ARIZONA SUPREME COURT

KARI LAKE, *Plaintiff/Appellant*, v. KATIE HOBBS, *et al.*, *Defendants/Appellees*.	Court of Appeals Division One No. 1 CA-CV 22-0779 No. 1 CA-SA 22-0237 (CONSOLIDATED)
KARI LAKE, *Petitioner*, v. THE HONORABLE PETER THOMPSON, Judge of the SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of MARICOPA, *Respondent Judge*, KATIE HOBBS, personally as Contestee; ADRIAN FONTES, in his official capacity as Secretary of State; STEPHEN RICHER, in his official capacity as Maricopa County Reporter, *et al.*, *Real Parties in Interest*.	Maricopa County Superior Court No. CV2022-095403 **MOTION FOR PROCEDURAL ORDER GRANTING LEAVE TO FILE A REPLY IN SUPPORT OF PETITION FOR REVIEW OF A SPECIAL ACTION DECISION OF THE COURT OF APPEALS**

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Pursuant to Rule 6(b), Ariz.R.Civ.App.P., and this Court's Rule 26, Ariz. Sup.Ct.Rules, petitioner Kari Lake, by and through her undersigned counsel, hereby respectfully requests leave to file a short reply to correct misstatements of the record regarding the chain-of-custody issue made by Contestee/Governor Katie Hobbs, Secretary of State Adrian Fontes, and Maricopa County (collectively "Respondents") in their respective Responses to Lake's Petition for Review. While Lake disagrees with Respondents' treatment of other issues, she seeks leave to reply only with respect to Respondents factual misrepresentations on the chain-of-custody issue. Contestee/Governor Hobbs objects to this motion, Secretary Fontes indicated that he "will not object," and Maricopa County did not respond to Lake's inquiry.

The Court's Order dated March 2, 2023, directed the Respondents to file any responses to Lake's Petition for Review by March 13, 2023, without authorizing a reply as permitted under Rule 13(c), Ariz.R.Civ.App.P. Under the circumstances, Rule 23(f)(4), Ariz.R.Civ.App.P., and Rule 7(d), Rule 7(d), Ariz.R.P.Spec.Act., preclude Lake's filing a reply without the Court's leave. Notwithstanding that, this Court may "for good cause shown and in furtherance of justice, suspend the operation of any of these Rules in particular cases" and grant Petitioner's request for leave to file a reply. Ariz. R. Sup. Ct. 26.

Because Respondents made material misrepresentations about the Petitioner's arguments and one Respondent demanded sanctions based off of those material

misrepresentations, Petitioner respectfully requests that the Court grant Petitioner's request for leave to file a short reply and supplemental appendix confined to the chain-of-custody issue, attached as Exhibit A.

Dated: March 16, 2023

Respectfully submitted,

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EXHIBIT A

ARIZONA SUPREME COURT

KARI LAKE, *Plaintiff/Appellant*, v. KATIE HOBBS, *et al.*, *Defendants/Appellees*.	Court of Appeals Division One No. 1 CA-CV 22-0779 No. 1 CA-SA 22-0237 (CONSOLIDATED)
KARI LAKE, *Petitioner*, v. THE HONORABLE PETER THOMPSON, Judge of the SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of MARICOPA, *Respondent Judge*, KATIE HOBBS, personally as Contestee; ADRIAN FONTES, in his official capacity as Secretary of State; STEPHEN RICHER, in his official capacity as Maricopa County Reporter, *et al.*, *Real Parties in Interest*.	Maricopa County Superior Court No. CV2022-095403 **REPLY IN SUPPORT OF PETITION FOR REVIEW OF A SPECIAL ACTION DECISION OF THE COURT OF APPEALS** ARCAP 23(a), ARPSA 8(b)

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INTRODUCTION

Petitioner Kari Lake respectfully submits this reply solely to correct misstatements of the record made by Contestee/Governor Katie Hobbs, Secretary of State Adrian Fontes, and Maricopa County (collectively "Respondents") in their respective Responses to Lake's Petition for Review. In an effort to distract the Court from the core issues, all three Responses attempt to miscast the Petition as primarily raising new and contradictory disputes of fact concerning Maricopa's violation of Arizona chain-of-custody laws. It does not.

Specifically, each Respondent spends several pages trying to drag the Court down a rabbit hole. Respondents accuse Lake of raising a new argument regarding certain chain-of-custody forms and the 35,563 unaccounted for ballots injected into the election at Runbeck. Disparaging Lake's claim as not only "new" but also "fantastical" and a "fabrication", Respondents disingenuously argue that Lake cites chain-of-custody forms in her Petition that she alleged in the trial court did not even exist. Fontes further suggests the Court sanction Lake and her counsel. Respondents are wrong. This issue is not new, was properly raised below, and is properly before this Court.

ARGUMENT

Without identifying which specific chain-of-custody forms Lake previously asserted did "*not exist*", all Respondents misleadingly argue at length that Lake's

Petition now "recasts her allegation and asserts that those non-existent records show that over 30 thousand ballots were somehow wrongfully inserted into the results." Fontes Br. at 8 (citing App. 62, Compl. ¶ 112(a) (emphasis in Fontes Brief); *accord* Hobbs Br. at 8; Maricopa at 6. Such assertions are categorically false.

First, the issue of ballots being injected at Runbeck has been an issue since the inception of this case. A Runbeck whistleblower testified to that fact, and the complaint alleged "[t]here is no way to know whether 50 ballots or 50,000 ballots were unlawfully added into the election" at Runbeck. The insertion of ballots at Runbeck is only made possible due to Maricopa's failure to follow chain-of-custody laws which require a precise count of drop box ballots at each stage they are handled. Appx:064 (Compl. ¶114), Appx:350, 356 (Honey Tr. 193:08-14, 199:02-15). Proper chain of custody would allow Maricopa to detect even one inserted ballot.

Second, to mislead this Court, Respondents conflate different chain-of-custody forms, just as they did at the court of appeals. Contrary to Respondents' arguments, Lake has always maintained that the Maricopa County Delivery Receipt forms with "the precise count of the [drop box] ballots" leaving MCTEC to be delivered to Runbeck *do not exist* for drop box ballots retrieved on Election Day ("EDDB ballots"). Appx.336-37, 339-40 (Tr. 179:01-180:16, 182:20-183:16). Indeed, Lake expressly argued below that the trial court erred when it incorrectly found that Lake's chain-of-custody witness testified the Maricopa County Delivery

Receipt forms exist when in fact the witness testified these forms did not exist for EDDB ballots. Supp.Appx:9-11 (Excerpt of Lake Special Action Appeal). As Lake also noted in her Petition, these Maricopa County Delivery Receipt forms *cannot exist* because Maricopa admitted in its answering brief below that on Election Day Maricopa did not count EDDB ballots delivered to MCTEC, in violation of Arizona law, before transferring them to Runbeck. Appx:112, 124-25 (EPM, Ch. 2, §I.7.h.1, Ch. 9, §VIII(B)(2)(g)). Instead, Maricopa simply opened the secure containers, sorted the EDDB ballots, placed them in metal trays, and then transported them to Runbeck to be counted there. Appx:150.

Third, Lake addressed the specific issue of the 35,563 unaccounted for ballots injected at Runbeck on appeal. Just as Respondents do here, Hobbs attempted to mislead the court of appeals in her answering brief below by conflating two distinct sets of forms: (a) a defense trial exhibit, MC Inbound—Receipt of Delivery forms which were filled out at Runbeck and documented the delivery of EDDB ballots from MCTEC on Election Day, and (b) the Maricopa County Delivery Receipt forms which, as discussed above, on Election Day, should have been (but were not) completed at MCTEC with the precise number of EDDB ballots sent to Runbeck. Supp.Appx:13-14 (Excerpt of Lake Reply).

In her reply brief below, Lake showed that the number ballots Runbeck received on Election Day and recorded on the MC Inbound—Receipt of Delivery

forms cited by Hobbs, including all EDDB ballots received from MCTEC, totaled 263,379 ballots. *Id*. In her answering brief below, Hobbs also included a defense trial exhibit, MC Incoming Scan Receipt forms, which showed that Runbeck scanned a total of 298,942 ballots on Election Day—an unaccounted for discrepancy of 35,563 ballots. *Id*. (addressing Hobbs' answering brief).

In her reply brief below, as in her Petition to this Court, Lake cited the same excerpt of that trial exhibit of MC Inbound—Receipt of Delivery forms showing how Runbeck received 35,563 fewer ballots on Election Day than it scanned and sent back to MCTEC. *Id*. Notably, none of the Respondents disputed this issue below by either requesting oral argument after Lake filed her reply, as was their right under ARCAP 18(a), or by seeking leave to file a sur-reply.[1]

Fourth, contrary to Respondents' claims, the deferential "unless clearly erroneous doctrine" "does not apply … to findings of fact that are induced by an erroneous view of the law nor to findings that combine both fact and law when there

[1]Regardless of the proceedings below, and contrary to Respondents' arguments, because Lake unarguably raised not only the chain-of-custody issue, but also the unlawful injection of ballots at Runbeck, she can raise related arguments in support of the chain-of-custody issue on appeal. *Yee v. City of Escondido*, 503 U.S. 519, 534-35 (1992) (distinguishing issues from arguments in support of issues); a*ccord Patterson v. Patterson*, 2011 UT 68, ¶¶ 12-21, 266 P.3d 828, 831-34 (Sup.Ct.), *abrogated in part on other grounds*, *D.B. v. State*, 2012 UT 65, ¶ 17 n.2, 289 P.3d 459, 464 (Sup.Ct.). Appellate courts have discretion to decide "what questions may be taken up and resolved for the first time on appeal." *Singleton v. Wulff*, 428 U.S. 106, 120-21 (1976); *cf.* Ariz. R. Evid. 201(d); Fed. R. Evid. 201(d).

is an error as to law"—as here where the trial court and court of appeals applied the wrong standard of review. *Ariz. Bd. of Regents v. Phx. Newspapers*, 167 Ariz. 254, 257 (1991). Even the court of appeals acknowledged the wrong standard was applied by the trial court with respect to whether "intentional misconduct" was required to establish a claim under A.R.S. §16-672(a)(1). Appx:9 (Opinion ¶12); *cf.* Pet. at 8-12 (discussing trial court's erroneous standards). In short, the chain-of-custody issue regarding the 35,563 unaccounted for ballots injected into the election at Runbeck is properly before the Court.

CONCLUSION

Respondents' disingenuous arguments and tired calls for sanctions while blatantly misstating the record illustrate the apparent arrogance of election officials who, without restraint, unapologetically ignore clear and unambiguous statutory requirements and evidence precisely *why* this Court should accept the Petition.

Dated: March 16, 2023

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ARIZONA SUPREME COURT

KARI LAKE, *Plaintiff/Appellant*, v. KATIE HOBBS, *et al.*, *Defendants/Appellees*.	Court of Appeals Division One No. 1 CA-CV 22-0779 No. 1 CA-SA 22-0237 (CONSOLIDATED)
KARI LAKE, *Petitioner*, v. THE HONORABLE PETER THOMPSON, Judge of the SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of MARICOPA, *Respondent Judge*, KATIE HOBBS, personally as Contestee; ADRIAN FONTES, in his official capacity as Secretary of State; STEPHEN RICHER, in his official capacity as Maricopa County Reporter, *et al.*, *Real Parties in Interest*.	Maricopa County Superior Court No. CV2022-095403 **SUPPLEMENTAL APPENDIX PETITION FOR REVIEW OF A SPECIAL ACTION DECISION OF THE COURT OF APPEALS** ARCAP 23(a), ARPSA 8(b)

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In the Arizona Court of Appeals
Division One

KARI LAKE,
Plaintiff-Contestant/Appellant,

v.

KATIE HOBBS, PERSONALLY AS CONTESTEE AND IN HER OFFICIAL CAPACITY AS THE SECRETARY OF STATE,
Defendant-Contestee /Appellee,

and

STEPHEN RICHER IN HIS OFFICIAL CAPACITY AS MARICOPA COUNTY RECORDER, *ET AL.*,
Defendants/Appellees.

ON APPEAL FROM ARIZONA SUPERIOR COURT,
MARICOPA COUNTY, ACTION NO. CV2022-095403,
HON. HON. PETER THOMPSON

PETITION FOR SPECIAL ACTION

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than 200 pollsters in terms of its accuracy rate and bias. Appx:507 (*id.*, 106:2-24). In the six years since his firm began releasing public election polling on a steady basis, it has never failed to accurately predict the winner, within the sampling error rate. Appx:431 (*id.*, 30:19-20).

Baris performed an exit poll in Arizona on Election Day using a statistically significant sample of likely voters, which he adjusted on Election Day to reflect the chaos. Appx:432-33 (*id.*, 31:12-32:19; 57:18-24). Based on his analysis, Baris testified that—but for the chaos—sufficient numbers of additional voters would have voted—disproportionately supporting Lake over Hobbs—such that the election's margin would have conservatively changed from the 17,117-vote margin for Hobbs to a result within the range of a 2,000-vote margin for Hobbs and a 4,000-vote margin for Lake. Appx:688; Appx:440-43, 481-8 2 (*id.*, 39:12-24, 40:20-42:07, 80:2-10, 81:21-82:13).

C. Maricopa Violated Chain of Custody

Arizona law requires the County Recorder to implement secure drop box ballot-retrieval and CoC procedures. Arizona's Election Procedures Manual ("EPM") requires that when a ballot-transport container is opened, the "number of ballots inside the container shall be counted and noted on the retrieval form." Appx:699 (subsection I.7.h). This is a requirement for all retrievals including Election Day drop box ("EDDB") ballots. The EPM requires EDDB ballots to be

counted and recorded at the time of retrieval on Election Day "unless ballots are transported in a secure and sealed transport container to the central counting place to be counted there." Appx:704 (subsection B.2.g). Thus, the counting of EDDB ballots can be deferred only until containers arrive at the central counting place, MCTEC.

Absent valid, legally required CoC that there are multiple opportunities for insertion, removal, or substitution of ballots. Appx:272 (Tr., 175:7-14) (Honey). Unrebutted evidence showed that Runbeck allowed employees to insert ballots into the system. Appx:296 (Tr., 199:9-13) (Honey); Appx:75-78 (Marie Declaration). Richer's failure to maintain CoC makes it impossible to know how many ballots were injected into the system. Appx:331-32 (*id*., 234:22-235:1).

Specifically, all ballots must be received by 7:00PM on Election Day. A.R.S. §16-547. According to CoC requirements, Maricopa should have an exact count of ballots immediately afterwards before transferring ballots to Runbeck. However, Recorder Richer testified that on Election Day, EDDB ballots are not counted at MCTEC, and instead are counted at Runbeck because there are too many ballots. Appx:116 (Tr., 19:14-21) (Richer); Appx:569 (Tr., 168:2-11) (Valenzuela) (testifying EDDB ballots are counted at Runbeck, not MCTEC). Richer's testimony is also consistent with the observations of a Republican observer at MCTEC who testified that on Election Day bins of ballots were delivered to MCTEC, ballots were

separated from the bins and were not counted. Appx:72-73 (White Declaration, ¶¶12-21).

However, Runbeck, an external vendor, is not central counting, a designation reserved for MCTEC where central tabulation occurs. Co-Director of Elections Valenzuela also testified that no County employees operate Runbeck's equipment. Appx:563-64 (Tr., 162:25-163:02). The moment uncounted ballots were transferred from Maricopa to Runbeck, the ballots leave Maricopa's possession, breaking CoC in violation of A.R.S. §16-621(E).

Richer also contradicted his prior testimony above to state that EDDB ballots were counted at MCTEC prior to transferring them to Runbeck. Appx:118 (Day 1, Tr., 21:17-20). Richer testified that CoC forms were created at MCTEC prior to the transfer and that his office produced those forms in response to Public Records Requests. Appx:125 (Day 1, Tr. 28:7-24). Richer's statement was false. No documents for EDDB ballot retrieval counts exist. Appx:138 (Tr., 41:06-10) (Richer).

In fact, Richer had to estimate the count of EDDB ballots on November 9, which he estimated to be 270,000. Appx:126 (Tr., 29: 6-16). If counts of EDDB ballots been done the previous day, no estimates would be necessary on November 9 as the precise count would have been known. Richer testified that all EDDB ballots had been transferred to Runbeck by 5AM on November 9 but during an afternoon

press conference on November 9, Richer reported 275,000 EDDB ballots were received. Appx:138-39 (Tr., 41:12-42:21).

County officials did not count EDDB ballots and did not create any documents to record the number of ballots transferred to Runbeck. Appx:75-78 (Marie Declaration) (testifying that no CoC forms were received from MCTEC for EDDB ballots). On November 9, at 5:30PM, Maricopa officials called to ask for a count of EDDB ballots scanned at Runbeck. Ex. 46. The Runbeck whistleblower reported back with 298,942, an increase of nearly 25,000 EDDB ballots that Maricopa cannot account for. Appx:318-19 (Tr., 221:24-222:20) (Honey). Further, after this call to Runbeck, the number of total ballots reported by Maricopa to the Secretary of State increased from 1,544,513 to 1,569,603, an increase of 25,090 ballots. Compl. ¶119 (Appx:51).

In addition, Richer stated in an email to the County Board of Supervisors on November 10, 2022, at 2:13p.m. that he is "unable to currently reconcile SOS listing with our estimates from yesterday…. So there's a 15,000 difference somewhere." Appx:306-07 (Tr., 209:19-210:05) (Honey). Additional evidence demonstrating that Maricopa failed to maintain CoC is the fact Maricopa has not been able to produce Delivery Receipts documenting the transfer of EDDB ballots to Runbeck on Election Day. Appx:276-77, 280 (Tr., 179:01-180:16, 183:1-5) (Honey).

three vote centers Jarrett now claims were discovered by the County through a purported root cause analysis.

Nor does the trial court's reliance on the assumption that misconfigured rejected ballots were purportedly later counted render Maricopa's violations moot. First, later counting does not change the fact that this issue contributed to the Election Day chaos and disenfranchisement of thousands of predominately Republican voters who voted on Election Day. Second, Parikh testified that Maricopa did not keep duplicate ballot combined with the original ballot. Thus, there was no way to tell how the duplicate ballot was voted.

Plaintiff's expert, Rich Baris, testified that Kari Lake would conservatively have gained votes providing a range of a 2,000-vote margin for Hobbs and a 4,000-vote margin for Lake in Maricopa's final election canvass but for the Election Day chaos. In an election where the difference between the two candidates is 17,177 votes, this is more than enough votes to render the outcome of the 2022 general election "at least uncertain." *Findley*, 35 Ariz. at 269.

C. The chain of custody constituted misconduct and the counting of illegal votes.

The trial court held that Plaintiff's witness, Heather Honey, who testified for Plaintiff regarding Maricopa's ballot CoC failures, "admit[ted] that Defendants did in fact generate the documents they were required to, and otherwise affirms the County's compliance with election processes." December 24, 2022 Ruling at 5-6.

Honey did no such thing. Further, the trial court ignored the admissions by Maricopa officials discussed in Statement of Facts, Section C, showing they clearly violated Arizona CoC laws set forth the EPM and A.R.S. §16-621(E).

Honey never admitted that Maricopa officials generated required CoC documents for EDDB ballots delivered on Election Day. In fact, she testified Maricopa did not produce these forms ("Delivery Receipts") for the nearly 300,000 EDDB ballots. Appx:276-77, 280 (Tr., 179:01-180:16, 183:1-5) (Honey). Second, the Runbeck whistleblower corroborated Honey's testimony in a sworn declaration testifying that "no paperwork accompanied the ballots from the MCTEC on Election Night." Appx:75-78 (Marie Declaration); *see also* Appx:72-73 (White Declaration, ¶¶12-21) (EDDB ballots were delivered to MCTEC, were separated from the bins, and were not counted).

As discussed in Statement of Facts, Section C, Maricopa violated clear CoC rules by not counting EDDB ballots. As a consequence, nearly 300,000 EDDB ballots lack proper CoC documentation. Had Maricopa followed Arizona's CoC rules, they would have had an exact count of EDDB ballots delivered to MCTEC on Election Day before they were unpacked MCTEC and later transported to Runbeck, a third party vendor. Maricopa officials did not ascertain the exact count of EDDB ballots as required. Now, there is a minimum 25,000 unexplained discrepancy between the officially reported figures on November 9 and the reported figures on

November 10.

Maricopa's violation of law constitutes misconduct under A.R.S. §16-672(a)(1). Further, these violations also render at least 25,000 votes illegal under A.R.S. §16-672 (a)(4)—which the trial court did not address—and which render the outcome of the 2022 general election "at least uncertain." *Findley*, 35 Ariz. at 269.

II. THE TRIAL COURT ERRED BY DISMISSING COUNT III ON LACHES.

The trial court erred in dismissing Counts III (signature verification) based on laches. First, striking unlawful ballots would not disenfranchise voters under Plaintiff's request for a new election. Compl. at 61 (¶g) (Appx:68). Second, the public interest and Arizona would not be harmed by holding a lawful election because the incumbent would remain in office. Ariz. Const. art. XXII, §13. Third, and in any event, Plaintiff timely asserted Counts III, so the equitable doctrine of laches does not bar Count III.

Plaintiff's claim goes to the legality of the vote and—thus—to whether a ballot can be counted: "In all elections held by the people in this state, the person, or persons, receiving the *highest number of legal votes* shall be declared elected." Ariz. Const. art. VII, §7 (emphasis added). Plaintiff plead for "striking any invalid ballots or types of ballots on an absolute or prorated basis," Compl. at 61 (¶e) (Appx:67), which would have provided a material change in the vote totals for Plaintiff to win the election. *Id.* ¶¶178-179 (Appx:65-66). When properly taken as true, *Griffin* 86

ARIZONA COURT OF APPEALS
DIVISION ONE

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KARI LAKE, *Petitioner*, v. THE HONORABLE PETER THOMPSON, Judge of the SUPERIOR COURT OF THE STATE OF ARIZONA, in and for the County of MARICOPA, *Respondent Judge*, KATIE HOBBS, personally as Contestee and in her official capacity as Secretary of State; STEPHEN RICHER, in his official capacity as Maricopa County Reporter, *et al.*, *Real Parties in Interest*.	

REPLY BRIEF OF APPELLANT-PETITIONER KARI LAKE

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misleadingly leaves off the citation in the EPM at the end of passage it quotes, "see Chapter 2, Section VI." Supp.Appx:4. Section VI refers to "processing" functions such as "signature verification" and how to handle rejected and incorrect ballots. Supp.Appx:10-14. That section in no way moots the EPM's requirement to count the ballots when the secured ballot containers are opened at MCTEC which occurs well before "processing" the ballots.

Hobbs' also misleadingly argues that the "'delivery receipt' forms for the 'nearly 300,000' election day early ballots….are part of the record before this Court" is false. Hobbs. Br. 29. First, the "delivery receipt" form Hobbs refers to are forms created by Runbeck (Lake.Appx.602 (Tr. 201:20-22))—these forms are not the "Maricopa County Delivery Receipt" created by Maricopa "that has on it the precise count of the ballots that they are then loading on a truck and transferring to Runbeck." Appx.276-77 (Tr. 179:01-180:10), Supp.Appx:45-48 (comparison of chain-of-custody forms). The Maricopa County Delivery Receipt forms have not been produced and are not part of the record as Hobbs argues at page 10 of her brief. *Id*.

Second, Hobbs' reliance on two Runbeck created forms, "MC Inbound—Receipt of Delivery" (Hobbs.Appx:89-131) and "MC Incoming Scan Receipt" (Hobbs.Appx:132-61) proves the impact of Maricopa's chain-of-custody violations. Hobbs. Br. 29. Counting the number of ballots recorded on the Runbeck created

"MC Inbound—Receipt of Delivery" forms for early ballots delivered to Runbeck on and after Election Day documents only 263,379 early ballots received by Runbeck. Hobbs.Appx:123-131. In comparison, the "MC Incoming Scan Receipts" Hobbs (Hobbs.App:132-61) cites in her brief, documents the total number of early ballots scanned for signature verification at Runbeck as 298,942, the same figure reported by the Runbeck whistleblower noted in Lake's opening brief at 18.[7] In other words, the very "MC Inbound Receipt of Delivery" forms that Hobbs points to as chain of custody, fail to document any record of delivery or receipt of the other 35,563 ballots scanned at Runbeck , an inexplicable discrepancy that far exceeds the margin between Hobbs and Lake.

In sum, the unexplained increase of over 25,000 ballots in the total reported to the Secretary of State between November 9 and 10, far exceeding the 17,117 margin of votes between Hobbs and Lake, is a direct manifestation of Maricopa's violating the EPM's chain-of-custody requirements. Maricopa and Hobbs still have no explanation for this discrepancy, a discrepancy that would not exist had Maricopa followed mandated chain-of-custody procedures.

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[7] Hobbs' argument that Lake's claim is barred by laches is without merit. Hobbs Br. 32, n.13. Maricopa did not adhere to their plan, or Arizona law, and Plaintiff could not have known that Maricopa would break the law prior to Election Day when the violations occurred.