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Roy Herrera (032901)
Daniel A. Arellano (032304)
Jane W. Ahern (034865)
Austin T. Marshall (036582)
HERRERA ARELLANO LLP
1001 North Central Avenue, Suite 404
Phoenix, AZ 85004
roy@ha-firm.com
daniel@ha-firm.com
jillian@ha-firm.com
austin@ha-firm.com
Telephone: (602) 567-4820

Attorneys for Plaintiff

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APR 15 2024



CLERK OF THE SUPERIOR COURT
A. Valenzuela
DEPUTY CLERK

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

CV2024-008743

JAMES ASHURST, a qualified elector,
Plaintiff,

v.

AUSTIN SMITH, a candidate for office;
ADRIAN FONTES, in his capacity as
Arizona Secretary of state; STEPHEN
RICHER, in his capacity as Maricopa County
Recorder; MARICOPA COUNTY BOARD
OF SUPERVISORS, in their official capacity,
Defendants.

No.

SPECIAL ACTION COMPLAINT

**(Nomination Petition Challenge
Pursuant to A.R.S. § 16-351)**

Plaintiff alleges as follows:

INTRODUCTION

1. Austin Smith seeks the nomination of the Republican Party for the office of State Representative for Legislative District 29 in the primary election to be held on July 30, 2024.

1 2. This action challenges Smith’s qualification to run for office based on petition
2 forgery and ineligible signatures.

3 3. “[C]andidates suffer automatic disqualification and a ban of five or more
4 years if they sign another person’s name on their nomination petitions, or if they knowingly
5 cause another person to do the same.” *Shooter v. Farmer*, 235 Ariz. 199, 200 ¶ 2 (2014).

6 4. Declaratory and injunctive relief is required to ensure that the Defendants
7 fully and effectively discharge the duties imposed upon them by applicable law to protect
8 the integrity of the candidate petition and nomination process.

9 **JURISDICTION AND VENUE**

10 5. This Court has jurisdiction over this action pursuant to Article 6, § 14 of the
11 Arizona Constitution, Arizona Rules for Special Actions 4(a), and A.R.S. §§ 12-123, 12-
12 1801, 12-1831, and 16-351.

13 6. Venue for this action lies in Maricopa County pursuant to A.R.S. § 12-401(7)
14 and (16) because at least one of the Defendants resides and/or holds office in that county.

15 **PARTIES**

16 7. Plaintiff James Ashurst is a qualified elector residing in Legislative District
17 29.

18 8. Defendant Austin Smith is seeking placement on the ballot as a Republican
19 candidate for the office of State Representative for Legislative District 29 in the July 30,
20 2024 primary election.

21 9. Defendant Adrian Fontes is the Arizona Secretary of State and is named in
22 this action in his official capacity only. The Arizona Secretary of State is the public officer
23 with whom the nomination petition was required to be filed.

24 10. Defendant Stephen Richer is the county recorder for Maricopa County. He is
25 named in this action in his official capacity only. The county recorder is the public officer
26 responsible for preparing the ballots that contain candidates’ names in the July 30, 2024
27 primary election.

28 11. Defendant the Maricopa County Board of Supervisors are named in their

1 official capacities only. The County Board of Supervisors is the governing body charged by
 2 law with conducting elections within its jurisdictional boundaries, including preparing
 3 ballots that contain candidates' name.

4 GENERAL ALLEGATIONS

5 12. Several of Smith's petition sheets bear purported voter signatures that appear
 6 to have been written by the same person. Many of those signatures bear a striking
 7 resemblance to Smith's. Several illustrative examples appear below:

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10 Valid Lines
 Maricopa

Bates # 56
 Partisan nomination petition



I, the undersigned, a qualified elector of the county of Maricopa, state of Arizona, and of Legislative District 29
 and a member of the Republican party or a person who is registered as no party preference or independent as the party preference or who is registered
 with a political party that is not qualified for representation on the ballot, hereby nominate David Smith
 who resides at 15467 W Canterbury Dr Surprise AZ 85378 in the county of Maricopa for the party nomination for the office of
State Representative - District No. 29 to be voted at the primary election to be held July 30th, 2024 as representing the
 principles of such party, and I hereby declare that I am qualified to vote for this office and that I have not signed, and will not sign, any nomination petition for more
 persons than the number of candidates necessary to fill such office at the next ensuing election. I further declare that if I choose to use a post office box address on this
 petition, my residence address has not changed since I last reported it to the county recorder for purposes of updating my voter registration file.

Signature	Printed name	Actual residence address, description of place of residence or Arizona post office box address, city or town	Date of signing
	David Cohn	14742 W Suring Dr Surprise, AZ 85378	3-16-24
	Lori McConnell	14735 W Pershing St Surprise, AZ 85378	3/16/24
	Linda Kyle	14741 W Pershing St Surprise, AZ 85378	3/16/24
	Ray Joseph Mohammed	14747 W Pershing St Surprise, AZ 85378	3-16-24
	David Hernandez	14753 W Pershing St Surprise, AZ 85378	3/16/24
	Jacob Jones	13687 N 144th Ln Surprise, AZ 85378	3/16/24
	Angela Lim	13698 N 144th Ln Surprise, AZ 85378	3/16/24
	Christie Kline	13714 N 144th Ln Surprise, AZ 85378	3-16-24
	Ashley Robbins	14456 W Georgia Dr Surprise, AZ 85378	3-16-24
	Lynn Morris	14427 W Georgia Dr Surprise, AZ 85378	3/16/24

Revised 07/31/2018, Secretary of State

Petitioner/circulator remains solely responsible for ensuring this form complies with Arizona law.

0 Valid Lines
 Maricopa

Bates # 56

Instructions for Circulators

- All petitions shall be signed by circulator.
- Circulator is not required to be a resident of this state but otherwise must be qualified to register to vote in this state and, if not a resident of this state, shall register as a circulator with the secretary of state.
- Circulator's name shall be typed or printed under the circulator's signature.
- Circulator's actual residence address or, if no street address, a description of residence location shall be included on the petition.

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1. PRINT NAME Austin Smith is a person who is not required to be a resident of the state but who is otherwise qualified to register to vote in the county of Maricopa in the state of Arizona, hereby verify that each of the names on the petition was signed in my presence on the date indicated and that in my belief each signer was a qualified elector who resides at the address given as their residence on the date indicated. I further verify that each signer is a member of the party from which the candidate is seeking nomination, or the signer is a member of a political party that is not entitled to continued representation on the ballot, or the signer is registered as independent or no party preferred.

Austin Smith
 Signature of Circulator

Austin Smith
 Typed or Printed Name of Circulator

15467 W Century Dr
 Circulator's Actual Residence Address
 (If no street address, a description of residence location shall be included on the petition)

Surprise, AZ 85379
 City or Town and Zip Code

Revised 07/31/2018, Secretary of State

Petitioner/circulator remains solely responsible for ensuring the form complies with Arizona law.

10 Valid Lines
 Maricopa

Bates # 27

Partisan Nomination Petition

I, the undersigned, a qualified elector of the county of Maricopa, state of Arizona, and of Legislative District 29 and a member of the Republican party or a person who is registered as no party preference or independent as the party preference or who is registered with a political party that is not qualified for representation on the ballot, hereby nominate Austin Smith who reside at 15467 W Century Dr Surprise AZ 85379 in the county of Maricopa for the party nomination for the office of State Representative - District No. 29 to be voted at the primary election to be held July 30th, 2024 as representing the principles of such party, and I hereby declare that I am qualified to vote for this office and that I have not signed, and will not sign, any nomination petition for more persons than the number of candidates necessary to fill such office at the next ensuing election. I further declare that if I choose to use a post office box address on this petition, my residence address has not changed since I last reported it to the county recorder for purposes of updating my voter registration file.




	Signature	Printed name	Actual residence address, description of place of residence or Arizona post office box address, city or town	Date of signing
1	<u>Penny Stacy</u>	<u>Penny Stacy</u>	<u>15614 W Canyon Dr Surprise AZ 85379</u>	<u>3-15-24</u>
2	<u>Raul Villareal</u>	<u>Raul Villareal</u>	<u>15617 W Cork St Surprise, AZ 85379</u>	<u>3-15-24</u>
3	<u>Nicole Lamb</u>	<u>Nicole Lamb</u>	<u>15586 W Canyon Dr Surprise, AZ 85379</u>	<u>3-15-24</u>
4	<u>Brett Weyco</u>	<u>Brett Weyco</u>	<u>15562 W Canyon Dr Surprise, AZ 85379</u>	<u>3-15-24</u>
5	<u>Matthew Bramlett</u>	<u>Matthew Bramlett</u>	<u>15561 W Canyon Dr Surprise, AZ 85379</u>	<u>3-15-24</u>
6	<u>Fredrick Cuthbertson</u>	<u>Fredrick Cuthbertson</u>	<u>15549 W Canyon Dr Surprise, AZ 85379</u>	<u>3-15-24</u>
7	<u>Patrice Guy</u>	<u>Patrice Guy</u>	<u>15635 W Canyon Dr Surprise, AZ 85379</u>	<u>3-15-24</u>
8	<u>Barbara Le-tanco</u>	<u>Barbara Le-tanco</u>	<u>15643 W Canyon Dr Surprise, AZ 85379</u>	<u>3-15-24</u>
9	<u>Stephanie Evans</u>	<u>Stephanie Evans</u>	<u>15644 W Canyon Dr Surprise, AZ 85379</u>	<u>3-15-24</u>
10	<u>William Stewart</u>	<u>William Stewart</u>	<u>15538 W Canyon Dr Surprise, AZ 85379</u>	<u>3-15-24</u>

Revised 07/31/2018, Secretary of State

Petitioner/circulator remains solely responsible for ensuring the form complies with Arizona law.

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0 Valid Lines	Bates # 27
Maricopa	Instructions for Circulators
<p>1. All petitions shall be signed by circulator. 2. Circulator is not required to be a resident of this state but otherwise must be qualified to register to vote in this state and, if not a resident of this state, shall register as a circulator with the secretary of state. 3. Circulator's name shall be typed or printed under the circulator's signature. 4. Circulator's actual residence address or, if no street address, a description of residence location shall be included on the petition.</p>	
I, <u>Austin Smith</u> a person who is not required to be a resident of this state but who is otherwise qualified to register to vote in the county of <u>Maricopa</u> in the state of Arizona, hereby verify that each of the names on the petition was signed in my presence on the date indicated and that in my belief each signer was a qualified elector who resides at the address given as their residence on the date indicated. I further verify that each signer is a member of the party from which the candidate is seeking nomination, or the signer is a member of a political party that is not entitled to continued representation on the ballot, or the signer is registered as independent or no party preferred.	
 Signature of Circulator	
<u>Austin Smith</u> Typed or Printed Name of Circulator	
<u>15467 W Caterbury Dr</u> Circulator's Actual Residence Address (If no street address, a description of residence location shall be included on the petition)	
<u>Surprise 85374</u> City or Town and Zip Code	
Revised 07/31/2019, Secretary of State	Petitioner/circulator remains solely responsible for ensuring this form complies with Arizona law.

13. Bruce Bell, whose purported signature appears on line 1 on petition sheet number 28, never signed Smith's petition. A declaration that he never signed the petitions is included herein as Exhibit A.

14. Daniel Hernandez, whose purported signature appears on line 5 on petition sheet number 56, never signed Smith's petition. A declaration that he never signed the petitions is included herein as Exhibit B.

15. In total, petition sheet pages 5, 26, 27, 28, 29, 52, 54 55, and 56 all appear to contain forged signatures for lines 1 through 10. Smith signed as the circulator for each of these sheets.

16. Petition sheets 24, lines 1 to 3, 32, lines 5 to 10, and 33, lines 6 to 10, also appear forged and were circulated by Smith.

17. Handwriting appearing on purported voter signatures on these petition sheets appear to match the handwriting on Smith's circulator affidavits.

18. Smith timely filed his nomination petition with Secretary Fontes for the July 30, 2024 primary election.

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COUNT II

Ineligible Signatures

Declaratory and Injunctive Relief (A.R.S. §§ 12-1831, et seq. 16-351)

29. Plaintiff hereby incorporates by reference the allegations in the foregoing paragraphs as if fully set forth herein.

30. In addition to the grounds for disqualification listed above, Smith submitted signatures by signers who were ineligible to sign his nomination petition either because of duplicate signatures, registration out of district, registration with an ineligible party, or no registration.

31. A list of signers by page and line number, as well as the reason for the signer's ineligibility, is attached hereto as Exhibit C.

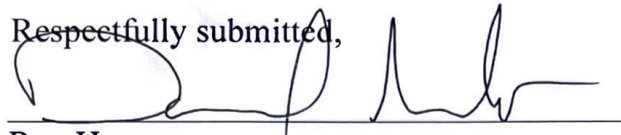
DEMAND FOR RELIEF

WHEREFORE, Plaintiff demands relief as follows:

- A. A declaration pursuant to A.R.S. § 12-1831 that Smith's nomination petition is disqualified and that Smith is not eligible to be a candidate for office;
- B. An injunction pursuant to A.R.S. § 16-351 and other applicable law prohibiting Smith's name from being printed on the ballot for the primary election to be held on July 30, 2024;
- C. An award of reasonable attorney's fees and costs pursuant to A.R.S. §§ 12-348, 12-2030, the private attorney general doctrine, and other applicable law; and
- D. Such other relief as the Court deems necessary, equitable, proper, and just.

1 Dated: April 15, 2024

Respectfully submitted,



Roy Herrera
Daniel A. Arellano
Jillian L. Andrews
Austin T. Marshall
HERRERA ARELLANO LLP
1001 North Central Avenue, Suite 404
Phoenix, AZ 85004

Attorneys for Plaintiff

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