

1 Israel G. Torres (#020303)
2 James E. Barton II (#023888)
3 Jacqueline Mendez Soto (#022597)
4 TORRES LAW GROUP, PLLC
5 2239 West Baseline Road
6 Tempe, Arizona 85283
7 (480) 588-6120
8 James@TheTorresFirm.com
9 Jacqueline@TheTorresFirm.com
10 *Attorneys for Plaintiff*

11
12 UNITED STATES DISTRICT COURT
13
14 FOR THE DISTRICT OF ARIZONA
15

16 Arizonans for Fair Elections (AZAN),
17 an Arizona nonprofit corporation;
18 Arizonans Fed Up with Failing
19 Healthcare (Healthcare Rising AZ), an
20 Arizona nonprofit corporation; and
21 Randi L. Turk, an individual;

22 Plaintiffs,

23 v.

24 Katie Hobbs, Arizona Secretary of
25 State, Edison Wauneka, Apache
26 County Recorder; David Stevens,
27 Cochise County Recorder; Patty
28 Hansen, Coconino County Recorder;
Sadie Jo Bingham, Gila County
Recorder; Wendy John, Graham
County Recorder; Sharie Miheiro,
Greenlee County Recorder; Richard
Garcia, La Paz County Recorder;
Adrian Fontes, Maricopa County
Recorder; Kristi Blair, Mohave County
Recorder; Doris Clark, Navajo County
Recorder; F. Ann Rodriguez, Pima
County Recorder; Virginia Ross, Pinal

Case No.:

**MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

(Oral Argument Requested)

1 County Recorder; Suzanne Sainz, Santa
2 Cruz County Reorder; Leslie Hoffman,
3 Yavapai County Recorder; and Robyn
4 Pouquette, Yuma County Recorder; all
in their official capacities,

5 Defendants.

6 Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs Arizonans
7 for Fair Elections (AZAN) and Arizonans Fed Up with Failing Healthcare (Healthcare
8 Rising AZ) (separately, “AFE” and “HRAZ,” collectively “Plaintiff Committees”),
9 together with Randi L. Turk (all collectively “Plaintiffs”), move the Court for entry of a
10 Temporary Restraining Order and Preliminary Injunction ordering the Arizona Secretary
11 of State (the “Secretary”) to allow initiative petition proponents and supporters to use
12 Arizona’s secure online signature collection system for qualified electors to electronically
13 sign initiative petitions, and enjoining the Secretary and the named Defendant County
14 Recorders (collectively the “Defendants”) 19-121.01, -121.02, and -121.04 solely due to
15 the signatures being collected using this system, during the COVID-19 pandemic,
16 pending entry by the Court of a final judgment in this action. This motion is supported
17 by the following Memorandum of Points and Authorities. A proposed order is
18 concurrently submitted to the Court. Oral argument is respectfully requested.

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23 DONE this 2nd day of April, 2020.

24
25 TORRES LAW GROUP, PLLC

26 /s/James E. Barton II

27 James E. Barton II

28 Jacqueline Mendez Soto

Attorneys for Plaintiffs

MEMORANDUM OF POINTS AND AUTHORITIES**I. BACKGROUND**

Arizona is under a state of emergency due to the COVID-19 pandemic. For a period of time, people have been adhering to the recommendations and orders from federal, state, and local governments and medical experts to quarantine, self-isolate, and practice social-distancing when in a public setting, to prevent the transmission of the COVID-19 virus and bring an end to the pandemic. These measures, however, have denied proponents and supporters of initiative measures their right to freedom of speech and association by depriving them of the ability to gather signatures to qualify their initiatives for the November 3, 2020 General Election ballot.

At this time, the Secretary's denial to these individuals of access to Arizona's secure online signature system for electronic signature submission places a specific and undue burden on this exercise of Free Speech guaranteed under the First and Fourteenth Amendments. Thus, Plaintiffs seek an order temporarily enjoining the Secretary and the County Recorders from each county from enforcing the provisions governing initiative measures under Title 19, Chapter 1, of the Arizona Revised Statutes ("A.R.S."), in so far as they prevent processing signatures in support of initiatives via Arizona's secure online signature gathering system for qualification for the November 3 General Election ballot. Further, Plaintiffs seek an order requiring the Secretary to allow for the electronic submission of signatures by qualified electors in support of initiative measures, in the same manner qualified electors may currently submit signatures in support of candidate

1 nomination petitions, so that initiative sponsors and supporters may continue to gather
2 and provide signatures during the pandemic.

3 **A. The Initiative Process**

4 **1. Gathering Signatures**

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6 The initiative process allows the electorate to adopt legislation. See Ariz. Const.,
7 art. 4, pt. 1, § 1; *Ariz. State Legislature v. Ariz. Indep. Redistricting Comm’n*, 135 S. Ct.
8 2652, 2660 (2015). The power to enact or reject laws by initiative is equal to the
9 legislative power vested with the Arizona Legislature. See *Id.*, 135 S. Ct. at 2660.

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11 “Constitutional and statutory requirements for statewide initiative measures must
12 be strictly construed and persons using the initiative process must strictly comply with
13 those constitutional and statutory requirements.” See A.R.S. § 19-102.01. The initiative
14 petition itself must substantially comply with the form prescribed by statute. See A.R.S.
15 § 19-101 and -102.

16
17 The initiative process places specific requirements on the circulator and the signer
18 (the elector), including: (i) “Every qualified elector signing a petition shall do so in the
19 presence of the person who is circulating the petition and who is to execute the affidavit
20 of verification,” see A.R.S. § 19-112(A); (ii) In addition to signing the petition, the
21 qualified elector must also print his or her first and last name, residence address or
22 description of residence location if the elector does not have an address, and the date on
23 which the elector signed the petition, see A.R.S. § 19-112(A); (iii) Further, signatures
24 can only be done on paper sheets, not electronically, and the signature sheets must have
25 attached at all times “a full and correct copy of the title and text of the measure[,]” see
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1 A.R.S. § 19-112(B); (iv) The circulator must, by affidavit, “subscribe and swear before
2 a notary public” that each signature, name, and address were printed by the elector on the
3 date indicated, that in the circulator’s belief, the signer was a qualified elector, and that a
4 copy of the title and text of the petition was attached to the signature sheet at all times
5 during circulation, see A.R.S. § 19-112(C).

7 Additional print requirements include: (1) printing the petition serial number in
8 the lower right-hand corner on each signature sheet; (2) if applicable, printing the
9 circulator’s registration number in the lower right-hand corner of each signature sheet;
10 (3) print that is at least eight-point type; and (4) print in black ink on white or recycled
11 white pages fourteen inches in width by eight and one-half inches in length, with a margin
12 of at least one-half inch at the top and one-fourth inch at the bottom of each page. See
13 A.R.S. § 19-121(A).

16 **2. Processing by the Secretary and Recordors**

18 The signature sheets collected by the circulator must then be filed with the
19 Secretary not less than four (4) months preceding the date of the election at which the
20 measure is to be voted upon. See Ariz. Const., art. 4, pt. 1, § 4. For the November 3,
21 2020 General Election, the signature sheets must be filed with the Secretary by July 2,
22 2020. The initiative petition is filed by tendering the signatures to the Secretary by mail
23 or in-person, who will issue a receipt based on an estimate made to the Secretary of the
24 purported number of sheets and signatures filed. See A.R.S. § 19-121. The Secretary
25 may allow for electronic filing of the signature sheets, but to date has not adopted a
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1 method for doing so. See A.R.S. § 19-121(C).

2 For the initiative measure to be placed on the ballot, it must be supported by at
3 least ten (10) percent of the qualified electors. The qualified electorate is based on the
4 total number of votes cast for all candidates for governor in the preceding gubernatorial
5 election. See Ariz. Const., art. 4, pt. 1, §§ 2, 7. For the 2020 election cycle, individuals
6 and organizations seeking to place initiative measures on the ballot for the November 3,
7 2020 General Election must gather 237,645 valid signatures from qualified electors. See
8 ARIZONA SEC'Y OF STATE, [http://www.azsos.gov/elections/initiative-referendum-and-](http://www.azsos.gov/elections/initiative-referendum-and-recall)
9 [recall](http://www.azsos.gov/elections/initiative-referendum-and-recall).
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12 Once the Secretary receives the petitions, the Secretary must engage in a series of
13 steps to remove entire sheets that do not strictly comply with the aforementioned-
14 requirements and otherwise invalid signatures. See A.R.S. § 19-121.01 For example, the
15 Secretary must remove entire sheets, which would include valid signatures from qualified
16 electors, that (1) do not have an attached copy of the title and text of the initiative; (2) do
17 not have the correct petition serial number and, if applicable, the paid circulator
18 registration number in the lower right-hand corner of each side; (3) do not contain the
19 circulator's notarized affidavit, or contain a defective notarization; (4) contain a
20 circulator's or notary date that is earlier than the dates on which the electors signed the
21 petition; and (5) were collected by an unregistered circulator. See A.R.S. § 19-121.01(A).
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26 It is not until after the Secretary has removed entire sheets based on print mistakes
27 and notary deficiencies that the Secretary and County Recorders review the validity of
28 individual signatures under the criteria set by A.R.S. § 19-121.01. Individual signatures

1 will then be invalidated by the County Recorder based on additional criteria. See A.R.S.
2 § 19-121.02. After this process of eliminating entire sheets and individual signatures, the
3 proponent of the initiative must have 237,645 valid signatures to get on the ballot.
4 Understandably, people and organizations supporting an initiative measure will seek to
5 obtain substantially more than 237,645 signatures in the event signatures are stricken
6 through this arduous review process.
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8 **B. COVID-19**

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10 On January 21, 2020, the Center for Disease Control and Prevention (“CDC”) confirmed the first
11 case of COVID-19 within the United States. See CDC Press Release, 1/21/2020, available at
12 <https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html> (last accessed on
13 [March 25, 2020](https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html)). On March 11, 2020, the World Health Organization classified COVID-19 as a pandemic.
14 See Chappell, *Coronavirus: COVID-19 Is Now Officially a Pandemic, WHO Says*, National Public Radio
15 2020 at [https://www.npr.org/sections/goatsandsoda/2020/03/11/814474930/coronavirus-covid-19-is-now-](https://www.npr.org/sections/goatsandsoda/2020/03/11/814474930/coronavirus-covid-19-is-now-officially-a-pandemic-who-says)
16 [officially-a-pandemic-who-says](https://www.npr.org/sections/goatsandsoda/2020/03/11/814474930/coronavirus-covid-19-is-now-officially-a-pandemic-who-says) (last accessed on March 25, 2020).
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19 On March 13, 2020, President Donald Trump declared the pandemic a national
20 emergency. See President Donald Trump, *Proclamation on Declaring a National*
21 *Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak*, (Mar. 13,
22 2020), at [https://www.whitehouse.gov/presidential-actions/proclamation-declaring-](https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/)
23 [national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/](https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/). State
24 governments across the country are taking steps, specifically with regard to elections, to
25 respond to changing conditions due to the COVID-19 pandemic. See National
26 Conference of State Legislature, *COVID-19 and Elections* (Mar. 30, 2020,
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1 <https://www.ncsl.org/research/elections-and-campaigns/state-action-on-covid-19-and->
 2 [elections.aspx](https://www.ncsl.org/research/elections-and-campaigns/state-action-on-covid-19-and-elections.aspx) (last accessed on April 1, 2020) (collecting examples).

3 Also on March 11, 2020, the Governor of Arizona issued a Declaration of
 4 Emergency. See Governor Doug Ducey, *Declaration of Emergency - COVID-19*, (Mar.
 5 11, 2020, at https://azgovernor.gov/sites/default/files/declaraton_0.pdf (last accessed on
 6 April 1, 2020). Governor Ducey has since issued Executive Order 2020-18 further
 7 encouraging Arizonans to practice social distancing and to “stay home.” See *Physical*
 8 *Distancing to Mitigate COVID-19 Transmission* (Mar. 31, 2020, at
 9 [https://azgovernor.gov/sites/default/files/eo_202018_stay_home_stay_healthy_stay_con](https://azgovernor.gov/sites/default/files/eo_202018_stay_home_stay_healthy_stay_connected_1.0.pdf)
 10 [nected_1.0.pdf](https://azgovernor.gov/sites/default/files/eo_202018_stay_home_stay_healthy_stay_connected_1.0.pdf))

14 C. On-line Signature Gathering in Arizona

15 Arizona has implemented secure online signature collection for candidates for
 16 statewide and legislative offices, as well as for federal offices. See A.R.S. §§ 16-316, -
 17 318. The electronic system contains safeguards for only qualified electors to sign a
 18 petition for a particular candidate. See *Id.* This system is known as “E-Qual” and allows
 19 for signing candidate nominating petitions and making five-dollar qualifying
 20 contributions to publicly funded candidates. See Secretary of State, Welcome to E-Qual
 21 (available at <https://apps.azsos.gov/equal/>).

24 Although not yet implemented, Arizona law has required secure online signature
 25 collection for municipal and county offices since January 1, 2017. See A.R.S. § 16-317.
 26 Furthermore, current law envisions electronic processing of petition signatures providing
 27 that the Secretary *may* “prescribe the method of filing, including electronic filing.” See
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1 A.R.S. § 19-121.

2 **II. STANDARD FOR INJUNCTIVE RELIEF**

3 The standard for issuing a temporary restraining order is the same as the standard
4 for issuing a preliminary injunction. See *Quiroga v. Chen*, 735 F. Supp. 2d 1226, 1228
5 (D. Nevada 2010). A plaintiff seeking preliminary injunction relief must show that (1)
6 he is likely to succeed on the merits; (2) he is likely to suffer irreparable harm in the
7 absence of preliminary relief; (3) that the balance of equities tips in his favor; and (4) that
8 an injunction is in the public interest. See *Winter v. Natural Res. Def. Council, Inc.*, 555
9 U.S. 7, 20 (2008). Where plaintiffs establish a likelihood of irreparable injury, and the
10 balance of harms tip sharply toward the plaintiff, the court should grant a preliminary
11 injunction, even if serious questions on the merits exist. *All. for the Wild Rockies v.*
12 *Cottrell*, 632 F.3d 1127, 1132, 1139 (9th Cir. 2011).

13 **III. ARGUMENT**

14 **A. Denying Initiative Supporters Use of E-Qual During the COVID-19** 15 **Pandemic Unduly Burdens Free Speech and the People's Right to** 16 **Initiative.**

17 The right to engage in political activity, including the collection of signatures in
18 support of candidates or other measures is a right protected by the First Amendment as
19 freedom of speech and association. See *Buckley v. Am. Const. Law Found., Inc.*, 525 U.S.
20 182, 194-95 (1999) (quoting *Meyer v. Grant*, 486 U.S. 414 (1988)). The freedom to
21 engage in political speech, and the advancement of beliefs and ideas, is an inseparable
22 aspect of the liberty assured by the Due Process Clause of the Fourteenth Amendment,
23 which embraces the freedom of speech. See *Anderson*, 460 U.S. at 787, 130 S.Ct. at 1569

1 (quoting *NAACP v. Alabama*, 357 U.S. 449, 460, 78 S.Ct. 1163 (1958)). The statutes at
2 issue have frozen the people's ability to gather signatures during the pandemic. During
3 the COVID-19 pandemic, the Secretary and County Recorders cannot enforce these
4 statutes and at the same time avoid unduly burdening the citizens' right to Free Speech,
5 given the much less restrictive means available to accomplish the State's interest in
6 protecting against fraud.
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9 **1. Success on the Merits**

10 In extraordinary circumstances like those currently facing the State of Arizona,
11 courts have the power to prevent undue burdens on the exercise of constitutional rights.
12 In *Florida Democratic Party v. Scott*, 215 F. Supp. 3d 1250, 1257 (N.D. Fla. 2016) the
13 district court held that Florida's statutory registration framework, which did not contain
14 a provision that extended the voter registration deadline in the event of an emergency,
15 completely disenfranchised thousands of voters and thus, amounted to a severe burden on
16 the right to vote. The court explained that "if aspiring eligible Florida voters are barred
17 from registering to vote then those voters are stripped of one of our most precious
18 freedoms." See *Id.* at 1258. More recently, courts have recognized the need to prevent
19 election laws from unduly restricting participation in the election process in light of the
20 COVID-19 pandemic. In *Democratic Nat'l Comm. v. Bostelmann*, 20-CV-249-WMC,
21 2020 WL 1320819 (W.D. Wis. Mar. 20, 2020) the district court granted a temporary
22 restraining order to extend the deadline by which an individual can register online to vote,
23 specifically due to the extenuating circumstances surrounding the current COVID-19
24 health crisis. Similarly, a Virginia court recently granted injunctive relief to a candidate
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1 allowing him to appear on the ballot with fewer than the statutorily required number of
2 signatures, acknowledging that the signature requirement, although only a modest burden
3 under normal circumstances, constituted a severe burden in light of the COVID-19 public
4 health crisis. *Omari Faulkner et al. v. Virginia Dep't of Elections et al.*, CL-20-1456 (Va.
5 Cir. Ct. March 25, 2020).

7 When considering the constitutionality of a state election law, courts must weigh
8 “the character and magnitude of the asserted injury to the rights protected by the First and
9 Fourteenth Amendments that the plaintiff seeks to vindicate” against “the precise interests
10 put forward by the State as justifications for the burden imposed by its rule,” while
11 considering “the extent to which those interests make it necessary to burden the plaintiff’s
12 rights.” *Burdick*, 504 U.S. at 434, 112 S.Ct. 2059 ((quoting *Anderson*, 460 U.S. at 789,
13 103 S.Ct. 1564), commonly referred to as the *Anderson/Burdick* framework.

16 In the instant case, the burden on the right to circulate and sign initiative petitions
17 is profound. The Plaintiff Committees are compelled to stop public signature gathering
18 in order to avoid the very real risk to public health. See Grennan Decl. ¶ 22; Maldonado
19 Decl. ¶ 33. Without public signature gathering, each committee has lost the opportunity
20 to collect up to 160,000 signatures between March 11, 2020, and April 30, 2020, the
21 period during which people have been ordered to stay home and practice social-distancing
22 when it is necessary to be in public. See Gallaway Decl. ¶ 47.

25 Plaintiff Randi L. Turk, and those similarly situated are also prevented from
26 exercising their right to sign the petition for fear of exposing themselves to COVID-19.
27 Indeed, the Governor has explicitly directed citizens of the state to remain at home unless
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1 going outdoors is an essential activity. See Governor Douglas A. Ducey, *Executive Order*
2 *2020-18, Stay Home, Stay Healthy, Stay Connected: Physical Distancing to Mitigate*
3 *COVID-19 Transmission* (March 30, 2020).

4
5 The State's interest in requiring signatures to be gathered by a petition circulator
6 who complies with the numerous requirements of Title 19 is to ensure that the hundreds
7 of thousands of required signatures for placement on the ballot come from qualified
8 electors. See, e.g., Parker v. Tucson, 233 Ariz. 422, 431, 314 P3d 100, 109 (App. 2013);
9 see also Harris v. Bisbee, 219 Ariz. 36, 40, 192 P.3d 162, 166 (App. 2008). The circulator
10 must attest to their eligibility in an affidavit on the back of each petition sheet. See A.R.S.
11 § 19-112(D). Under ordinary circumstances, requiring such gathering of signatures
12 would provide somewhat of a burden, but it could arguably be justified by the State's
13 interest in preventing fraud; however, the present circumstance created by the pandemic
14 forbids the type of interaction required by the statutes. This extreme burden on gathering
15 a sufficient number of signatures in the presence of the signers—237,645 valid signatures
16 of qualified electors, see <https://azsos.gov/elections/initiative-referendum-and-recall>—is
17 a burden that cannot be justified.

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21 This is particularly true because the State already system in place that enables
22 qualified electors to sign candidate petitions on-line. The existence of the E-Qual system
23 means, in terms of the *Anderson/Burdick* test, that mandating non-electronic signature
24 gathering is not necessary to vindicate the state's interest in preventing fraud. Therefore,
25 the Plaintiffs are likely to prevail in the merits.
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2. *Irreparable Harm*

Continuing to deny Plaintiffs access to on-line signature collection in the face of the current pandemic will cause irreparable harm. Under Arizona law, “in no event shall the secretary of state accept an initiative petition that was issued for circulation more than twenty-four months before the general election at which the measure is to be included on the ballot.” See A.R.S. § 19-121(D). Thus, the signatures gathered so far in the campaigns will become useless and their value forever lost because they cannot be used in a future election. Furthermore, the right to present these questions to Arizona voters in this election cycle can never be replicated. Denying Plaintiffs the opportunity to present the measures to the voters is the epitome of an irreparable harm.

3. *Balance of Equities*

In assessing the balance of equities, the Court should weigh “the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate against ‘the precise interests put forward by the State as justifications for the burden imposed by its rule,’ taking into consideration ‘the extent to which those interests make it necessary to burden the plaintiff’s rights.’” See Burdick, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. 789, 103 S.Ct. 1570). “The rigorousness of the Court’s inquiry into the propriety of a state election law depends upon the extent to which a challenged regulation burdens the First and Fourteenth Amendment rights. When those rights are subject to ‘severe’ restrictions, the regulation must be ‘narrowly drawn to advance a state interest of compelling importance.’” See Compell v. Hull, 73 F.Supp. 2d 1081, 1086 (1999) (citing to *Burdick*, 504 U.S. at 434). When it

1 comes to laws governing the processes and procedures for getting an issue on the ballot,
2 the severity of the “ballot access law” is directly proportional to the degree of scrutiny it
3 will receive by a court.” See id. The question will be whether with reasonable diligence,
4 the group seeking to get a measure on the ballot could be expected to meet the
5 requirements, or if they will only rarely succeed. See Id., at 1086-87.

7 The injury to the Plaintiffs is the Plaintiffs not being able to obtain the required
8 number of signatures by the July 2, 2020 deadline, thus the question is not presented to
9 the voters whether to approve their respective initiatives. The orders and
10 recommendations for self-isolation and social distancing remain in effect, and based on
11 the most recent reports from the Arizona Health Director, the illness is likely to peak in
12 April, hospitalizations will peak in May, resulting in a significant increase in the number
13 of cases in Arizona. See Polletta, Illnesses from Coronavirus Could Peak in April with
14 Hospitalizations Topping Out in May, Health Officials Say, Arizona Republic, 2020,
15 available at [https://www.azcentral.com/story/news/local/arizona-](https://www.azcentral.com/story/news/local/arizona-health/2020/03/26/coronavirus-arizona-cases-could-peak-april-may-health-officials-covid-19-news/5083947002/)
16 [health/2020/03/26/coronavirus-arizona-cases-could-peak-april-may-health-officials-](https://www.azcentral.com/story/news/local/arizona-health/2020/03/26/coronavirus-arizona-cases-could-peak-april-may-health-officials-covid-19-news/5083947002/)
17 [covid-19-news/5083947002/](https://www.azcentral.com/story/news/local/arizona-health/2020/03/26/coronavirus-arizona-cases-could-peak-april-may-health-officials-covid-19-news/5083947002/). Thus, it is unreasonably burdensome, if not impossible, for
18 Plaintiffs and other similarly situated ballot measure groups to gather the 237,645
19 signatures needed by July 2, 2020 under the current scheme.

21 This is balanced against the minimal administrative burden of allowing ballot
22 measure signatures to be collected in the exact fashion that signatures are currently
23 collected, supporting statewide candidate nominating petitions. “E-Qual” boasts of
24 allowing qualified electors to support their candidate by signing their petition “from the
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1 comfort of [their] home or anywhere internet access is available.” See Welcome to E-
 2 Qual, *Apps.azsos.gov/equal*, 2012 Ariz. Secretary of State. The system already
 3 accommodates statewide candidate petitions. Therefore, the balance of harms tips sharply
 4 in favor of granting the Plaintiffs relief.
 5

6 **4. Public Interest**

7 Temporarily lifting the state’s ban on initiative petitions gathering signatures
 8 electronically serves two crucial public interests. First, it serves the public interest in
 9 permitting Arizona’s initiative process to continue to function in light of this pandemic.
 10 See Ariz. Const., art. 4, pt. 1 § 1. Second, it serves the interest in obeying State “stay-at-
 11 home” orders and preserving public health by eliminating a motivation for initiative
 12 proponents to make physical contact with large numbers of individuals in pursuit of
 13 hundreds of thousands of signatures.
 14

15 **B. Plaintiffs Seek Relief for Only the Duration of the State of Emergency.**

16 The relief described in both *DNC v. Bostelmann*, and *Faulkner v. Virginia Dep’t*
 17 *of Elections*, cited above, was narrowly tailored for the specific circumstances of those
 18 cases, and specifically in light of the present pandemic. Indeed, in both cases the laws
 19 temporarily enjoined due to circumstances leading to a national emergency would be
 20 relatively unburdensome, but for the COVID-19 pandemic. The same is true in the instant
 21 case. Application of the *Anderson/Burdick* test to Arizona’s statutes denying initiative
 22 petition supporters access to E-Qual only leads to the conclusion that the restriction is
 23 unduly burdensome because of the current quarantines, self-isolation, and social-
 24 distancing orders and recommendations issued by federal, state, and local governments
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1 and medical experts, currently in place in response to the COVID-19 pandemic. When
2 this crisis passes, the State's denial of access to E-Qual no longer needs to be enjoined.

3 **IV. CONCLUSION**

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5 For the foregoing reasons, Plaintiffs ask that this Court grant its motion. A
6 proposed form of Order is attached herewith.

7 DONE this 2nd day of April, 2020.

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9 TORRES LAW GROUP, PLLC

10
11 /s/James E. Barton II

12 James E. Barton II

13 Jacqueline Mendez Soto

14 *Attorney for Plaintiff*
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CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2020 I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing.

/s/ Monse Vejar