

COPY

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

Judith K. Lohr,

Petitioner

vs.

Shawwna Bolick et al.,

Respondents

No. CV2020-004868

ORDER TO APPEAR FOR TRIAL

An election challenge has been filed in this matter. Arizona law requires that the matter be heard on an accelerated basis. By statute, there is a strict deadline for completing the trial.

IT IS ORDERED that all parties named in this action appear for trial before the following judge at the date, time and location indicated below:

Judge: Scott McCoy

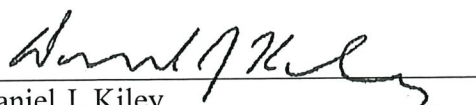
Courtroom: East Court Building, Courtroom 612

Date: April 29, 2020

Time: 2:00 p.m.

IT IS FURTHER ORDERED that all parties named in this action must appear at a telephonic pre-trial hearing before the assigned judge, to be held on **April 28, 2020 at 1:00 p.m.** To appear at the telephonic hearing, you must call 602-506-9695 (or toll free to 1-855-506-9695) at the date and time set for the telephonic hearing. You will then be prompted to enter the participant collaboration code of 372510.

Dated this 20th day of April, 2020.


Daniel J. Kiley
Judge of the Superior Court

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APR 20 2020



CLERK OF THE SUPERIOR COURT
R. MERINO
DEPUTY CLERK

James E. Barton II (#023888)
Jacqueline Mendez Soto (#022597)
TORRES LAW GROUP, PLLC
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Jacqueline@TheTorresFirm.com
Attorneys for Plaintiff

ARIZONA SUPERIOR COURT
MARICOPA COUNTY

CV 2020-004868

JUDITH K. LOHR, a qualified elector,
Plaintiff,

v.

SHAWNNA BOLICK, a Republican
Primary Candidate for Arizona House of
Representatives in Legislative District
20; KATIE HOBBS, in her official
capacity as Secretary of State; ADRIAN
FONTES, in his official capacity as the
Maricopa County Recorder; and
MARICOPA COUNTY BOARD OF
SUPERVISORS; CLINT HICKMAN,
Maricopa County Supervisor; JACK
SELLERS, Maricopa County
Supervisor; STEVE CHUCRI,
Maricopa County Supervisor; BILL
GATES, Maricopa County Supervisor;
STEVE GALLARDO, Maricopa
County Supervisor.

Defendants.

Case No.:

VERIFIED COMPLAINT

**(Election Case/Candidate Challenge
per A.R.S. § 16-351)**

Pursuant to A.R.S. § 16-351, Plaintiff Judith K. Lohr files this action challenging
the nomination petitions and the nomination paper filed with the Arizona Secretary of

1 State by Shawna Bolick for the Republican Party's nomination for the Arizona House
2 of Representatives in Legislative District 20. Plaintiff alleges:

3 **Parties, Jurisdiction, and Venue**

5 1. Plaintiff is a qualified elector and registered voter, residing in Maricopa
6 County, Arizona and Legislative District 20.

7 2. Defendant Shawna Bolick seeks the Republican Party's nomination for
8 the Arizona House of Representatives in Legislative District 20.

9 3. Defendant Katie Hobbs is the Secretary of State, and is named as a
10 defendant in this action in her official capacity pursuant to A.R.S. § 16-351(C)(2).

11 4. Defendant Adrian Fontes is the Maricopa County Recorder, and is named
12 as a defendant in this action in his official capacity pursuant to A.R.S. § 16-351(C)(3).

13 5. Defendant Maricopa County Board of Supervisors is named as a defendant
14 in this action pursuant to A.R.S. § 16-351(C)(3) because it is responsible for preparing
15 ballots that would contain the challenged candidate's name.

16 6. The Maricopa County Supervisors are Clint Hickman, Jack Sellers, Steve
17 Chucri, Bill Gates, and Steve Gallardo, all of whom are named as defendants in this action
18 in their official capacities pursuant to A.R.S. § 16-351(C)(3). The parties identified in
19 Paragraphs 4-6 are collectively referred to herein as the "County Defendants."

20 7. This Court has jurisdiction pursuant to A.R.S. § 16-351.

21 8. Venue is proper in this Court.

22 **General Allegations**

1 9. Ms. Bolick desires to become a candidate, and have her name printed on
2 the official ballot representing the Republican Party as a candidate, for the Arizona House
3 of Representatives in Legislative District 20, in the primary election that will be held on
5 August 4, 2020.

6 10. Ms. Bolick filed nominating petitions purporting to contain 895 signatures
7 for the Republican Party's nomination for the Arizona House of Representatives in
8 Legislative District 20.

9 11. Pursuant to A.R.S. § 16-322(A)(3), the minimum number of valid
10 signatures required for nomination for the Arizona House of Representatives in
11 Legislative District 20 is 455.

12 12. If 440 or more of the signatures submitted by Ms. Bolick are invalid, she is
13 not properly nominated and may not appear on the ballot as a candidate for the Arizona
14 House of Representatives in Legislative District 20.

15 13. In fact, all of Ms. Bolick's signatures are invalid because she submitted a
16 false nomination paper and declaration, as well as a false Circulator Verification and,
17 thereafter, is not eligible to be a Republican candidate for the Arizona House of
18 Representatives in Legislative District 20, in the primary to be held on August 4, 2020.

19 14. Arizona law requires that "[a]ny person desiring to become a candidate at
20 a primary election for a political party and to have the person's name printed on the
21 official ballot shall be a qualified elector of such party and . . . shall sign and cause to
22 be filed a nomination paper giving the person's actual residence address or
23

1 description of place of residence and post office address” A.R.S. § 16-311(A)

2 (emphasis added).

3 15. Further, A.R.S. § 16-311(D) requires that a person desiring to become a
5 candidate must submit a declaration with the nomination paper.

6 16. A.R.S. § 16-321(D) requires that “[a] circulator shall verify that each of the
7 names on the petition” meet certain requirements and that circulators who are not
8 residents of the state “register as a circulator with the secretary of state.”

9 17. A.R.S. § 16-315, and the form of petition prescribed by the Secretary,
10 includes the following information for candidate petition circulators: Signature of
11 Circulator, Typed or Printed Name of Circulator, Circulator’s Actual Residence Address,
12 and City or Town and Zip Code.

13 18. The form of Circulator Cover Sheet prescribed by the Secretary for signatures
14 obtained through the E-Qual System contains the same information for the Circulator’s
15 Verification.

16 19. On March 21, 2020, Ms. Bolick filed a nomination paper pursuant to A.R.S.
17 § 16-311 (the “Nomination Paper”). A true and correct copy of the Nomination Paper is
18 attached hereto as Exhibit A.

19 20. Ms. Bolick also signed and filed the following sworn statement with her
20 Nomination Paper: **“I declare, under penalty of perjury, that the information in this**
21 **Nomination Paper and Declaration of Qualification is true and correct,** and that at
22 the time of filing I am a resident of the district which I propose to represent . . . and as to
23

1 all other qualifications, I will be qualified at the time of election to hold the office that I
2 seek.” (the “Declaration”) (emphasis added).

3 21. On information and belief, Ms. Bolick knowingly and intentionally
5 submitted a false Nomination Paper and Declaration, thereby disqualifying her candidacy.

6 22. The Nomination Paper lists “610 E. Bell Rd. 2-142 Phoenix AZ 85022” as
7 Ms. Bolick’s residential address and lists no post office address. The aforementioned
8 address is the address of a UPS Store.

9 23. On information and belief, Ms. Bolick also knowingly and intentionally
10 submitted an improper Circulator Verification for petition sheets submitted through the
11 Secretary of State’s E-Qual System. A true and correct copy of that Circulator
12 Verification is attached hereto as Exhibit B.

13 24. A.R.S. § 16-315(B) requires that all circulators provide their “actual
14 residence address” as part of their Circulator Verification.

15 25. Ms. Bolick did not provide that actual residence address in the Circulator
16 Verification, but instead listed “610 E. Bell Rd. 2-142” as her address. On information
17 and belief, that address is an incomplete post office address and not Ms. Bolick’s
18 residential address.

19 26. On information and belief, Ms. Bolick knowingly and intentionally
20 submitted a false Circulator Verification with the petition sheets submitted through the
21 Secretary of State’s E-Qual System, violating the circulator certification requirement of
22 A.R.S. § 16-321(D).

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COUNT I

(Invalid Nomination Paper and Declaration)

27. Plaintiff incorporates by reference the prior allegations in this Verified Complaint.

28. "A person who does not file a timely nomination paper that complies with this section is not eligible to have the person's name printed on the official ballot for that office." A.R.S. § 16-311(I).

29. At the time Ms. Bolick submitted the Nomination Paper, her "actual residence address" was not the post office box address stated on the Nomination Paper. Ms. Bolick failed to "file a timely nomination paper that complies with" A.R.S. § 16-311.

30. Because the Nomination Paper and Declaration do not comply with A.R.S. § 16-311, Ms. Bolick is not eligible to have her name printed on the ballot as a candidate for the Republican Party's nomination for the Arizona House of Representatives in Legislative District 20.

COUNT II

(Invalid Nomination Petitions – False Residence Address on Petition)

31. Plaintiff incorporates by reference the prior allegations in this Verified Complaint.

32. Pursuant to A.R.S. § 16-314(C), a candidate must submit nomination petitions in "substantially" the form prescribed by that statute, which requires that a candidate identify where they reside. *See* A.R.S. § 16-314(C) ("I, the undersigned, a qualified elector of the county of _____, state of Arizona, and of (here name

1 political division or district from which the nomination is sought) and a member of the
2 _____ party or a person who is registered as no party preference or
3 independent as the party preference or who is registered with a political party that is not
5 qualified for representation on the ballot, hereby nominate _____ *who resides at*
6 _____ *in the county of* _____”) (emphasis added).

7 33. All of the nomination petitions submitted by Ms. Bolick state that she
8 “resides at” the post office box address listed on her Nomination Paper.

9 34. On information and belief, Ms. Bolick has not “reside[d] at” the post office
10 box address at any point during her circulation of nomination petitions.

11 35. On information and belief, Ms. Bolick’s petition forms contain false
12 information regarding her residence address.

13 36. As a result, all of Ms. Bolick’s nomination petitions failed to comply or
14 substantially comply with A.R.S. § 16-314(C), and are invalid. Ms. Bolick, therefore, is
15 not eligible to have her name printed on the ballot as a candidate for the Republican
16 Party’s nomination for the Arizona House of Representatives in Legislative District 20.

17 **COUNT III**

18 **(Invalid Nomination Petitions – False Circulator Certification)**

19 37. Plaintiff incorporates by reference the prior allegations in this Verified
20 Complaint.

21 38. Pursuant to A.R.S. § 16-315(B)(4), the circulator of a candidate nominating
22 petition is required to provide their “actual residence address.”
23

39. On information and belief, Ms. Bolick's "actual residence address" has not been the post office box address at any time during her circulation of nomination petitions.

40. On information and belief, all petitions circulated by Ms. Bolick list the post office box address as her "actual residence address" in the circulator certification, and are invalid because they contain an improper or false circulator certification, and/or do not substantially comply with A.R.S. § 16-315(B)(4).

41. On information and belief, Ms. Bolick circulated the following nomination petitions: 13, 14, 19, 20, 21, 22, 23, 24, 25, 26, 29, 30, 33, 34, 35, 40, 49, 50, 55, 57, 59, 61, 62, 65, 66, 73, 74, 75 and 91, which contain 229 signatures.

42. Ms. Bolick also submitted 179 signatures through the Secretary of State's E-Qual System, which similarly requires Mr. Bolick to identify her "actual residence address" on all nomination petitions submitted through the Secretary of State's E-Qual System.

43. Because all nomination petitions circulated by Ms. Bolick and submitted through the Secretary of State's E-Qual System are invalid, all of the signatures associated with those petitions are invalid.

COUNT IV

(Insufficient Valid Signatures – Individual Signature Challenge)

44. Plaintiff incorporates by reference the prior allegations in this Verified Complaint.

1 45. Pursuant to A.R.S. § 16-351(A), Exhibit C, attached hereto and
2 incorporated herein by reference, identifies the petition number, line number, and basis
3 for challenging each signature and/or petition sheet, where appropriate.

5 46. On information and belief, at least 109 of the petition signatures submitted
6 by Ms. Bolick are invalid for one or more of the following reasons, which are also set
7 forth in Exhibit C:

8 a. The signer was not a registered voter in the electoral district of the office
9 Ms. Bolick is seeking at the time the individual signed the petition, in violation of A.R.S.
10 § 16-321(B), hereinafter and on Exhibit C referred to as "Out of District" or "OD";

11 b. The signer was not a registered voter as of the date the individual signed
12 the petition, in violation of A.R.S. § 16-321(B), hereinafter and on Exhibit C referred to
13 as "Not Registered" or "NR";

14 c. The signer has signed more than once on Ms. Bolick's petitions and/or
15 signed petitions for more than one candidate to be elected to the office, in violation of
16 A.R.S. § 16-321(A), hereinafter and on Exhibit C referred to as "Duplicate" or "D";

17 d. The signer provided an address that does not match their voter registration
18 file, provided no date, an incomplete date, or a date before Ms. Bolick filed her statement
19 of interest with the Secretary of State, provided an incomplete address, or no signature,
20 or the circulator failed to complete required information on the circulator affidavit,
21 hereinafter and on Exhibit C referred to as "Statutory Reasons" or "S"; and

22 e. The signer's information is illegible, making the signature impossible to
23 verify, hereinafter and on Exhibit C referred to as "Illegible" or "L".

47. The signatures alleged to be invalid herein and in Exhibit C may be determined invalid by the County Recorder, named as a defendant in this action for reasons other than those specified in Exhibit C, and such additional and alternative bases for invalidation are incorporated herein pursuant to A.R.S. § 16-351.

48. As set forth above and in Exhibit C, at least 109 petition signatures submitted by Ms. Bolick are invalid. When those invalidated signatures are added to the 408 signatures associated with Ms. Bolick's invalid circulator forms (as explained in Count III above) Ms. Bolick is left with only 378 valid signatures, which is 77 signatures short of the number of valid signatures required for the Republican Party nomination for the Arizona House of Representatives in Legislative District 20.

49. Based on the foregoing, Ms. Bolick has failed to file a sufficient number of valid signatures required to secure the Republican Party nomination for the Arizona House of Representatives in Legislative District 20, and therefore has failed to qualify for the primary election ballot.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests the following relief:

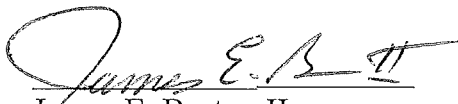
1. That the Court issue findings of fact and conclusions of law;
2. That based on its findings of fact and conclusions of the law, the Court enter an order finding that Ms. Bolick has failed to file a nomination paper that complies with A.R.S. § 16-311 or a sufficient number of valid signatures required to secure the Republican Party nomination for the Arizona House of Representatives in Legislative District 20;

1 3. That the Court issue an order enjoining the Secretary of State and the
2 County Defendants from placing Ms. Bolick's name on the ballot seeking the Republican
3 Party nomination for the Arizona House of Representatives in Legislative District 20, and
5 from allowing Ms. Bolick to run as a write-in candidate for said office at said election;
6 and

7 4. For attorneys' fees and costs incurred in this action and such other and
8 further relief that the Court may deem proper.

9
10 RESPECTFULLY SUBMITTED this 20th day of April, 2020.

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12 TORRES LAW GROUP, PLLC

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15 James E. Barton II
16 Attorney for Plaintiff
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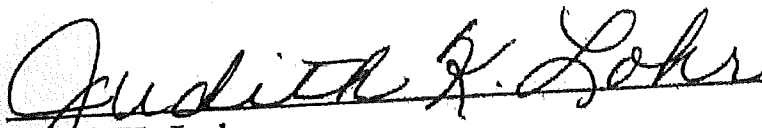
VERIFICATION

I, Judith K. Lohr, do state and swear under penalty of perjury and as permitted by Rule 80(c), Ariz. R. Civ. P., as follows:

I am the plaintiff in this action. I have read the foregoing Verified Complaint and to the best of my knowledge, information and belief, the statements made therein are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19 day of April, 2020.


Judith K. Lohr

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EXHIBIT A

STATE OF ARIZONA
Legislative Candidate
NOMINATION PAPER
DECLARATION OF QUALIFICATION
A.R.S. § 16-311

You are hereby notified that I, the undersigned, am a candidate for the office of **State Representative - District No. 20**, seeking the nomination of the **Republican** Party, at the **2020 Primary Election** to be held on **Tuesday, August 4, 2020**, and at the **2020 General Election** to be held on **Tuesday, November 3, 2020**, should I be nominated.

I will have been a citizen of the United States for **45** years before my election, will have been a citizen of Arizona for **45** years before my election, and I will be at least 25 years of age upon taking said office. I have resided in **Maricopa** County for **19** years and in **Legislative District No. 20** for **5** years before my election.

Residential Address:

610 E. Bell Rd. 2-142 Phoenix AZ 85022

Post Office Address:

None supplied.

Name in the exact manner you wish it to appear on the ballot:

Bolick

LAST NAME

Shawnna

FIRST NAME

I declare, under penalty of perjury, that the information in this Nomination Paper and Declaration of Qualification is true and correct, and that at the time of filing I am a resident of the district which I propose to represent, that I have no final, outstanding judgments against me of an aggregate of \$1,000 or more that arose from failure to comply with or enforcement of campaign finance law, and as to all other qualifications, I will be qualified at the time of election to hold the office that I seek.

Saturday, March 21, 2020
/S/ Shawnna Bolick

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EXHIBIT B

Circulator Cover Sheet

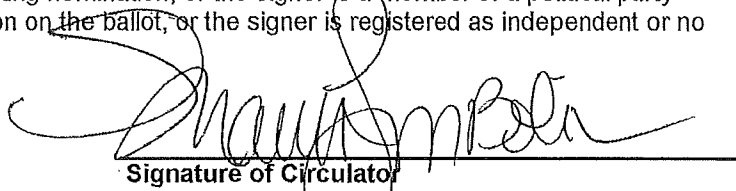
Partisan

Instructions for Circulator

1. By signing the Circulator Cover Sheet, and by utilizing the Secretary of State's E-Qual System, the Candidate agrees to act as the circulator for all petitions generated from the Secretary of State's E-Qual System.
2. The Candidate is not required to sign each petition that was generated from the Secretary of State's E-Qual System.
3. The Candidate shall sign a Circulator Cover Sheet generated from the Secretary of State's E-Qual System, which contains a Petition ID # on each petition generated, and submit it to the Secretary of State's Office at the time of filing the corresponding nomination petitions.
4. The Candidate acknowledges that all petitions circulated outside of the Secretary of State's E-Qual System must be signed by the circulator as prescribed by A.R.S. § 16-321(D) and must otherwise conform to the requirements of A.R.S. §§ 16-314 and 16-315.

Circulator Verification

I, Shawna Bolick, hereby verify that the following petitions, identified by Petition ID # 5665, were obtained through the Secretary of State's E-Qual System, and that each of the names on the petition(s) was signed via the Secretary of State's E-Qual System on the date indicated; that in my belief, because the signatures were gathered via the Secretary of State's E-Qual System, 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

Shawna Bolick

Typed or Printed Name of Circulator

610 E. Bell Rd. 2-142

Circulator's Actual Residence Address

Phoenix AZ 85022

City or Town and Zip Code

Circulator Cover Sheet

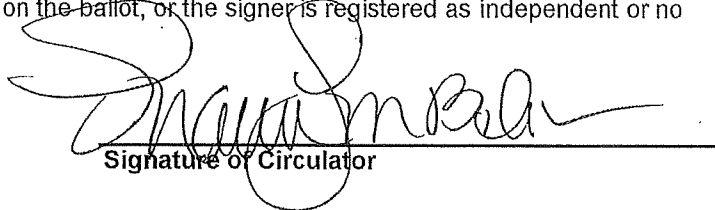
Partisan

Instructions for Circulator

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3. The Candidate shall sign a Circulator Cover Sheet generated from the Secretary of State's E-Qual System, which contains a Petition ID # on each petition generated, and submit it to the Secretary of State's Office at the time of filing the corresponding nomination petitions.
4. The Candidate acknowledges that all petitions circulated outside of the Secretary of State's E-Qual System must be signed by the circulator as prescribed by A.R.S. § 16-321(D) and must otherwise conform to the requirements of A.R.S. §§ 16-314 and 16-315.

Circulator Verification

I, Shawna Bolick, hereby verify that the following petitions, identified by Petition ID # 5927, were obtained through the Secretary of State's E-Qual System, and that each of the names on the petition(s) was signed via the Secretary of State's E-Qual System on the date indicated; that in my belief, because the signatures were gathered via the Secretary of State's E-Qual System, 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

Shawna Bolick

Typed or Printed Name of Circulator

610 E. Bell Rd. 2-142

Circulator's Actual Residence Address

Phoenix AZ 85022

City or Town and Zip Code

Circulator Cover Sheet

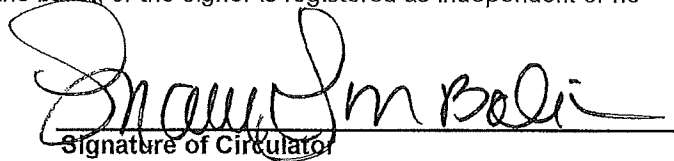
Partisan

Instructions for Circulator

1. By signing the Circulator Cover Sheet, and by utilizing the Secretary of State's E-Qual System, the Candidate agrees to act as the circulator for all petitions generated from the Secretary of State's E-Qual System.
2. The Candidate is not required to sign each petition that was generated from the Secretary of State's E-Qual System.
3. The Candidate shall sign a Circulator Cover Sheet generated from the Secretary of State's E-Qual System, which contains a Petition ID # on each petition generated, and submit it to the Secretary of State's Office at the time of filing the corresponding nomination petitions.
4. The Candidate acknowledges that all petitions circulated outside of the Secretary of State's E-Qual System must be signed by the circulator as prescribed by A.R.S. § 16-321(D) and must otherwise conform to the requirements of A.R.S. §§ 16-314 and 16-315.

Circulator Verification

I, Shawna Bolick, hereby verify that the following petitions, identified by Petition ID # 6229, were obtained through the Secretary of State's E-Qual System, and that each of the names on the petition(s) was signed via the Secretary of State's E-Qual System on the date indicated; that in my belief, because the signatures were gathered via the Secretary of State's E-Qual System, 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

Shawna Bolick

Typed or Printed Name of Circulator

610 E. Bell Rd. 2-142

Circulator's Actual Residence Address

Phoenix AZ 85022

City or Town and Zip Code

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EXHIBIT C

Page	Line	Reason	Reason
00003	2	NP	
00004	6	NP	
00009	1	NP	
00010	5	NP	
00013	4	NR	
00013	6	OD	
00016	7	S	
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00028	7	S	
00028	8	S	OD
00029	3	NP	
00029	8	NR	
00030	2	NR	
00030	4	NR	

¹ Signed a petition for Ms. Bolick on March 7, 2020 (petition 00017, ln. 5).

² Signed a petition for Ms. Bolick on October 10, 2019 (petition 00020, ln. 2).

Page	Line	Reason	Reason
00032	3	NP	
00032	10	S	
00033	5	NP	
00033	10	NR	
00034	1	NR	
00034	2	NR	
00034	4	S	
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00043	6	D ⁸	
00043	7	D ⁹	
00043	8	D ¹⁰	
00043	9	D ¹¹	
00046	6	OD)	
00048	4	NP (Democrat)	

³ Signed a petition for Ms. Bolick on February 13, 2020 (petition 00042, ln. 1).

⁴ Signed a petition for Ms. Bolick on February 13, 2020 (petition 00042, ln. 2).

⁵ Signed a petition for Ms. Bolick on February 17, 2020 (petition 00042, ln. 3).

⁶ Signed a petition for Ms. Bolick on February 17, 2020 (petition 00042, ln. 4).

⁷ Signed a petition for Ms. Bolick on February 17, 2020 (petition 00042, ln. 5).

⁸ Signed a petition for Ms. Bolick on February 22, 2020 (petition 00042, ln. 6).

⁹ Signed a petition for Ms. Bolick on February 22, 2020 (petition 00042, ln. 7).

¹⁰ Signed a petition for Ms. Bolick on February 22, 2020 (petition 00042, ln. 8).

¹¹ Signed a petition for Ms. Bolick on February 22, 2020 (petition 00042, ln. 10).

Page	Line	Reason	Reason
00049	2	D ¹²	
00051	4	S	
00052	2	S	
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00052	6	NR	
00052	7	NR	
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00059	1	NR	OD
00059	3	OD	
00059	4	OD	
00060	5	NP	
00062	4	NP	
00062	7	S	
00065	5	S	
00066	1	NR	
00066	2	S	
00067	1	NR	
00067	2	NR	
00069	9	NR	
00073	3	S	NR
00073	9	D ¹³	
00073	10	D ¹⁴	
00077	9	S	
00086	3	OD	
00086	4	NR	
00087	6	S	NP
00088	3	S	NR
00089	3	S	
00089	6	S	
00091	1	NR	S

¹² Signed a petition for Ms. Bolick on September 9, 2019 (petition 00023, ln. 9).

¹³ Signed a petition for Ms. Bolick on February 10, 2020 (petition 00016, ln. 2).

¹⁴ Signed a petition for Ms. Bolick on August 03, 2019 (petition 00025, ln. 9).

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COPY

APR 20 2020



CLERK OF THE SUPERIOR COURT
R. MERINO
DEPUTY CLERK

ARIZONA SUPERIOR COURT
MARICOPA COUNTY

CV 2020-004868

JUDITH K. LOHR, a qualified elector,
Plaintiff,

v.

SHAWNNA BOLICK, a Republican
Primary Candidate for Arizona House of
Representatives in Legislative District
20; KATIE HOBBS, in her official
capacity as Secretary of State; ADRIAN
FONTES, in his official capacity as the
Maricopa County Recorder; and
MARICOPA COUNTY BOARD OF
SUPERVISORS; CLINT HICKMAN,
Maricopa County Supervisor; JACK
SELLERS, Maricopa County
Supervisor; STEVE CHUCRI,
Maricopa County Supervisor; BILL
GATES, Maricopa County Supervisor;
STEVE GALLARDO, Maricopa
County Supervisor.

Defendants.

Case No.:

**CERTIFICATE OF COMPULSORY
ARBITRATION**

The undersigned certifies that the largest award sought by the complainant,
including punitive damages but excluding interest, attorneys' fees, and costs, does exceed

1 limits set by LRCiv. 3.10 for compulsory arbitration. This case is NOT subject to
2 compulsory arbitration as provided in Rules 72 through 77 of the Arizona Rules of Civil
3 Procedure.

5 RESPECTFULLY SUBMITTED this 20th day of April, 2020.

6 TORRES LAW GROUP, PLLC
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10 James E. Barton II

11 *Attorney for Plaintiff*
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COPY

APR 20 2020



CLERK OF THE SUPERIOR COURT
R. MERINO
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ARIZONA SUPERIOR COURT
MARICOPA COUNTY

CV 2020-004868

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GATES, Maricopa County Supervisor;
STEVE GALLARDO, Maricopa
County Supervisor.

Defendants.

Case No.:

**APPLICATION FOR PRELIMINARY
AND PERMANENT INJUNCTION
AND MEMORANDUM IN SUPPORT**

**(Election Case/Candidate Challenge
per A.R.S. § 16-351)**

Plaintiff Judith K. Lohr ("Plaintiff"), a registered Arizona voter in Legislative District
("LD") 20, hereby applies for a Preliminary and Permanent Injunction prohibiting the named

1 State and County Defendants from including Shawna Bolick (“Defendant”) from
2 appearing on the 2020 Primary Election Ballot.

3 **MEMORANDUM IN SUPPORT**

5 As is provided in the Verified Complaint filed in this case, Defendant filed what is
6 purported to be 895 signatures with the Arizona Secretary of State on or before April 6,
7 2020, to support her placement on the August 4, 2020, primary election ballot for Arizona’s
8 LD 20. Arizona Secretary of State, 2020 Primary Election, *available at*
9 www.azsos.gov/elections/running-office (follow “2020 Primary Election Candidates”
10 hyperlink, then follow “Legislative” hyperlink, then follow “Shawna Bolick” hyperlink)
11 (last visited April 19, 2020). Plaintiff asserts that Defendant failed to “file a timely
12 nomination paper that complies with” Section 16-311 of the Arizona Revised Statutes
13 (“A.R.S.”), and is therefore “not eligible to have [her] name printed on the official ballot.”
14 A.R.S. §. 16-311(I). For that reason alone, the Court should permanently enjoin her name
15 from appearing on the primary ballot.

16 Furthermore, none of Defendant’s nomination petitions are in compliance with
17 A.R.S. § 16-315(A)(4)(c). Thus, none of the signatures submitted by Defendant are valid,
18 and this provides a second, independent basis for enjoining State and County Defendants
19 from placing Defendant’s name on the 2020 primary election ballot.

20 Furthermore, many of the signatures collected for her candidacy were collected by a
21 circulator who failed to provide an actual residential address on the circulator verification.
22 This error accounts for a loss of 408 signatures, leaving only 487 valid signatures, when
23 Defendant is required to file 455 valid signatures. *See Arizona Secretary of State, Signature*

1 Requirements for Legislative Candidates, available at [https://azsos.gov/elections/running-](https://azsos.gov/elections/running-office/running-legislative-office)
2 [office/running-legislative-office](https://azsos.gov/elections/running-office/running-legislative-office) (last visited April 19, 2020). An additional 109 signatures
3 are challenged through the Verified Complaint for various deficiencies. Should the County
5 Recorder's Office confirm that only 33 of these signatures are invalid, this will serve as a
6 third basis for enjoining the State and County Defendants from placing Defendant's name
7 on the 2020 primary election ballot.

8 **I. Disqualification for Failing to Provide Residence Address**

9 Defendant provided the following as her actual residential address on her nomination
10 papers' Declaration of Qualification, each and every nomination petition's space for the
11 candidate's actual residential address, the Circulator Cover Sheet's Circulator Verification,
12 and each in-person signatures sheet's circulator verification that she personally circulated:
13 610 East Bell Road, 2-142, Phoenix, Arizona 85022. [Ver. Compl. Ex. A, Ex. B, ¶¶ 29, 41,
14 42.] This location is a UPS store. See [https://locations.theupsstore.com/az/phoenix/610-e-](https://locations.theupsstore.com/az/phoenix/610-e-bell-rd)
15 [bell-rd](https://locations.theupsstore.com/az/phoenix/610-e-bell-rd). The Defendant's actual residential address is not a UPS store.

16 Under A.R.S. § 16-311(A), a candidate for partisan primary elections "shall sign and
17 cause to be filed a nomination paper giving the person's *actual residence address* or
18 description of place of residence and post office address." (Emphasis supplied.) The
19 declaration, which is made under penalty of perjury, echoes this requirement for
20 "Residential Address." [See, e.g., Ver. Compl. Ex. A.] The plain language of the statute
21 and the form sworn to under penalty of perjury require a residential address. A post office
22 box is not a residential address.

23 **A. As applied to nomination papers**

1 **1. Mandatory requirements**

2 Certain requirements of statute are mandatory, and are either complied with or not.
3 These requirements are not easily subjected to the substantial compliance standard. In 1936,
5 the Supreme Court explained that “[t]he general rule, and that which we have adopted in
6 Arizona, is that statutory directions as to the time and manner of giving notice of an election
7 are mandatory and will be upheld strictly in a direct action, such as this, instituted before an
8 election.” *Kerby v. Griffin*, 48 Ariz. 434, 452–53, 62 P.2d 1131, 1138–39 (1936) (ultimately
9 holding failure to comply with law concerning initiative publicity neither strictly nor
10 substantially complied with the law at issue). Similarly, the Arizona Court of Appeals noted
11 that where a particular statute and section of the constitution “could not be more clear,” one
12 could not violate the requirement and claim to have substantially complied with it. *Parker*
13 *v. City of Tucson*, 233 Ariz. 422, 430, ¶ 17, 314 P.3d 100, 108 (App. 2013) (concerning
14 circulator requirements for a local initiative).

15 The requirement that a candidate provide an *actual residential* address on the
16 nominating papers is such a mandatory requirement that is not subject to substantial
17 compliance analysis. Defendant simply, and likely willfully, disregarded the requirement.

18 **2. Substantial compliance**

19 Should the Court examine the Defendant’s choosing to not list a residential address
20 under substantial compliance, the result is the same. Under this standard, the Court can only
21 accept a deviation from a clear standard when there is no chance of confusion and no
22 essential information missing. *Cf. Dedolph v. McDermott*, 230 Ariz. 130, 133–34, ¶¶ 18–
23 19, 281 P.3d 484, 487–88 (2012) (“Nothing suggests that McDermott’s listing her name as

1 ‘Cheuvront–McDermott, Jean’ in her nomination paper would cause electors signing her
2 nomination petitions to be confused or misled about her identity.”) Defendant’s use of a
3 post office box for her residential address is not a harmless deviation and did not
5 substantially comply with the requirement of listing a residential address. Moreover, it is
6 necessarily true that using a false residential address would be confusing to a voter who is
7 interested in knowing the candidate’s actual residence address.

8 The legislature specified what type of address to provide—a residential address; thus,
9 providing a different type of address does not substantially comply with the law. The Court
10 considered this situation in *Clark v. Muñoz*, when a candidate for constable included a
11 picture of a constable badge on his nominating petitions in the space allotted for including a
12 picture of the candidate. 235 Ariz. 201, 202, ¶¶ 5-6, 330 P.3d 958, 959 (2014). Although
13 such a picture was not explicitly forbidden, by designating the type of picture be one of the
14 candidate, it was clear that the Legislature did not intend for another type of picture to be
15 used. Under the same analysis, when the Legislature demands a residential address,
16 providing a mailing address does not comply with the requirement.

17 Also, the nomination papers do not provide information necessary to determine
18 whether the nominee lived within LD 20, because one could live anywhere and have a post
19 office box within the district. Regardless of whether the candidate does live within the
20 district, it “would eviscerate the statutory requirement that all essential information be made
21 available to the elector” to allow candidates to compensate for such omissions with extrinsic
22 evidence presented after the fact. *Kennedy v. Lodge*, 230 Ariz. 134, 137, ¶ 15, 281 P.3d 488,
23 491 (2012) (leaving off judicial district from nominating petitions did not substantially

1 comply).

2 Applying either standard to Defendant's nomination papers, because Defendant did
3 "not file a timely nomination paper that complie[d] with [Section 16-311, she] is not eligible
5 to have [her] name printed on the official ballot." A.R.S. § 16-311(I).

6 **B. As applied to petition sheets**

7 The form of petition required by A.R.S. § 16-314(C), and the form provided by the
8 Secretary of State, requires the supporters to "hereby nominate _____ who
9 resides at _____ in the county of _____" But the
10 Defendant failed to enter the residence at which she resides on her petitions. Thus, those
11 declaring their support for her had no way of knowing where she resides, including whether
12 she resides within LD 20. She did not substantially comply with the requirements of A.R.S.
13 § 16-314.

14 Such a deficiency on the face of the petition sheet is fatal and cannot be salvaged by
15 appeal to "substantial compliance." In *Marsh v. Haws*, two of the three candidates for
16 Justice of the Peace that were challenged failed to identify the JP district for which they were
17 running, and the Court found this likely to lead to confusion and a fatal flaw in their petitions.
18 111 Ariz. 139, 140, 526 P.2d 161, 162 (1974). This flaw was fatal regardless of whether the
19 signers themselves were inside or outside of the particular district.

20 Likewise, a candidate for superior court failed to include the division of the court for
21 which he was running, meaning that signers would not necessarily be aware that they were
22 nominating a candidate for the office he sought. *Kennedy*, 230 Ariz. at 136, ¶¶ 11-13, 281
23 P.3d at 490. The Court specifically held that omitting this information meant that "Lodge's

1 nominating petitions therefore do not substantially comply with statutory requirements.”
2 Finally, even when a statute did “not explicitly prohibit photographs of things other than the
3 candidate (or other extraneous markings),” the Court concluded “it [is] unlikely that the
5 legislature would specify only one kind of photograph if it meant to authorize photographs
6 more generally.” *Clark*, 235 Ariz. at 202, ¶¶ 5-6, 330 P.3d at 959. Meaning that including
7 a different kind of picture on the petition sheets was not a mere technical error. The same
8 is true of Defendant’s failure to provide the actual address at which she resides. All of her
9 petition sheets are invalid, and the State and County Defendants must be enjoined from
10 including her name on the ballot.

11 **II. False Statement Invalidate Nomination Papers and Candidate Petitions**

12 Defendant “declare[d], under penalty of perjury, that the information provided on
13 [her] Nomination Paper and Declaration is true and correct.” [Ver. Compl. Ex. A.] On that
14 document, she indicated that her residential address was 610 East Bell Road, 2-142,
15 Phoenix, Arizona, 85022. As provided above, this is the address of a UPS store. Notably,
16 Defendant did not line out the word “residential” and replace it with “mailing.” Nor did
17 Defendant indicate clearly that the street number and street name was a post office box. Nor
18 did Defendant enter “protected address” or some other indication that she was deliberately
19 withholding her residential address from the public.

20 It should also be noted that while A.R.S. § 16-153 allows for certain individuals to
21 qualify as secured voters who have a protected address, that statute applies only in the very
22 narrow context of voter registration. It does not extend the protections of a secured voter to
23 individuals wanting to run for state office. While the legislature may choose to extend that

1 protection, it has not yet done so. As the Court has explained, “it must be recognized that
2 the right to vote and the right to be a candidate for and to hold office are separate matters,
3 and the State may require that a citizen meet more strict requirements to hold office than he
5 does to vote for those offices.” *See Triano v. Massion*, 109 Ariz. 506, 508, 513 P.2d 935,
6 937 (1973). The Court cannot rewrite the statute and extend it to trump A.R.S. 16-311’s
7 requirement of identifying a proper residential address.

8 Defendant represented to the Secretary of State and every voter she asked to support
9 her candidacy that her residential address was 601 East Bell Road. It is not. Arizona Courts
10 recognize that signatures collected under false pretenses must be rejected. In *Brousseau v.*
11 *Fitzgerald*, the court noted that “[c]ases in several jurisdictions support the proposition that
12 fraud by the circulator voids the petitions associated with the fraud.” *See* 138 Ariz. 453, 455
13 (1984). The Court went on to hold that allowing “the circulation of petitions by minors and
14 other unqualified persons and certification of the petitions by persons other than the actual
15 circulators without any sanction other than the inconvenience of showing that the signatures
16 were in fact authentic would render the circulation requirement meaningless and possibly
17 lead to additional falsehood and fraud by others.” *Id.* at 456. Importantly, in *Brousseau*, the
18 Court did not rely on specific statutory authorization of striking the signatures, nor did the
19 Court require a demonstration that the signatures gathered were invalid. The integrity of the
20 election system demanded disqualifying signatures through a deception.

21 The *Brousseau* rule provides an independent basis to reject both the nomination
22 papers and every nomination petition, and therefore to enjoin the State and County
23 Defendants from putting Defendant’s name on the 2020 primary election ballot.

1 **III. Invalid Signatures and Signature Sheets**

2 **A. Signature Sheets with Invalid Circulator Verification**

3 As alleged in the Verified Complaint, 408 signatures were gathered with the
5 Defendant as the circulator. In each instance, she provided the post office box as her
6 residential address. This makes the circulator's verification invalid and the signatures
7 verified by it must be rejected.

8 As for the circulator's verification, the post office box address does not substantially
9 comply with A.R.S. § 16-315(B)(4)'s requirement to enter "[c]irculator's actual residence
10 address." The mailing address does not satisfy the purpose of entering the circulator's
11 residence, in part because it shields from both state officials and the public whether the
12 circulator is from out-of-state. Under A.R.S. § 16-315(D) circulators who are out-of-state
13 residents must register with the Secretary. Permitting the entry of a mailing address opens
14 a clear path to evade registration requirements. Simply rent a post office box and use that
15 on petitions so that the out-of-state circulator's failure to register goes undetected.

16 **B. Invalid Individual Signatures**

17 Pursuant to A.R.S. § 16-351(A), Exhibit C of the Verified Complaint identifies the
18 petition number, line number, and basis for challenging each signature and/or petition sheet,
19 for an additional 109 signatures. Should the review of the County Recorder affirm at least
20 33 signatures are invalid, when coupled with the circulator verification deficiency, provides
21 an independent basis for enjoining Defendant's placement on the 2020 primary election
22 ballot.

1 Conclusion

2 Plaintiff urges this Court to grant its Application for Preliminary and Permanent
3 Injunction.

5 DONE this 20th day of April, 2020.

6 TORRES LAW GROUP, PLLC

7
8 
9 James E. Barton II
10 *Attorney for Plaintiff*

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ARIZONA SUPERIOR COURT
MARICOPA COUNTY

JUDITH K. LOHR, a qualified elector,
Plaintiff,
v.
SHAWNNA BOLICK, et al,
Defendant.

Case No.:

**[PROPOSED] ORDER
GRANTING APPLICATION FOR
PERMENANT AND
PRELIMINARY INJUNCTIONS**

The Court, having reviewed Plaintiff's Verified Complaint, Application for Preliminary and Permanent Injunction, and with good cause appearing, the Court makes the following findings of fact:

That Candidate Shawнна Bolick submitted 895 signatures in support of her nomination to be included on the August 4, 2020, primary ballot;

That Plaintiff has demonstrated that all signatures were invalid and;

As a result, Candidate submitted fewer than the 455 signatures required by A.R.S. § 16-322;

FURTHERMORE, the Court holds as a matter of law that:

Candidate Shawwna Bolick is not qualified for the primary ballot;

IT IS ORDERED that Defendants shall not print the 2020 Primary Election Ballot with Shanna Bolick listed as a candidate for Legislative District 20.

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ORIGINAL

ARIZONA SUPERIOR COURT
MARICOPA COUNTY

JUDITH K. LOHR, a qualified elector,
Plaintiff,

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Primary Candidate for Arizona House of
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GATES, Maricopa County Supervisor;
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Supervisor.

Defendants.

Case No.: CV 2020-004868

SUMMONS

If you would like legal advice from a lawyer
contact the Lawyer Referral Service at
602-257-4434
or
www.maricopalawyers.org
Sponsored by the
Maricopa County Bar Association

FROM THE STATE OF ARIZONA TO:

SHAWNNA BOLICK
610 E. Bell Road 2-142
Phoenix, Arizona 85022

1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers are served on you with this "Summons".
2. If you do not want a judgment or order taken against you without your input, you must file an "Answer" or a "Response" in writing with the court, and pay the filing fee. If you do not file an "Answer" or "Response" the other party may be given the relief requested in his/her Petition or Complaint. To file your "Answer" or "Response" take, or send, the "Answer" or "Response" to the Office of the Clerk of the Superior Court, 201 West Jefferson Street, Phoenix, Arizona 85003-2205 or Office of the Clerk of the Superior Court, 18380 North 40th Street, Phoenix, Arizona 85032 OR Office of the Clerk of Superior Court, 222 East Javelina Drive, Mesa, Arizona 85210-6201 or Office of the Clerk of Superior Court, 14264 West Tierra Buena Lane, Surprise, Arizona, 85374. Mail a copy of your "Response" or "Answer" to the other party at the address listed on the top of this Summons.
3. If this "Summons" and the other court papers were served on you by a registered process server or the Sheriff, within the State of Arizona, your "Response" or "Answer" must be filed within TWENTY (20) CALENDAR DAYS from the date you were served, not counting the day you were served. If this "Summons" and the other papers were served on you by a registered process server or the Sheriff outside the State of Arizona, your Response must be filed within THIRTY (30) CALENDAR DAYS from the date you were served, not counting the day you were served. Service by a registered process server or the Sheriff is complete when made. Service by Publication is complete thirty (30) days after the date of the first publication.
4. You can get a copy of the court papers filed in this case from the Petitioner at the address listed at the top of the preceding page, from the Clerk of the Superior Court's Customer Service Center at: 601 West Jackson, Phoenix, Arizona 85003, or 18380 North 40th Street, Phoenix, Arizona 85032 222 East Javelina Drive, Mesa, Arizona 85210 14264 West Tierra Buena Lane, Surprise, Arizona, 85374.
5. Requests for reasonable accommodation for persons with disabilities must be made to the division assigned to the case by the party needing accommodation or his/her counsel at least three (3) judicial days in advance of a scheduled proceeding.
6. Requests for an interpreter for persons with limited English proficiency must be made to the division assigned to the case by the party needing the interpreter and/or translator or his/her counsel at least ten (10) judicial days in advance of a scheduled court proceeding

1
2 SIGNED AND SEALED this date: APR 20 2020

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4
5 JEFF FINE, CLERK OF COURT

6
7 By: _

8 Deputy Clerk

9 R. Merino
Deputy Clerk

