

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-009618

07/18/2012

HON. ROBERT H. OBERBILLIG

CLERK OF THE COURT
R. Aguilera
Deputy

ANN-EVE PEDERSEN, et al.

STANLEY G FELDMAN

v.

KEN BENNETT

MICHELE LEE FORNEY

RULING

Courtroom-OCH 309.

9:34 a.m. This is the time set for Hearing Re: Plaintiffs' request for Special Action relief. Plaintiffs Ann-Eve Pedersen, who is present, and Quality Education and Jobs Supporting 1-16-2012 Committ are represented by counsel, Stanley G. Feldman, Kim Demarchi, and Timothy Hogan. Defendant Ken Bennett is represented by counsel, Michele Lee Forney. Deputy Secretary of State Jim Drake and Election Director Amy Chan are present.

Court Reporter, Scott Coniam, is present.

A record of the proceeding is also made by audio and/or videotape.

Discussion is held and arguments are presented to the Court. The Court issued its decision in court granting the Plaintiff's Special Action with its Minute Entry Ruling to follow. Set forth below is that Ruling.

As stated on the record in court, this Court thanks counsel for both sides for the exceptional quality of the briefing and the submission of the "Stipulated Facts." This Court further appreciates the decision of the Secretary of State to continue certain processes relating to the Initiative given the overall short time constraints involved herein.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-009618

07/18/2012

I. Pertinent Facts

The Court finds the relevant Stipulated facts establish the following:

- 1) The “full and correct copy of the title and text” of the Initiative was attached to each signature sheet submitted to electors for signature.
- 2) The Secretary of State agrees there was no fraud of any kind.
- 3) The Secretary of State accepted the filing of both a CD disc containing the full text of the Initiative and a paper copy.
- 4) The Secretary of State became aware that the paper copy of the Initiative had an inadvertent clerical copying error so that 2 subparagraphs on page 12 were not part of the copy on file.
- 5) The Secretary of State became aware that the CD version of the Initiative on file in its office did have a full and complete version of the Initiative.
- 6) The Secretary of State refused to consider the CD disc on file with the full text or to request a copy of the missing subparagraphs be added to the paper copy.
- 7) The Secretary of State unilaterally and knowingly determined that the only “official” version of the text on file was the paper version containing the copying error and, because the text attached to the signature sheets was different that this “official” yet incorrect version, the Secretary of State rejected all the signatures.

II. Applicable Law

The Arizona Constitution requires only that a “full and correct” copy of the text be attached to the signature sheets. Ariz. Const. Art. 4 pt. 1, §1(9). There is no dispute that the full and correct copy of the text was the version actually attached to the signature sheets. The Court finds Plaintiff to be in full compliance with the Arizona Constitution.

Further, the Court has considered the applicable Arizona statutes, particularly A.R.S. 19-111 A. and 19-121.01(A)(1) cited by counsel for the Secretary of State and has found no law that prohibits the Secretary of State from using the CD version of the complete text on file or allowing a replacement page 12 of the paper copy be submitted to correct the paper copy also on file. Either of these solutions would further the purpose of the particular Arizona Constitution and statutes by ensuring that the electors be given an opportunity for a voice through the Initiative process.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2012-009618

07/18/2012

For the reasons stated herein and on the record in court,

The Court finds the Secretary of State acted arbitrarily and failed to perform a duty imposed by law when the Secretary of State rejected the Initiative as not meeting “the signature requirements for placement on the ballot.”

IT IS THEREFORE ORDERED granting the Special Action.

IT IS FURTHER ORDERED that Defendant Secretary of State shall proceed immediately with the statutory validation process relying on the text of the Initiative as attached to the signature sheets and, if sufficient signatures are validated, shall place the measure on the 2012 general election ballot.

The Court has not resolved Plaintiffs’ request for attorney fees and Plaintiff may file its fee application by **August 7, 2012**.

Any Responses thereto may be filed in accordance with the Arizona Rules of Civil Procedure.

Pursuant to Rule 54(b), Ariz.R.Civ.P., the Court expressly determines there is no just reason for delay. Accordingly,

IT IS ORDERED signing this minute entry as a final appealable Order of the Court.

DATE: 7-18-12

/ s / HON. ROBERT H. OBERBILLIG

HONORABLE ROBERT H. OBERBILLIG
JUDICIAL OFFICER OF THE SUPERIOR COURT

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.