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*Applications to appear pro haec vice to be
filed

IN THE MARICOPA COUNTY SUPERIOR COURT
IN AND FOR THE STATE OF ARIZONA

CALVIN C. GOODE, ALEJANDRO)
CHÁVEZ, KATHRYN LOUISE FILBEY,)
TOMÁS AMAYA, MARÍA MENDOZA,)
PAMELA BROWN, DOMINGO ORTA,)
KAREN MADISON, GAYLA PATTON,)
VANESSA AMAYA, JACKSON PURVIS,)
CHARLES SANDERS, and the)
COALITION TO DEFEND)
AFFIRMATIVE ACTION,)
INTEGRATION, AND IMMIGRANT)
RIGHTS AND FIGHT FOR EQUALITY)
BY ANY MEANS NECESSARY (BAMN))
)
Plaintiffs,)

No.

**COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF**

Vs.

SECRETARY OF STATE OF ARIZONA,
ARIZONA CIVIL RIGHTS INITIATIVE,
NATIONAL BALLOT ACCESS, INC.,
JSM, INC., YPM, LLC, CAMPAIGN
FINANCE COMPANY, LLC, CAMPAIGN
PROMOTIONS, LLC, and BALLOT
ACCESS COMPANY, LLC

Defendants.

For their complaint, the plaintiffs state as follows:

INTRODUCTION

1. The plaintiffs, who are black, Latina/o and white voters in Arizona, ask this Court to issue injunctive relief preventing the defendant Secretary of State from placing the so-called Arizona Civil Rights Initiative (ACRI) on the November 2008 general election ballot on the grounds that:

- (1) the ACRI and the various circulators it directly and indirectly hired violated the Constitution and statutes of Arizona by engaging in racially-targeted fraud by deceiving black, Latino, and sympathetic white voters into signing what they were told was a petition to ban discrimination when in fact it was a petition whose sole purpose was to ban affirmative action;

- (2) the ACRI was able to accomplish this fraud because, in violation of the Arizona Constitution, it unlawfully joined two separate and distinct amendments—one to ban discrimination, the other to ban the most important remedy for discrimination—into a single amendment;

- (3) the ACRI and the various circulators it directly and indirectly hired violated Arizona statutes by forging signatures, by using non-residents as circulators, by attempting to conceal the non-residents through the use of sham driver's licenses, by the use of Arizona residents to sign petitions they did not circulate, by offering water and food to homeless persons to induce them to circulate or sign the petitions, and by other acts in direct violation of the Arizona Constitution and statutes.

The plaintiffs further seek monetary damages from the ACRI and the various circulation companies it hired for civil conspiracy to violate the election laws.

PARTIES

2. The plaintiff Calvin Goode is a duly registered voter in the County of Maricopa. For more than three decades, he has fought for civil rights in Arizona. For 22 years, he was a City Councilor. In his honor, the City of Phoenix has named its municipal office building the Calvin Goode Building.
3. The plaintiff Alejandro Chávez is a duly registered voter in the County of Maricopa. He is the account executive of La Campesina radio station and a grandson of César Chávez, continuing the legacy of service to the Latino community.
4. The plaintiff Kathryn Louise Filbey is a duly registered voter in the County of Maricopa and Chairwoman of Democratic Party Legislative District 19.
5. The plaintiff Tomás Amaya is a duly registered voter in the County of Maricopa. He is a senior and an English major at Arizona State University (ASU), and chairman of the ASU chapter of the Coalition to Defend Affirmative Action, Integration, and Immigrant Rights and Fight for Equality By Any Means Necessary (BAMN).
6. The plaintiff María Mendoza is a duly registered voter in the County of Maricopa. She is a third-year University of Arizona law student and an activist with the Latino Law Student Association and Minority Coalition.
7. The plaintiff Pamela Brown is a duly registered voter in the County of Maricopa. She signed the ACRI and was defrauded.
8. The plaintiff Domingo Orta is a duly registered voter in the County of Maricopa.

9. The plaintiff Karen Madison is a duly registered voter in the County of Maricopa. She signed the ACRI and she was defrauded.
10. The plaintiff Gayla Patton is a duly registered voter in the County of Maricopa. She signed the ACRI and she was defrauded. She is a teacher for the Roosevelt school district, a majority-minority school district.
11. The plaintiff Vanessa Amaya is a duly registered voter in the County of Maricopa. She signed the ACRI and was defrauded.
12. The plaintiff Jackson Purvis is a duly registered voter in the County of Maricopa. He is chairman of Maricopa County Democratic Legislative District 21.
13. The plaintiff Charles Sanders is a duly registered voter in the County of Maricopa. He is secretary of Maricopa County Democratic Legislative District 21.
14. The plaintiff Coalition to Defend Affirmative Action, Integration, and Immigrant Rights and Fight for Equality By Any Means Necessary (BAMN) is a voluntary unincorporated association with headquarters in Detroit, Michigan and members throughout the United States, including Arizona.
15. The defendant Jan Brewer is the duly elected Secretary of State of Arizona. Secretary Brewer is sued in her official capacity as the official who is charged by law with the duty of certifying the placement of proposals to amend the Constitution on the general election ballot of the State of Arizona.
16. The defendant Arizona Civil Rights Initiative (ACRI) is a ballot committee organized under the laws of the State of Arizona and is the proponent of what it has called “the Arizona Civil Rights Initiative.”

17. The defendant National Ballot Access, Inc (NBA) is a Georgia corporation that ACRI hired to obtain signatures for its petition in Arizona. NBA conducted its business in Arizona.
18. The defendant JSM, Inc. is a Florida corporation that NBA hired to obtain signatures on the ACRI's petition. JSM conducted its business in Arizona.
19. The defendant YPM, LLC is a Florida corporation that NBA hired to obtain signatures on the ACRI's petition. YPM conducted its business in Arizona.
20. The defendant Campaign Finance Company, LLC is an Arizona corporation that NBA hired to obtain signatures on the ACRI's petition.
21. The defendant Campaign Promotions, LLC is an Arizona corporation that NBA hired to obtain signatures on the ACRI's petition.
22. The defendant Ballot Access Company, LLC is an Arizona corporation that NBA hired to obtain signatures on the ACRI's petition.

STATEMENT OF FACTS

A. Racially-targeted fraud used to obtain signatures.

23. On or about November 5, 2007, the self-styled "Arizona Civil Rights Initiative" filed with the defendant Secretary of State a proposed petition to amend the constitution of the State of Arizona. The Secretary duly assigned it number C-17-2008. A copy of that proposed petition is affixed as Exhibit A.
24. Upon information and belief, the plaintiffs believe and therefore state that the ACRI will be attempting to file its petition with purported signatures in support during the week of June 30, 2008.

25. In its essential terms, Proposal C-17-2008 is identical to Proposition 209 in California, Proposal I-200 in Washington, Proposal 2 in Michigan and to proposals that were circulated in Oklahoma, Missouri, Colorado and Nebraska this year.
26. Ward Connerly, a resident of California, has sponsored and bankrolled all of these proposals as part of his campaign to eliminate all forms of public affirmative action based on race, gender or national origin.
27. Petition C-17-2008 is thus a petition to protect the supposed “rights” of white people who are allegedly “discriminated against” by the programs that were designed to desegregate public services and to assure an equal opportunity for all.
28. Petition C-17-2008, like all of Connerly’s other proposals, however, conceals the aim to protect “white rights” by purporting to ban both discrimination and “preferential treatment” on account of race, sex, color, ethnicity or national origin by the state government.
29. The Constitution and statutes of the United States and of Arizona and the other states at issue have, however, for over forty years banned discrimination on account of race, sex, or national origin or ethnicity.
30. By their clear terms, therefore, the sole real purpose of Petition C-17-2008 and similar proposals is to ban what the proposals call “preferential treatment,” which is the term that Southern segregationists and the later opponents of affirmative action have used as an inflammatory term to describe “affirmative action.”
31. By refusing to state that the sole or even an aim of Proposal C-17-2008 is to ban affirmative action, the ACRI and its agents and servants ensured that voters, including in particular black, Latino, Native American and sympathetic white voters, would have no

way of knowing what the proposed amendment meant at the time they were asked to sign it.

32. The leaders of the ACRI have deliberately exploited that deceptive language by hiring and directing black and other minority circulators to deceive black, Latino, other minority and sympathetic white voters into signing what they are told is a “civil rights” petition designed to ban “discrimination” and even, in many cases, to “preserve affirmative action.”
33. In fact, the United States District Court for the Eastern District of Michigan found that Jennifer Gratz, who is now a key leader in the “Arizona Civil Rights Initiative,” and Heide Verougstraete, who is now the chief of signature gathering for NBA in Arizona, led a campaign that included widespread and “well-documented acts of fraud and deception” designed to deceive black, Latino, other minority and sympathetic white voters into signing the petition by concealing its real purpose from them. See Ex B, *Operation King's Dream v. Connerly*, 2006 WL 2514115 (ED Mich 2006), *aff'd in relevant part* 501 F.3d 584 (CA 6, 2007).
34. In Colorado, litigation is now pending that also charges that a campaign led by Gratz, Verougstraete and others has used similar racially-targeted fraud in order to obtain signatures on the so-called Colorado Civil Rights Initiative.
35. In Arizona, the agents of the ACRI have deliberately hired blacks and other minorities to circulate their petition and have even gone so far as to station top leaders outside homeless shelters in order to hire poor black and Latino persons to obtain signatures on this petition under the guise that it is a civil rights measure designed to ban discrimination and preserve affirmative action.

36. On a massive scale, the ACRI has used these circulators to deceive and defraud black, Latino other minority and sympathetic white voters into signing a petition that seeks to ban affirmative action by claiming that it bans discrimination and protects affirmative action.
37. On a massive scale, the ACRI has thus obtained signatures on a petition that is intended to protect “white rights” under the fraudulent claim that it is a petition to protect blacks, Latinos and Native Americans from racial and other forms of discrimination.

B. Violations of the Arizona election laws.

38. The leaders of the ACRI have coupled this racially-targeted fraud with obtaining signatures by means that systematically defied the letter or the spirit of Arizona’s election laws.
39. In order to carry out this scheme, the ACRI employed NBA, which in turn hired JPM and YPM.
40. Those firms in turn hired crew leaders, trainers and others, who in turn hired circulators who obtained signatures themselves and frequently hired others to obtain those signatures as well.
41. The vast pyramid of circulators set in motion by the ACRI’s money then engaged in the following acts of fraud, among others, on a widespread scale:
- (A) Non-residents, felons and others who were not qualified to be electors of the State of Arizona circulated petitions in direct non-compliance with the Constitution and statutes of Arizona. Const Ariz, Art IV, sec 1(9.); Ariz Rev Stat. s 19-102.
- (B) Out-of-state circulators were encouraged to obtain driver’s licenses and other indicia of residence even though they and the companies that engaged them knew that this was a

sham and that these circulators were not and had no intent of becoming residents of Arizona. Const Ariz, Art IV, sec 1(9.); Ariz Rev Stat. s 19-102;

(C) Out-of-state and other unqualified circulators used and were encouraged to use residents of Arizona to sign as the circulators of petitions that they had not circulated, in direct non-compliance with the Constitution and statutes of Arizona. Const Ariz, Art IV, sec 1(9.)Ariz. Rev. Stat., s. 19-112;

(D) Notaries verified signatures by persons whom they neither knew nor saw, in direct violation of Arizona law;

(E) Circulators forged signatures, signed the names of fictitious persons and otherwise violated Arizona's election laws, with little or no attempt by the companies to detect or remedy this fraud.

(F) Circulators offered food, water and other items to homeless persons to encourage them to sign the ACRI's petition.

42. As with the racially-targeted fraud, the fraudulent practices described above have been used before in campaigns led by the current leaders of the ACRI and others who have circulated petitions that are essentially identical to Petition C-17-2008.

43. For example, in Oklahoma this year, where Gratz and Verougstraete played prominent roles in an unsuccessful attempt to put the so-called Oklahoma Civil Rights Initiative (OCRI) on that state's ballot, Oklahoma Secretary of State found that there were a unprecedented number of "irregularities" on the signature pages of the those petitions which she duly reported to the Attorney General of that state (Ex C).

44. Similarly, in Colorado this year, where Gratz and Verougstraete are believed to have played a major role, the petitions turned in by the Colorado Civil Rights Initiative

included “voters” named God and Jesus Christ, each of whose signatures was, miraculously, duly witnessed by a circulator for the CCRI.

**COUNT ONE
COMPLAINT FOR INJUNCTIVE RELIEF
AGAINST THE SECRETARY OF STATE**

45. The allegations of the preceding paragraphs are repeated as if fully set forth herein.
 46. The racially-targeted and other voter fraud described in Section A of the statement of facts above pervaded the entire signature-gathering effort of the ACRI and its various agents, servants and persons acting in concert with them.
 47. Obtaining signatures on a petition to protect “white rights” against affirmative action based upon systematically deceiving black, Latino, and Native Americans into signing based on the fraudulent claim that it was a civil rights measure designed to eliminate discrimination and even preserve affirmative action.
 48. Section 13 of Article 2 of the Arizona Constitution provides in relevant part that “No law shall be enacted granting to any citizen [or] class of citizens...privileges and immunities which, upon the same terms, shall not equally belong to all citizens...”
 49. Section 21 of Article 2 of the Arizona Constitution provides in relevant part that “All elections shall be free and equal...”
 50. In securing the placement on the ballot of a proposed amendment to the Constitution on the basis of racially-targeted fraud, the ACRI violated Article 2, Sections 13 and 21.
- Wherefore, the plaintiffs ask that this Court, after a hearing, enter the following relief:
- (A) preliminary and permanent injunctive relief which restrains the Secretary of State from placing Petition C-17-2008 on the November 2008 general election ballot on the

grounds that its sponsors obtained the signatures necessary for placement on the ballot by systematic and racially targeted voter fraud,

(B) in alternative, preliminary and permanent injunctive relief that restrains the Secretary of State from counting any signatures on Petition C-17-2008 that are determined, after a due hearing, to have been obtained by racially-targeted voter fraud,

(C) grants the plaintiffs such further relief, including attorneys' fees and costs, as are just and equitable.

COUNT TWO VIOLATION OF THE SINGLE SUBJECT REQUIREMENTS

51. The allegations of the preceding paragraphs are set forth as if fully set forth herein.

52. Article 21, Section 1 of the Arizona Constitution provides in relevant part that "If more than one proposed amendment shall be submitted at any election, such proposed amendments shall be submitted in such manner that the electors may vote for or against such proposed amendments separately."

53. In violation of this Constitutional provision, Petition C-17-2008 contains two separate and distinct constitutional amendments.

54. The first amendment is contained in its ban on discrimination and seeks to include in the State Constitution the bans on discrimination by race, sex, national origin and ethnicity that have been a part of Arizona law for four decades.

55. The second amendment is contained in the ban on "preferences," which deceptively seeks to ban the remedies that have been used under the civil rights acts for over four decades in order to remedy discrimination.

56. By including both provisions in a single petition, the ACRI has deliberately deceived persons into signing what they thought was a ban on discrimination when in reality they

were being asked to sign a petition whose sole aim was to end the most effective and traditional remedies for discrimination.

57. In violation of this Constitutional provision, Petition C-17-2008 further joins together amendments regulating education, employment, and contracting.

Wherefore, the plaintiffs ask that this Court, after a hearing, enter the following relief:

(A) preliminary and permanent injunctive relief which restrains the Secretary of State from placing Petition C-17-2008 on the November 2008 general election ballot on the grounds that it violates the single subject rule of Article 21, Section 1 of the Arizona Constitution.

(B) grants the plaintiffs such further relief, including attorneys' fees and costs, as are just and equitable.

**COUNT THREE
COMPLAINT FOR INJUNCTIVE RELIEF
AGAINST THE SECRETARY OF STATE FOR
VIOLATIONS OF ARIZONA'S ELECTION LAWS**

58. The allegations of the preceding paragraphs are repeated as if fully set forth herein.

59. Article IV, Part 1, Section (1)(9) of the Constitution of the State of Arizona requires in relevant part that "...every sheet of every such petition [for a vote on a proposed amendment to the Constitution] shall be verified by the person who circulated said sheet or petition, setting forth that each of the names on said sheet was signed in the presence of the affiant and that in the belief of the affiant each signer was a qualified elector of the State..."

60. Section 19-114(A) of the Revised Statutes of Arizona provide in relevant part that "...no person other than a person who is qualified to register to vote pursuant to Section 16-101

may circulate an initiative...petition and all signatures verified by any such person shall be void and shall not be counted in determining the legal sufficiency of the petition.”

61. By the acts described in Section B of the Statement of Facts, the ACRI and its various agents and servants willfully violated these and other sections of the Arizona election statutes.

62. The violations of the Arizona election laws absolutely permeated the ARCI’s efforts to obtain signatures on its petition.

Wherefore, the plaintiffs ask that this Court, after a hearing, enter the following relief:

(A) preliminary and permanent injunctive relief which restrains the Secretary of State from placing Petition C-17-2008 on the November 2008 general election ballot on the grounds that its sponsors obtained the signatures necessary for placement on the ballot by systematic violations of the statutes of the State of Arizona;

(B) in alternative, preliminary and permanent injunctive relief that restrains the Secretary of State from counting any signatures on Petition C-17-2008 that are determined, after a due hearing, to have been obtained in violation of the statutes of the State of Arizona;

(C) grants the plaintiffs such further relief, including attorneys’ fees and costs, as are just and equitable.

**COUNT FOUR
CIVIL CONSPIRACY TO VIOLATE THE ELECTION LAWS**

63. The allegations of the preceding paragraphs are repeated as if fully set forth herein.

64. By the acts described in Section B of the Statement of Facts, the defendants ACRI, NBA, JSM and YPM and their agents and servants and others whose identities are currently unknown engaged in a civil conspiracy to violate the election laws of the State of Arizona.

65. The civil conspiracy set forth above has caused great harm to the plaintiffs in this action, including by forcing them to spend funds on this litigation and by causing them great emotional suffering and distress.

Wherefore, the plaintiffs demand judgment against the defendants ACRI, NBA, JSM and YPM in an amount sufficient to compensate them for their damages.

RESPECTFULLY SUBMITTED this 30th day of June 2008.

Paul Gattone, Esq.
Attorney for the Plaintiffs

George B. Washington, Mich Bar No. P26201*
Shanta Driver, Mich Bar No. P65007*

Attorneys for Plaintiff

*Applications to appear pro haec vice to be filed

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IN THE MARICOPA COUNTY SUPERIOR COURT
IN AND FOR THE STATE OF ARIZONA

CALVIN C. GOODE, ALEJANDRO)
CHÁVEZ, KATHRYN LOUISE FILBEY,) No.
TOMÁS AMAYA, MARÍA MENDOZA,)
PAMELA BROWN, DOMINGO ORTA,)
KAREN MADISON, GAYLA PATTON,)
VANESSA AMAYA, JACKSON PURVIS,) **CERTIFICATE OF COMPULSORY**
and the COALITION TO DEFEND) **ARBITRATION**
AFFIRMATIVE ACTION,)
INTEGRATION, AND IMMIGRANT)
RIGHTS AND FIGHT FOR EQUALITY)
BY ANY MEANS NECESSARY (BAMN))
Plaintiffs,)
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Vs.

SECRETARY OF STATE OF ARIZONA,
ARIZONA CIVIL RIGHTS INITIATIVE,
NATIONAL BALLOT ACCESS, INC.,
JSM, INC., YPM, LLC, CAMPAIGN
FINANCE COMPANY, LLC, CAMPAIGN
PROMOTIONS, LLC, and BALLOT
ACCESS COMPANY, LLC

Defendants.

COMES NOW Plaintiffs in the above numbered matter, by and through counsel undersigned,
and certify that pursuant to Rule 72 of the Rules of Civil Procedure the award sought by the

complaint, including punitive damages, but excluding interest, attorney's fees, and costs, does exceed \$50,000. Therefore, this case exceeds the limits set by Rule 72 of the Rules of Civil Procedure and Pima County Local Rule 3.9 and as such is not subject to compulsory arbitration.

Respectfully submitted this 30th day of June, 2008.

Paul Gattone – Attorney for Plaintiffs