. Executive Order 2023-25
- C. August 2, 2024 letter from Andrew Gould to Attorney General Kris Kayes
- D. August 8, 2024 response letter from Attorney General Kris Mayes to Andrew Gould
- E. August 2, 2024 letter from Andrew Gould to County Attorney Rachel Mitchell
- F. August 9, 2024 email response from Joseph La Rue, Maricopa County Attorney Office
- G. August 12, 2024 letter from Andrew Gould to Governor Katie Hobbs
- H. August 15, 2024 response letter from Governor Katie Hobbs to Andrew Gould

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ATTACHMENT A

(Executive Order 2023-23)

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GOVERNOR KATIE HOBBS

STATE OF ARIZONA

EXECUTIVE ORDER

Executive Order 2023-23

Authorizing the Use of State Facilities as Voting Locations

WHEREAS, the right to vote is fundamental to our democracy; and

WHEREAS, it is essential to provide adequate access to voting, which under Arizona law includes returning a ballot by mail, returning a ballot at a designated drop box or voting location, and casting a ballot in person at a voting location; and

WHEREAS, A.R.S. §§ 16-248 and -411 require counties to designate voting locations prior to elections; and

WHEREAS, the Elections Procedures Manual outlines factors to consider when evaluating potential voting locations, including requiring that voting locations be appropriately sized for the anticipated voter turnout, meet accessibility requirements, and have sufficient public parking; and

WHEREAS, counties may face challenges in procuring enough adequate voting locations, particularly in light of increased threats and intimidation against election officials, poll workers, and voters in recent elections; and

WHEREAS, the State owns facilities that may satisfy the criteria for voting locations or serve as convenient and secure ballot drop-off locations across the State; and

WHEREAS, Executive Order 2020-50 provided for the utilization of State facilities as voting locations in the 2020 Primary and General Elections; and

WHEREAS, it remains in the interests of the State to work with counties to make State-owned facilities available for use as voting locations or ballot drop-off locations; and

WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1, of the Arizona Revised Statutes vest the executive power of the State of Arizona in the Governor.

NOW, THEREFORE, I, Katie Hobbs, Governor of the State of Arizona, by virtue of the authority vested in me by the Arizona Constitution and the laws of this State, do hereby order and direct as follows:

1. The Arizona Department of Administration shall coordinate with State agencies and counties to identify and make available State-owned facilities, as appropriate, for use as voting locations or ballot drop-off locations in any statewide election in this State.
2. This Executive Order shall not confer any legal rights or remedies upon any person and shall not be used as a basis for legal challenges to any action or inaction of a State Agency, officer, employee, or agent thereof.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

GOVERNOR

DONE at the Capitol in Phoenix on this first day of November in the Year Two Thousand Twenty-Three and of the independence of the United States of America the Two Hundred and Forty-Eighth.

ATTEST:

SECRETARY OF STATE

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ATTACHMENT B

(Executive Order 2023-25)

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GOVERNOR KATIE HOBBS

STATE OF ARIZONA
★
EXECUTIVE ORDER

Executive Order 2023-25

Facilitating Voter Registration

WHEREAS, the right to vote is fundamental to our democracy; and

WHEREAS, Arizonans must register as prescribed by law to be eligible to vote; and

WHEREAS, voter registration should serve as a safeguard to our elections while remaining accessible to all eligible citizens; and

WHEREAS, at the time of the 2022 General Election, there were approximately one million more Arizonans who were eligible to register to vote than were actually registered; and

WHEREAS, Arizonans may register to vote by completing a paper registration form or by completing an online registration through the Arizona Department of Transportation's Motor Vehicle Department; and

WHEREAS, State Agencies engage with and provide crucial services to millions of Arizonans each day; and

WHEREAS, the Arizona Department of Health Services, Arizona Department of Economic Security, and Arizona Health Care Cost Containment System are formally designated as Voter Registration Assistance Agencies pursuant to 52 U.S.C. § 20506 of the National Voter Registration Act, A.R.S. § 16-140, and the 2019 Elections Procedures Manual, and are required to, among other things, distribute voter registration forms, assist applicants in completing voter registration forms, and accept completed voter registration forms; and

WHEREAS, State Agencies need not be formally designated as Voter Registration Assistance Agencies to provide voter registration forms and information to the citizens and communities they serve; and

WHEREAS, State Agencies should support civic participation by Arizonans; and

WHEREAS, State Agencies have opportunities to better utilize their resources to support voter registration; and

WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1, of the Arizona Revised Statutes vest the executive power of the State of Arizona in the Governor, and the Governor supervises the official conduct of all executive and ministerial officers pursuant to A.R.S. § 41-101(A)(1).

NOW, THEREFORE, I, Katie Hobbs, Governor of the State of Arizona, by virtue of the authority vested in me by the Arizona Constitution and the laws of this State, do hereby order and direct as follows:

1. The Arizona Department of Child Safety, Arizona Department of Transportation, Arizona Department of Health Services, Arizona Health Care Cost Containment System, Arizona Department of Veterans' Services, Arizona Department of Administration, Arizona Department of

Corrections, Rehabilitation & Reentry, Arizona Department of Public Safety, Arizona Department of Economic Security, Arizona Department of Juvenile Corrections, Arizona Department of Housing, Arizona Office of Economic Opportunity, and Arizona Department of Revenue shall:

- a. To the greatest extent practicable and permitted by law, include on their public websites a voter registration link that directs users to the Secretary of State's voter registration webpage or to the online voter registration portal at <https://www.servicearizona.com>.
- b. For the above-referenced State Agencies that have regular in-person contact with the public in their daily administration of business, to the greatest extent practicable and permitted by law, make voter registration forms available in conspicuous public locations. State Agencies shall coordinate with the Secretary of State to ensure adequate availability of forms.
 - i. In addition to paper voter registration forms, State Agencies are encouraged to provide opportunities for online voter registration at their public locations (e.g., via an electronic kiosk or QR code directing the public to the online voter registration portal).
 - ii. No State Agency shall be deemed a Public Assistance Agency, Disabilities Agency, or other Voter Registration Assistance Agency pursuant to 52 U.S.C. § 20506 or A.R.S. § 16-140 solely on the basis that it makes voter registration forms available to the public or accepts and transmits completed forms to the Secretary of State or County Recorder.
 1. To the extent a State Agency accepts a completed paper voter registration form from a constituent, the agency shall return or mail the registration to the Secretary of State or appropriate County Recorder within five days of receipt. If received within five days of a registration deadline (i.e., within 7 days of the 29th day before an election), the State Agency shall take reasonable steps to ensure the registration is:
 - a. Delivered to the Secretary of State or appropriate County Recorder before the close of business the day of the registration deadline;
 - b. Postmarked at least 29 days before the election (if delivering to the Secretary of State or appropriate County Recorder by mail); or
 - c. Received by the Secretary of State or appropriate County Recorder via first class mail within five days of the registration deadline, if dated at least 29 days before the election. *See* A.R.S. § 16-134; 2019 Elections Procedures Manual at 31–32.
- c. Identify and evaluate potential opportunities, consistent with Arizona and federal law, to increase access to voter registration. No later than June 30, 2024, each above-referenced State Agency, as well as the Executive Director of the Arizona Lottery, Director of the Industrial Commission of Arizona, and Director of the Arizona State Parks Board, shall provide a report to the Governor and the Secretary of State considering, at a minimum:
 - i. Whether there are opportunities, in addition to those identified in this Executive Order, for the agency at issue to provide voter registration information to the public, including via informational displays, printed materials, State Agency websites, public announcements, and social media posts.
 - ii. Whether there are opportunities, regardless of whether the State Agency qualifies as a Public Assistance Agency, Disabilities Agency, or other Voter Registration

Assistance Agency, to provide voter registration assistance to citizens served by the State Agency.

- iii. Whether there are opportunities to incorporate additional accessible voter registration options for citizens with disabilities that the State Agency serves. State Agencies are encouraged to review the United States Election Assistance Commission's best practices for accessible voter registration (available at https://www.eac.gov/sites/default/files/bestpractices/Accessibility_Checklist_Voter_Registration.pdf).
 - iv. Whether the State Agency serves a substantial number of citizens who primarily speak or read languages other than English, and whether there are opportunities to promote accessibility of voter registration for such citizens, particularly if the State Agency maintains offices in a jurisdiction covered by the minority language assistance provisions of Section 203 of the Voting Rights Act (covered jurisdictions and languages available at <https://www.justice.gov/media/1183616/dl?inline>). State Agencies are encouraged to review the United States Election Assistance Commission's language access resources (available at <https://www.eac.gov/language-access-resources>).
2. No later than 50 days before each statewide election and again within one week of the voter registration deadline for each statewide election in this State, the Arizona Department of Administration shall notify all State employees of the upcoming registration deadline and provide information on how to register to vote or update an existing registration. All other State entities are encouraged to provide such notice and information to their own employees.
 3. The Arizona Department of Veterans' Services (DVS) shall include on its website information on voter registration eligibility, processes, and resources relevant to veterans, active service members, and their families, including those eligible under the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (P.L. 99-410) and those who have recently become residents of Arizona. DVS is encouraged to review the information compiled by the United States Election Assistance Commission regarding military and overseas voters (available at <https://www.eac.gov/uocava>). Before publishing voter registration information to its website, DVS shall consult with the Arizona Secretary of State's Office to ensure the information is accurate.
 4. To the extent practicable, the Governor's Office on Tribal Relations (GOTR), pursuant to A.R.S. §§ 41-2051(D) and 41-2052(B)(6), shall initiate or assist voter registration programs on tribal land on the request or with the approval of the tribal nation. To the extent practicable, pursuant to A.R.S. § 41-2052(B)(4), GOTR shall provide State Agencies training, information, and best practices for assisting tribal members with voter registration.
 5. The Arizona Department of Corrections, Rehabilitation & Reentry (ADCRR) shall integrate into its reentry programs information on voter registration eligibility, processes, and rights restoration resources. ADCRR shall include on its website voter registration information and rights restoration resources for persons with felony convictions. ADCRR shall consult with the Arizona Secretary of State's Office to ensure the accuracy of information it provides.
 6. The Arizona Department of Economic Security (DES), the Arizona Department of Health Services (DHS), and the Arizona Health Care Cost Containment System (AHCCCS) shall review their existing policies and trainings required under the 2019 or later approved Elections Procedures Manual pursuant to their status as Voter Registration Assistance Agencies, identify areas for improvement, and make any necessary changes to such policies and trainings.

7. The Arizona Strategic Enterprise Technology Office (ASET) shall, in coordination with State Agencies referenced in Section 1 above, evaluate the feasibility of data sharing functionality between those State Agencies and the Arizona Department of Transportation that allows a citizen to import their information to the online voter registration portal when providing all or most required voter registration information to a different State Agency for a purpose other than voter registration. No later than June 30, 2024, ASET shall issue a report identifying State Agencies for which such functionality may be feasible, necessary steps for the implementation of such functionality, and estimated costs and timeframes of such implementation.
 - a. Consideration shall include all State Agencies designated as Voter Registration Assistance Agencies pursuant to the 2019 or later approved Elections Procedures Manual (DES, DHS, and AHCCCS).
 - b. Additional State Agencies shall be considered on the basis of current or anticipated use of webforms that solicit all or most information required for online voter registration.
8. In accordance with A.R.S. § 16-192, as interpreted by Ariz. Op. Atty. Gen. No. I15-002 (2015), no State Agency or State employee providing voter registration information or assistance in the scope of their official duties shall, in any manner that is not impartial or neutral, use State resources to influence an election by supporting or opposing a candidate for nomination or election to public office, the recall of a public officer, a ballot measure, question, or proposition (including any bond, budget, or override election), or the circulation of a petition for recall or a ballot measure, question, or proposition. Further, no State Agency or State employee providing voter registration information or assistance in the scope of their official duties shall, in any manner that is not impartial or neutral, use State resources for the promotion of a political party.
9. Definitions. For the purposes of this Executive Order:
 - a. "Disabilities Agency" means a state agency, division, or office that administers state-funded programs to provide services to persons with disabilities. See A.R.S. § 16-140(F)(2); 2019 Elections Procedures Manual at 14.
 - b. "Public Assistance Agency" means a state agency, division, or office that provides cash or in-kind assistance (such as access to medical care or transportation) to low-income or underserved populations. See A.R.S. § 16-140(F)(3); 2019 Elections Procedures Manual at 14.
 - c. "Voter Registration Assistance Agency" means any disabilities agency, public assistance agency, or other agency designated pursuant to 52 U.S.C. § 20506 of the National Voter Registration Act, A.R.S. § 16-140, or the Elections Procedures Manual to assist with voter registration.
10. This Executive Order shall not confer any legal rights or remedies upon any person and shall not be used as a basis for legal challenges to any action or inaction of a State Agency, officer, employee, or agent thereof.
11. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.
12. This Executive Order shall take effect immediately upon signature, and shall remain in effect until repealed, replaced, or rescinded by future Executive Order.

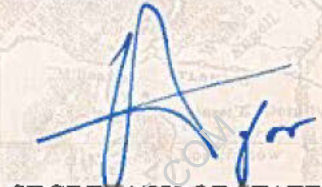
IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona



GOVERNOR

DONE at the Capitol in Phoenix on this first day of November in the Year Two Thousand Twenty-Three and of the independence of the United States of America the Two Hundred and Forty-Eighth.

ATTEST:



SECRETARY OF STATE

RETRIEVED FROM DEMOCRACYDOCKET.COM



ATTACHMENT C
(August 2, 2024 letter to
Attorney General)

RETRIEVED FROM DEMOCRACYDOCK.COM

Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

August 2, 2024

VIA US Mail

EMAIL: Joshua.Whitaker@azag.gov

Kris Mayes
ARIZONA ATTORNEY GENERAL
2005 N. Central Avenue
Phoenix, AZ 85004

Re: *Ultra Vires* Executive Orders – Request to File Action Pursuant to A.R.S. §§ 12-2041 and 12-2043

Dear Attorney General Mayes:

My firm represents Gina Swoboda as Chair of the Republican Party of Arizona and other individual Arizona electors. On behalf of my clients, I am requesting that you initiate a quo warranto action pursuant to A.R.S. § 12-2041(A) against Governor Hobbs for two of her executive orders. Specifically, in November 2023, the Governor acted *ultra vires* and signed Executive Order 2023-23 and Executive Order 2023-25 (“EO 23” and “EO 25,” respectively).

In EO 23 Governor Hobbs ordered the Arizona Department of Administration to “coordinate with State agencies and counties to identify and make available state-owned facilities, as appropriate, for use as voting locations or ballot drop-off locations in any statewide election in this State.” In EO 25, the Governor ordered multiple State agencies, including the Arizona Department of Corrections, Rehabilitation & Reentry (“ADCRR”), and the Arizona Department of Juvenile Corrections (“ADJC”), to “make voter registration forms available in conspicuous public locations,” and, “to the extent a State Agency accepts” registration forms, return them to the Secretary of State or County Recorder. Further, EO 25 requires these State agencies to “[i]dentify and evaluate potential opportunities, consistent with Arizona and federal law, to increase access to voter registration.”

Governor Hobbs acted *ultra vires* regarding her authority as Governor in issuing these two executive orders. With respect to EO 23, the Governor does not have authority to designate locations where voter registration forms are available; only county recorders possess this authority. A.R.S. § 16-131. Additionally, county recorders, not the Governor, have the authority to “authorize persons to accept registration forms,” “designate places for receipt of registration forms and shall designate additional locations for distribution of voter registration forms.” A.R.S. § 16-134. Indeed, EO 25, without lawful authority, implicitly orders agencies such as ADCRR and ADJC to receive completed voter registration forms and return them to Secretary of State and appropriate county recorder.

Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

As you know, A.R.S. § 12-2041(A) states that the Attorney General, **may** bring a quo warranto action “upon information or upon the verified complaint of any person” Further, § 12-2041(B) states that the Attorney General **shall** bring a quo warranto action when she has “reason to believe that any such office ... is being usurped, intruded into or unlawfully held *or exercised.*” (Emphasis added).

This letter serves as notice to you that there is a reasonable basis to believe that Governor Hobbs has acted outside her authority and has unlawfully exercised her office as Governor in issuing these two executive orders. Accordingly, there are grounds for you, as the Attorney General, to bring suit under Section 12-2041(B). Should your Office decline to file an action within seven (7) days from the date of this letter, we will file a quo warranto action on behalf of our clients under A.R.S. § 12-2043(A) and send your Office notice of the same. A.R.S. § 12-2043(B).

Respectfully,

/s/ Andrew Gould

Andrew Gould
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIAK PLLC
2575 E. Camelback Road, Suite 800
Phoenix, AZ 85016
(602) 388-1262

ATTACHMENT D
(August 8, 2024 response
letter from Attorney General)

RETRIEVED FROM DEMOCRACYDOCKETS.COM



KRIS MAYES
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
STATE OF ARIZONA

August 8, 2024

VIA EMAIL

Andrew Gould
Holtzman Vogel Baran Torchinsky & Josefiak PLLC
2575 E. Camelback Rd., Suite 800
Phoenix, Arizona 85016
agould@HoltzmanVogel.com

Re: Your Request to File Action Pursuant to A.R.S. §§ 12-2041 and 12-2043

Dear Mr. Gould:

I have reviewed your August 2, 2024 letter requesting that I sue Governor Hobbs in quo warranto for issuing two Executive Orders nine months ago, in November 2023. Based on my review of Executive Orders 2023-23 and 2023-25 ("Orders"), I find no reason to believe that Governor Hobbs acted outside her authority in issuing the Orders. I, therefore, decline to file a quo warranto action against her.

Your Letter indicates that you intend to file a quo warranto action on behalf of Republican Party of Arizona Chairwoman Gina Swoboda and "other individual Arizona electors." Such an action would be unlikely to succeed, for two reasons.

First, your clients have no standing to assert a quo warranto claim against Governor Hobbs. "[A] private party can only bring quo warranto when he, himself, claims the office or franchise in question." *State ex rel. Sawyer v. LaSota*, 119 Ariz. 253, 255 (1978) (quoting *Skinner v. City of Phoenix*, 54 Ariz. 316, 323 (1939)). As far as I know, Ms. Swoboda does not claim to be Governor of Arizona. As such, she would be unable to assert a claim against Governor Hobbs pursuant to A.R.S. § 12-2043(A).

Second, Governor Hobbs did not exceed her authority by issuing the Orders. The Governor has a constitutional obligation to "take care that the laws be faithfully executed" and to "transact all executive business with the officers of the government." Ariz. Const. art. 5, § 4. This includes supervising and directing State agencies. A.R.S. § 41-101(A)(1).

A. Executive Order 2023-23

Executive Order 2023-23 directs the Arizona Department of Administration to “coordinate with State agencies and counties to identify and make available State-owned facilities, as appropriate, for use as voting locations or ballot drop-off locations in any statewide election in this State.”

You argue that Executive Order 2023-23 was *ultra vires* because “the Governor does not have authority to designate locations where voter registration forms are available,” and cite A.R.S. § 16-131 in support of that proposition. While it is generally accurate that A.R.S. § 16-131 deals with “registration of electors” and dictates how voter registration forms and other election information are to be distributed, I fail to see how this statute would circumscribe the Governor’s authority to direct a state agency to coordinate with other agencies and counties to make State-owned facilities available for use as voting or ballot drop-off locations, as Executive Order 2023-23 did.

B. Executive Order 2023-25

Executive Order 2023-25 applies to a specific set of state agencies, some of which are Public Assistance Agencies, Disabilities Agencies, and Voter Registration Assistance Agencies pursuant to A.R.S. § 16-140 and 52 U.S.C. § 20506 and some of which are not. Executive Order 2023-25 gives these agencies three broad directives.

First, Executive Order 2023-25 directs the identified agencies “to the greatest extent practicable *and permitted by law*” to include a link to the State’s online voter registration portal on their public websites. Order, p. 2 (emphasis added).

Second, the Order directs the agencies “to the greatest extent practicable *and permitted by law*” to make paper voter registration forms available in conspicuous public locations. Order, p. 2 (emphasis added). This directive further instructs that (1) no state agency shall be deemed a Public Assistance Agency, Disabilities Agency, or other Voter Registration Assistance Agency solely on the basis that it makes voter registration forms available to the public or accepts and transmits complete forms to the Secretary of State or County Recorder” and (2) “to the extent that” an agency does accept a paper voter registration form, it should “return or mail the registration to the Secretary of State or appropriate County Record within five days of receipt.” *Id.*

Third, the Order directs the agencies to “identify and evaluate potential opportunities, *consistent with Arizona and federal law*, to increase access to voter registration.” Order, p. 2 (emphasis added).

Only the second directive deals with the provision and receipt of paper voter registration forms, which is the subject of your Letter. You claim that Executive Order 2023-25 was *ultra vires* because A.R.S. § 16-134 gives county recorders the exclusive authority to “authorize persons to accept registration forms,” “designate places for receipt of registration forms,” and “designate additional locations for distribution of voter registration forms.” You further argue that Executive Order 2023-25 “implicitly orders agencies such as [the Arizona Department of Corrections, Rehabilitation & Reentry] and [the Arizona Department of Juvenile Corrections] to receive

completed voter registration forms and return them to Secretary of State and appropriate county recorders.” I disagree.

1. Distribution of Voter Registration Forms

A.R.S. § 16-131(B) requires county recorders to distribute state voter registration forms at “locations open to the general public” including “government offices, fire stations, [and] public libraries.” Nothing about the plain language of this statute supports your position that only the county recorders can decide where state voter registration forms are available. The statute simply tasks county recorders with distributing “state mail in registration forms” and generally instructs that the recorders distribute those forms at “locations open to the general public.”

Because the county recorders do not have exclusive authority to “designate locations where voter registration forms are available,” Executive Order 2023-25’s directive that state agencies should “make voter registration forms available in conspicuous public locations” was not *ultra vires*.

2. Acceptance and Return of Voter Registration Forms

A.R.S. § 16-134 requires county recorders to (1) “authorize persons to accept registration forms;” (2) “designate places for receipt of registration forms;” and (3) “designate additional locations for distribution of voter registration forms.” The statute does not dictate that *only* the county recorder may do these tasks.

But more to the point, Executive Order 2023-25 does not, as you contend, independently authorize ADCRR or ADJC to accept voter registration forms, nor does it designate ADCRR or ADJC facilities as “places for receipt of registration forms.” Rather, the Order simply directs that, “to the extent that” (*i.e.*, “if”) one of the identified agencies receives a completed voter registration form, that agency should return it in the manner in which A.R.S. § 16-134(A) requires Public Assistance Agencies and Disabilities Agencies return these forms. As such, even if the county recorders had the exclusive authority to dictate whether and how a state agency can accept and return a completed voter registration form, the Executive Order’s restatement of existing law does not infringe upon that authority or otherwise direct State agencies to violate State law. To the contrary, Executive Order 2023-25 repeatedly emphasizes that the agencies should undertake the specified actions as “permitted by law” and “consistent with Arizona and federal law.”

Your clients’ concerns appear to arise from the Orders’ twin objectives of “facilitating voter registration” and addressing counties’ “challenges in procuring adequate voting locations[.]”¹ I fail to understand how increased access to voter registration forms or polling places

¹ That Arizona’s counties have struggled to procure sufficient voting locations in light of ever-increasing threats and intimidation against election officials, poll workers, and voters is well documented. See Yvonne Wingett Sanchez, *With Voting under Attack, Arizona Schools Don’t Want to be Polling Locations*, WASHINGTON POST (August 5, 2024), <https://www.washingtonpost.com/politics/2024/08/05/arizona-maricopa-county-schools-elections/>

could be harmful to anyone, including your clients, or why your clients have decided to pursue these challenges now, and not under prior administrations that issued similar orders.²

In any case, Executive Orders 2023-23 and 2023-25 fall squarely within the scope of Governor Hobbs's authority to supervise and direct the agencies of this State. A.R.S. § 41-101(A)(1). Any quo warranto action which alleges otherwise would be wholly without merit. I therefore decline to file one.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kris Mayes', is positioned above the typed name. The signature is fluid and cursive.

Kris Mayes
Arizona Attorney General

² See, e.g., Governor Ducey's July 22, 2020 Executive Order 2020-50, ordering the Arizona Department of Administration to "identify and make available State-owned facilities, as appropriate, to the counties that can be utilized as voting locations for the August and November 2020 elections."

ATTACHMENT E

**(August 2, 2024 letter to
County Attorney Rachel
Mitchell)**

RETRIEVED FROM ELECTIONS.DOCKETS.COM

Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

August 2, 2024

VIA US Mail

EMAIL: LiddyT@mcao.maricopa.gov; LaRueJ@mcao.maricopa.gov

Rachell Mitchell
MARICOPA COUNTY ATTORNEY'S OFFICE
225 W. Madison St.
Phoenix, AZ 85003

Re: *Ultra Vires* Executive Orders – Request to File Action Pursuant to A.R.S. §§ 12-2042 and 12-2043

Dear County Attorney Mitchell:

My firm represents Gina Swoboda as Chair of the Republican Party of Arizona and other individual Arizona electors. On behalf of my clients, I am requesting that you initiate a quo warranto action pursuant to A.R.S. § 12-2042 against Governor Hobbs for two of her executive orders. Specifically, in November 2023, she acted *ultra vires* and signed Executive Order 2023-23 and Executive Order 2023-25 (“EO 23” and “EO 25,” respectively).

In EO 23 Governor Hobbs ordered the Arizona Department of Administration to “coordinate with State agencies and counties to identify and make available state-owned facilities, as appropriate, for use as voting locations or ballot drop-off locations in any statewide election in this State.” In EO 25, the Governor ordered multiple State agencies, including the Arizona Department of Corrections, Rehabilitation & Reentry (“ADCRR”), and the Arizona Department of Juvenile Corrections (“ADJC”), to “make voter registration forms available in conspicuous public locations” and, “to the extent a State Agency accepts” registration forms, return them to the Secretary of State or County Recorder. Further, EO 25 requires these State agencies to “[i]dentify and evaluate potential opportunities, consistent with Arizona and federal law, to increase access to voter registration.”

Governor Hobbs acted *ultra vires* regarding her authority as Governor in issuing these two executive orders. With respect to EO 23, the Governor does not have authority to designate locations where voter registration forms are available; only county recorders possess this authority. A.R.S. § 16-131. Additionally, county recorders, not the Governor, have the authority to “authorize persons to accept registration forms,” “designate places for receipt of registration forms and shall designate additional locations for distribution of voter registration forms.” A.R.S. § 16-134. Indeed, EO 25, without lawful authority, implicitly orders agencies such as ADCRR and ADJC to receive completed voter registration forms and return them to Secretary of State and appropriate county recorder.

Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

As you know, A.R.S. § 12-2042 provides that the Maricopa County Attorney **may** bring a quo warranto action “upon information or upon the verified complaint of any person” Further, § 12-2042 states that the County Attorney **shall** bring a quo warranto action when she has “reason to believe that any such office ... is being usurped, intruded into or unlawfully held *or exercised*.” (Emphasis added).

This letter serves as notice to you that there is a reasonable basis to believe that Governor Hobbs has acted outside her authority and has unlawfully exercised her office as Governor in issuing these two executive orders. Accordingly, there are grounds for you, as the Maricopa County Attorney, to bring suit under Section 12-2042. Should your Office decline to file an action within seven (7) days from the date of this letter, we will file a quo warranto action on behalf of our clients under A.R.S. § 12-2043(A) and send your Office notice of the same. A.R.S. § 12-2043(B).

Respectfully,

/s/ Andrew Gould

Andrew Gould
HOLTZMAN VOGEL BARAN
TORCHINSKY & JOSEFIAK PLLC
2575 E. Camelback Road, Suite 800
Phoenix, AZ 85016
(602) 388-1262

ATTACHMENT F

**(August 9, 2024 Email
response from Joseph La Rue,
Maricopa County Attorney's
Office)**

RETRIEVED FROM E-DEMOCRACY DOCKET.COM

From: [Joseph LaRue \(MCAO\)](#)
To: [Dallin Holt](#); [Thomas Liddy \(MCAO\)](#)
Cc: [Andrew Gould](#); [Lisa Charette](#); [Daniel Tilleman](#); [Joseph LaRue \(MCAO\)](#)
Subject: RE: Ultra Vires Executive Orders – Request to File Action Pursuant to A.R.S. §§ 12-2042 and 12-2043
Date: Friday, August 9, 2024 5:31:02 PM
Attachments: [image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)

Dallin,

The County Attorney will not be bringing the 12-2042 action that you requested in your August 2, 2024, letter.

Sincerely,

Joseph



Joseph E. La Rue

Election Law Team Leader

Email: laruej@mcao.maricopa.gov

Phone: (602) 506-6171 (Direct)

Phone: (602) 686-3099 (Cell)

Maricopa County Attorney's Office

225 West Madison St.

Phoenix, Arizona 85003

<http://www.maricopacountyattorney.org>

CONFIDENTIALITY NOTICE: This email may be protected by the attorney-client privilege or the attorney work-product doctrine. If you are not the intended recipient, please delete all copies of the transmission and notify the sender immediately.

From: Dallin Holt <dholt@holtzmanvogel.com>

Sent: Friday, August 9, 2024 3:56 PM

To: Thomas Liddy (MCAO) <liddy@mcao.maricopa.gov>; Joseph LaRue (MCAO) <laruej@mcao.maricopa.gov>

Cc: Andrew Gould <agould@holtzmanvogel.com>; Lisa Charette <lcharette@holtzmanvogel.com>; Daniel Tilleman <dtilleman@holtzmanvogel.com>

Subject: Re: Ultra Vires Executive Orders – Request to File Action Pursuant to A.R.S. §§ 12-2042 and 12-2043

Tom and Joe:

Hope you both are doing well. I just wanted to follow-up and confirm if we should expect a

response to our August 2nd letter? As always, I am happy to jump on a quick phone call if that would be helpful.

Thank you,

Dallin Holt

Of Counsel

Holtzman Vogel

Office: 602.388.1262

dholt@HoltzmanVogel.com // www.HoltzmanVogel.com

From: Dallin Holt <dholt@HoltzmanVogel.com>

Date: Friday, August 2, 2024 at 4:01 PM

To: "LiddyT@mcao.maricopa.gov" <LiddyT@mcao.maricopa.gov>, "LaRueJ@mcao.maricopa.gov" <LaRueJ@mcao.maricopa.gov>

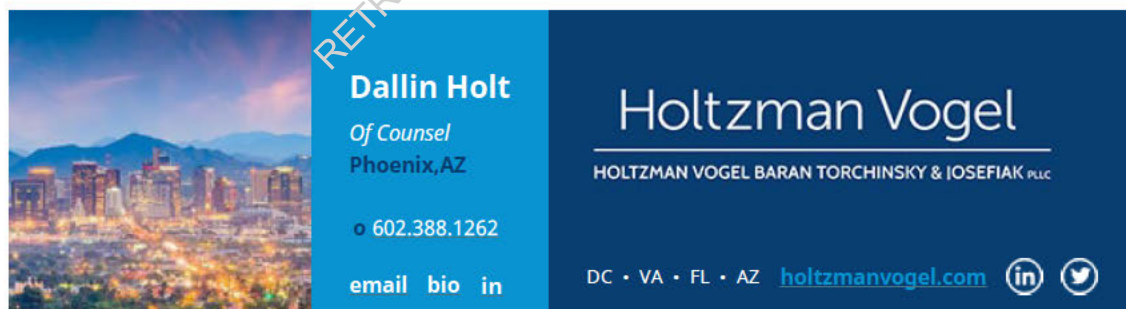
Cc: Andrew Gould <agould@HoltzmanVogel.com>, Lisa Charette <lcharette@holtzmanvogel.com>, Daniel Tilleman <dtilleman@holtzmanvogel.com>

Subject: Ultra Vires Executive Orders – Request to File Action Pursuant to A.R.S. §§ 12-2042 and 12-2043

Tom and Joe:

Please find attached a letter from Andy Gould to County Attorney Mitchell. We will also be sending through the US Mail, but thought it would be quicker to attach it in an email to you both. Please let me know if you have any questions or would like to discuss further.

Thank you,



PRIVILEGED AND CONFIDENTIAL

This communication and any accompanying documents are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon this communication is strictly prohibited. Moreover, any such disclosure shall not compromise or waive the attorney-client, accountant-client, or other privileges as to this communication or otherwise. If you have received this communication in error, please contact me at the above email address. Thank you.

DISCLAIMER

Any accounting, business or tax advice contained in this communication, including attachments and enclosures, is not intended as a thorough, in-depth analysis of specific issues, nor a substitute for a formal opinion, nor is it sufficient to avoid tax-related penalties. If desired, Holtzman Vogel Baran Torchinsky & Josefiak PLLC would be pleased to perform the requisite

research and provide you with a detailed written analysis. Such an engagement may be the subject of a separate engagement letter that would define the scope and limits of the desired consultation services.

RETRIEVED FROM DEMOCRACYDOCKET.COM

ATTACHMENT G
(August 12, 2024 letter to
Governor Katie Hobbs)

RETRIEVED FROM DEMOCRATICDOCKETS.COM

Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

August 12, 2024

VIA USPS and
Email to: agaona@cblawyers.com

The Honorable Katie Hobbs
Office of the Governor
1700 W Washington St, # 230
Phoenix, AZ 85007

The Honorable Katie Hobbs
c/o Andy Gaona
Coppersmith Brockelman PLC
2800 N. Central Ave., Ste. 1900
Phoenix, AZ 85004

Re: Executive Order 2023-23 and Executive Order 2023-25

Dear Governor Hobbs:

My firm represents Gina Swoboda as Chair of the Republican Party of Arizona and other individual Arizona electors. On behalf of my clients, I am requesting that you either rescind or modify specific portions of two executive orders: Executive Order 2023-23 and Executive Order 2023-25 (“EO 23” and “EO 25,” respectively). You issued these executive orders in November 2023, and portions of each are *ultra vires* and must be rescinded or modified. This letter is being sent as a courtesy with the hopes that we can avoid both costly and time consuming litigation surrounding EO 23 and EO 25.

In EO 23, you ordered the Arizona Department of Administration to “coordinate with State agencies and counties to identify and make available state-owned facilities, as appropriate, for use as voting locations or ballot drop-off locations in any statewide election in this State.” In EO 25, you ordered multiple State agencies, including the Arizona Department of Corrections, Rehabilitation & Reentry (“ADCRR”), and the Arizona Department of Juvenile Corrections (“ADJC”), to “make voter registration forms available in conspicuous public locations,” and, “to the extent a State Agency accepts” registration forms, return them to the Secretary of State or County Recorder. Further, in EO 25 you required State agencies to “[i]dentify and evaluate potential opportunities, consistent with Arizona and federal law, to increase access to voter registration.”

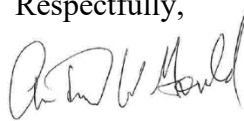
As Governor of Arizona you lack the authority to designate locations where voter registration forms are available; only county recorders possess this authority. A.R.S. § 16-131. Additionally, county recorders, not the Governor, have the authority to “authorize persons to accept registration forms,” “designate places for receipt of registration forms and shall designate

additional locations for distribution of voter registration forms.” A.R.S. § 16-134. Indeed, EO 25, without lawful authority, orders agencies such as ADCRR and ADJC to receive completed voter registration forms and return them to the Secretary of State and the appropriate county recorder.

The above-discussed portions of EO 23 and EO 25 are *ultra vires*. We respectfully request that you rescind or modify EO 23 and EO 25 by 5:00 p.m. on Thursday, August 15, 2024. If you fail to respond or rescind or modify these executive orders accordingly, we are prepared to file a lawsuit challenging the lawfulness of these executive orders.

We look forward to your response. If you have any questions, please do not hesitate to contact us.

Respectfully,

A handwritten signature in black ink, appearing to read "Andrew Gould", written in a cursive style.

Andrew Gould

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ATTACHMENT H
(August 15, 2024 response
from Governor Katie Hobbs)

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From: [Bo Dul](#)
To: [Andrew Gould](#)
Cc: [Noah Gabrielsen](#); [Andy Gaona](#)
Subject: Re: Executive Orders 2023-23 and 2023-25
Date: Thursday, August 15, 2024 3:08:56 PM

Mr. Gould,

The Governor's Office is in receipt of your letter dated August 12, 2024 requesting that the Governor rescind or modify Executive Orders 2023-23 and 2023-25. Contrary to your assertions, and as Attorney General Mayes relayed to you last week in response to your request that she initiate a quo warranto action, both Executive Orders are a lawful exercise of the Governor's authority. Moreover, these Executive Orders further the important goals of increasing Arizonans' access to voter registration and supporting county election officials in securing sufficient voting locations. As such, the Governor declines to rescind or modify the Executive Orders. Should you and your clients choose to file a lawsuit, the Governor reserves her rights to seek her attorneys' fees under A.R.S. § 12-349.

Sincerely,

Bo Dul (she/her)
General Counsel
bdul@az.gov
(602) 769-7540



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