

SUPREME COURT OF ARIZONA

KAREN FANN, in her official) Arizona Supreme Court
capacity as President of the) No. CV-22-0018-PR
Arizona Senate; WARREN PETERSEN,)
in his official capacity as) Court of Appeals
Chairman of the Senate Judiciary) Division One
Committee; the ARIZONA SENATE, a) No. 1 CA-SA 21-0216
house of the Arizona Legislature,)
Petitioners,) Maricopa County
Superior Court
No. CV2021-008265
v.)
THE HONORABLE MICHAEL KEMP,)
Judge of the SUPERIOR COURT OF)
THE STATE OF ARIZONA, in and for)
the County of MARICOPA,) **FILED 02/15/2022**
Respondent Judge,)
AMERICAN OVERSIGHT,)
Real Party in Interest.)

O R D E R

Fann, et al., filed a Petition for Review of a Special Action Decision of the Court of Appeals and Emergency Motion for Stay, and the Court entered a temporary stay of the superior court's order to produce public records over which the Senate has asserted claims of legislative privilege entered on October 14, 2021. Upon consideration of the Court, en banc,

IT IS ORDERED granting review of the petition, with the issues rephrased as follows:

1. Did the Court of Appeals err in holding that the legislative privilege generally does not apply under the Gravel/Fields analytical framework to communications concerning the planning, execution, or results of the Audit, on the grounds that the Audit (a) does not relate to "pending legislation" or "other matters placed within the jurisdiction of the legislature," (b) is an "administrative" function, and/or (c) is "political"?
2. Did the Court of Appeals err in holding that a prima facie claim of legislative privilege requires affirmative evidence of legislative impairment?
3. What is the nature and extent of the information that must be provided in a privilege log to invoke legislative immunity; and what is the burden on the party seeking disclosure to trigger in camera review?

IT IS FURTHER ORDERED continuing the stay in place pending further order of the Court.

IT IS FURTHER ORDERED this matter shall be set for oral argument.

IT IS FURTHER ORDERED the parties may file simultaneous supplemental briefs, not to exceed 20 pages in length, no later than 20 days from the date of this order. Any amicus briefs are due on or before March 21, 2022 and any responses to amicus briefs are due on or before April 11, 2022. Any amicus briefs or responses may not exceed 20 pages in length.

Phoenix Newspapers Inc., et al., ("PNI") filed a Notice of Consolidation of Cases and Request to be Considered Real Parties in

Interest. Upon consideration,

IT IS ORDERED denying the request to be considered real parties in interest. PNI may participate in these proceedings as an amicus curiae.

Dated this 15th day of February, 2022

/s/

ROBERT BRUTINEL

Chief Justice

TO:

Kory A Langhofer

Thomas J Basile

Hon. Michael W Kemp

L Keith Beauchamp

Roopali H Desai

D Andrew Gaona

David Jeremy Bodney

Craig C Hoffman

Matthew E Kelley

Amy M Wood