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IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

SCOT MUSSI, an individual; SHANE
LEVINSON, an individual; ROBERT
MAYER, an individual; and ARIZONA
FREE ENTERPRISE CLUB, an Arizona non-
profit corporation,

Plaintiffs,

v.

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

Defendant,

and

INVEST IN ARIZONA (SPONSORED BY
AEA AND STAND FOR CHILDREN), a
political committee,

Real Party in Interest.

No. CV2021-016143

**FIRST AMENDED VERIFIED
COMPLAINT**

**(Referendum Petition Challenge
Pursuant to A.R.S. §§ 19-118(F), 19-
122(C))**

Plaintiffs bring this action for injunctive and/or mandamus relief pursuant to A.R.S. §§ 19-118(F) and 19-122(C). Pursuant to A.R.S. § 19-118(F) and Ariz. R. Civ. P. 15(a)(1)(A), Plaintiffs amend the Verified Complaint and hereby allege as follows:

SUMMARY OF THE CASE

1
2 1. This action challenges the legal sufficiency of the statewide referendum
3 petition bearing the serial number R-03-2021 (the “Referendum Petition”), which seeks to
4 refer 2021 Arizona Laws ch. 412 §§ 13, 15 (S.B. 1828) to the ballot at the general election
5 to be held on November 8, 2022.

6 2. Signatures collected by certain circulators of the Referendum Petition are
7 void as a matter of law because these individuals either (1) failed to fully and properly
8 register with the Secretary of State prior to circulating the Referendum Petition or to
9 correctly disclose their assigned circulator registration numbers, or (2) have been convicted
10 of a disqualifying criminal offense. Additional petition sheets and signatures likewise are
11 invalid because they lack complete and accurate items of information or content required
12 by law, or otherwise do not strictly comply with all applicable constitutional and statutory
13 provisions. Accordingly, the Plaintiffs seek injunctive or mandamus relief requiring the
14 Secretary of State to disqualify the affected petition sheets and signatures.

15 3. Injunctive and/or mandamus remedies are necessary to prevent irreparable
16 injury to the Plaintiffs and to ensure that the Defendant fully and effectively discharges the
17 duties imposed upon her by state law.

JURISDICTION

18
19 4. This Court has jurisdiction over this action pursuant to Article 6, § 14 of the
20 Arizona Constitution, Arizona Rules for Special Actions 4(a), and A.R.S. §§ 12-1801, 12-
21 2021, 19-118(F) and 19-122(D).

22 5. Venue for this action lies in Maricopa County pursuant to A.R.S. § 12-
23 401(16) because the Defendant holds office in that county, pursuant to A.R.S. § 19-118(F)
24 because the relevant circulators registered or should have registered with the Secretary of
25 State in that county, and pursuant to A.R.S. § 19-122(D) because the Referendum Petition
26 seeks to 2021 Ariz. Laws §§ 13, 15 to the electors of the state at large.

PARTIES

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

7. Plaintiff Shane Levinson is a citizen of the United States of America, and a resident and qualified elector of Maricopa County and the State of Arizona.

8. Plaintiff Robert Mayer is a citizen of the United States of America, and a resident and qualified elector of Maricopa County and the State of Arizona.

9. 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.

10. 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 the public officer responsible for determining the legal sufficiency of statewide referendum petitions and the validity of signatures presented thereon, to include preparing, processing and maintaining circulator registrations, and disqualifying signatures that were collected by circulators who failed to properly register or that otherwise do not strictly comply with applicable laws. *See* A.R.S. §§ 19-101.01, -118, -121.01(A), -121.04.

11. Real Party in Interest Invest in Arizona (Sponsored by AEA and Stand for Children) (the “Committee”) is an Arizona political committee that was organized to support the circulation and qualification of the Referendum Petition.

GENERAL ALLEGATIONS

12. On or around July 2, 2021 the Committee filed with the Secretary of State an Application for Serial Number to refer sections 13 and 15 of S.B. 1828, an income tax reform measure adopted by the Legislature and signed by the Governor, to a vote of the electorate at the November 8, 2022 general election. The Secretary of State issued the petition serial number R-03-2021 to the Committee on the same date.

13. On September 28, 2021, the Committee filed the Referendum Petition with the Secretary of State.

14. After reviewing the Referendum Petition and disqualifying petition sheets and signatures containing certain facial defects and omissions enumerated by statute, the Secretary of State must prepare a random sample consisting of 5% of the remaining signatures, which are transmitted to the respective county recorders to, *inter alia*, verify the voter registration status of the signers. *See* A.R.S. § 19-121.01. The Secretary then discounts the signatures deemed eligible for verification by the invalidity rate computed by the county recorders to project the total number of valid signatures contained in the Referendum Petition. *See id.* §§ 19-121.02, -121.04.

15. Upon information and belief, the Secretary is, as of the date of this First Amended Verified Complaint, conducting the initial review of the Referendum Petition required by A.R.S. § 19-121.01.

16. The Referendum Petition must contain no fewer than 118,823 valid signatures of qualified electors to qualify the referendum for placement on the statewide election ballot. *See* ARIZ. CONST. art. IV, pt. 1, § 1(3), 1(7).

17. Upon information and belief, the number of valid and legally sufficient signatures contained in the Referendum Petition, as computed after the completion of the impending signature verification review by the county recorders, will be fewer than 118,823.

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

19. 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.” There is no specific statutory time period in which challenges pursuant to Section 19-122(C) must be brought. *See Kromko v. Superior Court*, 168 Ariz. 51, 57 (1991).

20. Codifying longstanding judicial precedents, the Legislature has directed that “the constitutional and statutory requirements for the referendum be strictly construed and that persons using the referendum process strictly comply with those constitutional and statutory requirements.” A.R.S. § 19-101.01; *see also W. Devcor v. City of Scottsdale*, 168 Ariz. 426, 429 (1991).

21. As set forth below, numerous sheets and signature lines fail to strictly comply with all provisions of applicable law on the grounds that (1) the circulators were required but failed to properly register with the Secretary of State, (2) the circulators are ineligible to circulate statewide ballot measure petitions because of a prior disqualifying criminal conviction, or (3) the sheet or signature line fails to disclose an item of information or content required by statute. The signatures associated with these sheets and signature lines accordingly are invalid as a matter of law.

OBJECTIONS RELATING TO CIRCULATOR REGISTRATIONS AND ELIGIBILITY

22. Arizona law provides 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 the registration form that sets forth the items of information required of registered circulators. *See id.* Signatures collected by individuals who were required to have been, but who were not, “properly registered” with the Secretary of State must be disqualified. A.R.S. § 19-121.01(A)(1)(h).

23. To circulate a ballot measure petition, an individual must, notwithstanding his or her state of residency, otherwise be eligible to register to vote in the State of Arizona. *See* A.R.S. § 19-114(A).

24. An individual who has been convicted of a felony offense and has not been restored to all civil rights is not eligible to register to vote and, by extension, may not circulate ballot measure petitions in Arizona. *See* A.R.S. §§ 19-114(A), 16-101(A)(5), 19-118(D)(2).

25. In addition, any paid or non-resident circulator who “[h]as been convicted of any criminal offense involving fraud, forgery or identity theft” is not eligible to collect signatures for the Referendum Petition. *See* A.R.S. § 19-118(D)(3).

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. A valid registration, which the Secretary of State permits to be completed and submitted on an electronic form, 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(s) for which the circulator will obtain signatures; and
- An address for service of process, which must be the same address of the committee sponsoring the ballot measure.

See A.R.S. § 19-118(B).

28. In addition, the registration 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 applicable Arizona election laws. *See* A.R.S. § 19-118(B)(5).

29. The signed and notarized affidavit, which necessarily must be completed on paper, generally is scanned and uploaded separately by the circulator. The circulator also must, upon request, provide to the Secretary the executed affidavit in hard copy form. *See* Ariz. Sec’y of State 2019 ELECTIONS PROCEDURES MANUAL (the “EPM”) at 252.

30. A circulator registration is not complete and operative until the Secretary has received, “review[ed]” and “accepted” all 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.

31. Various paid circulators of the Referendum Petition never submitted a complete registration to the Secretary of State prior to collecting signatures. The signatures putatively collected by these individuals are identified in the spreadsheet attached hereto as Exhibit A.

(a) Certain individuals indicated on the face of at least one petition sheet they ostensibly circulated that they were paid for their signature collection efforts, but there is no record of any registration (whether partial or complete) of them with the Secretary in connection with the Referendum Petition.

(b) Certain circulators provided with their electronic registration submission an affidavit that was executed and notarized more than a year earlier in connection with a separate circulator registration for another petition measure in a prior election cycle. *See* Ex. A. 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* Referendum Petition. These registrations accordingly do not strictly comply with the controlling provisions of A.R.S. § 19-118 and the EPM.

(c) Certain other registrations relied on notarizations that were legally deficient because they were ostensibly notarized on dates that are non-existent or are in the future. *See* Ex. A. These registrations accordingly do not strictly comply with the controlling provisions of A.R.S. § 19-118 and the EPM.

32. All signatures obtained by circulators who were required to but did not submit complete registrations to the Secretary of State in connection with the Referendum Petition are invalid and must be disqualified. *See* A.R.S. §§ 19-118(A), -121.01(A)(1)(h).

Objection No. 2: Signatures Collected Prior to Registration

33. 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).

34. Certain signatures on the Referendum Petition were obtained by individuals who were paid or non-resident circulators of the Referendum Petition but whose apparent date of registration with the Secretary of State was subsequent to the date of the signatures. *See* Ex. A.

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

Objection No. 3: Registration Missing Required Information

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

37. Registered circulators also are required by statute to disclose to the Secretary of State a physical address in the State of Arizona at which they will accept service of process. *See* A.R.S. § 19-118(B)(2). “For circulators of statewide initiative and referenda petitions, this address must be the address of the committee in this state for which the circulator is gathering signatures.” EPM at 253.

38. At all times relevant, the Committee’s address has been 2828 North Central Avenue, Floor 10, Phoenix, Arizona 85004.

39. The registration forms submitted by certain circulators of the Referendum 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. *See* Ex. A.

(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.

(c) Certain circulators who are not Arizona residents did not disclose their temporary Arizona address on the registration form. *See* Ex. A.

(d) Certain circulators designated an address other than the Committee’s address for service of process. *See* Ex. A.

40. Because their registration forms failed to disclose all items of required information fully and accurately, these circulators were not “properly registered” with the Secretary of State. Accordingly, all signatures on the Referendum 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. 4: Circulator Registration Contains Inaccurate or False Information

41. A legally sufficient circulator registration must disclose, *inter alia*, the circulator’s actual physical place of residence and a functioning email address at which the circulator may be reached. *See* A.R.S. § 19-118(B)(1). The circulator registration form promulgated by the Secretary pursuant to statute also includes a field for the circulator to designate a temporary address.

42. 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).

43. Each circulator also must complete and execute on each petition sheet he or she circulates an affidavit that identifies, *inter alia*, his or her “residence address.” A.R.S. § 19-112(D).

44. Certain signatures on the Referendum 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 purported permanent residential address that, upon information and belief, is not the circulator's true residential address, either because the location is occupied by others or the location does not exist;

(d) A purported temporary residential address that, upon information and belief, is not the circulator's true residential address, either because the location is occupied by others or the location does not exist;

(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, which necessarily implies that at least one of the address provided on the registration or the address provided on the petition sheet affidavits executed by the circulator (*see* Ex. A, Objection 9(f)) is inaccurate and/or

(f) An inoperative or deactivated email address, or an email address that is not their true email address.

See Ex. A.

45. Because they did not provide complete and accurate required information on their registration forms, the above-referenced circulators were not "properly registered" with the Secretary of State. Accordingly, all signatures on the Referendum 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: Incorrect Circulator Registration Number

46. Upon the processing and acceptance of a circulator's registration form by the Secretary of State, s/he is issued an identifying 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).

47. Certain petition sheets purportedly circulated by individuals who were required to have registered with the Secretary of State prior to collecting signatures contain a registration number that is different from the registration number assigned to that circulator by the Secretary of State. *See* Ex. A.

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

Objection No. 6: Disqualifying Criminal Convictions

49. Notwithstanding the location of their residence, all circulators of ballot measure petitions in Arizona must be qualified to register to vote in this state. *See* A.R.S. § 19-114(A).

50. To be eligible to register to vote in Arizona, an individual must not have been convicted of a felony, unless he or she has been restored to all civil rights under the laws of the state in which he or she was convicted. *See* A.R.S. § 16-101(A)(5); *Parker v. City of Tucson*, 233 Ariz. 422 (App. 2013).

51. All petition signatures collected by individuals who are not eligible to register to vote in Arizona are void as a matter of law. *See* A.R.S. § 19-114(A).

52. In addition, a paid or non-resident circulator who previously has been convicted of any criminal offense (whether a felony or misdemeanor) involving fraud, forgery or identity theft cannot collect signatures for a statewide ballot measure petition in Arizona. *See* A.R.S. § 19-118(D)(3).

53. Upon information and belief, Cory Devold, a circulator of the Referendum Petition, was in or around 2009 convicted by the 187th District Court in San Antonio, Texas, of burglary of a building, a felony offense under Texas law.

54. Upon information and belief, Devold had not been restored to all civil rights at the time he circulated the Referendum Petition.

55. Upon information and belief, Beatrice Birdman, a circulator of the Referendum Petition, was in or around 2013 convicted by the Superior Court of Connecticut of assault in the second degree with a motor vehicle, a felony offense under Connecticut law.

56. Upon information and belief, Birdman had not been restored to all civil rights at the time she circulated the Referendum Petition.

57. Upon information and belief, Yazdan Kardavani, a paid circulator of the Referendum Petition, was in or around 2007 convicted by the Second Judicial District Court of the State of Nevada of embezzlement, a criminal offense involving fraud, under Nevada law.

58. Accordingly, all signatures on the Referendum Petition that were obtained by Devold, Birdman or Kardavani are invalid and must be disqualified. *See* A.R.S. §§ 19-114(A), 16-101(A)(5), 19-118(D)(2)-(3).

OBJECTIONS RELATING TO THE LEGAL SUFFICIENCY OF SHEETS AND SIGNATURES

Objection No. 7: Failure to Accurately Disclose Paid or Volunteer Status

59. Every petition circulator must “state whether he is a paid circulator or volunteer by checking the appropriate line on the petition form before circulating the petition for signatures.” A.R.S. § 19-101(D). All signatures collected on a sheet that did not disclose the circulator’s paid or volunteer status at the time of circulation “are void and shall not be counted in determining the legal sufficiency of the petition.” *Id.* § 19-101(E).

60. Certain petition sheets in the Referendum Petition do not accurately disclose the circulator’s paid or volunteer status. Specifically:

- (a) Certain circulators marked both the “paid” and “volunteer” boxes on the same sheet. *See* Ex. A.
- (b) Certain circulators failed to mark either the “paid” or “volunteer” boxes on the petition sheet. *See* Ex. A.
- (c) Certain circulators inconsistently identified themselves as “volunteer”

or “paid circulators,” marking one designation on some signature sheets but the other designation on other signature sheets. It follows that at least some of the petition sheets circulated by the foregoing individuals incorrectly represented the circulator’s paid or volunteer status.

61. The signatures contained on these sheets are invalid as a matter of law. *See* A.R.S. §§ 19-101(D)-(E).

Objection No. 8: Incomplete Circulator Affidavits (Missing Circulator Name)

62. Every petition sheet must contain a notarized affidavit of the circulator, which “shall” be in the form prescribed by statute and include in its text various averments and items of information, including, *inter alia*, the name of the circulator. *See* A.R.S. § 19-112(D).

63. Arizona law provides that “[a]ny petition that contains a partially completed affidavit . . . is invalid,” and the Secretary of State is required to disqualify “[t]hose sheets containing a circulator’s affidavit that is not completed or signed.” A.R.S. §§ 19-112(F), -121.01(A)(1)(d).

64. Certain circulator affidavits fail to strictly comply with the requirement that they set forth the circulator’s name. Specifically:

(a) Certain circulator affidavits failed to include a legible circulator name in the body of the affidavit. *See* Ex. A.

(b) The field designated for the circulator name on certain affidavits are blank or contain words that are not a name (*e.g.*, a county or date).

65. The signatures on these sheets are invalid as a matter of law. *See* A.R.S. §§ 19-112(D), (F), -121.01(A)(1)(d).

Objection No. 9: Incomplete Circulator Affidavits (Missing Circulator Address)

66. Every petition sheet must contain a notarized affidavit of the circulator, which “shall” be in the form prescribed by statute and include various averments and items of information, including, *inter alia*, the full “residence address” of the circulator. *See* A.R.S. § 19-112(D).

67. Arizona law provides that “[a]ny petition that contains a partially completed affidavit . . . is invalid,” and the Secretary of State is further required to disqualify “[t]hose sheets containing a circulator’s affidavit that is not completed or signed.” A.R.S. §§ 19-112(F), -121.01(A)(1)(d).

68. Certain circulator affidavits fail to disclose one or more necessary elements of a full residential address by:

- (a) Failing to disclose any of the city, state or ZIP code of the circulator’s residence;
- (b) Failing to disclose either of the state or ZIP code of the circulator’s residence;
- (c) Providing only a post office box, rather than a residential address;
- (d) Providing illegible markings from which no full address can be reasonably ascertained; or
- (e) Providing inconsistent addresses across petition sheets, which implies that at least one of the discrepant addresses is not the circulator’s actual residential address; or
- (f) Providing an address on the petition sheet that is inconsistent with the address disclosed on the circulator’s registration form, which implies that at least one of the discrepant addresses is not the circulator’s actual residential address (*see* Ex. A, Objection 4(e)).

See Ex. A.

69. The signatures on these sheets are invalid as a matter of law. *See* A.R.S. §§ 19-112(D), (F), -121.01(A)(1)(d).

Objection No. 10: Incomplete Circulator Affidavits (Missing County of Notarization)

70. Every petition sheet must contain a notarized affidavit of the circulator, which “shall” be in the form prescribed by statute and include in its text various averments and items of information, including, *inter alia*, the county in Arizona in which the circulator

affidavit was notarized. *See* A.R.S. § 19-112(D). Further, every valid notarial certificate must identify the county where the notarial act is performed. *Id.* § 41-311(7), (12).

71. Arizona law provides that “[a]ny petition that contains a partially completed affidavit . . . is invalid,” and the Secretary of State is required to disqualify “[t]hose sheets on which the affidavit of the circulator is not notarized.” A.R.S. §§ 19-112(F), - 121.01(A)(1)(e).

72. Certain circulator affidavits failed to strictly comply with these requirements, specifically, by providing in the field designated for the notarial county:

- (a) nothing or words that are not a county;
- (b) markings that are illegible; or
- (c) the name of a county that, based on the other notarization activity for the notary on the same date, present an implausible geographic distribution indicating that at least some of the notarial counties on the notary’s sheets for that date are incorrect.

See Ex. A.

73. The signatures on these sheets are invalid as a matter of law. *See* A.R.S. §§ 19-112(D), (F), -121.01(A)(1)(e).

Objection No. 11: Incomplete Circulator Affidavits (Missing County of Registration)

74. Every petition sheet must contain a notarized affidavit of the circulator, which “shall” be in the form prescribed by statute and include in its text various averments and items of information, including, *inter alia*, the county in Arizona in which the circulator is eligible to register to vote. *See* A.R.S. § 19-112(D).

75. Arizona law provides that “[a]ny petition that contains a partially completed affidavit . . . is invalid,” and the Secretary of State is required to disqualify “[t]hose sheets containing a circulator’s affidavit that is not completed or signed.” A.R.S. §§ 19-112(F), - 121.01(A)(1)(d).

76. Certain circulator affidavits failed to legibly and accurately disclose the county in Arizona in which the circulator is eligible to register to vote. Specifically, such circulator affidavits:

- (a) identify a county that is not in Arizona;
- (b) include a word or words that are not a county;
- (c) include no words or markings in the space for the county in which the circulator is eligible to vote; or
- (d) include markings that are illegible.

See Ex. A.

77. The signatures on these sheets are invalid as a matter of law. *See* A.R.S. §§ 19-112(D), (F), -121.01(A)(1)(d).

Objection No. 12: Incomplete Circulator Affidavits (Missing Date of Notarization)

78. Every petition sheet must contain a notarized affidavit of the circulator, which “shall” be in the form prescribed by statute and include in its text various averments and items of information, including, *inter alia*, the date on which the affidavit was signed and notarized. *See* A.R.S. § 19-112(D).

79. A valid date consists of the actual month, day and year of the notarization.

80. Arizona law provides that “[a]ny petition that contains a partially completed affidavit . . . is invalid,” and the Secretary of State is required to disqualify “[t]hose sheets on which the affidavit of the circulator is not notarized.” A.R.S. §§ 19-112(F), -121.01(A)(1)(e).

81. Certain circulator affidavits failed to disclose a complete, accurate and legible date of notarization because:

- (a) No year of notarization is provided;
- (b) The notarization date field is blank or contains characters that are not a discernible date;
- (c) The notarization field contains characters that are illegible;
- (d) The purported notarization date is prior to the date on which the serial

number was issued, and thus the purported notarization date necessarily is either inaccurate or invalid *per se*, *see* A.R.S. § 19-121.01(A)(3)(c); or

(e) The purported notarization date is subsequent to the date on which the Referendum Petition was filed with the Secretary of State, and thus the purported notarization date necessarily is either inaccurate or invalid *per se*, *see* A.R.S. § 19-121(D).

See Ex. A.

82. The signatures on these sheets are invalid as a matter of law. *See* A.R.S. §§ 19-112(D), (F), -121.01(A)(1)(d).

Objection No. 13: Incomplete Circulator Affidavits (Missing Notary Stamp or Seal)

83. Every petition sheet must contain a notarized affidavit of the circulator, which “shall” be in the form prescribed by statute and include in its text various averments and items of information, including, *inter alia*, the stamp or seal of the notary public who witnessed the circulator’s execution of the affidavit. *See* A.R.S. § 19-112(D).

84. Arizona law provides that “[a]ny petition that contains a partially completed affidavit . . . is invalid,” and the Secretary of State is required to disqualify “[t]hose sheets on which . . . the notary’s seal is not affixed.” A.R.S. §§ 19-112(F), -121.01(A)(1)(e).

85. Certain circulator affidavits failed to meet these requirements because they either (a) contain an illegible notary stamp or seal or (b) contain no notary stamp or seal. *See* Ex. A.

86. The signatures on these sheets are invalid as a matter of law. *See* A.R.S. §§ 19-112(D), (F), -121.01(A)(1)(e).

Objection No. 14: Incomplete Circulator Affidavits (Missing Circulator Signature)

87. Every petition sheet must contain a notarized affidavit of the circulator, which “shall” be in the form prescribed by statute and include in its text various averments and items of information, including, *inter alia*, the signature of the circulator, which must be witnessed by a notary public. *See* A.R.S. § 19-112(D).

88. Arizona law provides that “[a]ny petition that contains a partially completed affidavit . . . is invalid,” and the Secretary of State is required to disqualify “[t]hose sheets containing a circulator’s affidavit that is not completed or signed.” A.R.S. §§ 19-112(F), -121.01(A)(1)(d).

89. Certain circulator affidavits were not signed by the circulator. *See* Ex. A.

90. The signatures on these sheets are invalid as a matter of law. *See* A.R.S. §§ 19-112(D), (F), -121.01(A)(1)(d).

Objection No. 15: Incomplete Circulator Affidavits (Missing Notary Signature)

91. Every petition sheet must contain a notarized affidavit of the circulator, which “shall” be in the form prescribed by statute and include in its text various averments and items of information, including, *inter alia*, the signature of the notary public who witnessed the circulator’s execution of the affidavit. *See* A.R.S. § 19-112(D).

92. Arizona law provides that “[a]ny petition that contains a partially completed affidavit . . . is invalid,” and the Secretary of State is required to disqualify “[t]hose sheets on which . . . the notary’s signature is missing.” A.R.S. §§ 19-112(F), -121.01(A)(1)(e).

93. Certain circulator affidavits were not signed by a notary public. *See* Ex. A.

94. The signatures on these sheets are invalid as a matter of law. *See* A.R.S. §§ 19-112(D), (F), -121.01(A)(1)(e).

Objection No. 16: Missing Required Caption Statements

95. The caption of the front side of every sheet of the Referendum Petition is required to contain the following statements and information:

We, the undersigned citizens and qualified electors of the state of Arizona, respectfully order that the senate (or house) bill No. _____ (or other local, county, city or town measure) entitled (title of act or ordinance, and if the petition is against less than the whole act or ordinance then set forth here the item, section, or part, of any measure on which the referendum is used), passed by the _____ session of the legislature of the state of Arizona, at the general (or special, as the case may be) session of said legislature, (or by a county, city or town legislative body) shall be referred to a vote of the qualified electors of the state, (county, city or town) for their

approval or rejection at the next regular general election (or county, city or town election) and each for himself says:

I have personally signed this petition with my first and last names. I have not signed any other petition for the same measure. I am a qualified elector of the state of Arizona, county of (or city or town and county of, as the case may be) _____

A.R.S. § 19-101(A).

96. On certain sheets of the Referendum Petition, some or all of the required statements and information either (a) have been altered or (b) are not legibly printed. *See* Ex. A.

97. The signatures on these sheets are invalid as a matter of law. *See* A.R.S. §§ 19-101(A), -101.01.

Objection No. 17: Missing Caption County

98. The caption of the front side of every sheet of the Referendum Petition is required to contain the following averment of the signers:

I have personally signed this petition with my first and last names. I have not signed any other petition for the same measure. I am a qualified elector of the state of Arizona, county of (or city or town and county of, as the case may be) _____

A.R.S. § 19-101(A).

99. Certain sheets of the Referendum Petition either (a) do not identify any county in the appropriate field, (b) fail to legibly disclose the county in which the signers are registered to vote, or (c) designate a county other than the county in which certain signers of the sheet are registered to vote. *See* Ex. A.

100. The signatures on these sheets are invalid as a matter of law. *See* A.R.S. §§ 19-101(A), -101.01.

Objection No. 18: Missing Petition Serial Number

101. The serial number issued by the Secretary of State (*i.e.*, R-03-2021) must be disclosed to signers by printing it on the front and reverse sides of every petition sheet prior to circulation. *See* A.R.S. §§ 19-101(A), -121(A)(2), -121.01(A)(1)(c).

102. Certain sheets of the Referendum Petition do not contain a legible petition serial number on both sides of the sheet. *See* Ex. A.

103. The signatures on these sheets are invalid as a matter of law. *See* A.R.S. §§ 19-101(A), -121(A)(2), -121.01(A)(1)(c).

Objection No. 19: False Affidavits (Handwriting Irregularities)

104. Arizona law requires all signers of a ballot measure petition to **personally** write their full name, full residential address, and full date of signing on the petition sheet. *See* A.R.S. § 19-112(A).

105. In addition, the circulator must affirm under oath in the accompanying affidavit that “each individual [signer] printed the individual’s own name and address and signed this sheet of the foregoing petition in my presence.” A.R.S. § 19-112(D).

106. When someone other than the signer inscribes the signer’s signature, printed name and/or address, “the circulator’s affidavit was necessarily false [because] [i]t was apparent from the signature sheets that the elector did not print his or her own [information]—a fact the circulator must have known” *Parker v. City of Tucson*, 233 Ariz. 422, 438, ¶ 48 (App. 2013).

107. Certain signature lines in the Referendum Petition (a) include items of information that were written in the hand of an individual other than the signer, thus rendering the accompanying circulator affidavit knowingly false; and (b) are on the same sheet as information printed by someone other than the signer, and therefore are not supported by a truthful circulator affidavit and are invalid as a matter of law. *See* Ex. A; A.R.S. § 19-112(A), (D); *Parker*, 233 Ariz. at 438, ¶ 48.

Objection No. 20: Missing Signature Date

108. Every signer of the Referendum Petition must provide the date on which he or she affixed his or her signature. *See* ARIZ. CONST. art. IV, pt. 1, § 1(9); A.R.S. §§ 19-101(A), -112(A), -121.01(A)(3)(c).

109. A valid “date” consists of the month, day and year of the signature.

110. Certain signatures on the Referendum Petition are not accompanied by an accurate and valid date of signing because:

- (a) No year is provided;
- (b) No calendar month is provided;
- (c) No calendar day is provided;
- (d) The “date” field contains characters that are not a cognizable date;
- (e) The “date” field is blank;
- (f) The “date” field contains characters that are illegible;
- (g) The purported date of the signature is subsequent to the date on which the accompanying circulator affidavit was notarized, and thus the purported signature date necessarily is either inaccurate or invalid *per se*, see A.R.S. § 19-121.01(A)(3)(c);
- (h) The purported date of the signature is prior to the date on which the petition serial number was issued, and thus the purported signature date necessarily is either inaccurate or invalid *per se*, see A.R.S. § 19-121.01(A)(3)(c); or
- (i) The purported date of the signature is subsequent to the date on which the petition was filed with the Secretary of State, and thus the purported signature date necessarily is either inaccurate or invalid *per se*, see A.R.S. § 19-121(D).

See Ex. A.

111. These signatures are invalid as a matter of law. *See* A.R.S. §§ 19-101(A), -112(A), -121(D), -121.01(A)(3)(c).

Objection No. 21: Missing Signer’s Residential Address

112. Every signer of the Referendum Petition must provide his or her “residence address, giving street name and number, and if he has no street address, a description of residence location.” A.R.S. § 19-112(A); *see also* ARIZ. CONST. art. IV, pt. 1, § 1(9); A.R.S. §§ 19-101(A) -121.01(A)(3)(b).

113. A valid “residence address” consists of the street name and number (or, if not applicable, its equivalent), city/town, and state of the signer’s residence.

114. Certain signatures on the Referendum Petition are not accompanied by an accurate and valid residential address because:

- (a) No numbered street address (or equivalent) is provided;
- (b) No city or town is provided; or
- (c) The address field contains only post office box information.

See Ex. A.

115. These signatures are invalid as a matter of law. *See* A.R.S. §§ 19-101(A), -112(A), -121.01(A)(3)(b).

Objection No. 22: Missing Signer’s Name

116. In addition to inscribing his or her signature, every signer of the Referendum Petition also must personally “print his first and last names.” A.R.S. § 19-112(A); *see also id.* § 19-101(A).

117. Certain signers of the Referendum Petition did not print their first and last names. *See Ex. A.*

118. These signatures are invalid as a matter of law. *See* A.R.S. §§ 19-101(A), -112(A).

Objection No. 23: Missing Voter’s Signature

119. Each signer must affix his or her actual signature to the Referendum Petition, which must match the signature on file in the signer’s voter registration record. *See* A.R.S. §§ 19-101(A), -112(A), -121.01(A)(3)(a), -121.02(A)(7).

120. Certain purported signers of the Referendum Petition did not provide their actual signature. *See Ex. A.*

121. These purported signatures are invalid as a matter of law. *See* A.R.S. §§ 19-101(A), -112(A), -121.01(A)(3)(a), -121.02(A)(7).

Objection No. 24: Duplicate Signatures

122. A qualified elector may not sign the Referendum Petition more than once. In the event of duplicate signatures that are otherwise valid, all but one of the signatures must be disqualified. *See* A.R.S. §§ 19-115(B); 19-121.02(A)(8).

123. Certain signatures on the Referendum Petition are duplicates of signatures contained elsewhere in the Referendum Petition. *See* Ex. A.

124. Accordingly, all but the earliest valid signature in each set of duplicate signatures must be disqualified. *See* A.R.S. §§ 19-115(B), -121.02(A)(8).

COUNT I

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

125. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth herein.

126. All circulators of the Referendum 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 prior to circulating the Referendum Petition. *See* A.R.S. §§ 19-118(A), -121.01(A)(1)(h).

127. A proper and complete registration must include, *inter alia*, the circulator’s full and accurate permanent (and, if applicable, temporary) residential address, the circulator’s live and functioning email address, the Committee’s address as the designated address for service of process, and a verification of the foregoing information that is signed by the circulator under penalty of perjury and notarized. *See* A.R.S. § 19-118(A), (B).

128. A registration that includes false, inaccurate or incomplete information is not legally sufficient, and the circulator who submitted it is not “properly registered.”

129. 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).

130. All petition sheets that do not contain on both sides of the sheet the full and accurate registration number assigned by the Secretary of State to the circulator are invalid as a matter of law and must be disqualified. *See* A.R.S. §§ 19-121(A)(2), -121.01(A)(1)(c).

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

132. 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.

133. Plaintiffs lack a plain, speedy and adequate remedy at law to compel the Secretary of State to perform the non-discretionary duties imposed upon her by statute, namely, to disqualify all petition sheets and signatures circulated by individuals who were required to have been, but were not, “properly registered” with the Secretary of State at the time the affected signatures were collected.

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

135. Accordingly, Plaintiffs are entitled to injunctive and/or mandamus remedies 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
Ineligible Registered Circulators
(A.R.S. §§ 19-114(A), 19-118, 16-101(A)(5))

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

137. To circulate a ballot measure petition in Arizona, an individual must, aside from residency, otherwise qualify to register to vote in this state. *See* A.R.S. § 19-114(A).

138. An individual is not qualified to register to vote in Arizona if s/he has been convicted of a felony and has not been restored to all civil rights under the laws of the

convicting state. *See* A.R.S. § 16-101(A)(5); *Parker v. City of Tucson*, 233 Ariz. 422 (App. 2013).

139. All signatures collected by individuals who are not eligible to register to vote in Arizona are “void and shall not be counted in determining the legal sufficiency of the petition.” A.R.S. § 19-114(A).

140. In addition, all signatures collected by a paid or non-resident circulator who has been convicted of any criminal offense involving fraud, forgery or identity theft are invalid. *See* A.R.S. § 19-118(D)(3).

141. Upon information and belief, Cory Devold, a circulator of the Referendum Petition, was convicted of a felony offense under the laws of Texas and, as of the date of the signatures on the Referendum Petition that he purportedly collected, had not been restored to all civil rights.

142. Upon information and belief, Beatrice Birdman, a circulator of the Referendum Petition, was convicted of a felony offense under the laws of Connecticut and, as of the date of the signatures on the Referendum Petition that she purportedly collected, had not been restored to all civil rights.

143. Upon information and belief, Yazdan Kardavani, a paid circulator of the Referendum Petition, was convicted of embezzlement, a criminal offense involving fraud, under Nevada law.

144. All signatures collected by Cory Devold, Beatrice Birdman or Yazdan Kardavani are invalid as a matter of law and must be disqualified.

145. “Any person” has legal standing to challenge in this Court the registration or qualifications of ballot measure petition circulators. *See* A.R.S. §§ 19-118(F), -122(C) .

146. 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.

147. Plaintiffs lack a plain, speedy and adequate remedy at law to compel the Secretary of State to perform the non-discretionary duties imposed upon her by statute, namely, to disqualify all petition sheets and signatures circulated by individuals who were not eligible to register to vote in Arizona at the time the affected signatures were collected.

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

149. Accordingly, Plaintiffs are entitled to injunctive and/or mandamus remedies providing for the disqualification of all signatures collected by individuals who were not eligible to circulate statewide ballot measure petitions in Arizona.

COUNT III
Disqualification of Legally Insufficient Sheets and Signatures
(A.R.S. §§ 12-1831, *et seq.*; 19-122(C))

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

151. 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.”

152. 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.”

153. The Secretary of State has a non-discretionary legal duty to reject petition sheets and signatures included in the Referendum Petition to the extent they fail to strictly comply with one or more applicable provisions of the Arizona Constitution or the Arizona Revised Statutes.

154. The Referendum Petition contains numerous signatures that are not strictly compliant with governing laws on the grounds that (1) the petition sheet or signature line is missing one or more full, complete, accurate, and legible items of required content or

information; or (2) the signature is a duplicate of another signature elsewhere in the Referendum Petition.

155. Plaintiffs lack a plain, speedy and adequate remedy at law to compel the Secretary of State to perform the non-discretionary duties imposed upon her by statute.

156. 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.

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

158. Accordingly, the Plaintiffs seek injunctive and/or mandamus relief 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. An injunction and/or writ of mandamus requiring the Defendant to disqualify all signatures on the Referendum 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, or who failed to provide their full and accurate registration number on the front and back of each petition sheet they circulated.

B. An injunction and/or writ of mandamus requiring the Defendant to disqualify all signatures on the Referendum Petition that were collected by individuals who were not eligible to circulate petitions by reason of a disqualifying criminal conviction.

C. An injunction and/or writ of mandamus requiring the Defendant to disqualify all sheets and signatures on the Referendum Petition that are not strictly compliant with one or more provisions of governing law, including

but not limited to (1) petition sheets or signature lines that are missing one or more full, complete, accurate, and legible items of required content or information; and (2) signatures that are duplicates of other signatures elsewhere in the Referendum Petition.

D. An injunction and/or writ of mandamus prohibiting the Defendant from certifying the legal sufficiency of the Referendum Petition pursuant to A.R.S. § 19-121.04, or from certifying or printing any general election ballot that includes referendum measure R-03-2021.

E. An award of reasonable attorneys' fees and costs pursuant to A.R.S. §§ 19-118(F), 12-2030, the private attorney general doctrine, and/or other applicable law; and

F. Such other relief as the Court deems necessary, equitable, proper, and just.

DATED this 21st day of October, 2021.

STATECRAFT PLLC

By: /s/Thomas Basile
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ORIGINAL of the foregoing filed electronically via TurboCourt on the 21st day of October, 2021 with:

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

COPY served electronically this same date on:

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Thomas Basile

Verification

State of Arizona)
) ss.
County of Maricopa)

I, Scot Mussi, being first duly sworn upon his oath, deposes and says:

I have read the foregoing First Amended Verified Complaint and know the contents thereof by personal knowledge. I know the allegations of the First Amended Verified Complaint to be true, except the matters stated therein on information and belief, which I believe to be true.

Scot Mussi

Subscribed and sworn to before me this 21st day of October, 2021.

Darla Marie Gonzalez
Notary Public

My Commission Expires:

7/21/2024

