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Attorneys for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

SCOT MUSSI, an individual; AIMEE
YENTES, an individual; and ARIZONA
FREE ENTERPRISE CLUB, a non-profit
corporation,

Plaintiffs,

v.

KATIE HOBBS, in her capacity as the
Secretary of State of Arizona,

Defendant,

and

ARIZONANS FOR FREE AND FAIR
ELECTIONS (ADRC ACTION), a political
committee,

Real Party in Interest.

No. _____

**VERIFIED
COMPLAINT**

**(Challenge to Legal Sufficiency of
Circulator Registrations and Petition
Signatures Pursuant to A.R.S. §§ 19-
118(F), 19-122(C))**

Plaintiffs Scot Mussi, Aimee Yentes, and Arizona Free Enterprise Club bring this
action pursuant to A.R.S. §§ 19-118(F) and 19-122(C), and hereby allege as follows:

SUMMARY OF THE CASE

1
2 1. This action challenges the legal sufficiency of the registrations of certain
3 circulators of the statewide initiative petition bearing the serial number I-16-2022 (the
4 “Initiative Petition”). The Initiative Petition seeks to qualify for placement on the statewide
5 ballot in the November 8, 2022 general election a sprawling measure that upends Arizona’s
6 election administration and voter registration laws, sharply reduces candidate contribution
7 limits while channeling more taxpayer subsidies to so-called “Clean Elections” candidates,
8 curtails safeguards governing the initiative and referendum process, and imposes new taxes
9 (the “Act”).

10 2. Signatures collected by certain circulators of the Initiative Petition who were
11 required to have been, but were not, properly registered with the Secretary of State are void
12 as a matter of law. Specifically, these individuals either:

- 13 a. Failed to register with the Secretary of State prior to collecting
14 signatures in support of the Initiative Petition, and hence did not
15 strictly comply with A.R.S. § 19-118(A);
 - 16 b. Failed to provide a signed and notarized affidavit averring to the
17 accuracy of the specific information included in their registration for
18 measure I-16-2022, and hence did not strictly comply with A.R.S. §
19 19-118(B)(5);
 - 20 c. Failed to provide on their registration submissions to the Secretary of
21 State a full and complete permanent and (if applicable) temporary
22 residential address—to include the relevant apartment or unit number,
23 if the circulator resided in a multiunit complex—and hence did not
24 strictly comply with A.R.S. § 19-118(B)(1);
 - 25 d. Misrepresented on their registration submissions to the Secretary of
26 State one or more required items of contact information, and hence did
27 not strictly comply with A.R.S. § 19-118(B)(1); or
- 28

e. Failed to provide on their registration submissions to the Secretary of State the statutorily required address for service of process, and hence did not strictly comply with A.R.S. § 19-118(B)(4).

3. In addition, certain registered circulators failed to write their full and correct assigned circulator identification number on the front and back of one or more of the petition sheets they purportedly circulated, rendering those sheets and the accompanying signatures not strictly compliant with A.R.S. §§ 19-121(A)(2) and 19-121.01(A)(1)(c).

4. A spreadsheet itemizing Plaintiffs' objections to the legal sufficiency of specific circulators' registration submissions is attached hereto as Exhibit A.¹

5. Petition signatures obtained by individuals who failed to strictly comply with one or more provisions of applicable law are legally insufficient.

6. Injunctive remedies are necessary to prevent irreparable injury to the Plaintiffs and to ensure that the Defendant fully and effectively discharges the duties imposed upon her by state law.

JURISDICTION

7. This Court has jurisdiction over this action pursuant to Article 6, § 14 of the Arizona Constitution, and A.R.S. §§ 12-1801, 19-118(F), and 19-122(C).

8. Venue for this action lies in Maricopa County pursuant to A.R.S. § 12-401(7) and (16) because the Defendant resides and/or holds office in that county; and pursuant to A.R.S. § 19-118(F) because circulators of the Initiative Petition are registered in that county; and pursuant to A.R.S. § 19-122(D).

PARTIES

9. Plaintiff Scot Mussi is a citizen of the United States, and a resident and qualified elector of the State of Arizona and of Maricopa County.

10. Plaintiff Aimee Yentes is a citizen of the United States, and a resident and qualified elector of the State of Arizona and of Maricopa County.

¹ For the convenience of the Court and the parties, Plaintiffs are in the process of preparing an itemized list of affected signatures by sheet and line number.

11. Plaintiff Arizona Free Enterprise Club is an Arizona nonprofit corporation that is organized and operated for the promotion of social welfare, within the meaning of section 501(c)(4) of the Internal Revenue Code of 1986, as amended. The Arizona Free Enterprise Club engages in public education and advocacy in support of free markets and economic growth in the State of Arizona.

12. Defendant Katie Hobbs is the Secretary of State of Arizona and is named in this action in her official capacity only. The Secretary of State is a public officer responsible for determining the legal sufficiency of statewide initiative petitions and the validity of signatures presented thereon, to include processing and maintaining circulator registrations, and disqualifying signatures collected by circulators who failed to strictly comply with applicable registration requirements. *See* A.R.S. §§ 19-118, -121.01(A), -121.04.

13. Real Party in Interest Arizonans for Free and Fair Elections (ADRC Action) (the “Committee”) is an Arizona political committee that was organized to support the qualification of the Act for the November 8, 2022 general election ballot.

GENERAL ALLEGATIONS

14. On or around February 7, 2022 the Committee filed with the Secretary of State an Application for Serial Number to commence a petition drive to qualify the Act for the November 8, 2022 statewide election ballot. The Secretary of State issued the serial number I-16-2022 to the Committee on the same date.

15. On or around July 7, 2022 the Committee filed with the Secretary of State the Initiative Petition, which purportedly contained 475,290 signatures on approximately 52,000 petition sheets.

16. The Initiative Petition must contain no fewer than 237,645 valid signatures of qualified electors to qualify the Act for placement on the statewide election ballot. *See* Ariz. Const. art. IV, pt. 1, § 1(2), (7).

17. The Legislature has directed that “[c]onstitutional and statutory requirements for statewide initiative measures must be strictly construed and persons using the initiative

process must strictly comply with those constitutional and statutory requirements.” A.R.S. § 19-102.01(A).

18. Section 19-122(C) of the Arizona Revised Statutes provides that “[a]ny person may contest the validity of an initiative or referendum” and “may seek to enjoin the secretary of state or other officer from certifying or printing the official ballot for the election that will include the proposed initiative or referendum measure.”

19. Section 19-118(F) of the Arizona Revised Statutes provides that “[a]ny person may challenge the lawful registration of circulators” in this Court.

20. Arizona law mandates that “[f]or statewide initiative and referendum measures only, all circulators who are not residents of this state and all paid circulators must register as circulators with the secretary of state before circulating petitions pursuant to this title.” A.R.S. § 19-118(A). The Secretary of State is responsible for promulgating a registration form and procedures for completing and submitting registrations. *See id.*; Ariz. Sec’y of State, 2019 ELECTIONS PROCEDURES MANUAL [hereafter, “EPM”] at pp. 252–54.

21. Upon the Secretary’s review and acceptance of a complete registration submission, the circulator is issued a unique identification number, which the circulator must inscribe on the front and back of each petition sheet s/he circulates. *See* A.R.S. §§ 19-118(C), -121(A)(2), -121.01(A)(1)(c).

22. A circulator who has not strictly complied with all attributes of a complete, accurate and timely registration, as prescribed by applicable law, is not fully or properly registered.

23. The Secretary has a nondiscretionary legal duty to disqualify and exclude from the pool of signatures deemed eligible for further review and verification by the county recorders all signatures collected by individuals who were required to have been, but who were not, “properly registered” with the Secretary of State at the time the signature was affixed. *See* A.R.S. §§ 19-121.01(A)(1)(h), -121.01(B).

24. Signatures collected by registered circulators who did not write their full and correct circulator identification number on each side of the petition sheet likewise must be

disqualified and excluded from the pool of signatures deemed eligible for further review and verification by the county recorders. *See* A.R.S. §§ 19-121.01(A)(1)(c), -121.01(B).

25. There are at least seven independent bases for disqualifying signatures that were circulated by individuals who failed to properly and timely register with the Secretary of State, or to inscribe their full and correct registered circulator identification number on each side of the petition sheet.

Objection No. 1: Failure to Register with the Secretary of State

26. All paid circulators of statewide ballot measure petitions must register with the Secretary of State prior to collecting signatures, regardless of whether they are residents of Arizona. *See* A.R.S. § 19-118(A).

27. All circulators of statewide ballot measure petitions who do not reside in Arizona must register with the Secretary of State prior to collecting signatures, regardless of whether they are compensated for their services. *See* A.R.S. § 19-118(A).

28. Certain individuals who never registered with the Secretary of State as paid or out-of-state circulators of the Initiative Petition nevertheless indicated on the face of at least one petition sheet they ostensibly circulated that they either:

- (a) were paid for their signature collection efforts; or
- (b) reside outside Arizona.

See Ex. A.

29. These signatures are invalid and must be disqualified. *See* A.R.S. §§ 19-118(A), -121.01(A)(1)(h).

Objection No. 2: Untimely Circulator Registration

30. Ballot measure circulators who are required to register with the Secretary of State must do so before collecting any signatures. *See* A.R.S. § 19-118(A).

31. Certain signatures on the Initiative Petition were obtained by individuals who were paid or non-resident circulators of the Initiative Petition but whose apparent date of registration with the Secretary of State was subsequent to the date of some or all of the signatures they purportedly collected. *See* Ex. A.

32. These signatures are invalid and must be disqualified. *See* A.R.S. §§ 19-118(A), -121.01(A)(1)(h).

Objection No. 3: Circulator Registration Not Accompanied by Sworn Affidavit

33. A valid circulator registration consists of two main components.

34. The first component is the submission of an electronic form that must include the following information:

- The circulator’s full name, full permanent and (if applicable) temporary addresses, telephone number, and email address;
- The specific petition for which the circulator will obtain signatures; and
- An address for service of process, which must be the address of the committee sponsoring the ballot measure.

See A.R.S. § 19-118(B).

35. Second, every electronic registration form must be accompanied by a signed and notarized affidavit confirming, *inter alia*, that the information provided in the electronic registration form is correct to the best of the circulator’s knowledge and that the circulator has read and understands Arizona’s election laws “applicable to the collection of signatures for a statewide initiative or referendum.” *See* A.R.S. § 19-118(B)(5).

36. The signed and notarized affidavit, which necessarily must be completed on paper, is generally scanned and uploaded separately by the circulator. The circulator also must, upon request, provide the Secretary with the original executed affidavit in hard copy form. *See* EPM at p. 252.

37. A circulator registration is not complete and operative until the Secretary has received, “review[ed]” and “accepted” both components of the registration, including the signed and notarized affidavit that must accompany the electronic registration form. *See* A.R.S. § 19-118(C); EPM at 252.

38. Certain circulators provided with their electronic registration submission an affidavit that was executed and notarized at an earlier time in connection with a separate circulator registration for another petition measure—in some instances, long before the

Secretary of State had even issued a serial number for this Initiative Petition. These registrations are deficient because the affidavits were attesting to the accuracy of *different* information (for example, the circulator's service of process address and the identity of the measure for which the circulator was collecting signatures) in connection with a *different* petition effort. It follows necessarily that these circulators failed to execute a sworn and notarized affidavit attesting to the accuracy of all required items of information in their registration for *this* Initiative Petition. See Ex. A.

39. These registrations accordingly do not strictly comply with the controlling provisions of A.R.S. § 19-118 and the EPM, and signatures collected by circulators who were not "properly registered" at the time the signatures were affixed are invalid and must be disqualified. See A.R.S. §§ 19-118(A), -121.01(A)(1)(h).

Objection No. 4: Circulator Registration Missing Full and Complete Address

40. Registered circulators must provide to the Secretary of State on the registration form, *inter alia*, a full, actual residential address. See A.R.S. § 19-118(B)(1).

41. The registration forms submitted by certain circulators of the Initiative Petition omit one or more items of required address information:

(a) Certain circulators who purport to permanently reside in a multiunit property failed to provide on their registration form any apartment or unit number, which is a necessary component of a full and complete physical address.

(b) Certain circulators who purport to temporarily reside in a multiunit property failed to provide on their registration form any apartment or unit number, which is a necessary component of a full and complete physical address.

See Ex. A.

42. Because these registration forms are not strictly compliant with the requirement that circulators disclose their full residential address, the associated circulators were not "properly registered" with the Secretary of State. Accordingly, all signatures on

the Initiative Petition that they collected are invalid and must be disqualified. *See* A.R.S. §§ 19-118(A)-(B), -121.01(A)(1)(h).

Objection No. 5: Circulator Registration Contains Inaccurate or False Information

43. A legally sufficient circulator registration must disclose, *inter alia*, the circulator's (i) actual physical place of residence, (ii) telephone number, and (iii) email address. *See* A.R.S. § 19-118(B)(1).

44. Circulator registrations include a sworn affidavit affirming that all "information provided is correct to the best of [the circulator's] knowledge." A.R.S. § 19-118(B)(5).

45. Certain signatures on the Initiative Petition were collected by individuals who provided on their registration form:

- (a) A purported permanent residential address that, upon information and belief, actually is the location of a business or commercial establishment, or otherwise is not the situs of a residential structure;
- (b) A purported temporary residential address that, upon information and belief, actually is the location of a business or commercial establishment, or otherwise is not the situs of a residential structure;
- (c) A telephone number that is inoperative or not the circulator's actual telephone number;
- (d) An email address that is inoperative or not the circulator's actual email address; or
- (e) A purported residential address that is different from the "residence address" disclosed by the circulator on some or all of the petition sheets she or he ostensibly circulated.

See Ex. A.

46. Because they did not provide complete and accurate required information on their registration forms, these circulators were not "properly registered" with the Secretary

of State. Accordingly, all signatures on the Initiative Petition that they collected are invalid and must be disqualified. *See* A.R.S. §§ 19-118(A)-(B), -121.01(A)(1)(h).

Objection No. 6: Circulator Registration Designates Insufficient Service of Process Address

47. Irrespective of where they physically reside, all paid and out-of-state circulators of statewide ballot measure petitions must provide on their registration “[t]he address of the committee in this state for which the circulator is gathering signatures and at which the circulator will accept service of process related to disputes concerning circulation of that circulator’s petitions.” A.R.S. § 19-118(B)(4); *see also* EPM at p. 252 (specifying that the designated address for service of process must be “the committee’s address in Arizona”).

48. At all times relevant, the Committee’s address has been 401 West Baseline Road, Suite 205, Tempe, Arizona 85283.

49. Certain circulators of the Initiative Petition disclosed on their registration submissions to the Secretary of State a service of process address that is either:

- (a) Partial or incomplete; or
- (b) Not the Committee’s address. *See* Ex. A.

50. Because they did not provide on their registrations a complete and statutorily required service of process address, these circulators did not strictly comply with A.R.S. § 19-118(B)(4) and hence were not “properly registered” with the Secretary of State. Accordingly, all signatures on the Initiative Petition that they collected are invalid and must be disqualified. *See* A.R.S. §§ 19-118(B)(4), -121.01(A)(1)(h).

Objection No. 7: Incorrect Circulator Registration Number

51. Upon the processing and acceptance of a circulator’s registration form by the Secretary of State, s/he is issued a unique identification number, which must be printed on the front and back sides of every petition sheet s/he circulates. *See* A.R.S. §§ 19-118(C), -121(A)(2), -121.01(A)(1)(c).

52. Certain circulators of the Initiative Petition failed to satisfy this requirement by either:

(a) providing an identification number that is different from the identification number assigned to that circulator by the Secretary of State,

(b) not writing his or her identification number on the front and back of the petition, or

(c) writing an illegible identification number on the petition. *See* Ex. A.

53. All signatures contained on such petition sheets are invalid and must be disqualified. *See* A.R.S. §§ 19-118(C), -121(A)(2), -121.01(A)(1)(c).

COUNT I

Unregistered or Improperly Registered Circulators (A.R.S. §§ 19-118, -121.01(A)(1)(h))

54. Plaintiffs incorporate by reference the allegations contained in the foregoing paragraphs as if fully set forth herein.

55. All circulators of the Initiative Petition who either reside outside the State of Arizona or who were paid for their signature collection efforts must have been “properly registered” with the Secretary of State before circulating the Initiative Petition. *See* A.R.S. §§ 19-118(A), -121.01(A)(1)(h).

56. A proper and complete registration must include, *inter alia*, (i) the circulator’s full and accurate permanent and (if applicable) temporary residential address, (ii) the circulator’s actual telephone number, (iii) the circulator’s actual email address, (iv) the Committee’s full and complete address as the designated address for service of process, and (v) a verification of all information in the registration for I-16-2022 that is executed by the circulator under penalty of perjury and notarized. *See* A.R.S. § 19-118(A), (B).

57. A circulator who has not strictly complied with all attributes of a complete, accurate and timely registration is not validly or properly registered.

58. The Secretary of State must disqualify all signatures by individuals who were required to register but were “not properly registered at the time the petitions were circulated.” A.R.S. § 19-121.01(A)(1)(h).

59. “Any person” has legal standing to challenge in this Court the registration of ballot measure petition circulators. *See* A.R.S. § 19-118(F).

60. The inclusion of legally deficient petition sheets and signatures in the Secretary of State’s certification of presumptively valid signatures eligible for verification by the county recorders pursuant to A.R.S. § 19-121.01(B) will irreparably injure the Plaintiffs and all qualified electors of the State of Arizona.

61. The balance of equities and considerations of public policy support the entry of injunctive relief.

62. Accordingly, Plaintiffs are entitled to an injunction providing for the disqualification of all signatures collected by circulators who were required to be, but were not, “properly registered” with the Secretary of State at the time the signature was affixed.

COUNT II

Disqualification of Legally Insufficient Sheets and Signatures (A.R.S. §§ 19-118, 19-121, 19-121.01, 19-122(C))

63. Plaintiffs incorporate by reference the allegations contained in the foregoing paragraphs as if fully set forth herein.

64. Pursuant to A.R.S. § 19-122(C), “[a]ny person may contest the validity of an initiative or referendum . . . [and] may seek to enjoin the secretary of state or other officer from certifying or printing the official ballot for the election that will include the proposed initiative or referendum and to enjoin the certification or printing of the ballot.”

65. Pursuant to A.R.S. § 19-102.01(A), “[c]onstitutional and statutory requirements for statewide initiative measures must be strictly construed and persons using the initiative process must strictly comply with those constitutional and statutory requirements.”

66. The Initiative Petition contains numerous signatures that are not strictly compliant with governing laws on the grounds that, *inter alia*, the circulator of the sheet had registered with the Secretary of State but had not inscribed his or her full and complete assigned circulator registration number on the front and back of the petition sheet. The Secretary is required to disqualify these signatures. *See* A.R.S. §§ 19-118(C), -121(A)(2), -121.01(A)(1)(c).

67. The inclusion of legally deficient petition sheets and signatures in the Secretary of State's certification of presumptively valid signatures eligible for verification by the county recorders pursuant to A.R.S. § 19-121.01(B) will irreparably injure the Plaintiffs and all qualified electors of the State of Arizona.

68. The balance of equities and considerations of public policy support the entry of injunctive relief.

69. Accordingly, the Plaintiffs are entitled to an injunction providing for the disqualification of all petition sheets and signatures that do not strictly comply with one or more applicable provisions of law.

DEMAND FOR RELIEF

WHEREFORE, the Plaintiffs demand relief in the following forms:

- A. Injunctive or mandamus remedies requiring the Defendant to disqualify and to exclude from the tally of signatures eligible for verification by the county recorders all signatures on the Initiative Petition that were collected by individuals who were required to be, but were not, properly registered with the Secretary of State at the time the signatures were affixed.
- B. Injunctive or mandamus remedies requiring the Defendant to disqualify and to exclude from the tally of signatures eligible for verification by the county recorders all signatures on the Initiative Petition included on sheets that purportedly were circulated by a

1 registered circulator but that do not contain the circulator's full and
2 correct registration number on both sides of the sheet.

- 3 C. An award of reasonable attorneys' fees and costs pursuant to A.R.S. §
4 19-118(F), the private attorney general doctrine, and other applicable
5 law.
6 D. Such other relief as the Court deems necessary, equitable, proper, or
7 just.

8
9 DATED this 22nd day of July, 2022.

10 STATECRAFT PLLC

11
12 By: _____

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Executed under penalty of perjury this 22nd day of July, 2022.

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