

**CV-24-492**

**IN THE ARKANSAS SUPREME COURT**

JENNIFER MCGILL, individually and  
on behalf of the ARKANSAS CANVASSING  
COMPLIANCE COMMITTEE; &  
CHEROKEE NATION ENTERTAINMENT, LLC

PETITIONERS

v.

JOHN THURSTON, in his official capacity as  
ARKANSAS SECRETARY OF STATE

RESPONDENT

LOCAL VOTERS IN CHARGE, A  
BALLOT QUESTION COMMITTEE; and  
JIM KNIGHT, individually and on behalf of  
LOCAL VOTERS IN CHARGE

INTERVENORS

**PETITIONERS' PRETRIAL BRIEF**

Intervenor Local Voters in Charge (“LVC”) wants to change Amendment 100 of the Arkansas Constitution so that an already-licensed casino cannot operate in Pope County. But LVC violated statutory requirements for collecting signatures for the required Initiative Petition:

- LVC, the Petition sponsor, failed to certify paid canvassers;
- LVC paid canvassers based on how many signatures they got;
- LVC provided incorrect residence addresses for canvassers;
- LVC failed to register and certify “captains,” who qualified as paid canvassers;
- LVC failed to properly educate canvassers; and

- LVC canvassers fraudulently induced signatures.

Due to these violations of Arkansas law, the Initiative Petition should not have been certified, and the proposed amendment to Amendment 100 should not be on the ballot for the November 2024 election.

### **INITIATIVE PROCESS**

Under Amendment 7 of the Arkansas Constitution, ten percent of legal voters (determined by the number of votes cast for Governor in the last general election) may initiate a petition to place a proposed constitutional amendment on the ballot for consideration by the electorate. Ark. Const. art. 5, § 1; Ark. Const. amend. 7. For the November 2024 election, 90,704 valid signatures of registered voters are required, with signatures from five percent of electors from at least fifty counties of the state. *Id.*; *see also* Ark. Code Ann. § 7-9-126(e).

Some definitions relating to the initiative process are helpful:

- “‘Canvasser’ means a person who circulates an initiative . . . petition or a part or parts of an initiative . . . petition.” Ark. Code Ann. § 7-9-101(3).
- “‘Petition part’ means a petition signature sheet . . . .” *Id.* § 7-9-101(7).
- “‘Petitioner’ means a person who signs an initiative . . . petition ordering a vote on a measure.” *Id.* § 7-9-101(8).

- “‘Sponsor’ means a person who arranges for the circulation of an initiative . . . petition or who files an initiative . . . petition with the official charged with verifying signatures.” *Id.* § 7-9-101(10).

The sponsor of an initiative petition may pay canvassers to collect signatures. *See* Ark. Code Ann. § 7-9-601. Before a paid canvasser may do so, the canvasser and the sponsor must follow certain steps under Arkansas Code Annotated § 7-9-601. The canvasser must give the sponsor the canvasser’s “current residence address” and full name. *Id.* § 7-9-601(d)(1)–(2). The canvasser must also execute, under oath, a statement that the canvasser has not committed a “disqualifying offense.” *Id.* § 7-9-601(d)(3)(A). The statute lists numerous disqualifying offenses, including felonies and crimes of moral turpitude. *See id.* § 7-9-601(d)(3)(B).

Below is an example of a “Paid Canvasser Affidavit”:

PAID CANVASSER AFFIDAVIT

I, Joy Lynn Fischer being duly sworn on oath or solemn affirmation do state and attest as follows:

- I make the following statements based upon my own personal knowledge.
- I am of sound mind, and otherwise qualified to make this affidavit.
- I am 18 years of age or older.
- I am a citizen of the United States.
- I am a resident of Arkansas.
- The Sponsor has provided me a copy of the most recent edition of the Arkansas Secretary of State's Initiatives and Referenda Handbook.
- The Sponsor has explained to me the Arkansas law applicable to obtaining signatures on an initiative or referendum petition.
- I have read and understand the Arkansas law applicable to obtaining signatures on an initiative or referendum petition.
- My full name is: Joy Lynn Fischer
- I have used the following other assumed names: Joy Enderle
- My current residence address is: 9 Ross Dr. Vilonia, AR 72173
- My permanent domicile address is: 9 Ross Dr. Vilonia, AR 72173
- I have provided the Sponsor sufficient information of my identity to allow the Sponsor to obtain my criminal history and criminal record within thirty (30) days before the date that I begin to collect signatures. I have not and agree not to receive payment on the basis of the number of signatures obtained on a statewide initiative petition or statewide referendum petition.
- I have not pleaded guilty or nolo contendere to or been found guilty of any disqualifying offense as defined by A.C.A. §7-9-601(d)(3)(B) in any state of the United States, the District of Columbia, Puerto Rico, Guam, or any other United State protectorate.

Dated this 10 day of April, 2024.

Joy L. Fischer  
SIGNATURE OF PAID CANVASSER

Ex. 1.

Section 7-9-601 gives the sponsor specific responsibilities. The sponsor must “[p]rovide the canvasser with the most recent edition of the Secretary of State’s initiatives and referenda handbook” and explain to the canvasser “Arkansas law applicable to obtaining signatures on an initiative . . . petition.” Ark. Code Ann. § 7-9-601(a)(2)(A), (B). The sponsor must submit to the Secretary the paid

canvasser’s sworn statement. Ark. Code Ann. § 7-9-601(a)(2)(D). The sponsor must conduct a criminal background check on the paid canvasser to screen for disqualifying offenses. *Id.* § 7-9-601(b)(1). The sponsor must submit to the Secretary “a complete list of all paid canvassers’ names and current residential addresses.” *Id.* § 7-9-601(a)(2)(C)(i). When submitting that list, the “sponsor shall certify to the Secretary . . . that each paid canvasser in the sponsor’s employ has no disqualifying offenses . . . .” *Id.* § 7-9-601(b)(3). If the sponsor adds a new paid canvasser, the sponsor must update the information provided to the Secretary. *Id.* § 7-9-601(a)(2)(c)(ii). Any signature “incorrectly obtained or submitted under this section shall not be counted by the Secretary of State for any purpose.” *Id.* § 7-9-601(f).

Below are excerpts from a “Sponsor Affidavit Regarding Additional Paid Canvassers”:

**Sponsor Affidavit Regarding Additional Paid Canvassers**

I, Phillip Dewey, being duly sworn on oath or solemn affirmation do state and attest as follows:

- I make the following statement based upon my own personal knowledge.
- I am of sound mind, and otherwise qualified to make this affidavit.
- I am 18 years of age or older.
- I am providing this affidavit on behalf of and at the direction of Local Voters in Charge, a duly formed Arkansas Ballot Question Committee and Sponsor of an initiative petition popularly known as "AN AMENDMENT REQUIRING LOCAL VOTER APPROVAL IN A COUNTYWIDE SPECIAL ELECTION FOR CERTAIN NEW CASINO LICENSES AND REPEALING AUTHORITY TO ISSUE A CASINO LICENSE IN POPE COUNTY, ARKANSAS."
- I am a Manager for the canvassing efforts of Local Voters in Charge. My responsibilities include hiring and managing the paid canvassers.
- The Sponsor certifies that no paid canvasser listed in Exhibit A has pleaded guilty or nolo contendere to or been found guilty of any disqualifying offense as defined by A.C.A. §7-9-601(d)(3)(B) in any state of the United States, the District of Columbia, Puerto Rico, Guam, or any other United State protectorate.

Ex. 2.

Once the required information is provided to the Secretary, a paid canvasser may solicit signatures. Ark. Code Ann. § 7-9-601(a)(2). Each signer of a petition part must provide his own signature. *See id.* § 7-9-126(c)(1), (2) (providing that a signature shall not be counted if it "is not an original signature" or "not the signature of the purported petitioner"). When a petition part is complete, the canvasser signs the page, which has an affidavit at the bottom:

INITIATIVE PETITION

000003

To the Honorable John Thurston, Secretary of State of the State of Arkansas:

We, the undersigned registered voters of the State of Arkansas, respectfully propose the following amendment to the Constitution of the State: An amendment requiring local voter approval in a countywide special election for certain new casino licenses and repealing authority to issue a casino license in Pope County, Arkansas. By this, our petition, order that the same be submitted to the people of said state, to the end that the same may be adopted, enacted, or rejected by the vote of the registered voters of the state at the regular general election to be held on the 5th day of November, 2024, and each of us for himself or herself says: "I have personally signed this petition; I am a registered voter of the State of Arkansas, and my printed name, date of birth, residence, city or town of residence, and date of signing this petition are correctly written after my signature."

FOR OFFICE USE ONLY	
b	Valid of 10
By KO	Date 7/11/24

A full and correct copy of the popular name, ballot title, and the proposed measure is attached hereto.

VOTERS REGISTERED IN Boone COUNTY

Signature	Printed Name	Date of Birth	Residence (Street Address)	City or Town of Residence	County of Residence	Date of Signing
<i>[Signature]</i>	Kathy Robinson	6/23/53	2916 Hwy 906 W	HARRISON	Boone	5/28/24
<i>[Signature]</i>	Jerry W. Daniels	9/17/73	9617A Hilltop Rd.	Harrison	Boone	5/29/24
<i>[Signature]</i>	DALLAS BOWLING	12/21/76	7780 Bowling Sgs	HARRISON	Boone	5/29/24
<i>[Signature]</i>	Christian Webster	5/14/95	310 North Willow	Harrison	Boone	5/29/24
<i>[Signature]</i>	David M. Such	07/26/1971	6495 Harmon Road	Harrison	Boone	5/29/24
<i>[Signature]</i>	Tina Hendrich	04/06/1972	1555 Summerhill Ct	Harrison	Boone	5/29/24
<i>[Signature]</i>	Jenny Godbout	10/25/1983	1752 Sapphire	Harrison	Boone	5-29-24
<i>[Signature]</i>	Albert A. Froehlich Jr.	9-28-1952	15776 N Cedar Grove Rd	Lead Hill	Boone	5-29-24
<i>[Signature]</i>	Susan K. Froehlich	9/17/50	15776 N CEDAR GROVE RD	LEAD HILL	Boone	5/29/24
<i>[Signature]</i>	Mikel Carter	11/13/70	17916 Dayton Cove	Lead Hill	Boone	5/29/24

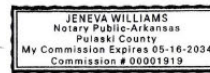
State of Arkansas, County of Pulaski (county where notary signs)

I, Kristen Hernandez, being duly sworn, state that each of the foregoing persons signed his or her own name to this sheet of petition in my presence. To the best of my knowledge and belief, each signature is genuine and each signer is a registered voter of the State of Arkansas, in the County listed. At all times during the circulation of this signature sheet, an exact copy of the Popular Name, Ballot Title, and text was attached to this signature sheet. My current residence address is correctly stated below.

Signature: *[Signature]*  
 Current Residence: 300 Dave Rd Jacksonville AR 72076  
 Indicate one:  Paid Canvasser  Volunteer/Unpaid Canvasser

On this 31 day of May, 2024, before me, the undersigned Notary Public, personally appeared Kristen Hernandez well known to me (or satisfactorily proven by identification documents provided) to be the person described in the foregoing Canvasser Affidavit and acknowledged that s/he executed the same in the capacity of a Canvasser for the purpose of fulfilling legal requirements of a Canvasser in the State of Arkansas, and that I personally witnessed the signature of the Canvasser.

Signature of Notary: *[Signature]*  
 My Commission Expires: May 16 2034  
 Residence County of Notary: Pulaski



Ex. 3. In the affidavit, the canvasser swears that each person who signed the petition part did so in the canvasser's presence and that, to the best of the canvasser's knowledge and belief, each signature "is genuine and each signer is a registered voter . . . ." *Id.*

When the sponsor completes its canvassing effort, it must submit the petition parts to the Secretary, along with a certification statement that identifies paid canvassers and affirms that the sponsor provided to the paid canvassers a "copy of the most recent edition of the Secretary of State's initiatives and referenda handbook" and "explained the requirements under Arkansas law for obtaining signatures . . . ." Ark. Code Ann. § 7-9-111(f).

The Secretary first conducts an initial count of signatures, setting aside (“culling”) some parts for certain issues—for example, when the canvasser or notary fails to sign a page and when the canvasser collects signatures before the canvasser was submitted to the Secretary or after the page was notarized. *Id.* § 7-9-126(b), (c). If this initial review shows that the sponsor has obtained enough facially valid signatures to qualify the petition for the ballot, the petition proceeds to verification review. *Id.* 7-9-126(e).

During the verification review, the Secretary reviews each signature to determine whether it comes from a registered voter, which the Secretary can do only if the voter is still registered in the same county as when signing the petition. The Secretary then counts the verified signatures to determine whether the required number has been obtained to place the proposed amendment on the ballot. *Id.* If so, the Secretary certifies the proposed amendment to the County Boards of Election Commissioners. *See Am. Pet., Ex. C.*

There are things the Secretary does not do during this process. The Secretary does not “delve into any of the paperwork” related to paid canvassers “to see if it met any kind of qualifications.” *Ex. 4 at 14:1–23.* The Secretary does not inquire into whether paid-canvasser submissions are true. And the Secretary has no way of knowing whether paid canvassers misrepresented the purpose and effect of the



petition and whether paid canvassers were offered or given compensation based on the number of signatures they collected.

## **BACKGROUND**

In 2018, Arkansas voters approved Amendment 100 to the Arkansas Constitution, authorizing the licensure and operation of four casinos: one in each of Jefferson, Crittenden, Garland, and Pope Counties. On March 20, 2024, the Attorney General certified a popular name and ballot title for a proposed amendment to Amendment 100, including changes to subsections (i), (k), (m), and (n) and the additions of subsections (s) and (t) of Section 4 (the “Proposed Amendment”). If passed, the Proposed Amendment will remove the requirement that the Arkansas Racing Commission (“ARC”) issue a license for a casino in Pope County, revoke any license for a casino in Pope County issued before the effective date, and provide a process by which a casino license may be issued in any county other than Crittenden, Garland, and Jefferson if a future constitutional amendment allows for such a license.

On June 27, 2024, the ARC awarded a license to Cherokee Nation Entertainment, LLC (“CNE”) to operate a casino in Pope County. The Choctaw Nation, which operates a casino in Pocola, Oklahoma, 92 miles from the Pope County site, applied for the license but was unsuccessful. The Choctaw funded LVC, a registered ballot-question committee, which sponsored and submitted the

Initiative Petition for the Proposed Amendment. As of June 30, 2024, the Choctaw had contributed \$5.3 million to the Initiative Petition effort.

LVC hired PCI Consultants, Inc. (“PCI”) to spearhead the canvassing campaign for the Initiative Petition. PCI, in turn, engaged Cape Campaigns, Inc. and Florida Petition Management, LLC to vet, hire, and manage paid canvassers. Cape Campaigns, owned by Stephanie Marcynyszyn, managed the canvassing effort in Northeast Arkansas and some areas in Southwest Arkansas. Florida Petition Management, through its employee Phillip Dewey, managed canvassing efforts in Central Arkansas. It further contracted Engage the Voter, LLC, owned by Berta Erickson, to manage paid canvassers in Northwest Arkansas.

LVC’s canvassing effort, with layer upon layer of contractors, resulted in systemic violations of the paid-canvasser statute, Arkansas Code Annotated § 7-9-601. LVC, “the sponsor,” failed to certify that paid canvassers did not have disqualifying offenses; instead, Cape Campaigns, Florida Petition Management, and Engage the Voter purportedly did so on LVC’s behalf. The contractors offered incentives and paid canvassers based on the number of signatures collected, as shown in numerous videos from across Arkansas in which paid canvassers describe the bonus scheme. They deployed unregistered professional paid canvassers from across the country to directly solicit signatures under the guise of training registered canvassers (the “captains”), as shown in videos of captains soliciting signatures.

There is more. Many of the paid canvassers provided invalid or non-existent “residence address[es]” on petition-part affidavits. Petitioners’ investigator sent letters to the addresses of all paid canvassers who provided affidavits, and no less than 32 were returned as undeliverable. Other evidence will show inconsistencies between claimed “residence address[es]” and where canvassers actually resided. In addition, paid canvassers routinely misrepresented the substance of the Initiative Petition—either intentionally or as a function of LVC’s and the contractors’ failure to properly educate them.

On July 31, 2024, the Secretary certified an Initiative Petition for the Proposed Amendment, but, because of these statutory violations, the Proposed Amendment should not have been certified.

## **DISCUSSION**

The sponsor of a proposed constitutional amendment alone has the “onus of complying with the simple and straightforward procedural requirements” to have it placed on the ballot. *Roberts v. Priest*, 334 Ark. 503, 517, 975 S.W.2d 850, 856 (1998). LVC ignored most of its obligations under Arkansas law for use of paid canvassers, requiring the disqualification of all tainted signatures. LVC failed to certify paid canvassers; submitted petition parts collected by paid canvassers who were either offered or received financial incentives based on how many signatures they got; submitted petition parts with incorrect residence addresses on canvasser

affidavits; failed to register and certify “captains,” who qualified as paid canvassers; failed to properly educate canvassers; and fraudulently induced signatures. LVC submitted and the Secretary certified no less than 116,200 signatures for the Initiative Petition, but all signatures obtained by paid canvassers must be thrown out because of LVC’s systemic violations of law.

**I. LVC, the Petition Sponsor, Failed to Certify Paid Canvassers, and All Signatures They Collected Are Invalid.**

Arkansas Code Annotated § 7-9-601(b)(3) requires that, “[u]pon submission of the sponsor’s list of paid canvassers to the Secretary of State, *the sponsor* shall certify to the Secretary of State that each paid canvasser in the sponsor’s employ has no disqualifying offenses in accordance with this section” (emphasis added). This “certification is the only assurance the public receives that the paid canvassers” do not have disqualifying offenses. *Miller v. Thurston*, 2020 Ark. 267, at 8, 605 S.W.3d 255, 259. Contrary to the statute, LVC did not make the required certification. As a result, all signatures obtained by paid canvassers must be disallowed.

Instead of LVC (the sponsor), Cape Campaigns, Florida Petition Management, and Engage the Voter, none of which had an agreement or even contact with LVC, submitted canvasser lists and provided what purported to be § 601(b)(3) certifications. Specifically, Ms. Marcynszyn, Mr. Dewey, and Ms. Erikson submitted affidavits attempting to attest that LVC “certifies that no paid canvasser” has a disqualifying offense. Am. Pet., Ex. G & H. But LVC, as the

sponsor, had the nondelegable duty to submit the certification to the Secretary. The statute does not permit a canvassing company's independent contractors to certify on behalf of a sponsor, especially not regarding paid canvassers. Ark. Code Ann. § 7-9-601(b)(3).

LVC likely will press three arguments to escape the plain statutory mandate. First, LVC will say that the Secretary has customarily allowed canvassing companies to submit certifications on the sponsor's behalf. But the Secretary himself admitted at deposition that this practice is and always has been illegal. He testified that he is "embarrassed that we had it wrong for so long." Ex. 5 at 63:4–5.

Second, LVC may contend that the correct interpretation of the statute should apply only to future initiative petitions. But the unambiguous statutory mandate must be followed now, regardless whether it was violated in the past. The Arkansas Supreme Court will not order the Secretary to ignore mandatory statutory requirements. *Cowles v. Thurston*, 2024 Ark. 121, at 2 ("This court is being asked to order another constitutional officer, the Arkansas Secretary of State, to ignore a mandatory statutory provision that he has enforced. That is not the proper role of the court.").

Finally, LVC will say that the statute does not bar sponsors from delegating responsibilities to agents. But the statute is not ambiguous, and it does not allow delegation of responsibility. Ark. Code Ann. § 7-9-601(b)(3). "When a statute is

unambiguous, the rules of statutory construction do not permit us to read into it words that are not there.” *McMillan v. Live Nation Ent., Inc.*, 2012 Ark. 166, 6, 401 S.W.3d 473, 477 (2012). And purported substantial compliance through an agent is not a substitute. *Zook v. Martin*, 2018 Ark. 306, 5, 558 S.W.3d 385, 390 (2018) (holding that “the clerical-error exception or substantial compliance cannot be used as a substitute for fulfillment with the statute”).

Regardless, from a factual perspective, the contractors who provided certifications were not LVC’s agents anyway. They were PCI’s and Florida Petition Management’s independent contractors and employees of those independent contractors (Ms. Marcynszyn, Mr. Dewey, and Ms. Erickson).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Further, not a single factor the Arkansas Supreme Court considers when determining the existence of an agency relationship tilts even the slightest in favor

of a finding that the second- and third-level contractors were LVC's agents. LVC exercised no control over these contractors. The contractors were "engaged in a distinct . . . business." *D.B. Griffin Warehouse, Inc. v. Sanders*, 336 Ark. 456, 461, 986 S.W.2d 836, 838 (1999). The contractors occupy a unique space, requiring skill possessed by specialists. *Id.* PCI engaged these contractors for a short "length of time." *Id.* The contractors were not paid hourly. *See id.* (listing as an agency factor whether a person was paid "by the time or by the job"). In fact, LVC did not pay these independent contractors at all—PCI and Florida Petition Management did. No evidence supports that these contractors and LVC believed they "were creating the relation of master and servant." *Id.* Ms. Marcynszyn, for example, testified at deposition that she cannot recall even speaking with anyone affiliated with LVC. Ex. 6 at 30:4–8. Mr. Dewey (from Florida Petition Management) likewise testified that he had no direct contact with any LVC representative. Ex. 7 at 43:9–44:4 . And LVC is not in the canvassing business. It is a one-off ballot question committee. *Sanders*, 336 Ark. at 461, 986 S.W.2d at 838 (listing "whether the principal is or is not in business" as another agency factor).

Arkansas Code Annotated § 7-9-601(f) states that "[s]ignatures incorrectly obtained or submitted under this section shall not be counted by the Secretary of State for any purpose." After disqualification of those signatures obtained by paid

canvassers who were not certified by LVC, the Initiative Petition lacks adequate signatures for inclusion on the 2024 ballot.

## **II. Paid Canvassers Were Offered and Received Compensation Based on the Number of Signatures They Obtained, and the Signatures They Collected Are Invalid.**

It “is unlawful for a person to pay or offer to pay a person, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained on a statewide initiative petition . . . .” Ark. Code Ann. § 7-9-601(g)(1). Any signature obtained in violation of this provision “is void and shall not be counted.” *Id.* § 7-9-601(g)(3). Ms. Marcynyszyn, Mr. Dewey, and Ms. Erickson acknowledged these statutory prohibitions in each sponsor affidavit they submitted to the Secretary: “Sponsor agrees that it will not pay or offer to pay a paid canvasser on the basis of the number of signatures” obtained by the canvasser. *See, e.g.*, Am. Pet., Ex. G & H. These attestations were false.

Video evidence establishes that LVC’s hired guns routinely offered and paid bonuses to canvassers based on the number of signatures obtained. These bonuses included: \$100.00 for 100 signatures; \$400 when canvassers obtained enough signatures to “close out a county,” which meant collecting the requisite number of signatures from the county; and Visa gift cards or other prizes in exchange for a certain number of signatures. *See* Pet’rs Ex. 92 (Petitioners\_0000001) (paid canvasser explaining incentives available based on the number of signatures



collected); Pet'rs Ex. 97 (Petitioners\_0000005) (same). Mr. Dewey will testify that he gave canvassers "a gift card" or "credit card" if canvassers had a "good day," which he defined as a day in which a paid canvasser collected 75 or 100 signatures. Ex. 7 at 41:6–20. If a canvasser did not meet minimum signature requirements, paid canvassers were placed in "time out," a disciplinary action whereby the canvasser was not allowed to canvass for a certain period of time, another example of paying canvassers based on the number of signatures obtained.

This unlawful payment scheme was systemic, invalidating all signatures collected by paid canvassers. At a minimum, all signatures collected by canvassers to whom compensation was offered or given based on the number of signatures obtained cannot be counted, including all paid canvassers managed by Mr. Dewey and Ms. Erickson. The evidence will show, at a minimum, that at least twenty paid canvassers fall into this category.

### **III. Petition Parts Contain Incorrect Residence Addresses for Paid Canvassers, and Signatures Obtained by These Canvassers Are Invalid.**

Each petition part must list the current residence address of the canvasser, which the canvasser must verify by affidavit. Ark. Code Ann. § 7-9-108(b). "A petition part and all signatures appearing on the petition part shall not be counted . . . if [t]he petition lacks the . . . residence address of the canvasser . . ." Ark. Code Ann. § 7-9-126(b); *Benca v. Martin*, 2016 Ark. 359, 12, 500 S.W.3d 742, 750 (2016) (holding the failure to identify current resident addresses required the invalidation

of signatures); *Zook v. Martin*, 2018 Ark. 306, 5, 558 S.W.3d 385, 390 (2018) (same).

The evidence will show that paid canvassers listed on petition-part affidavits residence addresses where they did not reside. Indeed, at least some provided addresses that do not even exist. Signatures collected by the paid canvassers who provided invalid residence addresses on their petition-part affidavits must be disqualified.

#### **IV. LVC Failed to Register and Certify Captains, Who Qualify as Paid Canvassers Under the Statute.**

A “paid canvasser” is “a person who is paid or with whom there is an agreement to pay money or anything of value . . . in exchange for soliciting a signature on a petition.” Ark. Code Ann. § 7-9-601(c); *see also* Ark. Opp. Atty. Gen. No. 2024-053 (concluding that a company’s regular employees who are tasked with circulating petitions are paid canvassers under the statute). Thus, “paid canvasser” includes anyone compensated for “soliciting” signatures. “Solicit” means “to make petition to” and “to approach with a request or plea.” *Solicit*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/solicit>.

The evidence, including videos, will show that Cape Campaigns, Florida Petition Management, and Engage the Voter employed and paid numerous “captains” who escorted, coached, and generally oversaw registered paid canvassers. These captains, sometimes referred to as promoters or trainers, also held petition

parts, initiated contact with potential petitioners, and explained the meaning and legal effect of the Initiative Petition directly to potential petitioners. Captains themselves solicited signatures in return for compensation and thus were paid canvassers under the statute.

Paid canvassers, including the captains, had to meet the requirements of Arkansas Code Annotated § 7-9-601. *Benca*, 2016 Ark. 359, 10, 500 S.W.3d at 749 (“if the canvasser is identified by the sponsor as a paid canvasser, then the requirements must be met before signatures are collected”). Boiled down, a paid canvasser must be an Arkansas resident over 18 years of age and must not have a disqualifying offense. *See* Ark. Code Ann. § 7-9-103(a)(3), (6).

Despite being statutory paid canvassers, none of the captains submitted a “Paid Canvasser Affidavit.” Nor did LVC, PCI, or other involved canvassing companies attempt to register the captains, certify them, provide their addresses, or fulfill any of the other obligations placed upon LVC by Arkansas Code Annotated § 7-9-601. The reason is clear: These professional canvassers would not have been qualified to be paid canvassers due to the residency requirement and disqualifying offenses. *See* Ark. Code Ann. § 7-9-103(6), -601(d).

LVC’s end-run around the paid-canvasser statute requires disqualification of all signatures obtained in the presence of captains. After disqualification of

signatures tainted by the captains, the Proposed Amendment lacks sufficient signatures to qualify for the 2024 ballot.

**V. LVC Failed to Properly Educate Canvassers.**

The evidence will show that LVC and the companies involved in the canvassing effort failed to properly educate canvassers as required by Arkansas Code Annotated § 7-9-601(a)(2)(B). That provision requires sponsors to explain to each paid canvasser (both registered canvassers and unregistered captains) the requirements under Arkansas law for obtaining signatures on an initiative or referendum petition before the canvasser solicits signatures. Arkansas law forbids knowing misrepresentations of “the purpose and effect of the petition for the purpose of causing a person to sign a petition.” *Id.* § 7-9-103(c)(6). That many paid canvassers misrepresented the Initiative Petition’s purpose and effect provides compelling evidence that paid canvassers were not instructed as required by Arkansas Code Annotated § 7-9-601(a)(2)(B), thus requiring all signatures obtained by paid canvassers not to be counted. *Id.* 7-9-601(f) (“Signatures incorrectly obtained under this section shall not be counted by the Secretary of State for any purpose.”).

**VI. Paid Canvassers Fraudulently Induced Signatures, and Fraudulently Induced Signatures Are Invalid.**

A canvasser commits a Class A misdemeanor if he “[k]nowingly misrepresents the purpose and effect of the petition or the measure affected for the

purpose of causing a person to sign a petition.” Ark. Code Ann. § 7-9-103(c)(6). A sponsor or canvasser commits the offense of petition fraud, a Class D felony, if he “[k]nowingly misrepresents the purpose and effect of the petition or the measure affected for the purpose of causing a person to sign a petition.” Ark. Code Ann. § 5-55-601(b)(2)(F), (c). These offenses disqualify a paid canvasser under Arkansas Code Annotated § 7-9-601(d)(3)(B)(ii).

The evidence will show that paid canvassers obtained signatures from registered voters by misrepresenting the nature of Initiative Petition and its effect. LVC’s canvassers repeatedly made false statements, including:

- the Initiative Petition is neither for nor against casinos;
- the Initiative Petition creates a casino in Pope County;
- the Initiative Petition is about local control;
- the Initiative Petition allows local communities to determine whether they can have a casino;
- the Initiative Petition will not disturb current casinos; and
- the Initiative Petition creates a casino in Pulaski County.

Based on the fraud of LVC and the paid canvassers who circulated the Initiative Petition, all petitions carried by the perpetrating canvassers should be invalidated and all signatures discarded. Even further, the entire canvassing effort,

based upon the number of known violations, is tainted by fraud and should be thrown out.

### **CONCLUSION**

The paid-canvasser statute is unequivocal: Signatures obtained in violation of it cannot be counted for any reason. The systemic fraud and other failures discussed above that will be aired in full at the hearing compel the conclusion that LVC did not submit to the Secretary the requisite number of valid signatures to qualify the Initiative Petition for the November 2024 general election.

Respectfully submitted,

QUATTLEBAUM, GROOMS & TULL PLLC  
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By: /s/ John E. Tull III  
John E. Tull III (84150)  
E. B. Chiles IV (96179)  
R. Ryan Younger (2008209)  
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bwebb@mcdanielwolff.com

*Attorneys for Petitioners*

## CERTIFICATE OF SERVICE

I, John E. Tull III, hereby certify that on August 26, 2024, the foregoing pleading was filed with the Court's electronic filing system, which shall cause notification to be sent to all counsel of record.

/s/ John E. Tull III  
John E. Tull III



**PAID CANVASSER AFFIDAVIT**

I, Joy Lynn Fischer being duly sworn on oath or solemn affirmation do state and attest as follows:

- I make the following statements based upon my own personal knowledge.
- I am of sound mind, and otherwise qualified to make this affidavit.
- I am 18 years of age or older.
- I am a citizen of the United States.
- I am a resident of Arkansas.
- The Sponsor has provided me a copy of the most recent edition of the Arkansas Secretary of State's Initiatives and Referenda Handbook.
- The Sponsor has explained to me the Arkansas law applicable to obtaining signatures on an initiative or referendum petition.
- I have read and understand the Arkansas law applicable to obtaining signatures on an initiative or referendum petition.
- My full name is: Joy Lynn Fischer
- I have used the following other assumed names: Joy Enderle
- My current residence address is: 9 Ross Dr. Vilonia, AR 72173
- My permanent domicile address is: 9 Ross Dr. Vilonia, AR 72173
- I have provided the Sponsor sufficient information of my identity to allow the Sponsor to obtain my criminal history and criminal record within thirty (30) days before the date that I begin to collect signatures. I have not and agree not to receive payment on the basis of the number of signatures obtained on a statewide initiative petition or statewide referendum petition.
- I have not pleaded guilty or nolo contendere to or been found guilty of any disqualifying offense as defined by A.C.A. §7-9-601(d)(3)(B) in any state of the United States, the District of Columbia, Puerto Rico, Guam, or any other United State protectorate.

Dated this 10 day of April, 2024.

Joy L. Fischer  
SIGNATURE OF PAID CANVASSER

**ACKNOWLEDGMENT**

STATE OF ARKANSAS

COUNTY OF PULASKI On this 10 day of APRIL, 2024, before me, a Notary Public, duly commissioned, appearing in person the within named JOY LYNN FISCHER to me personally known who stated and acknowledged that he/she has so signed, executed and delivered the foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 10 day of APRIL, 2024.

My Commission Expires: (SEAL)

12-06-2033

Erica Camp  
Notary Public

ERICA CAMP  
Notary Public - Arkansas  
Pulaski County  
My Commission Expires 12/06/2033  
Commission # 12725611

**EXHIBIT**  
**1**

**Sponsor Affidavit Regarding Additional Paid Canvassers**

I, Phillip Dewey, being duly sworn on oath or solemn affirmation do state and attest as follows:

- I make the following statement based upon my own personal knowledge.
- I am of sound mind, and otherwise qualified to make this affidavit.
- I am 18 years of age or older.
- I am providing this affidavit on behalf of and at the direction of Local Voters in Charge, a duly formed Arkansas Ballot Question Committee and Sponsor of an initiative petition popularly known as "AN AMENDMENT REQUIRING LOCAL VOTER APPROVAL IN A COUNTYWIDE SPECIAL ELECTION FOR CERTAIN NEW CASINO LICENSES AND REPEALING AUTHORITY TO ISSUE A CASINO LICENSE IN POPE COUNTY, ARKANSAS."
- I am a Manager for the canvassing efforts of Local Voters in Charge. My responsibilities include hiring and managing the paid canvassers.
- The Sponsor has provided each paid canvasser listed on the attached Exhibit A a copy of the most recent edition of the Arkansas Secretary of State's Initiatives and Referenda Handbook.
- The Sponsor has explained to each paid canvasser listed on Exhibit A the Arkansas law applicable to obtaining signatures on an initiative or referendum petition.
- The Sponsor is submitting herewith as Exhibit A a supplemental list of paid canvassers' names and current residential addresses to the Arkansas Secretary of State.
- The Sponsor has instructed each paid canvasser listed in Exhibit A to provide sufficient information of the paid canvasser's identity to allow the Sponsor to obtain the criminal

**EXHIBIT**

**2**

1

history and criminal record of the paid canvasser within thirty (30) days before the date that the paid canvasser will begin to collect signatures.

- The Sponsor has obtained the criminal history and criminal record of each paid canvasser listed on Exhibit A.
- Where indicated by such criminal history or criminal record, the Sponsor has contacted the appropriate authority in the state or jurisdiction if a criminal history or criminal record indicates an open or pending matter if that open or pending matter would be a disqualifying offense as defined by A.C.A. §7-9-601(d)(3)(B).
- The Sponsor has obtained at Sponsor's cost, from the Division of Arkansas State Police, a current criminal history and criminal record search on each paid canvasser being registered by the Sponsor with the Arkansas Secretary of State.
- The criminal history and criminal record search for each paid canvasser listed in Exhibit A was obtained from the Division of Arkansas State Police within thirty (30) days before the date the paid canvasser will begin collecting signatures.
- The Sponsor agrees that it will not pay or offer to pay a paid canvasser on the basis of the number of signatures obtained on a statewide initiative petition or statewide referendum petition.
- The Sponsor certifies that no paid canvasser listed in Exhibit A has pleaded guilty or nolo contendere to or been found guilty of any disqualifying offense as defined by A.C.A. §7-9-601(d)(3)(B) in any state of the United States, the District of Columbia, Puerto Rico, Guam, or any other United State protectorate.
- The Sponsor is herewith submitting as Exhibit B to the Arkansas Secretary of State the additional paid canvassers' signed affidavits reflecting that they have not pleaded guilty

or nolo contendere to or been found guilty of any disqualifying offense as defined by A.C.A. §7-9-601(d)(3)(B) in any state of the United States, the District of Columbia, Puerto Rico, Guam, or any other United State protectorate.

Dated this 12 day of APRIL, 2024.

On behalf of

LOCAL VOTERS IN CHARGE

Phillip Dewey  
Print Name

[Signature]  
Signature

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF Pulaski

On this 12 day of April, 2024, before me, a Notary Public, duly commissioned, appearing in person the within named Phillip Dewey to me personally known who stated and acknowledged that he/she had so signed, executed and delivered the foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 12 day of April, 2024.

My Commission Expires:  
2-7-2029

(SEAL)  
Nicia Travis  
Notary Public

NICIA TRAVIS  
Notary Public - Arkansas  
Pulaski County  
My Commission Expires 02-07-2029  
Commission # 12706711

INITIATIVE PETITION

000003

EXHIBIT

3

To the Honorable John Thurston, Secretary of State of the State of Arkansas:

We, the undersigned registered voters of the State of Arkansas, respectfully propose the following amendment to the Constitution of the State: An amendment requiring local voter approval in a countywide special election for certain new casino licenses and repealing authority to issue a casino license in Pope County, Arkansas. By this, our petition, order that the same be submitted to the people of said state, to the end that the same may be adopted, enacted, or rejected by the vote of the registered voters of the state at the regular general election to be held on the 5th day of November, 2024, and each of us for himself or herself says: "I have personally signed this petition; I am a registered voter of the State of Arkansas, and my printed name, date of birth, residence, city or town of residence, and date of signing this petition are correctly written after my signature."

FOR OFFICE USE ONLY  
 Valid of 10  
 By KO Date 7/11/24

A full and correct copy of the popular name, ballot title, and the proposed measure is attached hereto.

VOTERS REGISTERED IN Boone COUNTY

	Signature	Printed Name	Date of Birth	Residence (Street Address)	City or Town of Residence	County of Residence	Date of Signing
✓	<i>[Signature]</i>	Kathy Robinson	6/23/53	9910 Hwy 206 W	HARRISON	Boone	5/29/24
✓	<i>[Signature]</i>	Jerry W. Daniels	9/17/73	9617A Hilltop Rd.	Harrison	Boone	5/29/24
○	<i>[Signature]</i>	DALLAS BOWLING	12/21/56	7980 Bubbling Spgs	HARRISON	Boone	5/29/24
○	<i>[Signature]</i>	Christian Wehr	5/14/95	310 North Willow	Harrison	Boone	5/29/24
✓	<i>[Signature]</i>	David M. Such	07/26/1971	6495 Harmon Road	Harrison	Boone	5/29/24
✓	<i>[Signature]</i>	Tina Hendrich	04/06/1973	1508 Summerhill Ct	Harrison	Boone	5/29/24
○	<i>[Signature]</i>	Jennifer Godbout	10/25/1988	1752 Sapphire	Harrison	Boone	5-29-24
✓	<i>[Signature]</i>	Albert A. Froehlich Jr.	9-28-1952	15776 N Cedar Grove Rd	Lead Hill	Boone	5-29-24
✓	<i>[Signature]</i>	Susan H. Froehlich	9/7/50	15776 N CEDAR GROVE RD	LEAD HILL	Boone	5/29/24
○	<i>[Signature]</i>	Mikel Carter	11/13/70	19816 Douglas Cove	Lead Hill	Boone	5/29/24

State of Arkansas, County of Pulaski (county where notary signs)

I, Kristen Hernandez, being duly sworn, state that each of the foregoing persons signed his or her own name to this sheet of petition in my presence. To the best of my knowledge and belief, each signature is genuine and each signer is a registered voter of the State of Arkansas, in the County listed. At all times during the circulation of this signature sheet, an exact copy of the Popular Name, Ballot Title, and text was attached to this signature sheet. My current residence address is correctly stated below.

Signature: *[Signature]*  
 Current Residence: 300 Dave Rd Jacksonville AR 72076  
 Indicate one: (  ) Paid Canvasser (  ) Volunteer/Unpaid Canvasser

On this 31 day of May, 2024, before me, the undersigned Notary Public, personally appeared Kristen Hernandez well known to me (or satisfactorily proven by identification documents provided) to be the person described in the foregoing Canvasser Affidavit and acknowledged that s/he executed the same in the capacity of a Canvasser for the purpose of fulfilling legal requirements of a Canvasser in the State of Arkansas, and that I personally witnessed the signature of the Canvasser.

Signature of Notary: *[Signature]*  
 My Commission Expires: May 14 2034  
 Residence County of Notary: Pulaski

JENEVA WILLIAMS  
 Notary Public-Arkansas  
 Pulaski County  
 My Commission Expires 05-16-2034  
 Commission # 0001919

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IN THE ARKANSAS SUPREME COURT

---

JENNIFER MCGILL, Individually and  
on behalf of the ARKANSAS  
CANVASSING COMPLIANCE COMMITTEE;  
And CHEROKEE NATION ENTERTAINMENT, LLC           Petitioners

VS                                 Case Number:   CV-24-492

JOHN THURSTON, in his capacity of  
ARKANSAS SECRETARY OF STATE                         Respondent

LOCAL VOTERS IN CHARGE, A  
BALLOT QUESTION COMMITTEE; and  
JIM KNIGHT, individually and on behalf  
of LOCAL VOTERS IN CHARGE                             Intervenors

---

      ---o---  
          VIDEO DEPOSITION  
          OF  
          JOSH BRIDGES

      ---o---  
          Thursday, August 15, 2024  
      ---o---

**EXHIBIT**  
**4**

LEIGH ANN COOK, CCR, CSR  
Official Court Reporter  
15th Judicial District  
P. O. Box 1195  
Conway, Arkansas 72033  
(501) 772-1623  
arkansasccr@yahoo.com

1 division legal counsel?

2 A. Not within the elections division. No, ma'am.

3 Q. Great. What attorneys within the Secretary of  
4 State's office have you -- we'll start with the broad  
5 word worked with in the Secretary of State's office  
6 during 2024?

7 A. I work with Kenneth Burleson, Michael Harry,  
8 Amanda O'Neal, and Matt Hoffman. I believe that's all I  
9 recall.

10 Q. Amanda's last name is what again?

11 A. O'Neal, O apostrophe N-e-a-l.

12 Q. And Matt Hoffman also?

13 A. Matt Hoffman. Yes, ma'am. Two Fs.

14 Q. And have you worked with Kevin -- and I believe  
15 it's Niehaus or Niehaus?

16 A. Yes, ma'am. Niehaus, N-i-e-h-a-u-s.

17 Q. And have you worked with him?

18 A. Yes, ma'am.

19 Q. And do you know his title within the Secretary of  
20 State's office?

21 A. He's Deputy Secretary of State.

22 Q. And to your knowledge, is he also a licensed  
23 attorney?

24 A. I do not believe he is.

25 Q. Okay. Have you -- let me ask you, first of all,

1 what materials have you reviewed in preparation for this  
2 deposition?

3 A. I have reviewed, I believe, most of the documents  
4 submitted by the casino repeal sponsor, the submission  
5 paperwork on day one when they turned their petition in,  
6 along with the letters that have been sent.

7 Q. When you say when they turned their petition in,  
8 what are you referring to?

9 A. The petition that they submitted on July the 5th  
10 came along with certain documents and certain things  
11 that they turned in with it.

12 Q. Okay. Have you reviewed any of the documents  
13 that were submitted to the Secretary of State's office  
14 registering paid canvassers?

15 A. I have seen those documents. Yes, ma'am.

16 Q. And when did you first see any samples? I know  
17 there were many submissions. Correct?

18 A. Correct.

19 Q. And when did you first see a submission by them  
20 to register paid canvassers?

21 A. I could not pinpoint the exact day or month but  
22 it was very early on this year when they began to start  
23 sending emails with paid canvasser affidavits and  
24 spreadsheets.

25 Q. And you would have seen those emails?



1 A. Correct.

2 Q. And you would have seen the attachments to those  
3 emails?

4 A. Correct.

5 Q. And did you personally review each submission?

6 A. No, ma'am.

7 Q. Who on the Secretary of State's staff would have  
8 reviewed those submissions?

9 A. The Secretary of State does not necessarily  
10 review those submissions. We simply take them in and  
11 file them electronically and we also print out the paid  
12 canvasser affidavits so we have a hard copy as well with  
13 the file stamped date. So we don't necessarily review  
14 them, we simply receive them.

15 Q. But you did review at least a submission?

16 A. What would your definition of review be, if you  
17 could elaborate?

18 Q. If you reviewed the affidavits submitted on  
19 behalf of the sponsor?

20 A. I have seen them. Yes, ma'am.

21 Q. Okay.

22 A. I did not delve into any of the paperwork to see  
23 if it met any kind of qualifications.

24 Q. Did you review the paid canvassers affidavit that  
25 is required to be submitted to the Secretary of State at

1 the time of registration?

2 A. We did receive them and I did see them. I cannot  
3 say I laid eyes on every single one of them but we did  
4 see them.

5 Q. Did anyone on your staff who reviewed or received  
6 and filed those, ever report to you any questions about  
7 any of the submissions?

8 A. Only in a procedural standpoint. Only from a  
9 procedural standpoint on how to take this -- these  
10 documents in and what we need to do with them, where do  
11 we need to put them on our network drive, where do we  
12 place the hard copies. So simply from a procedural  
13 standpoint, yes, they did.

14 Q. And what did they ask you about, just those type  
15 questions?

16 A. Yes, ma'am. Just where do we put them, do we  
17 file stamp them, that sort of thing.

18 Q. Did -- let me go back and talk about April of  
19 2024. Do you recall meeting with representatives of  
20 Local Voters In Charge Ballot Question Committee in  
21 April of 2024?

22 A. I may have met with some folks from Local Voters  
23 In Charge. If you have names specific it may jog my  
24 memory.

25 Q. You don't remember the names of anyone you met



1 BY MS. MURRAY:

2 Q. No. A letter on July 31st, that he references,  
3 that was granting them a cure, 30 more days to --

4 A. Oh.

5 Q. -- collect more signatures?

6 A. I do recall that.

7 Q. And what was the purpose of this letter that you  
8 signed -- that you sent?

9 MS. BROYLES: Object to the form.

10 THE WITNESS: That it was not signed by  
11 the sponsor, instead, the manager of canvassing  
12 company.

13 BY MS. MURRAY:

14 Q. And this says -- and to summarize what you're  
15 saying is, the citation is to a statute 7-9-601(b)(3),  
16 which states and in your letter it is quoted, Upon  
17 submission of the sponsor's list of paid canvassers to  
18 the Secretary of State, the sponsor shall certify to the  
19 Secretary of State that each paid canvasser in the  
20 sponsor's employ has no disqualifying offenses in  
21 accordance with this section, emphasis added, and the  
22 words "sponsor shall certify" are in bold in this  
23 letter. Correct?

24 A. In bold?

25 Q. Yes. See in the third line of the first

1 paragraph at the end sponsor shall certify is in bold  
2 print?

3 MS. BROYLES: Yeah. It's not a great copy  
4 and this one it doesn't look that bolded either,  
5 but you see on the third line shall --

6 THE WITNESS: Oh, yeah.

7 MS. BROYLES: Yeah. Sorry.

8 THE WITNESS: Yes.

9 BY MS. MURRAY:

10 Q. And in that letter, you tell Mr. Lancaster that  
11 the sponsor did not make the certification required in  
12 Ark Code Ann. 7-9-601(b)(3). Instead, the manager of a  
13 canvassing company attempted to make the certification.

14 A. Yes.

15 Q. Did you draft this letter?

16 A. No.

17 Q. Do you know who did?

18 A. No.

19 Q. If Mr. Bridges says that he typed it, and that  
20 the contents of it were dictated to him by a group of  
21 lawyers, would you dispute that?

22 MS. BROYLES: Object to the form.

23 THE WITNESS: No.

24 BY MS. MURRAY:

25 Q. And if Mr. Bridges testified under oath that this

1 was a change from how submissions by managers of  
2 canvassing companies in initiated petitions or  
3 referendas had been treated previously, would you  
4 dispute that?

5 MS. BROYLES: Object to the form.

6 THE WITNESS: No.

7 BY MS. MURRAY:

8 Q. And had you -- not for this letter, but had you  
9 had discussions including Mr. Bridges about that change  
10 that this letter reflected?

11 A. Yes.

12 MS. BROYLES: Object to the form.

13 BY MS. MURRAY:

14 Q. When did you discuss it with him?

15 A. Oh. With Josh?

16 Q. Josh.

17 A. No. The answer is no to Josh. No.

18 Q. Did you --

19 A. I thought you meant discussions in general.

20 Q. Okay. Well, why don't we -- you'll know you  
21 talked to about it better than I will. Who did you  
22 discuss -- and you recognize this was a change from the  
23 past interpretation and practices regarding --

24 A. Yes.

25 Q. -- submissions?

1 MS. BROYLES: Object to the form. Slow  
2 down. I've got to object. Sorry.

3 THE WITNESS: Okay.

4 BY MS. MURRAY:

5 Q. A significant change?

6 MS. BROYLES: Object to the form.

7 THE WITNESS: Yes.

8 BY MS. MURRAY:

9 Q. And with whom did you discuss making this change?

10 MS. BROYLES: Object to the form.

11 THE WITNESS: When you say change --

12 BY MS. MURRAY:

13 Q. The change in the interpretation of that?

14 A. Okay. Now, your question was when?

15 Q. With whom?

16 A. With whom.

17 MS. BROYLES: Object to the form.

18 THE WITNESS: My staff, and the Attorney  
19 General's office.

20 BY MS. MURRAY:

21 Q. Who from the Attorney General's office did you  
22 discuss that with?

23 A. It was brief phone conversation with AG Griffin.

24 Q. With Attorney General Tim Griffin you discussed  
25 it? And what was --

1 A. Not --

2 Q. -- the date of that phone call?

3 A. At that conference, whatever that -- did we  
4 figure that out? So let's see here -- well, it was the  
5 week of August the 5th. And I believe it was August the  
6 7th.

7 Q. And this letter went out under your signature on  
8 August 8th. Did you review the letter before it went  
9 out under your signature?

10 A. Yes. I believe I had it read to me because I was  
11 at the conference.

12 Q. At the conference?

13 A. Yes.

14 Q. And on August 7th, you discussed the contents of  
15 this letter with Attorney General Tim Griffin?

16 A. We did not get into the content, it was just the  
17 need to send it.

18 Q. In your mind, what was the need to send it?

19 MS. BROYLES: And I'm going to object to  
20 the extent that it calls for attorney-client  
21 privilege communications.

22 THE WITNESS: Okay.

23 MS. BROYLES: So you can't go into that  
24 but if you can answer, you know, otherwise, go  
25 ahead.



1 THE WITNESS: All right. What was the  
2 question again?

3 BY MS. MURRAY:

4 Q. What was the need to send this letter?

5 MS. BROYLES: Object to the form.

6 THE WITNESS: To alert the sponsor.

7 BY MS. MURRAY:

8 Q. Of a change?

9 MS. BROYLES: Object to the form.

10 THE WITNESS: Yes.

11 BY MS. MURRAY:

12 Q. And you had discussed that at a conference in Hot  
13 Springs with Attorney General Griffin, you believe on  
14 August the 7th, the day before this letter?

15 A. Yes.

16 Q. At any time did you object to this change?

17 MS. BROYLES: Object to the form.

18 THE WITNESS: Yeah, is this  
19 attorney-client?

20 MS. BROYLES: If it's communication with  
21 counsel, then yes. But if you have something in  
22 your mind that wasn't, you know, communicated,  
23 then you can answer to it. Does that make sense?

24 THE WITNESS: Yeah. Something in addition  
25 that wasn't communicated?

1 MS. BROYLES: Yeah. Just your personal  
2 thoughts you can answer to. You just can't talk  
3 about attorney-client communication.

4 THE WITNESS: Personally, I'm embarrassed  
5 that we had it wrong for so long.

6 BY MS. MURRAY:

7 Q. On August the 7th, did you believe you had it  
8 wrong?

9 A. What was the 7th again? I need to keep my  
10 calendar out here.

11 Q. It was the day before your signature was attached  
12 to this letter dictated by the lawyers.

13 MS. BROYLES: Object to the form.

14 THE WITNESS: Yes. Before we were alerted  
15 to this by the -- you know, the advice from legal  
16 counsel, yeah, I did not know we had it wrong.

17 BY MS. MURRAY:

18 Q. All right. Well, let me ask you then, and you  
19 believed your people, your lawyers, and the rest of your  
20 staff were correct in how they were handling it?

21 MS. BROYLES: Object to the form.

22 THE WITNESS: Yes.

23 BY MS. MURRAY:

24 Q. And you trusted your lawyers?

25 A. Yes.

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CV-24-492

IN THE ARKANSAS SUPREME COURT

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JENNIFER MCGILL, individually and  
on behalf of the ARKANSAS CANVASSING  
COMPLIANCE COMMITTEE; &  
CHEROKEE NATION ENTERTAINMENT, LLC PETITIONERS

VS. CASE NO. 20-454

JOHN THURSTON, in his capacity as  
ARKANSAS SECRETARY OF STATE

LOCAL VOTERS IN CHARGE, A  
BALLOT QUESTION COMMITTEE; and  
JIM KNIGHT, individually and on behalf of  
LOCAL VOTERS IN CHARGE RESPONDENTS

---

VIDEOTAPED DEPOSITION OF STEPHANIE MARCYNYSZYN

August 21, 2024

---

A P P E A R A N C E S

ON BEHALF OF THE PETITIONERS:

DAVID A. COUCH, ESQ.  
David A. Couch PLLC  
5420 Kavanaugh Boulevard  
Little Rock, Arkansas 72217

JOHN E. TULL, ESQ.  
GLENN LARKIN, ESQ.  
Quattlebaum, Grooms & Tull, PLLC  
111 Center Street  
Suite 1900  
Little Rock, Arkansas 72201

**EXHIBIT**  
**6**

1 of the Secretary of State.

2 MS. MURRAY: And this is Elizabeth  
3 Robben Murray on behalf of the intervenors  
4 and all of their agents, including  
5 Ms. Marcynyszyn.

6 MS. YOUNG: Kim Young on behalf of the  
7 same parties.

8 STEPHANIE MARCYNYSZYN,  
9 the witness hereinbefore named, having first been  
10 duly cautioned and sworn or affirmed to tell the  
11 truth, the whole truth and nothing but the truth,  
12 testified as follows:

13 EXAMINATION

14 BY MR. COUCH:

15 Q. Would you state your name for the record,  
16 please.

17 A. Stephanie Marcynyszyn.

18 Q. And where do you live?

19 A. Newport Beach, California.

20 Q. And where are you currently?

21 A. Newport Beach, California.

22 Q. Okay.

23 And where are you currently employed?

24 A. I am employed in Newport Beach, California.

25 Q. And who is your employer?

1 A. Cape Campaigns.

2 Q. State Campaigns?

3 A. C-a-p-e, Cape --

4 Q. Oh.

5 A. -- Campaigns, I-n-c.

6 Q. Okay.

7 And what is your job with Cape Campaigns?

8 A. Basically I am a field director.

9 Q. Okay. And who is your immediate supervisor  
10 with Cape Campaigns?

11 A. It would be myself.

12 Q. Okay. Are you the sole owner of Cape  
13 Campaigns?

14 A. Yes. I am the only officer.

15 Q. Oh, okay.

16 And what is the business of Cape Campaigns?

17 A. We do several different types of campaigns for  
18 marketing.

19 Q. And such as?

20 A. Basically we worked on some government programs  
21 with assisting people to get tablets and telephones  
22 in the past.

23 We also work in the petition industry.

24 We've also worked in numerous states on voter  
25 registration drives.

1 Q. Okay.

2 A. So we didn't let anyone go out prior.

3 Q. Okay.

4 Did you ever talk to anyone that was a  
5 member of Local Voters in Charge, the sponsor of the  
6 petition?

7 A. I don't recall. I don't think so, but I don't  
8 we recall.

9 Q. Did you ever have any conversations with anyone  
10 at the Secretary of State's office?

11 A. I did not.

12 Q. Did you ever have any conversations with anyone  
13 who worked for the Choctaw Nation?

14 A. I did.

15 Q. And who would that have been?

16 A. I apologize. I don't recall the names.

17 Q. Okay. And what was the circumstances of that  
18 conversation?

19 A. We had a table set up at the casino.

20 Q. Okay.

21 And did you have a table set up at the  
22 casino for the entire length of the campaign?

23 A. No.

24 Q. Do you recall was there a set schedule for the  
25 table at the casino?

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CV-24-492  
IN THE ARKANSAS SUPREME COURT

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JENNIFER MCGILL, individually and  
on behalf of the ARKANSAS CANVASSING  
COMPLIANCE COMMITTEE; &  
CHEROKEE NATION ENTERTAINMENT, LLC PETITIONERS

VS.

JOHN THURSTON, in his capacity as RESPONDENT  
ARKANSAS SECRETARY OF STATE

LOCAL VOTERS IN CHARGE, A  
BALLOT QUESTION COMMITTEE; and  
JIM KNIGHT, individually and on behalf of INTERVENORS  
LOCAL VOTERS IN CHARGE

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VIDEOTAPED DEPOSITION OF PHIL DEWEY  
August 23, 2024

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A P P E A R A N C E S

ON BEHALF OF THE PETITIONERS:

DAVID A. COUCH, ESQ.  
David A. Couch PLLC  
5420 Kavanaugh Boulevard  
Little Rock, Arkansas 72217

JOHN E. TULL, ESQ.  
GLENN LARKIN, ESQ.  
Quattlebaum, Grooms & Tull, PLLC  
111 Center Street  
Suite 1900  
Little Rock, Arkansas 72201

**EXHIBIT**  
**7**

- 1 A. Okay.
- 2 Q. Who you state your name for the record, please?
- 3 A. Philip Dewey.
- 4 Q. And where are you currently located?
- 5 A. Baracay, Philippines.
- 6 Q. Okay. And where is your residence?
- 7 A. Michigan.
- 8 Q. And what town?
- 9 A. Durant.
- 10 Q. Okay.
- 11 And where are your currently employed?
- 12 A. Florida Petition Management.
- 13 Q. And what is Florida Petition Management?
- 14 A. It's a canvassing and, a political canvassing
- 15 company.
- 16 Q. Okay.
- 17 And do you own Florida Petition Management?
- 18 A. No.
- 19 Q. Who owns Florida Petition Management?
- 20 A. Eric Tincher.
- 21 Q. And what is your job with Florida Petition
- 22 Management?
- 23 A. Office manager.
- 24 Q. And as the office manager what are your duties?
- 25 A. Hiring, training -- hiring and training.



1 THE VIDEOGRAPHER: We are off the  
2 record at 10:14 a.m.

3 (Short break.)

4 THE VIDEOGRAPHER: We are back on the  
5 record at 10:31 a.m.

6 MR. COUCH: Sure. A few more  
7 questions.

8 BY MR. COUCH:

9 Q. Do you know a Mr. Jim Knight?

10 A. I've heard the name.

11 Q. Okay. Have you ever had any conversation with  
12 Mr. Knight?

13 A. No.

14 Q. Okay. You're aware that he is the, I think the  
15 chair of the league of, league, Local Voters In  
16 Charge?

17 A. Yes.

18 Q. Do you know Mr. Hans Stiritz?

19 A. I don't.

20 Q. Okay. Larry Walker?

21 A. I don't.

22 Q. Do you have any, do you have any personal  
23 dealings with anyone at Local Voters In Charge, those  
24 three men?

25 A. I, I, I haven't, no.

**CV-24-492**

**IN THE ARKANSAS SUPREME COURT**

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PETITIONERS

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JOHN THURSTON, in his official capacity as  
ARKANSAS SECRETARY OF STATE

RESPONDENT

LOCAL VOTERS IN CHARGE, A  
BALLOT QUESTION COMMITTEE; and  
JIM KNIGHT, individually and on behalf of  
LOCAL VOTERS IN CHARGE

INTERVENORS

**EXHIBIT 8**

**FILED UNDER SEAL**

**CV-24-492**

**IN THE ARKANSAS SUPREME COURT**

JENNIFER MCGILL, individually and  
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RESPONDENT

LOCAL VOTERS IN CHARGE, A  
BALLOT QUESTION COMMITTEE; and  
JIM KNIGHT, individually and on behalf of  
LOCAL VOTERS IN CHARGE

INTERVENORS

**PETITIONERS' EXHIBITS 92 & 97**  
**FILED CONVENTIONALLY WITH THE COURT**