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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

KELLI WARD,

Contestant;

vs.

**CONSTANCE JACKSON; FELICIA
ROTELLINI; FRED YAMASHITA;
JAMES MCLAUGHLIN; JONATHAN
NEZ; LUIS ALBERTO HEREDIA; NED
NORRIS; REGINA ROMERO; SANDRA D.
KENNEDY; STEPHEN ROE LEWIS; and,
STEVE GALLARDO;**

Contestees.

Case No. CV2020-015285

VERIFIED AMENDED COMPLAINT

**(STATEMENT OF ELECTIONS
CONTEST
PURSUANT TO A.R.S. § 16-673)**

(Elections Matter)

(Expedited Relief Requested)

Plaintiff/Contestant ("Plaintiff"), for her Verified Statement of Elections Contest against the above-named Contestees/Defendants ("Defendants"), alleges as follows:

INTRODUCTION

1. This is an elections contest pursuant to A.R.S. § 16-672 *et seq.*

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PARTIES, JURISDICTION AND VENUE

2. The name and residence of the party contesting the election is as follows:

Kelli Ward
3619 Desert Rose Lane
Lake Havasu City, AZ 86404

3. The foregoing person is referred to herein as the “Plaintiff.”

4. Plaintiff is an elector of the state and county in which she resides.

5. The name of the persons whose right to office is contested, as they appeared upon the official ballot, are:

Constance Jackson
Felicia Rotellini
Fred Yamashita
James McLaughlin
Jonathan Nez
Luis Alberto Heredia
Ned Norris
Regina Romero
Sandra D. Kennedy
Stephen Roe Lewis
Steve Gallardo

6. The foregoing persons are hereinafter referred to as the “Biden Electors.”

7. Anthony Kern, Greg Safsten, Jake Hoffman, James Lamon, Kelli Ward, Lorraine Pelligrino, Michael Ward, Nancy Cottle, Robert Montgomery, Samuel Moorhead, and Tyler Bowyer are the presidential electors for Donald J. Trump (the “Trump Electors”).

8. Jurisdiction and venue are appropriate pursuant to A.R.S. § 16-672(B).

GENERAL ALLEGATIONS

9. The foregoing allegations are reincorporated as if set forth herein.

10. Presidential elector is the office to which election is contested.

Mail-in Ballot Signature Verification

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2 11. While Arizona has been using mail-in voting since 1992, the process has
3 comparatively few safeguards to ensure the integrity of mail-in ballots and to protect against
4 mistake or fraud. In fact, as the EPM acknowledges, “Arizona’s method of proving identity for
5 mail-in early voters (signature comparison) is not expressly permitted” under federal law, which
6 may require voters to provide more stringent proof of identity (e.g. for first time voters). *See p.*
7 *25 of the EPM; 52 U.S.C. § 21083(b).*

8 12. To vote in-person in the State of Arizona, voters must prove their identity at the
9 voting location with a valid photo ID that matches their registered name and address, or with
10 two forms of valid non-photo ID that match their registered address, or with one valid photo ID
11 that does not match plus a non-photo valid ID that does. A.R.S. § 16-579(A)(1)(a)-(c); *see also*
12 *p. 181 of the EPM.*

13 13. In contrast, for mail-in ballots, a county worker—who typically has fewer than six
14 hours of training (and as little as two, for handwriting analysis)—decides only whether a
15 signature that was scanned from the mail-in ballot envelope looks like the voter’s scanned
16 signature(s) on file. Further, in Arizona, copies of a registered voter’s scanned signature are
17 publicly available from the Department of Motor Vehicles, if they have a driver’s license, among
18 other places—making a voter’s signature relatively easy to reproduce. County workers typically
19 spend very little time evaluating a given signature, a matter of seconds.

20 14. Further, when a signature is questioned by elections officials, Arizona law
21 provides for a fairly rigorous process by which a bipartisan team (of one Republican and/or one
22 Democrat and/or one “Other”) participates in an “adjudication” of whether the signature was
23 actually valid. However, if a county worker does *not* question a signature, then there is no
24 “adjudication” or further review, much less by a bipartisan team—which again makes it easier
25 for false or otherwise insufficient signatures to escape detection.

1 15. Further, because when county workers review the signatures they are not
2 reviewing original “wet” signatures but rather electronic scans, they cannot genuinely follow
3 basic methodology for detecting false or copied signatures, such as analyzing pen pressure.

4 16. Once the county worker is “satisfied” that the signature is a match, then the ballot
5 is placed into a stack for tabulation, and upon information and belief it cannot be reconnected to
6 the envelope again. EPM, pps. 68, 70.

7 17. Neither the signed envelopes, nor images of the signed envelopes, are available for
8 public inspection.

9 18. As a result of all the foregoing, it is crucially important that independent legal
10 observers be present and able to fully observe the process by which county workers review and
11 approve signatures from the ballot envelopes.

12 19. During this general election, at least approximately one million six hundred two
13 thousand eight hundred eight (1,602,808) mail-in ballots were processed at the central Maricopa
14 County Tabulation Election Center (or “MCTEC”).

15 20. The Defendants were named as candidates on all of them.

16 21. By multiple accounts, election officials completely failed and/or refused to allow
17 legal observers to fully observe the verification of signatures at MCTEC.

18 22. Legal observers were told to remain at a card table which was at least ten to twelve
19 feet away from the majority of the computer monitors and screens, and the computer monitors
20 and screens were mostly turned away – with the few visible screens still being effectively
21 unreadable, due to the distance.

22 23. After observers officially complained about being unable to observe, election
23 officials allowed observers only to use binoculars; but the signatures on even the few screens
24 that were not turned away remained almost completely unreadable, even with binoculars.

Duplicate Ballots

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2 24. A number of ballots that were delivered to MCTEC were too damaged or illegible
3 for the tabulation machines to read, or were otherwise rejected by the machines.

4 25. To cure this, a “bipartisan” team of county workers (one Republican, one
5 Democrat, and/or one “Other”) would create a new “duplicate” ballot by (1) reading/interpreting
6 the votes on the original; (2) filling in an “electronic” ballot; and then (3) sending the
7 “electronic” ballot to an offsite printing company to print the new “duplicate” ballot, so that it
8 could be run again through the tabulation machine.

9 26. However, official observers were neither present nor invited to be present for the
10 activities of the offsite company. As a result, official observers were unable to observe, for
11 example, whether the “electronic” ballots were being accurately and properly received by the
12 print company, that the company was printing the correct ballots, or that it was delivering the
13 correct ballots back to MCTEC.

14 27. Further, when county workers filled in the “electronic” ballot, they used software
15 called “Novus 6.0.0.0” which would try to “prefill” the ballot, by “reading” an optical scan of
16 the original rejected ballot. However, the software was highly inaccurate, and it often flipped the
17 vote—leaving it up to county workers or on-site observers to “catch it” or else effectively
18 reverse the person’s vote. It was also observed that, for whatever reason, the software would
19 erroneously prefill “Biden” much more often (apparently twice as often) as it did “Trump.”

20 28. There was an unusually high number of “duplicate” ballots in Congressional
21 District 5 (“CD5”), inclusive of the vote centers/polling places in Queen Creek. Further, the
22 results in CD5/Queen Creek were strongly inconsistent with voter registration data (party
23 affiliation) and with historical voting data (voting in previous elections including the 2016
24 Presidential election).

COUNT ONE – ELECTIONS CONTEST

(A.R.S. § 16-673)

29. The foregoing allegations are incorporated as if set forth herein.

30. A.R.S. § 16-672 provides that “[a]ny elector of the state may contest the election of any person declared elected to a state office...upon any of the following grounds:” “[f]or misconduct on the part of election boards or any members thereof in any of the counties of the state, or on the part of any officer making or participating in a canvass for a state election...”

31. The statute also provides other grounds for an elections contest, including but not limited to “[o]n account of illegal votes,” or “[t]hat by reason of erroneous count of votes the person declared elected...did not in fact receive the highest number of votes for the office...”

32. A.R.S. § 16-621 provides that “[a]ll proceedings at the counting center shall be under the direction of the board of supervisors or other officer in charge of elections and shall be conducted in accordance with the approved instructions and procedures manual issued pursuant to § 16-452 under the observation of representatives of each political party and the public.” (Emphasis added.)

33. A.R.S. § 16-552 also provides that “[p]arty representatives and alternates may be appointed...to be present” when election officials count early ballots, “and to challenge the verification of questioned ballots pursuant to § 16-584...”

34. The Secretary of State’s Elections Procedures Manual (“EPM”), which carries the force of law pursuant to A.R.S. § 16-452, further provides:

Political party representatives are permitted to observe at voting locations and central counting places for partisan elections....Such observation (and observation at early voting locations, emergency voting centers, and County Recorder processing procedures, where permitted by the County Recorder or other officer in charge of elections) are subject to the procedures described below...



1 The County Recorder or other officer in charge of elections may develop
2 additional local procedures governing political party observation. Additional
3 procedures shall allow political party observers to effectively observe the
4 election process....

5 EPM, page 139.

6 35. The EPM also provides:

7 Political party representatives may observe at a central counting place and
8 at each point where ballots are handled or transferred from one election
9 official to another, including areas where the following activities take place:
10 [r]eceiving the ballots at the County Recorder’s office or central counting
11 place; [i]nspecting the ballots; [r]eviewing ballots by the Write-in Tally
12 Board; [d]uplicating ballots by the Ballot Duplication Board; [a]djudging
13 ballots by the Electronic Vote Adjudication Board; [r]eceiving electronic
14 media or processing voting results by the Accuracy Certification Board;
15 [t]abulation of ballots; and/or [a]ny other significant tabulation or
16 processing activities at a central counting place provided that it does not
17 interfere with or impede the election procedures or staff.

18 EPM, page 141.

19 36. The language in A.R.S. § 16-672 (the elections contest statute) is similar to a
20 California statute, Cal. Elec. Code § 16100. *See Henderson v. Carter*, 34 Ariz. 528, 533, 273 P.
21 10, 11 (1928)(noting similarity of Arizona elections-contest statute to California code, and
22 analogizing to California caselaw interpreting it). While there is no authority in Arizona squarely
23 interpreting the meaning of “misconduct” in A.R.S. § 16-672(A)(1), the California courts have
24 interpreted their statute (which uses even harsher words, “guilty of misconduct”) as being
25 intended “to broadly include erroneous conduct without wrongful intention.”

26 37. Election officials’ failure and/or refusal to allow legal observers to observe
signature-verification constitutes “misconduct on the part of...officer[s] making or participating
in a canvass for a state election,” pursuant to A.R.S. § 16-672(A)(1).

38. Because Arizona’s method of proving identity for mail-in early voters relies
entirely on signature verification, and because election officials did not allow legal observation

1 of signature verification to occur—potentially allowing falsely or insufficiently verified ballots
2 to be counted—then the result of the election is fundamentally uncertain.

3 39. Further, because the signed envelopes (or scans thereof) are not available for
4 public inspection, Plaintiff has no way of knowing without a court-ordered inspection pursuant
5 to A.R.S. § 16-677 and/or the Civil Rules whether falsely or insufficiently verified ballots were
6 counted, and therefore Plaintiff cannot properly prepare for trial without such inspection, in
7 satisfaction of the foregoing statute and/or court rules.

8 40. Given the large number of ballots and limited timeframes, Plaintiff requests a
9 reasonable inspection (sampling) of the signatures that can be performed in the appropriate
10 statutory timeframes.

11 41. Plaintiff also request to inspect “duplicate” ballots and compare them to the
12 original ballots from which they were “duplicated,” for Congressional District 5/Queen Creek in
13 particular.

14 42. Pursuant to A.R.S. § 16-677 and/or court rules, Plaintiff is entitled to have the
15 inspection/discovery done before preparing for trial. If and as the Court deems it appropriate,
16 Plaintiff ask to file a bond, approved by the clerk, with two sureties, in the principal amount of
17 three hundred dollars, conditioned that they will pay the costs and expenses of the inspection if
18 they fail to maintain the contest. Thereupon the Court shall appoint three persons, one selected
19 by each of the parties and one by the Court, by whom the inspection shall be made. If either
20 party fails to name a person to act in making the inspection, the Court shall make the
21 appointment. The inspection of the ballots shall be made in the presence of the legal custodian
22 of the ballots, and the compensation of the inspectors shall be fixed by the court and taxed as
23 costs against the losing party.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff requests the following relief:
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- A. That the Court order a reasonable inspection (sampling) of mail-in ballots (including their signed envelopes and/or scans thereof) in order to compare them to the signatures on file; and to compare “duplicate” ballots to the original ballots from which they were “duplicated,” for Congressional District 5/Queen Creek in particular; as discovery under the Civil Rules and/or in accordance with A.R.S. § 16-677;
- B. That the Court declare that the certificate of election of the Biden Electors is of no further legal force or effect, and that the election is annulled and set aside in accordance with A.R.S. § 16-676(B);
- C. That, if an inspection of the ballots should so prove, the Court declare that the Trump Electors have the highest number of legal votes and declare those persons elected;
- D. For such injunctive, declaratory, mandamus (special action) or other relief as may be proper or necessary to effect these ends;
- E. For Plaintiff’s taxable costs under A.R.S. § 12-341 and fees under any applicable authority;
- F. For such other and further relief that the Court may deem proper in the circumstances.

RESPECTFULLY SUBMITTED this 30th day November, 2020.

WILENCHIK & BARTNESS, P.C.

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2 AZTurboCourt.com this 30th day
3 of November, 2020.

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7 Randall Warner

8 **COPIES** electronically transmitted via
9 AZTurboCourt.com and emailed this 30th
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VERIFICATION

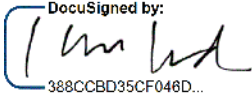
(Rule 80(i), Ariz.R.Civ.P.)

I, Kelli Ward, declare as follows:

I have read the foregoing Verified Amended Complaint, and the statements made therein are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

DATED 11/30/2020.

By:  _____
Kelli Ward

WB
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