

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2020-014562

11/19/2020

HONORABLE MARGARET R. MAHONEY

CLERK OF THE COURT

K. Ballard

Deputy

LAURIE AGUILERA, et al.

ALEXANDER M KOLODIN

v.

ADRIAN FONTES, et al.

THOMAS PURCELL LIDDY

DANIEL A ARELLANO  
SARAH R GONSKI  
COURT ADMIN-CIVIL-ARB DESK  
DOCKET-CIVIL-CCC  
JUDGE MAHONEY

HEARING

Courtroom: ECB-411

4:39 p.m. This is the time set for virtual Oral Argument on the County Defendants' Motion in Limine to Exclude Witnesses, filed 11/19/2020.

Appearances are all virtual and/or telephonic through the GoToMeeting platform and are as follows:

- Plaintiffs Laurie Aguilera and Donovan Drobina are represented by Counsel Alexander Kolodin and Christopher Viskovic and Pro Hac Vice Counsel Sue Becker.
- Defendant Adrian Fontes (in his official capacity as Maricopa County Recorder); Defendants Clint Hickman, Jack Sellers, Steve Chucuri, Bill Gates, and Steve Gallardo (in their official capacities as members of the Board of Supervisors for Maricopa County); and Defendant Maricopa County (collectively, the "County Defendants") are represented by Deputy County Attorneys ("DCA") Emily Craiger and Joseph LaRue

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(counsel listed are appearing in place of the primary counsel of record, Thomas P. Liddy).

- Intervenor Arizona Democratic Party (“ADP”) is represented by Counsel Sarah R. Gonski and Daniel A. Arellano.

Court Reporter Lori Reinhardt is present. A record of the proceedings is also made digitally.

The Court has reviewed the following:

1. The County Defendants’ Motion in Limine to Exclude Witnesses, filed 11/19/2020; and
2. Plaintiffs’ Objection to Defendants’ Motion to Exclude Witnesses, filed 11/19/2020.

The Court inquires why the County Defendants raised the issue of the specific Declarations on page 4, § 2, of the Motion in Limine when the Court previously ruled (in an email sent to all parties on 11/17/2020 at 1:15 PM upon the Court’s review of the parties’ Joint Scheduling Statement, filed 11/17/2020) that the Declarations would not be permitted in the absence of the Declarants.

Plaintiffs’ counsel indicates that based on the Court’s emailed ruling of 11/17/2020, Plaintiffs do not intend to offer the Declarations marked as Exhibits 1, 6, 8, 9, 10, 13, 14, and 15 to the 11/20/2020 evidentiary hearing.

Accordingly,

**IT IS ORDERED** denying as moot that portion of the County Defendants’ Motion in Limine.

As Plaintiffs indicated this morning that they will not call Michael Long as a witness for Plaintiffs, the County Defendants’ seek clarification as to the use of Michael Long’s Declaration, which has been marked as Exhibit 11 to the 11/20/2020 evidentiary hearing.

Plaintiffs’ objection to the Court not allowing the Declarations is noted for the record; however, Exhibit 11 will also be precluded.

Based on Plaintiffs’ avowal during the conference held this morning that Michael Long will not be called as a witness, **IT IS FURTHER ORDERED** denying as moot the argument in § 1 of the County Defendants’ Motion in Limine.

Based on the discussions held, Intervenor ADP seeks clarification as to Plaintiffs’ proposed witness Sean Atkinson.

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As this is a new issue,  
**IT IS FURTHER ORDERED** directing counsel to confer with one another as to this issue before bringing it to the Court for resolution.

Argument is presented on the County Defendants' Motion in Limine as it relates to Plaintiffs' witnesses Courtney Ann Childers, Rebecca Novicki and Joshua D. Banko.

For the reasons set forth on the record,  
**IT IS FURTHER ORDERED** denying the Motion in Limine to exclude Courtney Ann Childers, Rebecca Novicki and Joshua D. Banko as witnesses.

The Court seeks clarification as to Plaintiffs' footnote 3 on page 4 of their Opposition to Defendants' Motion to Exclude Witnesses, which references Exhibit 25 to the 11/20/2020 evidentiary hearing, which the Court has not yet reviewed. Court and counsel discuss same. Ms. Becker confirms that the reference and Exhibit are not necessary to today's issues, but she will look further into the Court's question. [See **LATER.**]

The Court has also reviewed the County Defendants' Motion to Quash 30(b)(6) Subpoenas, filed 11/19/2020, and inquires if Plaintiffs will be filing a written response.

The Court advises counsel as to its preliminary concerns with respect to the Motion to Quash.

Plaintiffs' counsel responds orally to the Motion to Quash and oral argument is presented.

The Court advises counsel that Plaintiffs' intention to use the 30(b)(6) notices as they wish to do is not a proper application of Rule 30(b)(6).

The request for information on the poll workers is discussed further.

Counsel for the County Defendants indicates that she has the names of the approximately 8-10 temporary poll workers at the location where Plaintiff Aguilera voted, but does not have the same information for the location of where Plaintiff Drobina voted.

As counsel for the County Defendants indicated she will provide the poll worker information she has as to the location for Plaintiff Aguilera,

**IT IS FURTHER ORDERED** the County Defendants shall promptly provide those names to Plaintiffs.

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As to the Plaintiffs' request to move the 11/20/2020 hearing to 11/23/2020, the Court has reviewed the County Defendants' and Intervenor's objection to same, submitted via email. For the reasons discussed on the record, **IT IS FURTHER ORDERED** denying the request to move the hearing.

DCA Craiger addresses the Court as to the additional issue in the Motion to Quash which deals with the request for documents. Court and counsel discuss the same.

Ms. Becker also addresses the Court as to other documents requested in the subpoena.

For reasons set forth on the record,  
**IT IS FURTHER ORDERED** if the documents are readily available, the County Defendants should promptly provide them to Plaintiffs; otherwise, the Court is not specifically ordering the production due to the untimely request for same, and the very limited time remaining before tomorrow's hearing commences.

5:16 pm. Matter concludes.

FILED: 11/17/2020 Email

**LET THE RECORD REFLECT** Exhibits 1, 6, 8, 9, 10, 11, 13, 14, and 15 marked for the 11/20/2020 evidentiary hearing will be retained for appeal purposes, but will not be admitted into evidence.

**LATER:**

By email dated 11/19/2020 at 5:53 PM, Ms. Becker confirmed she included footnote 3 in error and it should be disregarded.

\* \* \* \*

**PLEASE NOTE:** This Division requires that all motions, responses, replies and other Court filings in this case must be submitted individually. Counsel shall not combine any motion with a responsive pleading. All motions are to be filed separately and designated as such. **No filing will be accepted if filed in combination with another. Additionally, all filings shall be fully self-contained and shall not "incorporate by reference" other separate filings for review and consideration as part of the pending filing.**

**ALERT:** Due to the spread of COVID-19, the Arizona Supreme Court Administrative Order 2020-79 requires all individuals entering a Court facility to wear a mask or face covering at **all times** while they are in the Court facility. With limited exceptions, the Court will not provide

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masks or face coverings. Therefore, any individual attempting to enter the Court facility must have an appropriate mask or face covering to be allowed entry to the Court facility. Any person who refuses to wear a mask or face covering as directed will be denied entrance to the Court facility or asked to leave. In addition, all individuals entering a Court facility will be subject to a health screening protocol. Any person who does not pass the health screening protocol will be denied entrance to the Court facility.