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CITY OF GLENDALE

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9 **SUPERIOR COURT OF ARIZONA**

10 **MARICOPA COUNTY**

11 PROTECT GLENDALE TAXPAYERS IN
12 SUPPORT OF THE BALLOT MEASURE, a
13 political committee organized under Titles
14 16 & 19 Arizona Revised Statutes;
15 WALT OPASKA, as a taxpayer and
16 citizen of the City of Glendale; SCOT MUSI as
17 Chairman of Protect Glendale Taxpayers,

18 Plaintiffs,

19 vs.

20 PAMELA HANNA, in her official capacity as
21 GLENDALE CITY CLERK; CITY COUNCIL
22 OF GLENDALE, a public entity; HELEN
23 PURCELL, in her official capacity as
24 MARICOPA COUNTY RECORDER; BOARD
25 OF SUPERVISORS OF MARICOPA COUNTY,
a public entity;

Defendants.

No. CV 2014-009652

**VERIFIED COMPLAINT
FOR SPECIAL
ACTION/INJUNCTIVE
RELIEF/APPLICATION
FOR WRIT OF
MANDAMUS**

(challenge to Glendale City
Clerk's refusal to transmit
petition sheets for county
certification pursuant to
A.R.S. § 19-122)

PROTECT GLENDALE TAXPAYERS IN SUPPORT OF THE BALLOT
MEASURE, WALT OPASKA, and SCOT MUSI ("Plaintiffs"), by and through
attorneys undersigned, for his Verified Complaint for Special Action state and allege as
follows:

PARTIES, JURISDICTION, AND VENUE

1
2 1. Plaintiff WALT OPASKA is a resident of Maricopa County, Arizona and
3 a resident and qualified elector of the City of Glendale, Arizona.

4 2. Plaintiff PROTECT GLENDALE TAXPAYERS IN SUPPORT OF THE
5 BALLOT MEASURE is a political committee organized under Titles 16 & 19 Arizona
6 Revised Statutes and lawfully registered.

8 3. SCOT MUSI is the Chairman of Protect Glendale Taxpayers.

9 4. Defendant PAMELA HANNA (“Hanna” or “the City Clerk”) is the City
10 Clerk for the City of Glendale, Arizona and the officer whose legal responsibility it is to
11 receive nomination papers and petitions. The City Clerk at all times relevant to this
12 action has served as an agent of the City of Glendale and is being sued in her official
13 capacity.

14 5. Defendant CITY COUNCIL OF GLENDALE, ARIZONA (“the City
15 Council”) is the governing body for and the City of Glendale. Through its supervision
16 of the the City Clerk, the City Council is also responsible for certain election-related
17 duties and is being sued in its official capacity.

18 6. Defendant HELEN PURCELL is the County Recorder of Maricopa
19 County, Arizona, and is being sued in her official capacity. Along with the Maricopa
20 County Board of Supervisors, it is her responsibility to print the ballots for the 2014
21 general election for Maricopa County, which includes Glendale. It is also her
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1 responsibility to receive the random sample from the Glendale City Clerk and to
2 perform the duties prescribed in A.R.S. § 19-121.02 to certify the signatures comprising
3 the random sample.

4 7. Defendant MARICOPA COUNTY BOARD OF SUPERVISORS is the
5 governing body for the Maricopa County, Arizona, and is being sued in its official
6 capacity. Along with the County Recorder, it is the Board's responsibility to print the
7 ballots for Maricopa County, which includes Glendale, for the 2014 general election.
8

9 8. This Court has jurisdiction over this action under A.R.S. § 19-122 and
10 A.R.S. § 12-123, the Arizona Constitution, Article VI, § 14, and the Arizona Rules of
11 Procedure for Special Actions, Rule 4(b).
12

13 9. Defendants have caused events to occur in Maricopa County, Arizona out
14 of which Plaintiff's claims arise.

15 10. Venue is proper in this Court under A.R.S. § 12-401.
16

17 **COUNT ONE: DECLARATORY JUDGMENT - THE CITY CLERK HAS**
18 **FAILED TO SUBMIT VALID PETITION SHEETS AND SIGNATURES TO THE**
19 **COUNTY RECORDER FOR CERTIFICATION PURSUANT TO A.R.S. § 19-**
20 **121.01**

21 11. Plaintiff Protect Glendale Taxpayers submitted petition sheets bearing
22 approximately 20,400 signatures in an attempt to have an initiative place on the ballot
23 regarding the Glendale privilege tax.
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1 12. For a City ballot measure, by law the City Clerk performs the duties that
2 are assigned to the Secretary of State for statewide ballot measures under Title 19
3 generally and under A.R.S. §§ 19-121, 19-121.01 and 19-122.

4 13. Under A.R.S. § 19-121.01, after receiving ballot measure petition sheets,
5 the City Clerk performs certain functions to verify the validity of petition sheets and
6 signatures. These duties include the requirement that the Clerk disqualify petition
7 sheets and signatures for reasons enumerated in the statute.
8

9 14. After performing the duties under A.R.S. § 19-121.01, the City Clerk
10 determines the total number of petition sheets and/or signatures that are eligible to be
11 sent to the County Recorder for certification of the signatures. The City Clerk selects a
12 random sample of 5% of the eligible signatures and sends those to the County Recorder
13 for certification.
14

15 15. After receiving the report from the County Recorder on the number of
16 signatures that are valid from the random sample, the City Clerk then applies that
17 percentage to the total number of remaining eligible signatures to determine the final,
18 total number of valid signatures. If there are enough signatures to qualify for the ballot,
19 the measure is placed on the ballot.
20

21 16. A.R.S. § 19-122 provides that "If the secretary of state refuses to accept
22 and file a petition for the initiative or referendum, or proposal for a constitutional
23 amendment that has been presented within the time prescribed, or if the secretary of
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1 state refuses to transmit the facsimiles of a signature sheet or sheets or affidavits of
2 circulators to the county recorders for certification under section 19-121.01, the
3 secretary of state shall provide the person who submitted the petition, proposal,
4 signature sheet or affidavit with a written statement of the reason for the refusal. Within
5 five calendar days after the refusal any citizen may apply to the superior court for a writ
6 of mandamus to compel the secretary of state to file the petition or proposal or transmit
7 the facsimiles.”
8

9 17. The City Clerk, pursuant to her alleged powers in A.R.S. § 19-121.01,
10 disqualified various signatures and entire petition sheets improperly. The City Clerk
11 issued her written statement explaining her reasons for rejecting signature sheets and
12 signatures on Friday, August 1, 2014.
13

14 18. In some instances, the petition sheets and signatures are valid, in other
15 instances the City Clerk has assumed powers left to other individuals.
16

17 19. Initiative measures need not comply perfectly with every applicable
18 statute, but instead the test applied is whether there is substantial compliance with
19 applicable statutes.
20

21 20. On rejected petition sheets 1 and 401, they were rejected because of
22 “notary-incomplete, missing or expired.” The apparent specific reason is that there is
23 no notary stamp. But this same notary notarized many other petition sheets (for
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1 example rejected petition sheet 12), so this constitutes substantial compliance, and the
2 City must count these rejected petition sheets.

3 21. On rejected petitions sheets 12, 13, 14, 16, 17, 18, 205 through 216, 227,
4 228, 415 through 423, 536, 537, 539, 540, 545 through 548, 556, 562, 569, 574, 575,
5 577, 578, 579, 581, 730, 1335, 1338, 1348, 1354, 1355, 1358 through 1364, 1434
6 through 1437, 1468, 1476, 1477, 1485, 1491, 1526, 1537, 1547, 1548, 1549, 1553,
7 1577, 1578, 1659, 1705, 1706, and 1707, they were rejected because of "Erroneous
8 Circulators Affidavit." It is unclear what the City Clerk means by this but these
9 rejected petition sheets are in substantial compliance and in fact complete compliance,
10 and the City must count these rejected petition sheets.
11

12 22. On rejected petition sheets 38, 39, 40, 41, 42, 43, 140, 141, 147, 148, they
13 were rejected because "circulators Affidavit-incomplete or missing." Apparently these
14 were rejected because the circulator did not include his city and state, and in some
15 instances his address. But the address listed is 5801 N. 67th Ave. #245. This is a
16 Glendale address and upon information and belief the circulator has a Glendale
17 residence, and the sheets substantially comply, the City Clerk must count these rejected
18 petitions.
19
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21 23. On rejected petition sheet 150, it was rejected because "circulators
22 Affidavit-incomplete or missing." Apparently it was rejected because the circulator did
23 not include his city and state, and in some instances his address. But the address listed
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1 is 7047 N.23rd Dr. This is a Phoenix address and upon information and belief the
2 circulator has a Phoenix residence, and the sheets substantially comply, the City Clerk
3 must count these rejected petitions.

4 24. On rejected petition sheets 174 through 177, and 1230 and 1326, 1327,
5 1333, 1410 through 1413, 1443, 1460, 1462, 1466, 1474, 1497, 1510, 1534, 1535,
6 1570, 1571, 1580, 1589, 1591, 1598, 1605, 1606, 1626, 1627, 1641, 1642, 1660, 1663,
7 1664, 1708, 1709, 1714, 1715, 1716 they were rejected because "circulators Affidavit-
8 incomplete or missing." Apparently these were rejected because the circulator did not
9 include his city and state, and in some instances his address. But the address listed is
10 12115 W. Van Buren St. This is an Avondale address and upon information and belief
11 the circulator has an Avondale residence, and the sheets substantially comply, the City
12 Clerk must count these rejected petitions.

13 25. On rejected petition sheets 84, 253, 261, 310, 891, 1003, they were
14 rejected because of a missing serial number. On the front of the petition, part or all of
15 the serial number is torn off. The serial number is on the back side of the petition, and
16 the sheets substantially comply, and the City Clerk must count this rejected petition
17 sheets.

18 26. On rejected petition sheets 131 through 139, they were rejected because
19 the official title and text were not attached. Upon information and belief they were
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1 attached when the petition sheets were circulated. The petition sheets substantially
2 comply and the City Clerk must count the rejected petition sheets.

3 27. On rejected petition sheet 173, it was rejected because all signatures were
4 after the notary. Susan Boley, who notarized many of these sheets, put the date as
5 "June 3, 2014." The petition sheets had not even been created on that date, upon
6 information and belief she meant July 3, 2014. The petition sheet substantially
7 complies and the City Clerk must count the rejected petition sheet.
8

9 28. On petition sheets 234, 235, 257 and 258, 336 through 340, 439 through
10 449, 488 through 491, 500 and 501, 522, 532 through 534, 541, 552, 554, 558, 565,
11 571, 572, 580, 595, 596, 668, 705, 715, 716, 718, 720, 728, 731, 734, 737, 752, 762,
12 768, 797, 799, 806, 807, 808, 839, 841, 846, 853, 875, 890, 893, 900, 907, 910, 912,
13 913, 915, 919, 933, 939, 940, 963, 965, 966, 968, 971, 972, 977, 978, 979, 991, 993
14 through 996, 1010, 1021, 1037, 1050, 1064, 1076, 1103, 1125, 1126, 1127, 1136, 1137,
15 1145, 1167, 1170, 1179, 1183, 1185, 1190, 1196, 1225, 1226, 1238, 1243, 1249, 1250,
16 1255, 1260, 1261, 1278, 1279, 1280, 1291, 1332, 1346, 1352, 1438, 1443, 1447
17 through 1449, 1483, 1488, 1492, 1503, 1505, 1506, 1507, 1517, 1560, 1575, 1615,
18 1616, 1618, 1624, 1625, 1628, 1665, 1717, they were rejected because "circulators
19 Affidavit-incomplete or missing" or "Erroneous circulators affidavit". Apparently they
20 were rejected because the circulator either put no name of a county in blank, or put an
21 out-of-state county. The law no longer requires that a person put any county down in
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1 the affidavit. See Arizona Revised Statutes Section 19-112(D), specifically as amended
2 by Laws 2013, Chapter 209, Section 8. Lack of a county, placing an out-of-state
3 county, or putting a city name in is no longer a basis to disqualify petition sheets, if it
4 ever was one. The petition sheets are in substantial compliance and in fact complete
5 compliance, and the City Clerk must count the rejected petition sheets.
6

7 29. On rejected petition sheet 182, it was rejected because "circulators
8 Affidavit-incomplete or missing." Apparently it was rejected because the circulator did
9 not include his or her name in the body of the affidavit, and no county name either. The
10 County name is not required. A.R.S. Section 19-112(D). The circulator listed her name
11 in another part of the affidavit and signed the affidavit. It substantially complies and
12 the City must count the rejected petition sheet.
13

14 30. On rejected petition sheets 403 and 407, 408, 515, and 860, they were
15 rejected because "circulators Affidavit-incomplete or missing." Apparently they were
16 rejected because the circulator did not include his full name in the body of the affidavit,
17 or listed his name in the affidavit but not below his signature in the block for his name.
18 The circulator listed his full name in another part of the affidavit and signed the
19 affidavit, or listed his or her name in the affidavit but did not place it below the address
20 block. The sheets substantially comply and the City Clerk must count the rejected
21 petition sheet.
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1 31. On rejected petition sheet 491, 557, 1087, and 1356, the sheets were
2 rejected because "circulator's affidavit-incomplete or missing." Apparently they were
3 rejected because the circulator did not list his city and/or state. However, the circulator,
4 Patrick Wear, listed the same street address and included his city and state, Sarasota,
5 Florida, on rejected petition sheet 401. It is clear he lives in Sarasota, FL, and the
6 petition sheets substantially comply. The City Clerk must count the rejected petition
7 sheet.
8

9 32. On rejected petition sheet 495 and 1053, they were rejected for "Erroneous
10 circulator affidavit." It is unclear what error the City is alleging, but the petition sheets
11 are in substantial compliance and in fact complete compliance. The City Clerk must
12 count the rejected petition sheets.
13

14 33. On rejected petition sheet 514, it was rejected because "circulator's
15 affidavit-incomplete or missing." Apparently it was rejected because the circulator did
16 not list her name below the signature block. She listed her name in the body of the
17 affidavit and signed it. The sheet substantially complies, and the City Clerk must count
18 the rejected petition sheet.
19

20 34. On petition sheet 583, it was rejected because "circulators Affidavit-
21 incomplete or missing". Apparently it was rejected because the circulator forgot to put
22 his city and state. However, the circulator, Mr. Black, put his city and state, St. Louis,
23 MO, on a number of other petition sheets, including rejected petition sheet 577. The
24
25

1 petition sheet substantially complies and the City Clerk must count the rejected petition
2 sheet.

3 35. On rejected petition sheet 614, 631, 658, 671, 702, 729, 783, 795, 884, 885
4 it was rejected because "circulators Affidavit-incomplete or missing." Apparently these
5 were rejected because the circulator did not include his city and state, and in some
6 instances his address. But the address listed is 4227 N. 27th Ave. # 2018. This is a
7 Phoenix address and upon information and belief the circulator has a Phoenix residence,
8 and the sheets substantially comply, the City Clerk must count these rejected petitions.
9

10 36. On rejected petition sheet 658 and 789, they were rejected because "notary
11 incomplete, missing or expired." The notarizations are in substantial compliance and in
12 fact complete compliance. The City Clerk must count the rejected petition sheets.
13

14 37. On rejected petition sheets 742, 743, 759, 832, 848, 946, 1059, 1060,
15 1067, 1069, and 1084, they were rejected because "notary incomplete, missing or
16 expired." Apparently these were rejected because the notary did not put her County in
17 the blank for the County. The notary stamp on the sheet includes the County, and the
18 sheets are in substantial compliance. The City Clerk must count the rejected petition
19 sheets.
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22 38. On rejected petition sheet 720, 774, 945, 1051 and 1076, they were
23 rejected because "circulators Affidavit-incomplete or missing." Apparently these were
24 rejected because the circulator did not include his city and state. But the address listed
25

1 is 8330 N. 19th Ave, apt. 3038. This is a Phoenix address and upon information and
2 belief the circulator has a Phoenix residence. Apparently sheet 945 was also rejected
3 because "notary incomplete, missing or expired." Apparently it was rejected because
4 the notary did not put her County in the blank for the County. The notary stamp on the
5 sheet includes the County, and it is in substantial compliance. All the sheets
6 substantially comply, the City Clerk must count these rejected petitions.
7

8 39. On rejected petition sheet 802, it was rejected because "circulators
9 Affidavit-incomplete or missing." Apparently rejected because the circulator did not
10 include his city and state. But the address listed is 1609 W. Glendale Avenue and
11 includes his zip code of 85029, a Phoenix zip code. This is a Phoenix address and upon
12 information and belief the circulator has a Phoenix residence, and the sheets
13 substantially comply, the City Clerk must count these rejected petitions.
14

15 40. On rejected petition sheet 803, the sheet was rejected apparently because it
16 did not list a county in the body of the affidavit and did not list a city and state in the
17 address block. The County is not required. A.R.S. Section 19-112(D). The petition
18 lists a zip code of 85004, a Phoenix zip code, indicating Phoenix residency. The
19 petition substantially complies and the City Clerk must count it.
20

21 41. On rejected petition sheets 816 and 866, the City rejected them because it
22 claimed the Circulator was not registered with the Secretary of State. The Circulator,
23 Katherine Vonarx, registered with the Secretary of State on the same date she gathered
24
25

1 signatures. The sheets was collected in substantial compliance and in fact complete
2 compliance, and the City Clerk must count the rejected petition sheet.

3 42. On rejected petition sheets 850 and 930, they were rejected because
4 "notary incomplete, missing or expired" and also for an incomplete affidavit.
5 Apparently they were rejected because the notary did not put her County in the blank
6 for the County. The notary stamp on the sheet includes the County, and it is in
7 substantial compliance. In addition, the address listed of 3810 N. Maryvale Pkwy is a
8 Phoenix address and upon information and belief the circulator is a Phoenix resident.
9 The sheet substantially complies. The City Clerk must count the rejected petition
10 sheets.
11
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13 43. On rejected petition sheet 854 and 1202 and 1263, these were rejected
14 because "circulators Affidavit-incomplete or missing." Apparently these were rejected
15 because the circulator did not include his city and state. But the address listed is 14020
16 N. Black Canyon. This is a Phoenix address and upon information and belief the
17 circulator has a Phoenix residence, and the sheets substantially comply, the City Clerk
18 must count these rejected petitions.
19
20

21 44. On rejected petition sheet 862, 1038, 1039, these were rejected because the
22 circulator not registered with Secretary of State and also because affidavit incomplete
23 or missing. The circulator, Arthur McCray, was registered with the Secretary of State
24
25

1 at this time and there is nothing wrong with the affidavits. The City Clerk must count
2 this rejected petition sheet.

3 45. On rejected petition sheet 893 and 937, these were rejected because
4 circulator not registered with Secretary of State and also because affidavit incomplete
5 or missing. The circulator, Arthur McCray, was registered with the Secretary of State
6 at this time and there is nothing wrong with the affidavit. It was also rejected because
7 the notary put Phoenix instead of Maricopa in the County block. The stamp includes
8 the proper county. The sheet substantially complies. The City Clerk must count the
9 rejected petition sheets.
10
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12 46. On rejected petition sheet 928 and 1164, these were rejected for
13 incomplete or missing affidavit. Apparently rejected because the Circulator did not list
14 a city and/or state. However, on rejected petition sheet 929, the same Circulator lists
15 the same street address as being in Tulsa, OK. The petition substantially complies and
16 the City Clerk must count the rejected petition sheets.
17

18 47. On rejected petition sheets 868, 889, 899, 929 and 962, they were rejected
19 because "notary incomplete, missing or expired." Apparently these were rejected
20 because the notary put Phoenix in the blank for the County. The notary stamp on the
21 sheet includes the County, and it is in substantial compliance. The City Clerk must
22 count the rejected petition sheets.
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1 48. On rejected petition sheets 869 and 1058, they were rejected because
2 “notary incomplete, missing or expired.” Apparently it was rejected because the notary
3 did not put her County in the blank for the County. The notary stamp on the sheet
4 includes the County, and it is in substantial compliance. It was also rejected because
5 the affidavit was incomplete. The address listed, 5131 N. 15th St., is a Phoenix address
6 and upon information and belief the Circulator is a Phoenix resident. The City Clerk
7 must count this rejected petition sheet.
8

9 49. On rejected petition sheet 887, it was rejected for affidavit incomplete or
10 missing. Apparently rejected because she left her city and state off of her address.
11 However, on the next sheet, rejected petition sheet 888, Ms. Fabela lists the same
12 address and includes her city and state of Phoenix. The sheet substantially complies
13 and the City Clerk must count the rejected petition sheet.
14

15 50. On rejected petition sheet 888 and 964, Circulator Fabela did not include
16 her full name in the address block. However, she included her full name in the affidavit
17 body. The sheet substantially complies and the City Clerk must count the rejected
18 petition sheet.
19

20 51. On rejected petition sheet 982, the only indication the City gives for
21 rejecting it is “special”. There is nothing wrong with this sheet. The City must count it.
22

23 52. On rejected petition sheet 1053, it was rejected because of
24 incomplete/erroneous affidavit and a notary error. The notary did not put the County in
25

1 the blank but it appears on her stamp. The Ciruclator did not include his city and state
2 but lists a Phoenix address of 1609 W. Glendale with a Phoenix zip code of 85021. He
3 lists Glendale as the County but no County is needed in the affidavit. A.R.S. Section
4 19-112(D). The sheet substantially complies and the City Clerk must county it.
5

6 53. On rejected petition sheet 1087, 1091, 1131, 1334, 1395, and 1406, these
7 were rejected because "circulators Affidavit-incomplete or missing." Apparently these
8 were rejected because the circulator did not include his city and state. But the address
9 listed is 232 S. 12th Ave. This is a Phoenix address, the Circulator also listed a Phoenix
10 zip of 85003, and upon information and belief the circulator has a Phoenix residence.
11 Sheet 1334 and 1395 and 1406 also did not have a county in the blank in the affidavit,
12 but it does not need this. A.R.S. Section 19-122(D). The sheets substantially comply,
13 the City Clerk must count these rejected petitions.
14

15 54. On rejected petition sheet 1142, it was rejected because "circulators
16 Affidavit-incomplete or missing." Apparently it was rejected because the circulator did
17 not include his city and state. But the address listed is 1020 E. Osborn. This is a
18 Phoenix address, and upon information and belief the circulator has a Phoenix
19 residence, and the sheets substantially comply, the City Clerk must count the rejected
20 petition sheets.
21

22 55. On rejected petition sheet 1514, it was rejected because "circulators
23 Affidavit-incomplete or missing." Apparently it was rejected because the circulator did
24
25

1 not include his city and state. But the address listed is 26023 N. Sandstone. This is a
2 Surprise address, and upon information and belief the circulator has a Surprise
3 residence, and the sheets substantially comply, the City Clerk must count the rejected
4 petition sheets.

5
6 56. On rejected petition sheets 1548, 1577 and 1578, the City rejected because
7 of an "erroneous affidavit" and because Mr. Black was not registered with the Secretary
8 of State. However, the affidavit is fully compliant and Mr. Black had registered with
9 the Secretary of State when collecting these. The City Clerk must count these rejected
10 petition sheets.

11
12 57. On rejected petition sheet 1590, it was rejected because of an incomplete
13 circulator affidavit. Apparently specifically because no state was put down in the
14 address column. However, the Circulator did put the City down, Glendale. The sheet
15 substantially complies and the City Clerk must count it.

16
17 58. On rejected petition sheet 1686, it was rejected because the circulator had
18 not registered with Secretary of State. The circulator, Kim Goldsberry, was registered
19 with the Secretary of State at this time. The sheet was collected in substantial
20 compliance and in fact complete compliance. The City Clerk must count this rejected
21 petition sheet.
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1 59. On rejected petition sheet 1698, the City Clerk rejected because of an
2 alleged problem with the notarization. There is nothing wrong with the petition sheet, it
3 is in substantial compliance and in fact complete compliance and must be counted.

4 60. In total, the City Clerk improperly invalidated 382 whole petition sheets
5 containing 4,714 signatures.
6

7 61. A large number of individual signatures have also been invalidated by the
8 City Clerk for illegitimate reasons. The City Clerk provided a spreadsheet giving
9 reasons for invalidating individual signatures.
10

11 62. The law requires that when processing petition sheets, the City Clerk is
12 assigned some tasks, and the County is assigned other tasks. Over and over again the
13 City attempts to exercise the powers assigned to the County Recorder.

14 63. After the City Clerk performs its statutory tasks, those signatures that have
15 not been invalidated are eligible to be sent, as part of the random sample, to the County
16 Recorder. But the fact that they are "eligible" does not mean that they will in fact end
17 up counting.
18

19 64. The City Clerk invalidated signatures because the address was "not
20 Glendale address." There is no statutory basis for the City to make that determination.
21 That is a determination for the County Recorder.
22

23 65. The City Clerk invalidated signatures that they claimed did not have a
24 date. There are a number of factors that the Court may use to infer a date or a date
25

1 range that would make the signatures valid. One such factor is the extremely short
2 duration the that the Petition Sheets were actually circulated for. The signatures
3 invalidated by the City Clerk on the basis of no date are in fact in substantial
4 compliance.

5
6 66. The City Clerk invalidates a number of signatures on the basis of
7 "signature missing/incomplete" and "address missing incomplete." While the City
8 does have the power to invalidate signatures if the signature or residence address is
9 "missing", there is no statutory basis for the City to invalidate signatures because the
10 City believes the signature is "incomplete" or the address is "incomplete." All
11 signatures disqualified on the basis of being incomplete as opposed to being missing
12 must be deemed eligible signatures.

13
14 67. The City Clerk invalidated a number of signatures on the basis of a
15 missing or incomplete printed name. There is no statutory basis for the City to
16 invalidate signatures because the City Clerk believes the name to be missing or
17 incomplete. All signatures disqualified on this basis must be deemed eligible
18 signatures.

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20
21 68. Apart from the authority granted by A.R.S. § 19-121.01, the City Clerk has
22 no lawful authority to invalidate signatures or deem them ineligible for submission to
23 the County Recorder for certification. Under A.R.S. § 19-121.02, it is the County
24 Recorder that makes the determination that "the signature is illegible and the signer is
25

1 otherwise unidentifiable” that “the address provided is illegible or nonexistent” or that
2 “the signature was disqualified after comparison with the signature on the affidavit of
3 registration.”

4 69. In addition to signatures that the City Clerk has no power to invalidate,
5 there are some signatures that the City would have the power to invalidate if the reasons
6 given by the City were legitimate and accurate, but they are not.

7 70. Attached as Exhibit A is a spreadsheet. The spreadsheet includes all of the
8 individual signatures that were improperly invalidated by the City Clerk, and that
9 Plaintiff asks this Court to deem eligible to be submitted to the County Recorder for
10 verification. The signatures are identified by petition sheet number and line number,
11 for example line 8 on Petition Sheet 2 is labeled Temporary Petition Sheet 2, L8.
12 Because of the very tight time deadlines for filing, Plaintiffs took the spreadsheet
13 provided by the City indicating the individual signatures withdrawn and put lines
14 through those invalidated signatures to which the Plaintiff does not object to the
15 invalidations. The signatures that remain on the Exhibit, identified by Petition Sheet
16 and Line Number, are those that the Plaintiff asks the Court to deem eligible signatures
17 for certification by the County Recorder.

18 71. The total number of individual signatures improperly invalidated by the
19 City, as shown on Exhibit 8, is 3,826.
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1 72. The total number of signatures improperly invalidated by the City,
2 including improperly invalidated whole Petition Sheets and improperly invalidated
3 individual signatures is 8,540.

4 WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

5 A. For a declaration from this Court that the total number of signatures
6 eligible to be certified by the County Recorder under A.R.S. § 19-121.02 are 19,660,
7 8,540 more than the City Clerk calculated.

8 B. For an order requiring that the City Clerk select a new random sample
9 based on the actual number of eligible signatures and petition sheets as set forth in this
10 Complaint, or alternatively, if the time requirements for submitting materials for printing
11 ballots will not allow this, to order that the City Clerk apply the validity rate determined
12 by the County Recorder to all signatures eligible to be certified and make a
13 determination of whether the measure is placed on the ballot on that larger number, not
14 the smaller one the City Clerk calculated.

15 C. For an award of attorney's fees and other eligible expenses under A.R.S. §
16 12-2030.

17 D. For an award of taxable costs under A.R.S. § 12-341.

18 E. For any other such relief as this Court deems fair and just.

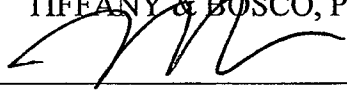
19 F. For Findings of Fact and Conclusions of law.
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DATED August 5, 2014.

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TIFFANY & BOSCO, P.A.

By: _____



Timothy A. La Sota
Third Floor Camelback Esplanade II
2525 East Camelback Road
Phoenix, Arizona 85016-4237
Attorneys for Plaintiff

Rule 80(i) Declaration

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I declare under penalty of perjury of the laws of the State of Arizona that the foregoing Verified Complaint For Special Action is true and correct to the best of my knowledge and belief and that this Declaration is executed by me on the 5 day of August, 2014, in August Maricopa County, Arizona.

Walter P. Opabe