

SUPREME COURT OF ARIZONA

SETH LEIBSOHN, an individual, et al.,
Plaintiffs/ Appellants,

v.

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

Defendant/ Appellee,

VOTERS' RIGHT TO KNOW, a political
committee,

Real Party in Interest/ Appellee.

Arizona Supreme Court
No. CV-22-0204-AP/EL

Maricopa County
Superior Court
No. CV2022-009709

APPENDIX TO ANSWERING BRIEF OF VOTERS' RIGHT TO KNOW

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HONORABLE JOSEPH P. MIKITISH

CLERK OF THE COURT

E. Wolf

Deputy

SETH LEIBSOHN, et al.

KORY A LANGHOFER

v.

KATIE HOBBS, et al.

AMY BELL CHAN

THOMAS J. BASILE
JOSHUA D BENDOR
NOAH T GABRIELSEN
JOSHUA J MESSER
TRAVIS C HUNT
ANNABEL BARRAZA
JACQUELINE MENDEZ SOTO
COURT ADMIN-CIVIL-ARB DESK
DOCKET-CIVIL-CCC
JUDGE MIKITISH

AMENDED UNDER ADVISEMENT RULING

The Court has received and reviewed the Petitioners' *Motion to Amend Clearly Erroneous Factual Findings and to Decide the Contested Factual Issues*, filed earlier today, August 18, 2022; and the Committee's response thereto, likewise filed earlier today, August 18, 2022.

Based on the pleadings, THE COURT FINDS it appropriate to amend its under advisement ruling of yesterday, August 17, 2022, to modify the factual findings as to Objections 3 and 4. The entire amended ruling is included for clarity's sake.

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UNDER ADVISEMENT RULING

The Court has reviewed and considered all filings in the case, together with all legal authorities, evidence admitted at the evidentiary hearing on August 12, 2022, and arguments by counsel. For the reasons stated below, the objections outlined in the complaint and presented at trial are denied. Because it is unclear whether additional findings or conclusions may be necessary, the Court directs entry of a final judgment as to the objections presented pursuant to Rule 54 (b).

Background

On or around May 4, 2021, Voters' Right to Know ("the Committee") filed with the Secretary of State the title and text of its initiative measure, and received a serial number (I-04-2022) for the Initiative Petition. *See* Am. Compl. ¶ 16. As required by A.R.S. § 19-111(A), the serial number application disclosed the Committee's address, which it represented to be "514 West Roosevelt, Phoenix, AZ 85003." *Id.* ¶ 36, Ex. B. The Committee's statement of organization on file with the Secretary of State has at all times relevant likewise identified the Committee's address as 514 West Roosevelt Street. *Id.* ¶ 37.

For more than a year after the filing of the Initiative, thousands of people circulated petitions to place the Voters' Right to Know Act (the "Act") on the ballot. Hundreds of thousands of Arizona voters signed the petitions.

On or around July 7, 2022, the Committee submitted to the Secretary 38,799 petition sheets that purportedly contained an estimated 393,000 signatures. Following her statutorily required initial review of the Initiative Petition, and disqualification of specific sheets and signatures with various facial defects or errors, *see* A.R.S. § 19-121.01(A), the Secretary determined that 355,726 signatures were eligible for further review by the county recorders. Pursuant to A.R.S. § 19-121.01(B)-(D), the Secretary randomly selected five percent (*i.e.*, 17,787) of these signatures for transmittal to the county recorders, who currently are verifying the voter registration status of those purported signers, *see* A.R.S. § 19-121.02. The Secretary will discount the total number of signatures deemed eligible for verification (as adjusted to exclude signatures disqualified by the county recorders) by the aggregate validity rate computed by the county recorders to project the total number of valid signatures, *see id.* § 19-121.04, which must equal or exceed 237,645 to qualify the measure for placement on the statewide election ballot, *see* Ariz. Const. Art. IV, Pt. 1, § 1(2), (7).

On July 29, 2022 Plaintiffs timely initiated this challenge to the legal sufficiency of certain circulator registrations and the Initiative Petition as a whole, pursuant to A.R.S. §§ 19-118(F) and 19-122(C). The initial complaint was timely amended on August 3, 2022.

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Discussion

Initiative and referendum procedures are a fundamental part of Arizona’s system of government. *Whitman v. Moore*, 59 Ariz. 211, 218–20 (1942). Although our constitution vests lawmaking authority “in a Legislature, ... the people reserve the power to propose laws and amendments to the Constitution and to enact or reject such laws and amendments at the polls, independently of the Legislature; and they also reserve ... the power to approve or reject at the polls any Act, or item, section, or part of any Act of the Legislature.” Ariz. Const. Art. 4, Pt. 1, § 1. *Fairness and Accountability in Ins. Reform v. Green*, 180 Ariz. 582, 584-85 (1994). Our courts have always respected, and endeavored to uphold, the power of the people of our state to enact or reject laws by popular vote. *Molera v. Reagan*, 245 Ariz. 291, 293 ¶ 1 (2018) (“We greatly respect the initiative process, including the civic activism required to collect the signatures necessary to qualify a ballot measure, and we do not lightly disturb the fruits of such efforts.”)

The Arizona Constitution directs the Legislature to enact “registration and other laws to secure the purity of elections and guard against abuses of the elective franchise.” Ariz. Const. Art. VII, §12. State law provides that “constitutional 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). Strict compliance “requires nearly perfect compliance with constitutional and statutory” mandates. *Arrett v. Bower*, 237 Ariz. 74, 81 (App. 2015). Strict compliance applies to “all constitutional and statutory provisions, no matter how minor.” *Homebuilders Association of Central Arizona v. City of Scottsdale*, 186 Ariz. 642, 648 (App. 1996), even if its application results in what may seem to be “harsh consequences” resulting from as little as an “unfortunate mistake.” *Arrett*, 237 Ariz. at 80, 83.

Once initiative petitions are circulated, signed, and filed, they are presumed valid. *Harris v. Purcell*, 193 Ariz. 409, 412 ¶ 15 (1998). Petitions and signatures disqualified by the Secretary of State are not entitled to that presumption, but the presumption may be reinstated on proof of the signature or petition’s legal sufficiency. *Direct Sellers Association v. McBrayer*, 109 Ariz. 3, 5 (1972); *W. Devcor, Inc. v. City of Scottsdale*, 168 Ariz. 426, 431 (1991); *Harris v. City of Bisbee*, 219 Ariz. 36, 42 ¶ 21 (App. 2008).

Here, the Petitioners seek to disqualify petition sheets and individual signatures. The Court addresses the Petitioners’ claims as follows:

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1. Must each circulator provide a new notarized affidavit specific to each initiative for which he or she carries petitions?

Arizona law requires that a valid circulator registration application must include the following:

1. The circulator's full name, residence address, telephone number and email address.
2. The initiative or referendum petition on which the circulator will gather signatures.
3. A statement that the circulator consents to the jurisdiction of the courts of this state in resolving any disputes concerning the circulation of petitions by that circulator.
4. The 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. Service of process is effected under this section by delivering a copy of the subpoena to that person individually, by leaving a copy of the subpoena with a person of suitable age or by mailing a copy of the subpoena to the committee by certified mail to the address provided.
5. An affidavit from the registered circulator that is signed by the circulator before a notary public and that includes the following declaration:

I, (print name), under penalty of a class 1 misdemeanor, acknowledge that I am eligible to register as a circulator in the state of Arizona, that all of the information provided is correct to the best of my knowledge and that I have read and understand Arizona election laws applicable to the collection of signatures for a statewide initiative or referendum.

The Plaintiffs argue that some of the circulators for this Initiative relied on affidavits filed in previous circulator registration applications. They argue that the statutes requiring strict construction prohibit applicants from using past affidavits for the purpose of obtaining approval to carry petitions for this Initiative. They argue that a new affidavit related to a new application is required. Specifically, they assert:

[An applicant for registration] is swearing to the accuracy of a *particular* representation, made in a *particular* time and place, before a *particular* notary public. For that reason, Arizona law flatly prohibits a notary from “perform[ing] a jurat on a document that is incomplete.” A.R.S. § 41-328(A); *see also* Sec’y of State, ARIZONA NOTARY PUBLIC REFERENCE MANUAL (rev. July

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2020) at 21 (“The notary cannot perform a notarial act on a document that is missing pages or that contains fields that should be filled in.”).

Plaintiffs’ Prehearing Memorandum at 11.

Finally, the Plaintiffs argue that, although the Secretary of State has some discretion in constructing the mechanics of the circulator registration process, she cannot modify or abridge a statutory mandate.

The Committee argues that the law does not require a new affidavit for each registration. It argues that the affidavit language is provided by statute and was used by the circulators in this case. It notes that the Secretary of State does not require new affidavits. In fact, it argues that the Secretary of State’s electronic circulator registration portal does not allow circulators to upload a separate affidavit for each petition they add to their registration. The committee notes that the portal process is incorporated into the Elections Procedures Manual. It notes that provisions of the Elections Procedures Manual, which the secretary promulgated pursuant to a specific statutory directive, have the force of law. *Arizona Pub. Integrity All. v. Fontes*, 250 Ariz. 58, 63, ¶ 16 (2020). If the Court finds any ambiguity in the affidavit requirement, the Committee argues that the Court should defer to the Secretary’s lawfully promulgated process. It argues that each step of the Secretary’s registration process complies with the letter and spirit of A.R.S. § 19-118.

The Committee goes on to argue that a circulator may update registration information without submitting an affidavit for each new update. Lastly, it argues that unlike other election requirements there is no time restriction when the registration affidavit must be completed.

The statutory language provides three requirements as to the contents of affidavits. They must acknowledge that the following information is true:

1. I am eligible to register as a circulator in the state of Arizona,
2. All of the information provided is correct to the best of my knowledge, and
3. I have read and understand Arizona election laws applicable to the collection of signatures for a statewide initiative or referendum.

Each of these items can change over time. For example, between the time of one initiative and another, a proposed circulator become ineligible to register. Likewise, “all of the information provided” can change from one application to the next. Finally, election laws may vary over time. Therefore, an inference may be made that a new affidavit is required each time a circulator wishes to carry a new petition.

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Nevertheless, the strict construction of the statute does not support that the affidavit must specifically relate to each new initiative. Rather, the statute simply indicates that an affidavit must be included swearing to the listed items. The Legislature has imposed several temporal requirements for circulator affidavits. *See* A.R.S. §§ 19-112(D) (requiring affidavit swearing that “at all times during [the circulator’s] circulation of *this petition sheet*,” the voter “printed the individual’s own name and address and signed *this sheet* of the foregoing petition in [the circulator’s] presence on the date indicated,” and “at all times during circulation of *this signature sheet* a copy of the title and text was attached to the signature sheet”) (emphasis added); 19-121.01(A)(1)(f) (directing Secretary to remove sheets “on which the signatures of the circulator or the notary are dated earlier than the dates on which the electors signed the face of the petition sheet”); (A)(3)(c) (directing the Secretary to remove signatures “if the date on which the petitioner signed the petition is after the date on which the affidavit was completed by the circulator and notarized”). In this case, the Legislature did not expressly include a temporal requirement for the circulator registration affidavits. It clearly could have done so as it had in other instances. Because the Legislature could have provided a temporal requirement but failed to do so, the Court concludes that the Legislature intended not to require new circulator affidavits for each new petition.

2. Are circulator registrations that designated an address other than 514 W. Roosevelt St. for service of process invalid?

The Petitioners argue that paid or out-of-state circulator registrations must designate an address for service of process. They argue that only one address may be permissibly designated: “the address of the committee in this state for which the circulators gathering signatures and at which the circulator will accept service of process.” A.R.S. § 19-118(B)(4); *see also* EPM at p. 253. The Petitioners argue that the Committee’s address at all relevant times has been 514 W. Roosevelt, Phoenix, AZ 85003 because the Committee provided that address on its serial number application for the Initiative. The Petitioners argue that almost every circulator who registered for this initiative petition, however, disclosed a service address of 502 W. Roosevelt and are therefore invalid.

The Petitioners cite to the legislative history to argue that the Legislature modified the statutory text to provide for a single address and ensure that service of subpoenas can be effectuated “efficiently [and] quickly” to fulfill the needs of highly expedited litigation. They argue that this legislative purpose to provide a bright line rule requires that a committee can only have one address.

The Petitioners also argue that the 514 and 502 W. Roosevelt sites are two different locations because they are separate parcels, each with its own postal delivery address, featuring a freestanding building that is not interconnected with the other.

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They further argue that if the Committee changed its address, prior inaccurate circulator registrations would be invalid. They argue that the information contained in the circular registrations must be sworn and notarized, and, therefore, the information they contain must be true and accurate at the moment of submission.

The Committee argues that, under the statute, an initiative committee may have multiple addresses. Therefore, according to the Committee, the fact that the address on the serial number application differs with the circulators' disclosed address for service of process is inconsequential. The Committee may use other addresses, so long as the circulators' address is proper for service of process.

The Committee further argues that the Committee co-chairperson is the 100% owner of the entity that owns both 502 W. Roosevelt and the adjacent parcel 514 W. Roosevelt, and that the parcels share a driveway, parking, fencing, and security cameras. It argues that the 502 parcel is more conducive to accepting service of process because it is the location of the co-chairperson's law firm. The 514 parcel serves as a coordination location more conducive to active petition gathering than service of process.

The Committee notes that the 502 parcel has been used in numerous filings with the Secretary of State, as well as the application for serial number for the Act. It notes that the Committee receives mail and bank statements, at the 502 parcel, and that parcel is listed on official checks, the online PayPal account, electronic Federal tax payment systems.

The Committee argues that nothing in the statute requires the addresses listed on the application form required under A.R.S. § 19-1112 match the address required in the affidavits under A.R.S. § 19-118(B)(4). They argue that the one circulator subpoena issued in this case was served without challenge.

The Court concludes that nothing in the statutes require the Committee to have only one address. For purposes of this objection, the only requirement is that circulators provide an address that may be used for service of process. THE COURT FINDS that the circulators have provided an address for service of process in this case. No evidence was presented that the address used was not proper for service of process.

In addition, the statutes do not define an "address." A plain usage of the term is "a place where a person or organization may be communicated with." [Address Definition & Meaning - Merriam-Webster Online Dictionary, www.Merriam-Webster.com/dictionary/address](https://www.merriam-webster.com/dictionary/address). Under the facts of this case, THE COURT FURTHER FINDS that even if only one address were permitted under the statute, the common ownership, adjacent location, configuration, and usage of the two parcels in this case make clear that the parcels served as one address for purposes of this initiative.

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3. Must a Valid Registration Disclose the Circulator’s Full Residential Address, Including (If Applicable), a Unit Number?

A circulator registration must contain (among other items of information) “[t]he circulator’s full name, residence address, telephone number and email address.” A.R.S. § 19-118(B)(1). The Petitioners argue that strict compliance requires disclosing the circulator’s residence address in full, including a unit number where applicable for apartments, dorms, or hotels. The petitioners note that our courts have struck petitions that did not include complete dates. *See McKenna v. Soto*, 250 Ariz. 469, 472, ¶ 14 (2021). They also emphasize that our courts have held that a circulator registration is not strictly compliant with A.R.S. § 19-118(B)(1) “if an apartment number, dorm number or hotel room number was not included on a residence address where such number was necessary to ensure that the individual could be contacted or questioned.” *Leach v. Hobbs*, Maricopa County Superior Court No. CV2020-007961, Minute Entry (Aug. 14, 2020) at p. 14, *aff’d on other grounds*, 245 Ariz. 430 (2020).

The Committee argues that the statute merely requires a circulator’s “residence address.” It notes that the Plaintiffs are requesting the Court to amend the statutory language to include items not promulgated by the Legislature. *See Lawrence v. Jones*, 199 Ariz. 446, 452-53 (App. 2001) (concluding “that if the legislature had wanted to include such a narrowly constructed definition of ‘legal description,’ it would have included it in Title 19 referendum provisions as it has done in other areas of the law”). The Committee notes that the Plaintiffs have offered no proof, that the addresses provided were insufficient to ensure the circulators could be contacted. The Committee argues that as long as the addresses listed were locations where the circulators could be located, contacted, and questioned, the statute’s purposes are met. *Lohr v. Bolick*, 249 Ariz. 428, 433 ¶ 22 (2020) (“[T]he purpose of the address requirement is to ensure that a circulator can be contacted and questioned about the validity of gathered signatures.”).

Under Arizona’s statutory framework and relevant precedents, the Court concludes that an apartment number, dorm number or hotel room number is required to be included on a residence address, but only if such number is necessary to ensure that the individual could be contacted or questioned. As such, a factual inquiry is required to determine whether the applicable unit number is necessary.

In this case, no facts were presented as to whether an applicable unit number was necessary to ensure contact. In fact, evidence was presented that individuals who listed hotel rooms could be contacted without specific hotel room numbers. Therefore, the challenges based on lack of a unit number must fail. This includes the registration of Chanz Calderon, who resides in a RV park but did not provide a unit number on his registration form, *see* Exhibits 13-14—but for whom there was no evidence of a failed attempt to contact him in the absence of the unit number.

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4. Must valid registration include a residential address?

The Petitioners argue that evidence at trial would demonstrate that certain circulators provided on their registration forms an address that did not correspond to a residence, for example a vacant lot or mailbox facility. The Court agrees that a residence address is required, although for certain individuals, a vacant lot may serve as a residence.

The parties stipulate that three circulators (Kat Davis, Michel Garcia, and Angela Maggi) provided non-residential permanent addresses. Therefore, the Court concludes that those circulators' petitions must be stricken.

The parties further stipulate that the permanent residential address that Bonnie Stanley provided on her registration form is her mailing address at a postal facility that also appears on her driver's license but is not the address at which she lives, where there is no mail service. Therefore, the Court concludes that circulator Stanley's petitions must be stricken.

The parties further stipulate that Nik Beganovich and Cory Woods provided residential addresses that, due to the omission of a single digit on each of their registration forms, were non-residential addresses rather than their respective residential addresses at multi-unit facilities. The Committee notes that circulators Beganovich and Woods intended to include accurate addresses that indicated a multiunit residence but failed to include all of the digits in the address. *See* Joint Pretrial Statement at 3 (“Cory Woods wrote ‘1575 N 90th Place Scottsdale, AZ 85260’ (which is not the site of a residence) but *intended* to write ‘15757 N 90th Place Scottsdale, AZ 85260’ (which is a multi-unit residence) Likewise, Nic Beganovic wrote ‘505 East Grant Road, Tucson, AZ 85712’ (which is not the site of a residence) but *intended* to write ‘5050 East Grant Road, Tucson, AZ 85712’ (which is a multi-unit residence).”) (emphasis added).

While in some instances a factual inquiry may be necessary to determine whether an omission is significant enough to prevent adequate contact, in this case, the omissions are of a nature to make the actual address incorrect by orders of magnitude. Therefore, **THE COURT FINDS** that the addresses provided for circulators Beganovich and Woods do not ensure contact as required by statute. Thus, the petitions of circulators Beganovich and Woods must be stricken.

Conclusion

For the foregoing reasons,

IT IS ORDERED denying Objections 1 through 3.

IT IS FURTHER ORDERED granting Objection 4 as stated in this ruling.

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Under A.R.S. § 19-118(F), a party must file a notice of appeal within five calendar days after entry of judgment. The Supreme Court may dismiss a belatedly prosecuted appeal, such as one filed on the last day of the statutory deadline. *See McClung v. Bennett*, 225 Ariz. 154, 235 P.3d 1037 (2010). Special procedural rules govern expedited appeals in election cases. Ariz. R. Civ. App. P. 10.

Pursuant to Rule 54(b), Ariz. R. Civ. P., and there being no just reason for delay, the Court directs entry of this Amended Judgment as a final, appealable Order. The Court signs this minute entry as an enforceable Order of the Court effective immediately.

Date: August 18, 2022

/ s / JOSEPH P. MIKITISH

HONORABLE JOSEPH P. MIKITISH
JUDGE OF THE MARICOPA COUNTY SUPERIOR COURT

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10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **IN AND FOR THE COUNTY OF MARICOPA**

12 SETH LEIBSOHN, *et al.*,

13 Plaintiffs,

14 vs.

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

17 Defendant,

18 and

19 VOTERS' RIGHT TO KNOW, a
20 political committee,

21 Real Party in Interest.

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**DECLARATION OF KORI LORICK,
STATE ELECTIONS DIRECTOR**

(Assigned to the Honorable Joseph P.
Mikitish)

22 I, Kori Lorick, declare as follows:

23 1. I am the State Elections Director in Secretary of State Katie Hobbs's
24 Office. In this role, I oversee the Elections Services Division in the Department of State.
25 I have served in this role since July 2021. Prior to that and since September 2019, I served
26 as the Elections Compliance Manager in the Elections Services Division. In my current
27 role as State Elections Director, my responsibilities include overseeing the Secretary of
28 State's circulator registration process.

2. Under Arizona law, a petition circulator must register with the Secretary of
State's Office if the circulator: (a) is paid to circulate a recall, statewide initiative, or

1 statewide referendum petition; and/or (b) is not a resident of this state and will circulate:
2 (i) a statewide initiative or referendum petition, (ii) a recall petition in any Arizona
3 jurisdiction (statewide, county, city, or town), or (iii) a candidate petition in any Arizona
4 jurisdiction. *See* A.R.S. §§ 16-321(D); 19-118(A); 19-205.01(A).

5
6 3. Section 19-118(A), Arizona Revised Statutes, states that the Secretary of
7 State “shall establish in the [Election Procedures Manual (“EPM”)] a procedure for
8 registering circulators, including circulator registration applications.” Pursuant to the
9 2019 EPM currently in effect, “circulator registration must be conducted as prescribed
10 by the Secretary of State through the electronic Circulator Portal
11 (<https://apps.azsos.gov/apps/election/circulatorportal/>).” There is no alternate means of
12 submitting a circulator registration. Notably, the Secretary of State’s Office does not
13 accept or make available a paper circulator registration application.

14 4. Circulators wishing to register with the Secretary of State’s Office must
15 first create an account in the Circulator Portal. To create an account, the circulator must
16 enter their name, residential address,¹ phone number, and email address and create a
17 password to use to log in to their account in the future. The Circulator Portal then
18 automatically sends a confirmation email to the circulator, which instructs the circulator
19 to click on a link to verify the circulator’s email address.

20 5. The circulator’s Circulator Portal account is established when the circulator
21 verifies their email address. The Circulator Portal then automatically sends another email
22 to the circulator containing the assigned Circulator ID number, a link to the Petition
23 Circulation Training Guide, and a link to log in to the Circulator Portal to complete the
24 circulator’s registration.

25
26 _____
27 ¹ If the circulator’s residential address is outside of Arizona, they will also be prompted to provide a temporary
28 residential address inside Arizona. Arizona law does not require that the circulator provide a temporary residential
address inside Arizona, but the Secretary of State’s Office requests this information in case there is a reason to
mail correspondence to the circulator (e.g., if we are unable reach them via email or phone). To date, the Secretary
of State’s Office has not needed to contact a circulator at their temporary address.

1 6. After the circulator has created a Circulator Portal account, to complete
2 their circulator registration, the circulator must: (a) log back into the Circulator Portal;
3 (b) upload a notarized affidavit of eligibility as required by A.R.S. §§ 19-118(B)(5) and
4 19-205.01(A) if they wish to register to circulate a statewide initiative or referendum
5 petition (or any recall petition that received a petition serial number on or after September
6 29, 2021)² and (c) add the petition(s) they wish to register to circulate (by petition serial
7 number for initiative, referendum, or recall petitions, or by candidate name for candidate
8 petitions).

9
10 7. To meet the notarized affidavit requirement, the circulator must download
11 the affidavit form from the Circulator Portal, get the form notarized (i.e., complete and
12 sign the form before a notary public, who must sign and place their seal on the form), and
13 then upload an electronic file (PDF) of the completed and notarized form to the Circulator
14 Portal.

15 8. When the notarized affidavit requirement for statewide initiative and
16 referendum petitions was first enacted into law in 2019, the Secretary of State’s Office
17 considered whether to require submission of the original hard copy affidavit even though
18 the Secretary of State’s circulator registration process – which existed prior to this new
19 requirement – was entirely online through the Circulator Portal. The Secretary of State’s
20 Office determined that it was not administratively feasible, nor had the Legislature
21 provided for additional funding to hire additional staff to manually receive and process
22 hard copy affidavits and manually pair them with the correct Circulator Portal
23 registration. Therefore, the Secretary of State’s Office requires circulators to upload a
24 PDF of the completed and notarized affidavit in the Circulator Portal and expressly
25

26 ² See 2019 EPM at 252 (requiring circulators of statewide initiative or referendum petitions to “provide a notarized
27 circulator affidavit declaring that the circulator is eligible to register, that all information contained in the
28 registration is true and correct, and that the circulator has read and understands Arizona election laws applicable to
the collection of signatures for a statewide initiative or referendum.”).

1 instructs circulators that they are not required to provide the original hard copy of the
2 notarized affidavit to our Office but should maintain the original for their own records.

3
4 9. Once the circulator uploads the completed and notarized affidavit of
5 eligibility, a notice appears in the Circulator Portal stating that their affidavit was
6 successfully uploaded and is pending acceptance. After an Election Services Division
7 staff member reviews and accepts the uploaded document, the circulator will get an email
8 notice confirming acceptance of the circulator’s notarized affidavit of eligibility. The
9 circulator can then log back into the Circulator Portal to add a recall or statewide initiative
10 or referendum petition(s) to their registration. *See* 2019 EPM at 252 (“Circulators
11 registering through Circulator Portal will be prompted to upload an electronic copy of the
12 notarized circulator affidavit, which must be accepted by the Secretary of State’s Office,
13 before the circulator is permitted to register to circulate a statewide initiative or
14 referendum petition.”).

15 10. The notarized affidavit requirement was only required initially for
16 statewide initiative and referendum petitions when it was implemented in 2019, however,
17 the Legislature, in 2021, also required a notarized affidavit of eligibility to register to
18 circulate a recall petition. If the circulator is registering to circulate only petitions that do
19 not require a notarized affidavit of eligibility (e.g., local initiative or referendum
20 petitions, or candidate petitions), this step of uploading the notarized affidavit is not
21 required before the circulator can add those petitions to their registration.

22 11. In the Circulator Portal, a circulator can add a petition to their registration
23 by clicking on “Add a Petition.” A pop-up window then appears that: (1) displays the
24 name, permanent residential address, temporary residential address in Arizona if
25 provided, phone number, and email address provided when the circulator created their
26 account; (2) notifies the circulator that the information will be carried over for the
27 additional petition; and (3) asks the circulator to confirm the information is correct. If the
28

1 circulator selects that the information is not correct, they are taken to a screen to update
2 the information. After the circulator confirms the information is correct, they may select
3 the petition they wish to add to the registration and must also enter their service of process
4 address for that petition. To finish adding the petition, the circulator must confirm that
5 the information they provided is correct under penalty of perjury. There is no limit to the
6 number of petitions a circulator can add to their registration.

7
8 12. The Secretary of State’s Office considers a circulator’s initial registration
9 to be complete once the circulator submits the necessary information and completes the
10 necessary steps to create a valid account in the Circulator Portal and, if applicable,
11 provides a notarized affidavit of eligibility that is accepted. After that point, to begin
12 collecting signatures for a particular petition as a registered circulator, the circulator need
13 only complete the process to add that petition to their registration in the Circulator Portal.
14 *See* 2019 EPM at 252. (“Once a circulator is properly registered, the circulator must select
15 in the Circulator Portal the petition(s) they will circulate (by serial number and/or
16 candidate name).”).

17 13. A circulator can subsequently update their registration by adding additional
18 petitions they will circulate without creating a new Circulator Portal account or uploading
19 a new notarized affidavit of eligibility. The system only requires circulators to upload an
20 affidavit at initial registration and does not allow circulators to upload a separate affidavit
21 for each petition they add to their registration. Therefore, it is not uncommon for
22 registered circulators to have a notarized affidavit of eligibility on file in the Circulator
23 Portal that is dated earlier, and, in some cases, many months earlier, than the date the
24 circulator added specific petitions to their registration.

25 14. The Secretary of State’s Office assigns a random circulator ID number to
26 each registered circulator. That circulator ID number is permanently assigned to the
27 circulator and must be used for all petitions being circulated by that particular individual
28

1 (regardless of the election cycle or which petition is being circulated). See 2019 EPM at
2 253. It would be administratively burdensome, and likely not practicable, to assign a
3 unique circulator ID number to the circulator for each petition they wish to circulate, to
4 require (or allow) circulators to create a new Circulator Portal account or register
5 separately for each petition they wish to circulate, or to modify the Circulator Portal to
6 allow circulators to upload, and enable the system to store, a different notarized affidavit
7 for each petition added to the circulator's registration.
8

9
10 Dated: August 9, 2022

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12 By: /s/ Kori Lorick
13 Kori Lorick
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Attorneys for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

SETH LEIBSOHN, an individual; CENTER FOR ARIZONA POLICY ACTION, a nonprofit corporation; ARIZONA FREE ENTERPRISE CLUB, a nonprofit corporation; GOLDWATER INSTITUTE FOR PUBLIC POLICY AND RESEARCH, a nonprofit corporation; and AMERICANS FOR PROSPERITY, a nonprofit corporation,

Plaintiffs,

v.

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

Defendant,

and

VOTERS' RIGHT TO KNOW, a political committee,

Real Party in Interest.

No. CV2022-009709

STIPULATIONS OF THE PLAINTIFFS AND SECRETARY OF STATE

(Assigned to the Hon. Joseph P. Mikitish)

Plaintiffs and Defendant Secretary of State Katie Hobbs hereby stipulate and agree

1 to the following:

2 1. A paid or out-of-state circulator of a statewide initiative or referendum
3 petition initially creates an account with the Secretary of State by submitting an electronic
4 form and confirming their email address. A circulator is not considered registered until
5 they upload an image of a signed and notarized affidavit averring that the information
6 provided is correct to the best of the circulator’s knowledge and that the circulator has read
7 and understands Arizona election laws applicable to the collection of signatures for a
8 statewide initiative or referendum. To associate themselves with a specific petition, the
9 circulator must first complete all the steps described above, and then must submit the
10 following:

- 11 a. Confirm that their contact information (including name, address, phone, and email)
12 is correct,
- 13 b. Select the reason why they are registering (paid and/or out of state),
- 14 c. Enter the service of process address and organization (if relevant),
- 15 d. Select the petition number they intend to circulate,
- 16 e. Confirm acknowledgements and declare under penalty of perjury the accuracy of
17 information.

18 2. It is only possible for circulators to submit more than one affidavit in support
19 of their respective registration applications if they originally registered prior to September
20 29, 2021, the effective date of new legislation (Laws 2021, Ch. 319, § 8) that required paid
21 and/or out of state circulators of recall petitions to register with the Secretary and file an
22 affidavit before circulating petitions. Because of that statutory change, circulators who
23 registered with the Secretary before the effective date of that act may submit a second
24 affidavit. During this election cycle, 14 previously registered circulators for I-04-2022 (*i.e.*,
25 circulators who have previously submitted and received approval on an affidavit) submitted
26 through the Secretary of State’s online Circulator Portal, and the Secretary of State’s office
27 accepted and approved, new or updated circulator registrations that were accompanied by
28 new affidavits as a result of the 2021 statutory change.



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DATED this 11th day of August, 2022.

STATECRAFT PLLC

By: /s/Thomas Basile
Kory Langhofer
Thomas Basile
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Phoenix, Arizona 85003
Attorneys for Plaintiffs

ARIZONA SECRETARY OF STATE

By: /s/Amy B. Chan (with permission)
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Noah T. Gabrielsen
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Attorneys for Defendant Secretary of State

ORIGINAL of the foregoing filed electronically via TurboCourt on the 11th day of August, 2022 with:

MARICOPA COUNTY SUPERIOR COURT
201 West Jefferson Street
Phoenix, Arizona 85003

COPY served electronically this same date on:

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By: /s/Thomas Basile
Thomas Basile





STATE OF ARIZONA

2019 ELECTIONS PROCEDURES MANUAL

December 2019

www.azsos.gov



1700 W. Washington St. Phoenix, AZ 85007



1-877-THE-VOTE (843-8683)



C. Circulator Registration Procedures

Circulator registration must be conducted as prescribed by the Secretary of State through the electronic Circulator Portal (<https://apps.azsos.gov/apps/election/circulatorportal/>). A circulator registration is not complete until the Secretary of State confirms the registration in writing. [A.R.S. § 19-118\(A\)](#); [A.R.S. § 16-452\(A\)](#). Once a circulator is properly registered, the circulator must select in Circulator Portal the petition(s) they will circulate (by serial number and/or candidate name).

Circulators must satisfy the following requirements when registering with the Secretary of State through the Circulator Portal:

- Provide his/her name, residential address, telephone number, and email address;
- Consent to the jurisdiction of Arizona courts in resolving any disputes concerning the circulation of petitions by that circulator;
- Indicate the committee's address in Arizona (for statewide initiative or referendum petitions) or a designated address in Arizona (for candidate petitions) at which the circulator will accept service of process related to disputes concerning circulation of that circulator's petitions;
- Indicate the circulating organization at which the circulator is employed (if applicable); and
- For circulators of statewide initiative or referendum petitions, provide a notarized circulator affidavit declaring that the circulator is eligible to register, that all information contained in the registration is true and correct, and that the circulator has read and understands Arizona election laws applicable to the collection of signatures for a statewide initiative or referendum. Exact language to be included in the affidavit can be found at [A.R.S. § 19-118\(B\)\(5\)](#).
 - Circulators registering through Circulator Portal will be prompted to upload an electronic copy of the notarized circulator affidavit, which must be accepted by the Secretary of State's Office, before the circulator is permitted to register to circulate a statewide initiative or referendum petition. The Secretary of State may also require circulators to submit the original notarized circulator affidavit to the Secretary of State's Office within a specified time period after completion of electronic registration.

[A.R.S. § 19-118\(B\)](#).

The applicable committee and/or the circulating organization that employs petition circulators, at the direction of the applicable committee, may coordinate with their circulators to gather the necessary information, including, if applicable, notarized circulator affidavits, and facilitate submission of registration applications through Circulator Portal.

1 Counsel for the Committee.

2

3

JOSHUA GORDON,

4 called as a witness herein, having been first duly

5 sworn, was examined and testified as follows:

6

7

DIRECT EXAMINATION

8 BY MR. BENDOR:

9 Q. Mr. Gordon, for what company do you work?

10 A. Advanced Micro Targeting.

11 Q. How long have you worked there?

12 A. Fifteen years.

13 Q. What's your job title currently?

14 A. I'm the field -- I'm the logistics director.

15 Q. What are your responsibilities?

16 A. I book flights, hotels, rental cars. I ship
17 supplies to the staff. And I help with office setup,
18 leases, stuff like that.

19 Q. And you mentioned that you ship things to the
20 staff. Does that include shipping things to the
21 circulators in the field?

22 A. Yes, it does.

23 Q. And what kinds of things do you ship to
24 circulators in the field?

25 A. Supplies, anything they need. We might need

1 to send nametags. We can send clapboards, pens, any
2 types of supplies they need to circulate. You know,
3 for COVID stuff, we were sending pens, masks,
4 sanitizer.

5 Q. And are you involved in arranging where
6 circulators who are from out of state will stay?

7 A. Yes, I am.

8 Q. And do they often stay in hotels?

9 A. Yes, they do.

10 Q. What hotels do you use most often in Arizona?

11 A. In Extended Stay America I would say is our
12 biggest one that we use in Arizona. We sometimes will
13 use Red Roof and a couple of other chains from
14 Hotels.com. But 90 percent of the time, we are in
15 Extended Stay America.

16 Q. And before you ship supplies to circulators
17 who are staying in a hotel like Extended Stay America,
18 do you let them know to expect a shipment?

19 A. Yes, I do.

20 Q. And when you ship supplies to circulators
21 staying in hotels, do you usually use the room number?

22 A. No, I don't.

23 Q. Why not?

24 A. We -- it never seemed like it was necessary to
25 use the room number. Our staff usually gets

1 everything we send. So the front desk will hold it
2 and let them know that they received something at the
3 front desk.

4 Q. And when you ship supplies to circulators
5 staying in hotels, do you have any trouble -- ever
6 have any trouble with supplies getting to the
7 circulators?

8 A. No, not typically. Every once in a while,
9 there's, like, a FedEx shipping issue. And then we
10 resend and they get it.

11 Q. To your knowledge, have you ever had a
12 circulator not receive a package due to the fact that
13 you didn't list a room number?

14 A. No.

15 MR. BENDOR: No further questions. Thank you,
16 Mr. Gordon.

17 THE COURT: All right. Thank you.

18 MR. LANGHOFER: No questions, your Honor.

19 THE COURT: All right. Thank you.

20 Thank you, Mr. Gordon. You may --

21 THE WITNESS: Thank you.

22 THE COURT: You may be excused. Have a good
23 day.

24 All right. That was our last witness; is that
25 correct?

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AFFIDAVIT OF RICHARD MILLINER

I, Richard Milliner hereby state:

1. I was engaged by Advanced Micro Targeting to circulate an initiative petition in support of Voters' Right to Know Act I-04-2022.

2. I submitted a Circulator Registration Form ("Registration Form") to the Arizona Secretary of State in which I included my permanent residential address without a unit number.

3. In my experience, I have been able to receive mail at the permanent residential address listed in my Registration Form even without listing a unit number.

4. I recall filling out the Registration Form, and when I filled out the form, I did not believe it called for me to list a unit number.

I affirm under penalty of perjury that the foregoing is true and correct.

EXECUTED on 08/07/2022.

Richard Milliner
Richard Milliner

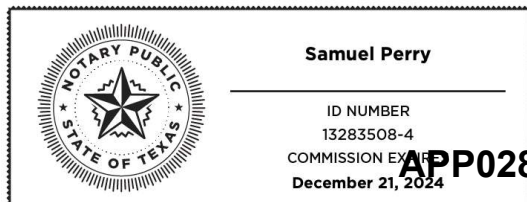
Texas
STATE OF ~~ARIZONA~~ SP)
Johnson) ss.
County of ~~Maricopa~~ SP)

SUBSCRIBED AND SWORN TO before me this 7th day of August, 2022,
by Richard Milliner (name of signer).

Samuel Perry Notary Public, State of Texas
Notary Public

My Commission Expires: 12/21/2024

Notarized online using audio-video communication



APP028

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1 **AFFIDAVIT OF SKYLER MONTEITH**

2
3 I, Skyler Monteith hereby state:

4 1. I was engaged by Advanced Micro Targeting to circulate an initiative petition in
5 support of Voters' Right to Know Act I-04-2022.

6 2. I submitted a Circulator Registration Form to the Arizona Secretary of State in
7 which I included my permanent residential address without a unit number.

8 3. In my experience, I have been able to receive mail at the permanent residential
9 address listed in my Registration Form even without listing a unit number.

10 4. I recall filling out the circulator registration form. When I filled out the form, I did
11 not believe it called for me to list a unit number.

12 I affirm under penalty of perjury that the foregoing is true and correct.

13 EXECUTED on 8/6/22.

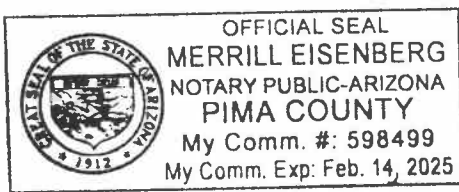
14
15 Skyler Monteith
16 Skyler Monteith

17 STATE OF ARIZONA)
18) ss.
19 County of Maricopa)

20 SUBSCRIBED AND SWORN TO before me this 6 day of August, 2022, by
21 Skyler Monteith (name of signer).

22
23 Merrill Eisenberg
24 Notary Public

25 My Commission Expires:
26 2/14/25



Frequently Asked Questions

You've got questions? We've got answers!

WHERE DO YOU WANT TO GO [?]

CHECK IN

CHECK OUT

Enter a Location

08/03/2022

08/10/2022

ROOMS & GUESTS [?]

SPECIAL RATE

1 Rm: 1 Gst

▼ Best Available Rate ▼

SEARCH

At Extended Stay America, we're dedicated to providing the best lodging experience for all our customers whether you're just here for the night or are taking advantage of our fantastic weekly and monthly rate hotels.

Whether you want to learn more about the booking process, the amenities we provide, our Extended Perks program, or anything else regarding your stay, we're here to answer your questions. Below are some of our frequently asked questions. If you don't find what you're looking for, feel free to [email us](#) and we'll get back to you shortly.

Booking Your Trip

How many days do I need to stay to get a weekly rate?

How can I receive mail/packages?

Our hotels allow packages to be delivered to guest who have an existing reservation or are currently residing with us. Packages can be retrieved at the Front Desk with proper identification.

How many people can a room accommodate?

Is there an additional charge for more than one guest?

How old do I have to be to book a room at Extended Stay America?

Specials, Promotions, and Discounts

Do you offer any government, military, senior citizen, or auto club rates?

I have a promotional code. How do I redeem it?

In the Find a Hotel form located on any page there is a drop that reads "Best Rate Available." When you click that drop down menu, select promotional code within special rates box will appear where you can enter the code.

During Your Stay

Do your hotels provide an iron and ironing board?

Do your locations offer swimming pools?

Many of our Extended Stay America properties offer swimming pools and/or hot tubs; check directly with the hotel.

Do you have smoke-free rooms?

[View More](#)

Miscellaneous

I recently stayed at one of your hotels and left some of my belongings. Do you have a Lost and Found?

I am a third party that would like to book a room for a family member. Can I do that?

Of course! Simply complete our secured [Third Party Authorization Form](#) prior to your parties' arrival. It will be received directly the hotel.

How do I qualify for a Tax Refund?

I would like to request a donation from Extended Stay America for my charity. How do I go about doing so?

Extended Perks Rewards Program

What is Extended Perks?

How do I sign up for Extended Perks?

You can instantly join Extended Perks for free by simply clicking [here](#). You can also sign up for Extended Perks the next time you are at an Extended Stay America hotel.

Where can I find my rewards/loyalty number?

Where can I see my Extended Perks points?

Since there are no loyalty numbers, what should I plug into my travel planning system at work when it asks for a rewards/loyalty number?

[View More](#)

Sign up today. Get 10% off.

Join our **free** rewards program today for weekly hotel deals and instant rewards.

Email Address	SIGN UP
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Introducing Extended Stay America Premier Suites

[Learn more about our new brand.](#)



A whole new standard in hotel stays.

[Rest easy with our 10-point room cleaning process.](#)