

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Arizonans for Fair Elections (AZAN); et
al.,

Plaintiffs,

v.

Katie Hobbs, Arizona Secretary of State;
et al.,

Defendants.

Case No:

**AFFIDAVIT OF CHRISTOPHER
GALLAWAY**

State of Missouri)
) ss:
County of St. Louis)

I Christopher Gallaway, being duly sworn, hereby depose and state the following:

1. I am over 18 years of age and have personal knowledge of the facts stated
herein.

2. I am a Member of FieldWorks, LLC ("FieldWorks"), which provides
campaign-related services to clients seeking to place initiatives on the ballot for voting by
the electorate.

1 3. FieldWorks provides clients with the management, operations, signature
2 gathering, and other services to qualify the client's measure for the ballot.

3 4. I have fourteen years of experience as a professional petition circulation
5 manager and consultant in several states.

6 5. In Arizona, FieldWorks has been successful assisting clients qualify their
7 initiatives for the ballot.

8 6. On 7/1/2019, Arizonans Fed Up With Failing Healthcare (Healthcare
9 Rising AZ)'s sponsor contracted with FieldWorks to assist with its ballot initiative Stop
10 Surprise Billing and Protect Patients Act.

11 7. On 1/27/2020 Arizonans for Fair Elections (AzAN) hired FieldWorks to
12 assist with its ballot initiative Fair Elections Act.

13 8. For clarity, I refer to both clients collectively as "Ballot Initiative
14 Committees".

15 9. Both Ballot Initiative Committees seek to qualify their respective measures
16 for the November 3, 2020 General Election ballot.

17 10. I am familiar with Arizona law related to the signature requirements to
18 qualify an initiative for the ballot.

19 11. To qualify for the November 3 General Election ballot, the Ballot Initiative
20 Committees, as any other individual or organization seeking to qualify their initiative on
21 the ballot, must gather 237,645 signatures from qualified electors. Pursuant to the
22 Arizona Constitution, the number of signatures required is based on the number of votes

1 cast for all candidates for governor at the general election last preceding the filing of the
2 initiative petition.

3 12. Aside from the extraordinary task of obtaining several hundred thousand
5 signatures, the requirements to qualify the initiative for the ballot are extensive and strict.

6 13. First and foremost, Arizona law requires that the elector sign the petition in
7 the presence of the circulator.

8 14. The circulator must also subscribe and swear on an affidavit before a notary
9 public that the signatures were obtained in his or her presence, among other attestations
10 related to the proper gathering of signatures as required by law.

11 15. The petition signature sheets and affidavits must be filed with the Secretary
12 of State (the "Secretary") no later than July 2, 2020 for the November 3 General Election.

13 16. After the signature sheets are filed with the Secretary, the Secretary
14 engages in an extensive, multileveled process to verify the validity of the sheets and
15 signatures.

16 17. First, the Secretary reviews the sheets for proper formatting, content, and
17 other technical requirements placed on the sheets. Any sheets that do not comply with
18 these requirements are eliminated and the signatures thereon do not count toward the
19 237,645-signature requirement.

20 18. Second, the Secretary reviews each sheet to determine the county of the
21 majority of the signers. Signatures from electors who are from counties other than the
22 county of the majority of the signers on that sheet are stricken and do not count toward
the signature requirement.

1 19. Third, for the remaining sheets, the Secretary strikes all signatures that
2 cannot be verified based on additional criteria.

3 20. The three-step review of sheets and signatures summarized above
5 inevitably eliminates sheets and signatures.

6 21. Once those sheets and signatures are removed, the Secretary counts the
7 remaining signatures and notifies the applicant (the ballot initiative committee) of the
8 total number of signatures eligible for verification.

9 22. In order to proceed to the signature verification process, however, the
10 remaining signatures must meet the required number of signatures. Otherwise the
11 initiative petition does not advance at this point.

12 23. In verifying the signatures, the Secretary will select at random 5% of the
13 total signatures eligible by county and submits the signatures to the respective county
14 recorders for verification.

15 24. The county recorders must determine which signatures of individuals
16 should be disqualified based on additional criteria and certify to the Secretary the number
17 of disqualified signatures.

18 25. Finally, after this extensive and multileveled process, the Secretary must
19 issue a receipt to the ballot initiative committee with an accounting of the number of
20 signatures disqualified and confirm whether the signature requirement was met or not.

21 26. Understandably, ballot initiative committees must gather substantially more
22 than the required number of signatures to survive the elimination and disqualification
process.

1 27. In my experience, ballot initiative committees should obtain one and a half
2 to two times the number of required signatures to account for signature sheets that may
3 be eliminated and signatures that may be stricken for deficiencies. In this case, it means
5 that the Ballot Initiative Committees should obtain between 356,468 to 475,290
6 signatures.

7 28. FieldWorks has recruited, vetted, and trained professional circulators to
8 gather signatures for both clients on their respective initiative petitions to assist them in
9 meeting this extraordinary task.

10 29. The Ballot Initiative Committees have made significant financial
11 commitments to FieldWorks, including significant payments for services to be performed
12 for the duration of the 2020 signature-gathering process.

13 30. To meet their requirement, FieldWorks relies on venues which attract large
14 numbers of individuals in order to engage with a high volume of potential petition
15 signers. These venues include sporting events, parades, fairs, festivals, concerts,
16 libraries, busy government offices, such as courthouses, crowded urban areas outside
17 malls, restaurants, and bars where large number of individuals congregate, and other
18 large social and recreational functions which attract large numbers of individuals.

19 31. In my experience, petition circulation strategies which rely on door-to-door
20 circulation or other methods which do not engage with concentrated gatherings of
21 individuals are insufficient to collect the large number of signatures required to qualify a
22 petition for the ballot.

1 32. By the week of February 22, 2020, FieldWorks, on behalf of each Ballot
2 Initiative Committee, was in full swing gathering signatures and ahead of schedule to
3 meet the goals for obtaining a sufficient number of signatures.

5 33. The COVID-19 pandemic surfaced in the midst of the signature gather
6 efforts.

7 34. FieldWorks began to take precautions with their circulators, including
8 requiring workers who were sick, or appeared to be sick to stay home, maintain social
9 distancing during our daily training sessions and announcements, providing hand
10 sanitizer to our teams and making staff wash their hands on arrival and departure from
11 the office. However, the signature-gathering process continued to comply with the
12 requirement that the elector sign in the presence of the circulator. Failing to comply with
13 this requirement prohibits the circulator from attesting to this fact before a notary public,
14 and this failure leads to the elimination of signatures by the Secretary.

15 35. On March 11, 2020, the Governor of Arizona issued a Declaration of
16 Emergency and Executive Order concerning the COVID-19 pandemic. By this point,
17 strong recommendations were in place by the federal and State government and medical
18 experts that people quarantine, self-isolate, and practice social-distancing when out in
19 public. The social-distancing requirement is that people maintain at least a six-foot
20 separation from each other.

21 36. With the recommendations for social-distancing in place, FieldWorks the
22 efficiency and speed of gathering signatures declined further.

1 37. Moreover, by this point all large social gatherings, such as concerts,
2 sporting events, festivals, and libraries had been canceled or closed. The governments
3 recommendation was that any gathering of more than 10 people had to be canceled.
4 Furthermore, restaurants were ordered to provide take-out services only, forbidding the
5 congregation of people within the restaurants. This eliminated all opportunity for
6 FieldWorks to gather signatures at events and places with large number of people.

7
8 38. Obviously, when a circulator is interacting with a potential signer, the
9 circulator and signer come close together, likely in a face-to-face encounter, for the
10 circulator to provide information on the initiative and request a signature. Moreover,
11 material is exchanged in this process. The circulator carries the initiative text along with
12 the signature pages on a clip board, and this material, along with a pen for signing, is
13 passed from the circulator to the signer. If a signer or circulator unknowingly happens to
14 be a carrier of the COVID-19 virus, this process puts the individuals at risk of
15 transmission and clearly violates the social-distancing preventive measure.

16 39. The social-distancing recommendation in effect froze the ability of
17 circulators to obtain signatures from electors.

18 40. On March 30, 2020, the Governor of Arizona issued an order that people
19 stay at home and only leave their home for essential activities, such as grocery food
20 shopping and attending work in the performance of specifically identified essential
21 functions. Although not specifically restricted by the order, the activity of public
22 signature gathering clearly poses a risk of transmission and infection of the COVID-19
virus.

1 41. It goes without saying that FieldWorks values the health and wellbeing of
2 its circulators and would not want to jeopardize their health even in the absence of a stay-
3 at-home order. By protecting the health of its circulators, FieldWorks is also protecting
5 the health of the community as a whole.

6 42. On average, trained circulators can collect 45 to 50 signatures per shift.
7 This is based on 5.5 hours spent in the field per shift. FieldWorks had 838 circulators
8 throughout Arizona gathering signatures for the Ballot Initiative Committees. \On a
9 weekly basis, FieldWorks was averaging just under 20,000 signatures for each Ballot
10 Initiative Committee.

11 43. As of March 11, 2020, when the social-distancing requirements went into
12 effect and all large public gatherings had been canceled, FieldWorks had collected
13 265,017 signatures for Arizonans Fed Up with Failing Healthcare and 80,132 for
14 Arizonans for Fair Elections.

15 44. After March 11, 2020, FieldWorks has not been able to collect more than
16 an average of less than 60 signatures per shift for each Ballot Initiative Committee. This
17 significant drop in signature attainment is a direct result of the requirement that
18 signatures be obtained in the presence of the circulator and the social-distancing measures
19 in place to prevent the transmission of COVID-19.

20 45. Since the March 30, 2020, stay-at-home order effectively requiring
21 Arizonans to stay at home, FieldWorks will not be able to obtain any signatures.

22 46. The stay-at-home order is effective through April 30, 2020.

1 47. Between March 11 and April 30, FieldWorks could have gathered an
2 average of 160,000 signatures per initiative campaign, a substantial amount required to be
3 on track for the July 2 deadline.

5 48. It is not feasible to make up the loss of signatures after the stay-at-home
6 order is lifted on April 30, if it is lifted at all by that date. The spread of COVID-19
7 continues to increase, and the stay-at-home order is subject to extension if the pandemic
8 continues to grow.

9 49. Based on the uncertainty of FieldWorks' ability to return to the field to
10 collect signatures as required by Arizona law, FieldWorks may not be able to obtain the
11 necessary number of signatures.

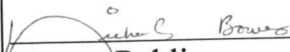
12 50. Arizona law provides for the submission of electronic signatures for
13 candidates seeking to be placed on the ballot. The Secretary administers and oversees the
14 website, apps.azsos.gov/equal/ ("E-Qual"), that is used for the submission of electronic
15 signatures from qualified electors in support of candidate petitions. It is my
16 understanding that the Secretary, via the E-Qual, ensures that only qualified electors
17 submit signatures.

18 51. The E-Qual process can be used during the pandemic to ensure the people's
19 right to sign initiative ballots is not frozen by the stay-at-home order and social-
20 distancing measures. Without such a measure, it is likely that the ballot initiatives will
21 not obtain the necessary number of signatures by July 2, and they will not qualify for the
22 ballot, depriving the people of their right to legislate by initiative.

1
2 FURTHER AFFIANT SAYETH NAUGHT.

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5 
6 Christopher Gallaway
7 FieldWorks, LLC
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9
10

11 Sworn and subscribed to before me this 1st day of April, 2020.

12
13 
14 Notary Public

NICHOLAS BOWENS
Notary Public - Notary Seal
STATE OF MISSOURI
Comm. Number 15381182
St. Louis County
My Commission Expires: 10/21/2023

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22 My commission expires on: 10.21.2023

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2020 I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing, and transmitted a copy to the follow parties via email.

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/s/ Monse Vejar