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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

LAURIE AGUILERA, *et al.*,

Plaintiffs,

v.

ADRIAN FONTES, *et al.*,

Defendants.

No. CV2020-014083

JOINT SCHEDULING STATEMENT

AND

**RULE 7.1(H) GOOD FAITH
CONSULTATION CERTIFICATE IN
SUPPORT OF JOINT SCHEDULING
STATEMENT**

(Before the Hon. Margaret Mahoney)

1 Pursuant to the Court’s order, Plaintiffs Laurie Aguilera, et al., Defendants Maricopa
2 County Recorder Adrian Fontes, et al., Intervenor-Defendants Donald J. Trump for
3 President, Inc. and the Republican National Committee (“RNC”), and Intervenor-
4 Defendant Arizona Democratic Party (“ADP”), provide the following scheduling
5 statement.¹ Specifically, pursuant to Arizona Rules of Civil Procedure 7.1(h), counsel
6 hereby certifies that the parties conferred in good faith regarding the subjects referenced
7 by the Court. The parties do not agree whether discovery or an evidentiary hearing is
8 necessary to resolve this case. Below are two proposed schedules: one that includes
9 discovery and one that does not. Each party states its position on the schedule as indicated.

10 **1. Proposed Filing and Hearing Schedule:**

11 **a. Plaintiffs’ Proposed Discovery Schedule for Dispositive Motions
12 or Evidentiary Hearing :**

- 13 i. Dispositive motions: November 9, 2020, Midnight (normal
14 page limits apply).
- 15 ii. Response to Dispositive Motions: November 11, 2020,
16 Midnight (Plaintiffs are entitled to an extra five pages).
- 17 iv. Reply briefs are waived.
- 18 v. Witness and evidence disclosure: November, 11, 2020
- 19 viii. Evidentiary hearing and oral argument on dispositive motions:
20 November 12, 2020.
- 21 ix. There shall be no more than one Motion to Dismiss/Motion for
22 Summary Judgment filed by all parties. Dispositive motions
23 are to be consolidated.
- 24
- 25
- 26

27 ¹ Intervenors do not waive any rights or otherwise affirmatively limit any other actions that
28 may be brought related to the 2020 General Election via this statement. The statements
contained herein are solely related to the relief requested by Plaintiffs.

1 **b. Defendant Maricopa County, Intervenor-Defendants RNC and**
2 **Intervenor-Defendant ADP Proposed Discovery Schedule for**
3 **Dispositive Motions or Evidentiary Hearing:²**

- 4 i. Plaintiffs' Amended Complaint due by Friday, November 6,
5 2020, at noon.
- 6 ii. **Dispositive Motions:** Tuesday, November 10, 2020, Midnight
7 (normal page limits apply).
- 8 iii. **Response to Dispositive Motions:** Wednesday, November 11,
9 2020, Midnight (Plaintiffs are entitled to an extra five pages if
10 they wish to jointly respond to motions filed separately by
11 different parties).
- 12 iv. No expert witnesses.
- 13 v. Reply briefs are waived.
- 14 vi. **Witness and Evidence Disclosure:** Thursday, November, 12,
15 2020, noon (for Intervenor-Defendants RNC and Intervenor-
16 Defendant ADP only); Thursday, November 19, 2020, at noon
17 (for Defendant Maricopa County only).
- 18 vii. **Hearing Memoranda:** Thursday, November, 12, 2020, 5:00
19 p.m. (for Intervenor-Defendants RNC and Intervenor-
20 Defendant ADP only); Thursday, November 19, 2020, at 5:00
21 p.m. (for Defendant Maricopa County only).
- 22 viii. **Evidentiary Hearing and Oral Argument on Dispositive**
23 **Motions:** Friday, November 13, 2020 (for Intervenor-

24
25 ² Defendant Maricopa County and Intervenor-Defendant ADP only recommend a schedule
26 for purposes of resolving a Motion to Dismiss and that no discovery or evidentiary hearing
27 be scheduled. As such, Defendant Maricopa County and Intervenor-Defendant ADP only
28 provide this schedule in the alternative if the Court decides an evidentiary hearing is
necessary. If discovery is authorized, the Parties agree that the Court should waive the
Arizona Rule of Civil Procedure 26(f) requirement that parties file initial disclosure
statements before seeking discovery. And, no party to this action shall be required to serve
initial disclosure statements in this action.

1 Defendants RNC and Intervenor-Defendant ADP only);
2 Tuesday, November 24, 2020, (for Defendant Maricopa
3 County only³).

4 No party shall use any lay witness or exhibit at trial not disclosed in a timely manner, except
5 upon order of the court for good cause shown or upon a written or an on-the-record
6 agreement of the parties. As the hearing will be conducted remotely, no parties are required
7 to pay mileage for subpoenaed witnesses, under Arizona Rule of Civil Procedure 45(d)(1).
8 Plaintiffs are requesting that, notwithstanding the foregoing, sworn statements to be
9 considered admissible without the necessity of witness testimony.

10 c. **Plaintiffs' Position on Dispositive Motions Only (Without**
11 **Discovery):** Plaintiffs favor consolidation of dispositive motions.

12 d. **Defendants Maricopa County, Intervenor-Defendants RNC and**
13 **Intervenor-Defendants ADP Dispositive Motions Only (Without**
14 **Discovery):**

15 i. **Dispositive Motion:** Sunday, November 8, 2020, midnight.

16 ii. **Response to Dispositive Motion:** Tuesday, November 10,
17 2020, midnight.

18 iii. **Reply to Dispositive Motion:** Wednesday, November 11,
19 midnight, if desired.

20 iv. **Oral Argument Hearing:** Thursday, November 12, 2020.

21 2. **Parties' Position on Expedited Discovery and Need for Evidentiary**
22 **Hearing, versus Hearing on Motion to Dismiss Only:**

23 a. **Plaintiffs:** In regard to discovery, Plaintiffs request three individual
24

25
26 ³ Defendant Maricopa County proposes this date with the understanding from the meet and
27 confer on November 6, 2020 that the Plaintiffs are not requesting as any form of relief that
28 the counting of the votes, the certification or the canvassing will be impacted or delayed.
Additionally, The County is proposing the November 24, 2020 date because it is
anticipated that the County will canvass the election on the November 23, 2020.

1 discovery requests (RFPs, RFAs, Interrogatories and NUIs). Plaintiffs request that responses
2 be due two calendar days after email service.

3 **b. Defendant Maricopa County:** Defendant Maricopa County agrees
4 that there is no need for depositions. Pursuant to the Plaintiffs' comments during the meet
5 and confer, they want to submit three Requests for Production ("RFP"). Defendants reserve
6 the right to submit an equal number of RFPs. Until Defendants see the RFPs, it is hard to
7 determine the appropriate response deadline. Defendants propose that the RFPs be
8 submitted no later than Wednesday, November 11, 2020, and Responses due Wednesday
9 November 18, 2020 (if Defendant Maricopa County's suggested dates are accepted).

10 **c. Intervenor-Defendants Arizona Democratic Party:** ADP believes
11 that this matter needs urgent resolution by no later than Friday, November 13, 2020.
12 Accordingly, ADP's position is that the Court should set whatever schedule it believes
13 necessary to facilitate final resolution within that time frame. Because of the urgency, and
14 because factual and legal deficiencies of Plaintiffs' claims can be resolved through motions
15 practice, ADP does not believe discovery is necessary. To the extent discovery is ordered
16 at all, ADP believes that written discovery should be limited to narrowly targeted Requests
17 for Production between the Plaintiffs and County Defendants only. Given the nature of the
18 issues and the expedited case schedule, the ADP does not believe that either Intervenor
19 needs to serve (or respond to) written discovery in this matter.

20
21 Because the interests of the County Defendants and the Intervenors diverge
22 significantly, as explained in the two motions to intervene, the ADP believes that parties
23 must brief motions separately. ADP does not object to reasonable page limit extensions for
24 Plaintiffs to respond jointly to multiple motions, if applicable.

25 **d. Intervenor-Defendants Donald J. Trump for President, Inc. and**
26 **the Republican and Republican National Committee:** RNC agrees that no depositions
27 are necessary and limited production. Based on comments made by Plaintiffs' counsel as
28 to expected evidence to be presented and the current state of evidence available, the RNC

1 takes the position that an evidentiary record is not necessary at this time.

2 3. **Depositions:** The parties agree that depositions are not requested in this
3 matter.

4 4. **Written Discovery:** Given the expedited nature of these proceedings and if
5 written discovery is authorized, the parties propose three RFPs pursuant to Rule 34 per
6 party, including subparts. Parties may substitute one to three of any combination of NUI,
7 Interogtatores, or RFAs for one to three of the allowable requests for production. Deadlines
8 for discovery responses shall be two calandar days. Intervenor-Defendant ADP
9 recommends that, given the nature of the issues and the need for expedited resolution,
10 neither Intervenor will serve or respond to written discovery.

11 5. **Service of Process:** The parties agree that all service of process, including
12 to third parties, shall be authorized to be conducted electronically.

13 RESPECTFULLY SUBMITTED this 6th day of November, 2020.

14 STATECRAFT PLLC

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ORIGINAL of the foregoing efiled
And e-served this 6th day of November, 2020:

/s/ Tracy Hobbs