

Arizona Supreme Court
Civil Election Appeal

CV-26-0122-AP/EL

HECK v KAI et al

Appellate Case Information

Case Filed: 17-Apr-2026 Archive on: 4-May-2036 (planned)
Case Closed: 4-May-2026

Dept/Composition

Side 1. SUE HECK, Appellant

(Litigant Group) SUE HECK

- Sue Heck

Attorneys for: Appellant

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Joshua A Barro, Esq. (AZ Bar No. 39369)

Side 2. HERB KAI, et al., Appellee

(Litigant Group) HERB KAI

- Herb Kai

Attorneys for: Appellee

Timothy A LaSota, Esq. (AZ Bar No. 20539)

(Litigant Group) TOWN OF MARANA

- Town of Marana

Attorneys for: Appellee

David Udall, Esq. (AZ Bar No. 31863)

(Litigant Group) PIMA COUNTY

- Pima County

Attorneys for: Appellee

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CASE STATUS

May 4, 2026.....Case Closed

May 4, 2026.....Decision Rendered

PREDECESSOR CASE (S)

Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
PIM CV20262700		Scott McDonald, Trial		

CASE DECISION

04-May-2026 DECISION ORDER

* A panel consisting of Chief Justice Timmer, Justice Montgomery, Justice King, and Justice Cruz has considered this matter.

Plaintiff Sue Heck seeks to enjoin Defendant Herb Kai's candidacy for Marana Town Council. She claims that he failed to proper

Ann Timmer

Filed: **04-May-2026** Mandate: **04-May-2026**

Decision Disposition
<i>Affirmed</i>

12 PROCEEDING ENTRIES

1.	17-Apr-2026	FILED: Statement Identifying Appeal as Expedited Election and Request for Initial Telephonic Scheduling Conference; Certificate of Service; Exhibit 1 (Appellant Heck)
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2. 20-Apr-2026 Plaintiff/Appellant/Challenger Heck filed a Statement Identifying Appeal as Expedited Election and Request for Initial Telephonic Scheduling Conference in this expedited election matter on April 17, 2026, pursuant to Rule 10, Arizona Rules of Civil Appellate Procedure.
- In lieu of a telephonic scheduling conference, Court staff has consulted with counsel for Appellant and Defendant/Appellee/Candidate Kai and the Town of Marana and Pima County. Counsel for Pima County has advised that the deadline to resolve this matter is May 8, 2026.
- IT IS ORDERED directing Pima County to file a pleading with the deadline for a decision in this case forthwith.
- IT IS FURTHER ORDERED if either party wishes to use transcripts, such party shall file authorized transcripts as soon as possible. If no authorized transcript can be prepared and filed timely, the parties are encouraged to stipulate to the pertinent facts or testimony or provide pertinent segments of unauthorized transcripts in a joint appendix as soon as possible.
- IT IS FURTHER ORDERED Appellant shall file the opening brief no later than 4:00 p.m. on Tuesday, April 21, 2026. The opening brief shall be no more than 2,500 words.
- IT IS FURTHER ORDERED Appellee may file an answering brief no later than noon on Friday, April 24, 2026. The answering brief shall be no more than 2,500 words. There will be no reply.
- IT IS FURTHER ORDERED that briefs will be in a legible 14-point font, double-spaced, and will include all arguments the parties wish to present to the Court. They may be filed in memorandum format (no tables of contents or authorities).
- IT IS FURTHER ORDERED that copies of all filings must be delivered as required under Rule 10(h).
- IT IS FURTHER ORDERED that in addition to filing briefs with the Clerk of the Supreme Court (with filing and service through AZTurboCourt) all filings are also to be sent by email to all the parties and court staff and to SACrtDocs@courts.az.gov when filed.
- This matter will be decided without oral argument. The Court anticipates conferencing this matter on May 5, 2026, with a decision to issue on or after that date. (Hon. William G. Montgomery)
3. 20-Apr-2026 FILED: Pima County Defendants'/Appellees' Statement of Deadline; Certificate of Service (Appellee Pima County)
4. 21-Apr-2026 RECEIVED/SENT: Letter to Pima County Superior Court Requesting Entire Record
5. 21-Apr-2026 FILED: Opening Brief; Certificate of Service; Certificate of Compliance; Joint Stipulation of Facts (Appellant Heck)
6. 23-Apr-2026 FILED: Answering Brief of Defendant-Appellee Kai; Certificate of Service; Certificate of Compliance (Appellee Kai)
7. 23-Apr-2026 FILED: Record from PCSC: Trial Court Record
- Index of Record
- 1 CD Containing Trial Exhibits
8. 29-Apr-2026 RECEIPT No.: 2026-00129 ; \$330.00, Authorization: 8480741988740172, Applied to: SUE HECK - Class A Filing Fee (\$330.00)
Paid for: SUE HECK - By nCourt LLC
9. 29-Apr-2026 RECEIPT No.: 2026-00144 ; \$165.00, Authorization: 8216901031080742, Applied to: HERB KAI - Class B Filing Fee (\$165.00)
Paid for: HERB KAI - By nCourt LLC

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10. 4-May-2026 A panel consisting of Chief Justice Timmer, Justice Montgomery, Justice King, and Justice Cruz has considered this matter.
- Plaintiff Sue Heck seeks to enjoin Defendant Herb Kai's candidacy for Marana Town Council. She claims that he failed to properly fill in a blank in the caption of his nomination petitions and, therefore, should not be on the 2026 primary election ballot. The trial court found the sheets substantially complied with Arizona law. For the following reasons, we affirm the trial court's decision.
- We review a challenge to the content of a nomination petition to determine whether it substantially complies with the statutory requirements. *Lohr v. Bolick*, 249 Ariz. 428, 431 ¶ 7 (2020). This entails discerning whether the petitions "could confuse or mislead" electors. *Moreno v. Jones*, 213 Ariz. 94, 102 ¶ 42 (2006). The Court will "not remove candidates from the ballot for mere technical departures from the form." *Bee v. Day*, 218 Ariz. 505, 506 ¶ 10 (2008). The Court uses this standard unless presented with a "clear statement that the legislature intended a particular form requirement" to be critical. *Id.*
- A.R.S. § 16-314(C) provides the nomination petition caption for nonpartisan elections:
I, the undersigned, a qualified elector of the county of _____, state of Arizona, and of (here name political division or district from which the nomination is sought) hereby nominate _____ who resides at _____ in the county of _____ for the office of _____ to be voted at the _____ election to be held _____, and hereby declare that I am qualified to vote for this office
- The parties agree that Defendant filled in the caption as follows:
I, the undersigned, a qualified elector of the county of Pima, state of Arizona, and of Town of Marana hereby nominate Herb Kai who resides at 11100 N Casa Grande Hwy, Marana AZ 85658 in the county of Pima for the office of Marana Town Council to be voted at the 2026 election to be held July 21, 2026, and hereby declare that I am qualified to vote for this office
(Emphasis added).
- Plaintiff argues that by writing "2026" Defendant failed to specify that the signatures are for the primary election, thereby confusing electors. That particular blank, she claims, must be filled with either "primary" or "general." For support, she points to § 16-314(C)'s caption for partisan nominations, which has no blank and simply says "primary."
- Although Plaintiff has offered the inference that "2026" should actually say "primary" or "general," she has not identified any clear statement from the Legislature mandating those terms. See *Bee*, 218 Ariz. at 506 ¶ 10. The Court notes that after "2026" the petitions accurately identify the primary election date. Plaintiff fails to show that electors who read the whole caption would be confused as to whether Defendant is seeking signatures for the primary election.
- Accordingly,
IT IS ORDERED affirming the trial court's ruling.
- IT IS FURTHER ORDERED directing the Clerk to issue the mandate forthwith. (Hon. Ann A. Scott Timmer)
11. 4-May-2026 ----CASE STATISTICALLY TERMINATED----
12. 4-May-2026 MANDATE TO SUPERIOR COURT
- Issued Mandate and Copy of Decision Order to Trial Court.
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