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9
10 **IN THE SUPREME COURT FOR THE**
11 **STATE OF ARIZONA**

12 Ryan L. Heath

13 Petitioner,

14 v.

15 Honorable Peter A. Thompson

16 Respondent,

17 Kari Lake, personally as Contestant/Plaintiff,
18 Katie Hobbs, Contestee/Defendant personally
19 and in her official capacity as Secretary of
20 State; Stephen Richer, Defendant in his official
21 capacity as Maricopa County Recorder; Bill
22 Gates, Clint Hickman, Jack Sellers, Thomas
23 Galvin, and Steve Gallardo, Defendants in their
24 official capacities as members of the Maricopa
25 County Board of Supervisors; Scott Jarrett,
26 Defendant in his official capacity as Maricopa
27 County Director of Elections; and the Maricopa
28 County Board of Supervisors,

Real Parties in Interest.

Case No.: CV-23-0002

Maricopa County Superior Court

Case No. CV 2022-095403

**PETITIONER'S MOTION FOR
DIRECTIVE TO THE COURT OF
APPEALS TO PRESERVE
PETITIONER'S ARGUMENT IN THE
RECORD**

Petitioner, RYAN L. HEATH, respectfully moves this Honorable Court to as follows:

1 1. On January 27, 2023, this Honorable Court issued an Order declining special action
2 jurisdiction in Case No.: CV-23-0002.¹

3
4 2. This Order identifies Ms. Lake’s appeal as the appropriate place for Petitioner’s
5 intervention and graciously declines jurisdiction without prejudice so that Petitioner may seek
6 leave to participate as amicus in the Court of Appeals. Unfortunately, this permission was
7 caveated by the phrase, “per the schedule set by that Court.”

8
9 3. The schedule set by that Court required that all requests to file amicus be submitted by
10 January 26, 2023, the day before this Court granted Petitioner leave to file as amicus.²

11 4. During the early morning hours of Monday, January 30, Petitioner e-filed a motion in this
12 Court requesting that this Honorable Court clarify its January 27 Order declining special action
13 jurisdiction so that Petitioner could file as amicus in the Court of Appeals as directed.

14
15 5. That same day, at 9:21 a.m., petitioner emailed the Clerk of this Honorable Court
16 requesting that he “please take whatever steps are possible to expedite the processing of the
17 motion for clarification that I filed this morning so that I may have some opportunity for a
18 remedy.”

19
20 6. Having not received a response by the following day (and dealing with unexpected
21 fiduciary and family responsibilities preventing Petitioner from formatting the Amended
22 Verified Special Action into an amicus brief), Petitioner followed this Court’s directive to the
23
24

25 ¹ Although not directly cited, the facts supporting Petitioner’s statement under Rule 7(b) were set forth
26 in paragraph sixty-five in the Amended Writ of Mandate. Petitioner does not challenge this Court’s
27 decision to provide an avenue for Petitioner to proceed towards his desired objectives elsewhere.

28 ² See <https://apps.supremecourt.az.gov/aacc/appella/1CA/CV/CV220779.PDF> (last visited
February 3, 2023)

1 extent possible and moved the Court of Appeals to accept his Amended Verified Special
2 Action—in lieu of an amicus brief.

3
4 7. Petitioner’s motion for leave to file as amicus was denied and stricken from the Record
5 on February 2, 2023, because Petitioner’s “motion and accompanying documents were not filed
6 until January 31, 2023, after the [January 26, 2023] deadline had passed.”

7
8 8. Because Petitioner believes that this Court made an honest mistake (given that granting
9 leave to file beyond a time already past is superfluous), because Petitioner has no adequate
10 alternative remedy, because no other party before the Court of Appeals has raised or addressed
11 Petitioner’s argument (which is both binding upon and dispositive in that Court—based upon
12 facts already admitted by Maricopa County Defendants), and because Petitioner fears that the
13 Court of Appeals may overlook its own binding precedent with respect to the issue of signature
14 verification, Petitioner respectfully moves this Court to direct the Court of Appeals to preserve
15 Petitioner’s Amended Writ of Mandate in the Record as an amicus brief.
16

17 Dated: February 3, 2023

18 Respectfully Submitted,

19
20 By: /s/ RYAN L. HEATH
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CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2023, I transmitted a true and accurate copies of the attached, Motion for Directive to the Court of Appeals to Preserve Petitioner’s Argument in the Record, to the following individuals via certified mail:

Respondent:

Honorable Peter A. Thompson
Maricopa County Superior Court
Southeast Facility in Mesa
222 E. Javelina, 2F/206
Mesa, AZ 85210

Real Parties in Interest:

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2 *Helen Purcell and Tammy Patrick*

3
4
5 Respectfully Submitted,

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