

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2022-095403

05/26/2023

HONORABLE PETER A. THOMPSON

CLERK OF THE COURT
I. Ostrander
Deputy

KARI LAKE

BRYAN JAMES BLEHM

v.

KATIE HOBBS, ET AL.

ALEXIS E DANNEMAN

THOMAS PURCELL LIDDY
EMILY M CRAIGER
CRAIG A MORGAN

JUDGE THOMPSON

**Defendants' Motion for Attorney Sanctions;
Plaintiff's Motion to Strike;
Judgment Entered Pursuant TO Rule 54(c), Arizona Rules of Civil Procedure**

Pending before this Court is Maricopa County Defendants' Motion for Sanctions, Governor Katie Hobbs' Statement of Joinder, and Secretary of State Adrian Fontes' Joinder in Motion for Sanctions. The Court has fully considered the memoranda of law submitted by counsel.

The Defendants seek an award of attorneys' fees as sanctions or a levy of other unspecified monetary sanctions against Plaintiff Kari Lake and her counsel pursuant to A.R.S. § 12-349(A) and the Court's "inherent power to impose sanctions for attorney misconduct before the court." In support, Defendants allege that Lake and her counsel "intentionally misrepresented facts to the Court" by misstating or inappropriately grounding factual assertions on unresponsive evidence in

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her Rule 60 motion and proceeding to trial on a claim Lake knew “lacked factual merit” and that Lake’s counsel asserted a groundless claim against the Defendants at oral argument.

Discussion

Arizona Revised Statutes § 12-349 mandates that the Court assess reasonable attorney fees and expenses against an attorney or party who brings or defends a claim without substantial justification or primarily for delay or harassment, unreasonably expands or delays the proceeding, or engages in abuse of discovery. A.R.S. § 12-349(A). The statute defines “without substantial justification” as “groundless” and “not made in good faith.” A.R.S. § 12-349(F). A claim is “groundless” if its proponent can present no rational argument based on the evidence or law to support it. *Takieh v. O’Meara*, 252 Ariz. 51, 61 ¶ 37 (App. 2021).

The Defendants contend that Lake “unnecessarily expanded these proceedings” by intentionally misstating the content of a witness’s testimony in her Rule 60 motion and that she proceeded to trial on a claim she knew lacked factual merit based on her own witness’s statements. This view mistakenly looks beyond trial to the ultimate resolution of the merits and does not allow for presentation of evidence to prove a disputed claim. These proceedings were Lake’s opportunity to prove her *Reyes* claim, to pursue which she elected to concede that she was not challenging signature matches for any individual ballots. Specifically, Plaintiff’s Response to the Motion to Dismiss argued:

Maricopa violated A.R.S. § 16-550(A) and did not, and could not, perform signature verification given the influx of 1.3 million ballots during the voting period for the November 2022 General Election. The Complaint sufficiently alleges this process was not followed by MCEC because in the 2022 election, Maricopa County officials, instead of attempting to cure ballots, systematically pushed mismatched ballots through for tabulation without following the required procedures.”

Plaintiff’s failure to establish her claim by clear and convincing evidence does not equate to bringing a claim “without substantial justification” as “groundless” and “not made in good faith.” Even if her argument did not prevail, Lake, through her witness, presented facts consistent with and in support of her legal argument.

The remainder of Defendants’ allegations appear to rely on the Court’s inherent power as the authority by which they request the Court “award” unspecified sanctions “against” Lake’s counsel. The Court acknowledges its inherent authority to sanction bad faith attorney conduct and that the rules of attorney conduct in the Rules of the Supreme Court provide a legal basis for imposing sanctions against attorneys. *See Hmielewski v. Maricopa Cnty.*, 192 Ariz. 1, 4 ¶ 14 (App. 1997). Nevertheless, there is a distinction between imposing sanctions by the Supreme Court of Arizona for continuing to represent as true facts or arguments which have been adjudicated

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previously and found to be without merit and advocacy on a yet to be determined theory of the case in closing argument. Opposing litigants in a heated dispute will naturally view the same evidence differently. The inferences one draws will be anathema to the other, and they may question each other's good faith motivated simply by their conviction of their own cause and incomprehension at the conclusions of the other. The Court does not find that the "misstatements" in the Rule 60 motion briefing or the "remarkably bold assertion" at oral argument alleged by the Defendants stray from advocacy into misconduct as would warrant invocation of the Court's sanctioning authority. The proceedings in which the statements were made were Lake's and the Defendants' opportunity to argue their cases and present their evidence. They did so, and the Court ruled. Therefore,

IT IS ORDERED denying Defendants' Motion for Sanctions.

IT IS FURTHER ORDERED denying Plaintiff's Motion to Strike as moot.

Following remand from, and consistent with the mandate issued by, the Arizona Supreme Court, the Court, having weighed all the evidence, argument, and legal memoranda and having assessed the credibility and demeanor of witnesses testifying at trial, now enters the following Findings of Fact and Conclusions of Law as to Count III of Plaintiff Kari Lake's Statement of Election Contest:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

As to Count III – Signature Verification:

- a. The Court DOES NOT find either clear and convincing evidence or a preponderance of evidence of misconduct in violation of A.R.S. § 16-672(A)(1).
- b. The Court DOES NOT find either clear and convincing evidence or a preponderance of evidence that such misconduct was committed by "an officer making or participating in a canvass" under A.R.S. § 16-672(A)(1).
- c. The Court DOES NOT find either clear and convincing evidence or a preponderance of evidence that such misconduct did in fact affect the result of the 2022 General Election by a competent mathematical basis.

Therefore,

IT IS ORDERED entering final judgment as follows:

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1. AGAINST Plaintiff/Contestant Kari Lake on all claims;
2. IN FAVOR OF Defendant/Contestee Katie Hobbs and all other named Defendants on all claims; and
3. CONFIRMING the election of Katie Hobbs as Arizona Governor pursuant to A.R.S. § 16-676(B).

IT IS FURTHER ORDERED pursuant to Arizona Rule of Civil Procedure 56(c) that no further matters remain pending and this constitutes the judgment required by A.R.S. § 16-676 in this matter.