

Exhibit A

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*Attorneys for Defendant Adrian Fontes, in his Individual
Capacity*

SUPERIOR COURT OF ARIZONA

COUNTY OF MARICOPA

MARK FINCHEM,

Contestant/Plaintiff,

v.

ADRIAN FONTES, officeholder-elect; and
KATIE HOBBS in her official capacity as the
Secretary of State,

Contestees/Defendants

CASE No. CV2022-053927

**DECLARATION IN SUPPORT OF
APPLICATION FOR ATTORNEYS'
FEES**

I, Craig A. Morgan, declare as follows:

1. I am over the age of 21, I have personal knowledge of the facts stated in this declaration, and I am authorized to make this declaration for, and on behalf of, the law firm of Sherman & Howard L.L.C. (“Sherman & Howard”) and defendant Adrian Fontes in his individual capacity (“Secretary Fontes”).

2. I make this affidavit upon personal knowledge in support of a request for this Court to award Secretary Fontes attorneys’ fees in the amount of \$67,016.50.

3. I am an attorney with, and a member of, Sherman & Howard, the attorneys for Secretary Fontes in this action.

4. Sherman & Howard professionals who performed work for Secretary Fontes in this action logged their time for each task performed in accordance with Sherman & Howard’s standard billing practices and procedures.

5. Sherman & Howard establishes standard hourly rates for each attorney, paralegal, and other timekeepers, which generally increase annually.

1 6. My hourly billing rate charged in connection with this action, in 2022, was
2 \$625 per hour. My hourly billing rate charged in connection with this action, in 2023, is
3 \$640 per hour. I graduated from Marshall University in 2001 with a B.A. degree. In 2004,
4 I obtained a Juris Doctorate (*magna cum laude*) from Syracuse University and was inducted
5 into the Order of the Coif. After law school: (i) I clerked for the Hon. Jefferson L. Lankford
6 (ret.), of the Arizona Court of Appeals in 2004-2005; (ii) I practiced law with Perkins Coie
7 Brown & Bain P.A., later named Perkins Coie, LLP from 2005 until May 2011; and (iii)
8 left Perkins Coie in May 2011 and later became a partner at Stinson Leonard Street LLP
9 (“Stinson”), where I practiced law until August 2015. In August 2015, I left Stinson and
10 became a member of Sherman & Howard. My practice involves a broad range of
11 commercial litigation, and litigation avoidance and mitigation, including election matters,
12 crisis management and internal investigations, and complex commercial litigation.

13 7. Gregory Falls is a member in in Sherman & Howard’s Litigation Group.
14 Mr. Falls’ hourly billing rate charged in connection with this action, in 2022, was \$725 per
15 hour. Mr. Falls’ hourly billing rate charged in connection with this action, in 2023, is \$725
16 per hour. In 1983, Mr. Falls received his B.A. from the W.P. Carey School of Business at
17 Arizona State University. In 1986, Mr. Falls received his Juris Doctorate, with distinction,
18 from the University of Arizona. Mr. Falls’ practice involves a broad range of commercial
19 litigation, including complex commercial litigation. Given that this action necessitated the
20 extraordinary request for an entry of sanctions, in my discretion, I believe it was prudent
21 to obtain Mr. Falls’ counsel to ensure that the request being made aligned with the
22 applicable facts and law.

23 8. Shayna Stuart, an associate in Sherman & Howard’s Litigation Group, also
24 assisted with this action. Ms. Stuart’s hourly billing rate charged in connection with this
25 action, in 2022, was \$395 per hour. Ms. Stuart’s hourly billing rate charged in connection
26 with this action, in 2023, is \$410 per hour. In 2014, Ms. Stuart received her B.A., *summa*
27 *cum laude*, from the California State University, San Bernadino. In 2018, Ms. Stuart
28 received her Juris Doctorate from Arizona State University. Ms. Stuart’s practice involves

1 a broad range of commercial litigation, including complex commercial litigation.

2 9. Jake Rapp, an associate in Sherman & Howard’s Litigation Group, also
3 assisted with this action. Mr. Rapp’s hourly billing rate charged in connection with this
4 action, in 2022, was \$365 per hour. Mr. Rapp’s hourly billing rate charged in connection
5 with this action, in 2023, is \$380 per hour. In 2013, Mr. Rapp received three separate B.A.
6 degrees, *cum laude*, from Northern Arizona University. In 2020, Mr. Rapp received his
7 Juris Doctorate from Arizona State University. Mr. Rapp’s practice involves a broad range
8 of commercial litigation, including complex commercial litigation.

9 10. Pursuant to a written engagement agreement with Sherman & Howard, a
10 third party has agreed to pay Sherman & Howard for its representation of Secretary Fontes
11 in this action, at the aforementioned hourly rates.

12 11. The services performed, the date of each service, and the amount of time
13 expended for the services in the matter are set forth in **Exhibit 1** (the “Summary”),
14 attached, the contents of which are incorporated herein by this reference. The Summary is
15 based on a review of and excerpts from the billing records that are regularly prepared and
16 kept in the ordinary course of Sherman & Howard’s business together with, as appropriate,
17 my own review of those records in an effort to ascertain to the best of my ability the time
18 spent on each task and allocate that time by task accordingly.

19 12. I have reviewed the Summary. I have determined that the work and hours
20 reflected in the Summary are accurate, were reasonable, were necessarily spent in
21 representing Secretary Fontes in this action, and the services provided were reasonable and
22 necessary. Importantly, this is an election contest that required extensive review, analysis,
23 and preparation in a relatively short and expedited timeframe during the busy Holiday
24 season. The issues raised, while ultimately frivolous, took significant time and effort to
25 analyze and address in a manner that could best enable the Court to understand the matter
26 and equip the Court with the information necessary to render a sound decision. For
27 example, the Complaint and Amended Complaint referenced and appended a myriad of
28 exhibits, which counsel needed to review and analyze in connection with defending against

1 this action. And while Secretary Fontes secured complete dismissal of this action,
2 significant time and effort was necessary to vindicate his rights and seek sanctions under
3 A.R.S. § 12-349. All things considered, the work performed was skilled, necessary, and
4 reasonable.

5 13. I believe that the hourly rates charged by the professionals who worked on
6 this action are reasonable, given, among other things: (i) due consideration to the attorneys'
7 abilities, training, education, experience, skill and professional standing; (ii) the intricacy
8 and difficulty of the work performed; (iii) the time and skill required; (iv) the responsibility
9 imposed; and (v) the result obtained.

10 14. I am familiar with (i) the guidelines for determining a reasonable fee for
11 legal services set forth in E.R. 1.5 of the Arizona Rules of Professional Conduct, and (ii)
12 the factors set forth in *Schweiger v. China Doll Restaurant, Inc.*, 138 Ariz. 183 (App. 1983).
13 Based on the foregoing, and in my opinion, \$67,016.50 is a reasonable fee for services of
14 this nature.

15 I declare under penalty of perjury, under the laws of the State of Arizona, that the
16 foregoing is true and correct to the best of my knowledge.

17 DATED March 21, 2023

18 By/s/Craig A. Morgan
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Exhibit 1

Exhibit 1

DATE	TIMEKEEPER	NAME	HOURS	AMOUNT	DESCRIPTION
12/10/2022	2483	Jake Rapp	0.8	288.00	Reviewed complaint filed by Finchem.
12/11/2022	2231	Craig Morgan	2.6	1,625.00	Reviewed election contest complaint and exhibits (2.0); prepared for and attended strategy call with DSOS (0.3); call with client regarding election contest strategy (0.3).
12/12/2022	2231	Craig Morgan	8.2	5,125.00	Prepared for and attended strategy call with counsel for Hobbs and Gallego (0.2); texted client regarding status and strategy (0.1); began drafting motion to dismiss election contest and conducted related research (6.7); instructed Ms. Stuart and Mr. Rapp regarding research in connection with motion to dismiss (0.1); email correspondence with Court regarding setting OSC return hearing (0.1); drafted and sent Rule 11 correspondence to opposing counsel (1.0).
12/12/2022	2483	Jake Rapp	3.9	1,404.00	Reviewed rules governing return hearings for election challenges (0.2); call with Mr. Morgan and Ms. Stuart on researching issues with complaint (0.1); research on issues with Complaint and email correspondence to Mr. Morgan on research findings with suggested arguments for motion to dismiss (3.6).
12/12/2022	3121	Shayna Stuart	5.9	2,330.50	Reviewed Complaint filed by Finchem challenging the election (0.5); discussed complaint and legal issues with Mr. Rapp (0.1); participated in Zoom conference with Mr. Rapp and Mr. Morgan to discuss research assignments (0.3); researched case law and other provisions from elections procedure manual to assist with drafting motion to dismiss complaint and send same to Mr. Morgan and Mr. Rapp (5.0).
12/13/2022	2231	Craig Morgan	9.3	5,812.50	Email correspondence with plaintiff's counsel regarding meet and confer under procedural rules in anticipation of filing motion to dismiss (0.1); email correspondence with Court and counsel regarding OSC (0.1); prepared for and attended OSC (0.5); reviewed amended complaint and related exhibits (1.5); continued to draft motion to dismiss (6.6) ; instructed Mr. Rapp and Ms. Stuart regarding research in connection with expedited motion to dismiss (0.4); coordinated filing of expedited motion to dismiss; updated client on status of matter and forwarded him a copy of the expedited motion to dismiss (0.1).

DATE	TIMEKEEPER	NAME	HOURS	AMOUNT	DESCRIPTION
12/13/2022	2483	Jake Rapp	4.9	1,764.00	Call with Mr. Morgan and Ms. Stuart on amended complaint and arguments for motion to dismiss (0.4); reviewed second amended complaint (0.4); emails to Mr. Morgan on argument for motion to dismiss (1.2); drafted portions of motion to dismiss and redlined Mr. Morgan's and Ms. Stuart's drafts of portions of motion to dismiss (2.9).
12/13/2022	3121	Shayna Stuart	5.9	2,330.50	Participated in Zoom conference call with Mr. Morgan and Mr. Rapp (0.5); researched statutory schemes similar to Arizona statutory scheme (3.2); reviewed EAC rules regarding the voting tabulation machines (1.2); reviewed and redlined motion to dismiss complaint and finalized exhibits (0.8); participated in Zoom conference with Mr. Morgan and Mr. Rapp to discuss motions to dismiss (0.2).
12/14/2022	2483	Jake Rapp	5.2	1,872.00	Prepared portions of reply in support of motion to dismiss based on probable arguments in response (1.8); reviewed response (0.7); incorporated earlier portions of reply draft into new reply draft (0.5); drafted portions of reply in support of motion to dismiss (2.1); Call with Mr. Morgan on reply in support of motion to dismiss (0.1).
12/14/2022	3121	Shayna Stuart	0.5	197.50	Reviewed Finchem's omnibus response to the motions to dismiss his Amended Complaint (0.5).
12/14/2022	2231	Craig Morgan	2.4	1,500.00	Read and analyzed response to motion to dismiss (0.5); began drafting reply in support of motion to dismiss (1.4); instructed Mr. Rapp regarding assistance with same (0.5).
12/15/2022	2483	Jake Rapp	1.4	504.00	Reviewed secretary of state's reply in support of motion to dismiss (0.2); reviewed final draft of Fontes' reply in support of motion to dismiss (0.1); call with Mr. Morgan on oral argument strategy (0.5); reviewed social media presence of purported experts in amended complaint (0.5); correspondence with Mr. Morgan and Ms. Stuart on more deficiencies with amended complaint (0.1).
12/15/2022	3121	Shayna Stuart	0.5	197.50	Searched Twitter and other social media accounts for information on Plaintiff's alleged experts (0.5).

DATE	TIMEKEEPER	NAME	HOURS	AMOUNT	DESCRIPTION
12/15/2022	2231	Craig Morgan	5.8	3,625.00	Continued to draft reply in support of motion to dismiss and reviewed caselaw in connection with same (3.0); coordinated filing of reply in support of motion to dismiss (0.1); conferenced with client regarding status and strategy (0.1); prepared for oral argument (2.6).
12/16/2022	2483	Jake Rapp	0.8	288.00	Reviewed public talk about oral argument on motions to dismiss (0.5); reviewed the Court's order granting motions to dismiss the amended complaint (0.3).
12/16/2022	2231	Craig Morgan	4.1	2,562.50	Prepared for and attended and participated in oral argument (2.9); updated client regarding oral argument and case related strategies (0.2); carefully reviewed decision dismissing case and began to outline strategy for seeking sanctions (1.0).
12/17/2022	2483	Jake Rapp	3.2	1,152.00	Began drafting outline for motion for sanctions (1.6); reviewed oral argument for quotes to use in motion for sanctions (1.1); research on prior sanctions against Plaintiff and his attorneys (0.5).
12/19/2022	2483	Jake Rapp	1.5	540.00	Call with Mr. Morgan and Ms. Stuart to discuss strategy for preparing motion for sanctions (0.3); research on prior sanctions of Plaintiff and his attorneys (0.3); research on Rule 11 sanctions (0.4); began drafting email to Mr. Morgan on research findings (0.5).
12/19/2022	3121	Shayna Stuart	0.2	79.00	Meeting with Mr. Morgan and Mr. Rapp regarding motion for sanctions and assignments to assist with draft regarding same.
12/19/2022	2231	Craig Morgan	0.7	437.50	Continued to develop strategy related to sanctions motion (0.6); call with client regarding same (0.1).
12/20/2022	2483	Jake Rapp	8.5	3,060.00	Researched applicability of judicial notice for documents in other courts (0.6); drafted footnote for motion for sanctions on judicial notice (0.1); pulled and analyzed court files in other cases involving Plaintiff and Plaintiff's counsel (2.2); drafted portions of motion for sanctions related to Plaintiff and Plaintiff's counsel being involved in other cases (2.6); research on seeking attorneys' fees and costs that are reimbursed by a third-party (0.8); drafted portions of motion for sanctions related to reimbursed attorneys' fees and costs (1.1); researched application of Rule 11 sanctions (0.7); began drafting portion of motion for sanctions related to Rule 11 (0.4).

DATE	TIMEKEEPER	NAME	HOURS	AMOUNT	DESCRIPTION
12/20/2022	2483	Jake Rapp	1	360.00	Revised part of motion for sanctions related to Rule 11 and continued drafting that part.
12/20/2022	2231	Craig Morgan	1	625.00	Drafted sanctions motion; researched law and facts in connection with same.
12/21/2022	2483	Jake Rapp	5.2	1,898.00	Completed drafting Rule 11 part of motion for sanctions (1.6); compiled parts completed for motion into draft and began drafting overall motion (0.9); call with Mr. Morgan on errors in amended pleading (0.1); created spreadsheet of all conduct performed by Plaintiff and his counsel that is sanctionable (2.6).
12/21/2022	2231	Craig Morgan	4.2	2,625.00	Continued to draft sanctions motion and analyze related case law.
12/22/2022	2483	Jake Rapp	0.2	72.00	Reviewed deadline for motions for sanctions (0.1); email to Mr. Morgan and Ms. Stuart regarding same (0.1).
12/23/2022	2231	Craig Morgan	3.0	1,875.00	Continued to draft sanctions motion (3.0).
12/26/2022	2231	Craig Morgan	0.7	437.50	Drafted motion for sanctions.
12/27/2022	1643	Gregory Falls	0.5	362.50	Reviewed and revised motion for Attorneys' Fees, Costs, and Sanctions.
12/27/2022	3121	Shayna Stuart	3.5	1,382.50	Reviewed and redlined draft motion for sanctions (1.0); researched case law regarding sanctions in election contest matters to include in the motion for sanctions against Finchem (2.5).
12/27/2022	2231	Craig Morgan	4.6	2,875.00	Continued to draft motion for sanctions.
12/28/2022	3121	Shayna Stuart	1.4	553.00	Telephone call with Mr. Morgan regarding putting together a Verified Statement of costs to be filed (0.1); telephone call with Ms. Meshke regarding same and requesting assistance (0.1); researched costs which are recoverable and drafted motion to approve statement of costs (0.9); drafted certification and sent to Mr. Morgan for review (0.3).

DATE	TIMEKEEPER	NAME	HOURS	AMOUNT	DESCRIPTION
12/28/2022	2231	Craig Morgan	1.6	1,000.00	Continued to draft motion for sanctions.
1/6/2023	2231	Craig Morgan	3.7	2,368.00	Drafted reply in support of motion for sanctions; carefully reviewed response to motion for sanctions.
1/6/2023	3121	Shayna Stuart	7.1	2,911.00	Telephone call with Mr. Morgan to discuss assignment to assist with drafting reply in support of attorneys' fees and sanctions (0.2); read Finchem's opposition to Fontes' request for sanctions (0.8); researched and drafted section on sanctions statute and purpose of statute (6.1).
1/7/2023	1643	Gregory Falls	0.7	514.50	Reviewed and analyzed A.R.S. § 44-2083 and related statutes and rules regarding whether court should consider the financial strength of the parties in its award of sanctions, costs and attorneys' fees.
1/7/2023	2231	Craig Morgan	3.1	1,984.00	Continued to draft reply in support of motion for sanctions.
1/8/2023	3121	Shayna Stuart	4	1,640.00	Researched cases regarding Rule 11 as it relates to third party paying fees incurred by the party to the litigation and emailed draft insert for Mr. Morgan to review (4.0).
1/9/2023	2231	Craig Morgan	5.8	3,712.00	Drafted reply in support of motion for sanctions.
1/9/2023	2483	Jake Rapp	1.8	684.00	Reviewed opposition to motion for sanctions (0.2); reviewed prior filings by plaintiff for potential reference in reply supporting motion for sanctions (0.1); wrote part of reply in support of motion for sanctions related to Finchem and his counsel citing a case only to later assert it is too old to apply (0.6); reviewed law blog relied on by Finchem and his counsel (0.1); reviewed draft reply and prepared redline (0.8).
1/9/2023	3121	Shayna Stuart	1.9	779.00	Reviewed research provided by Mr. Rapp and added to draft insert along with additional case law research (0.8); continued case law research to refute argument that third party paying for fees are not recoverable (0.6); review and revised draft reply in support of sanctions and provided feedback in redline version (0.5).

DATE	TIMEKEEPER	NAME	HOURS	AMOUNT	DESCRIPTION
1/10/2023	2231	Craig Morgan	2.1	1,344.00	Drafted reply in support of sanctions motion.
1/13/2023	2231	Craig Morgan	0.5	320.00	Analyzed Finchem solicitation request and consider whether to supplement sanctions motion regarding solicitation (0.4); corresponded with Client regarding same (0.1).
		GRAND TOTALS:	133.9	67,016.50	