

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. GUS ARAGON

CASE NO. C20143206

COURT REPORTER: Carol Trejo
Courtroom - 814

DATE: June 18, 2014

SHAUN MCCLUSKY and LORI OIEN
Plaintiffs

Adam E. Lang, Esq. and Eric H. Spencer, Esq.
counsel for Plaintiffs Shaun McClusky and
Lori Oien

VS.

CHARLES A. WOOTEN, WOOTEN FOR
CONGRESS, KEN BENNETT, COCHISE
COUNTY BOARD OF SUPERVISORS,
PATRICK CALL, ANN ENGLISH, RICHARD
SEARLE, CHRISTINE RHODES, PIMA
COUNTY BOARD OF SUPERVISORS, ALLY
MILLER, RAMON VALADEZ, SHARON
BRONSON, RAY CARROLL, RICHARD ELIAS,
and F. ANN RODRIGUEZ
Defendants

John D. Wilenchik, Esq. counsel for Defendants
Charles A. Wooten and Wooten for Congress

Elda E. Orduno, Esq. counsel for Defendant
Cochise County Board Of Supervisors

Todd M. Allison, Esq. counsel for Defendant
Ken Bennett

Tobin Rosen, Esq. and Daniel S. Jurkowitz, Esq.
counsel for Defendants Pima County Board of
Supervisors and F. Ann Rodriguez

MINUTE ENTRY

HEARING RE: ORDER TO SHOW CAUSE / DEFENDANTS MOTION TO DISMISS

Plaintiff McClusky is present. Plaintiff Oien is not present. Defendant Charles A. Wooten is present. Plaintiff's Exhibit 1, being copy of Partisan Nomination petitions for Chuck A. Wooten, is identified. Plaintiff's Exhibit 1.001, being copy of Deficiency – Not Registered, is identified. Plaintiff's Exhibit 1.002, being copy of Deficiency – Wrong Jurisdiction/party, is identified. Plaintiff's Exhibit 1.003, being copy of Deficiency – Signature cannot be identified, is identified. Plaintiff's Exhibit 1.004, being copy of Deficiency – Registered after sign date, is identified. Plaintiff's Exhibit 1.005, being copy of Petition signed pre April 8, 2014, is identified. Plaintiff's Exhibit 1.006, being copy of Petition - mixed, is identified. Plaintiff's Exhibit 1.007, being copy of Partisan Nomination Petition Cochise, is identified. Plaintiff's Exhibit 1.008, being copy of Partisan Nomination Petition Cochise, is identified.

Juliet Luiks
Deputy Clerk

MINUTE ENTRY

Plaintiff's Exhibit 1.009, being copy of Partisan Nomination Petition Cochise, is identified.
Plaintiff's Exhibit 2, being copy of County Recorder's Candidate Challenge Form, is identified.
Plaintiff's Exhibit 2.001, being copy of Deficiency – not registered date of signing, is identified.
Plaintiff's Exhibit 2.002, being copy of Deficiency – wrong jurisdiction/party, is identified.
Plaintiff's Exhibit 2.003, being copy of Deficiency – signature cannot be identified, is identified.
Plaintiff's Exhibit 2.004, being copy of Deficiency – registered after sign date, is identified.
Plaintiff's Exhibit 3, being copy of Cochise Report, is identified.
Plaintiff's Exhibit 3.001, being copy of Cochise Sub exhibit, is identified.
Plaintiff's Exhibit 3.002, being copy of Cochise Sub exhibit, is identified.
Plaintiff's Exhibit 3.003, being copy of Cochise Sub exhibit, is identified.
Plaintiff's Exhibit 4, being copy of Voter Registration Records, is identified.
Plaintiff's Exhibit 5, being copy of Pre April 8, 2014 spreadsheet, is identified.

As to the issue of Defendant's Motion to Dismiss:

Mr. Spencer and Mr. Wilenchik make statements to the Court as to a possible stipulation.

Mr. Wilenchik and Mr. Spencer argue the motion to the Court.

The Court takes a brief recess to review the cases involved and will rule from the bench at that time.

11:10 AM Court resumes. Same parties and counsel are present.

THE COURT FINDS that the language of A.R.S. §16-311(A) is clear and unambiguous and Mr. Wooten has complied with the statute.

THE COURT FURTHER FINDS that pre April 8, 2014 signatures that are challenged for failure to properly and timely register are valid signatures. Therefore,

IT IS ORDERED that the Motion to Dismiss for Failure to State a Claim is GRANTED.

All counsel stipulate to the admission of all exhibits for the purpose of review.

As to the issue of Hearing Re: Order to Show Cause:

Mr. Spencer requests to present his case as to signatures that were individually disqualified.

The Court asks if anyone challenges the authenticity of the reports from the counties of Pima and Cochise and receives no response.

The Court asks if anyone challenges the accuracy of the numbers in those reports.

Mr. Wilenchik states that the defendants challenge the accuracy of the numbers in the reports.

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MINUTE ENTRY

FOR THE PLAINTIFF:

Christopher Roads is sworn, examined and excused.

Sylvia Gruhn is sworn, examined and excused.

Mr. Spencer makes further statements to the Court and requests that the Court issue a ruling that the numbers presented are accurate for the purposes.

Mr. Wilenchik states his objection to Mr. Spencer's request.

The Court asks if any other parties wish to present witnesses or offer any additional exhibits. There being no request to present further evidence, exhibits or witnesses,

The Court states that the earlier ruling was dispositive of the complaint and the testimony and evidence speaks for itself for the completeness of the record and makes no further findings at this time.

The request for attorney fees is held in abeyance.

IT IS ORDERED that any party requesting fees may submit additional memoranda, affidavits, supporting documents and request an oral hearing if they wish. If they wish to appear telephonically for an oral hearing they shall file a motion with that request, along with a Form of Order.

The Court signs this minute entry for purposes of review.


HON. GUS ARAGON

(ID: 0f5edd14-921d-4644-bc02-9d5538725f04)

cc: Hon. Gus Aragon
Adam E. Lang, Esq.
Daniel S Jurkowitz, Esq.
Elda E Orduno, Esq.
Eric H. Spencer, Esq.
Tobin Rosen, Esq.
Todd M Allison, Esq.
John D. Wilenchik
Ally Miller
Ann English
Christine Rhodes
Patrick Call
Ramon Valadez
Ray Carroll
Richard Elias

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Richard Searle
Sharon Bronson

Juliet Luiks
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