

1 Daniel C. Barr (# 010149)
Sarah R. Gonski (# 032567)
2 PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
3 Phoenix, Arizona 85012-2788
Telephone: (602) 351-8000
4 Facsimile: (602) 648-7000
DBarr@perkinscoie.com
5 SGonski@perkinscoie.com

6 *Attorneys for Plaintiffs*

7 Roopali H. Desai (# 024295)
Andrew S. Gordon (# 003660)
8 D. Andrew Gaona (# 028414)
COPPERSMITH BROCKELMAN PLC
9 2800 North Central Avenue, Suite 1200
Phoenix, Arizona 85004
10 Telephone: (602) 381-5478
RDesai@cblawyers.com
11 AGordon@cblawyers.com
AGaona@cblawyers.com
12

13 *Attorneys for Intervenor-Plaintiff
Bernie 2016, Inc.*

14 *[Additional Counsel Listed on Signature Page]*

15 UNITED STATES DISTRICT COURT
16 DISTRICT OF ARIZONA

17
18 Leslie Feldman, et al.,
19 Plaintiffs,
20 v.
21 Arizona Secretary of State’s Office, et al.,
22 Defendants.

No. CV-16-01065-PHX-DLR
**PLAINTIFFS’ JOINT NOTICE OF
PUBLIC STATEMENTS OF
INTERVENOR-DEFENDANT
REPUBLICAN PARTY
REGARDING
IMPLEMENTATION OF
H.B. 2023**

23
24 Plaintiffs Leslie Feldman, Luz Magallanes, Mercedes Hymes, Julio Morera, Cleo
25 Ovalle, Former Chairman and First President of the Navajo Nation Peterson Zah, the
26 Democratic National Committee (“DNC”), the DSCC, the Arizona Democratic Party,
27 Kirkpatrick for U.S. Senate, and Hillary for America, along with Intervenor-Plaintiff
28

1 Bernie 2016, Inc. (collectively, “Plaintiffs”), submit the attached article, “*State GOP*
2 *teaches volunteers to scope out ‘ballot harvesting’ this election season,*” by Howard
3 Fischer of Capitol Media Service as a notice of public statements by the Intervenor-
4 Defendant Arizona Republican Party relating to Plaintiffs’ Joint Motion for Preliminary
5 Injunction of H.B. 2023 (Doc. 84). The article, which is attached as Exhibit A, was
6 published on August 25, 2016, at [http://www.yumasun.com/news/state-gop-teaches-](http://www.yumasun.com/news/state-gop-teaches-volunteers-to-scope-out-ballot-harvesting-this/article_114c5200-6b20-11e6-85ca-0fddf2409c28.html)
7 [volunteers-to-scope-out-ballot-harvesting-this/article_114c5200-6b20-11e6-85ca-](http://www.yumasun.com/news/state-gop-teaches-volunteers-to-scope-out-ballot-harvesting-this/article_114c5200-6b20-11e6-85ca-0fddf2409c28.html)
8 [0fddf2409c28.html](http://www.yumasun.com/news/state-gop-teaches-volunteers-to-scope-out-ballot-harvesting-this/article_114c5200-6b20-11e6-85ca-0fddf2409c28.html).

9 The attached article attributes the following statements to an officer of the
10 Intervenor-Defendant the Arizona Republican Party, Chairman Robert Graham, about
11 tomorrow’s state primary election and the Arizona Republican Party’s intent to monitor,
12 follow and photograph—and potentially call the police, presumably to have them question
13 voters—with the purported intention of leading to the enforcement of H.B. 2023:

- 14 (1) “Party Chairman Robert Graham said the volunteers, who already
15 are designated as poll watchers, will be the eyes and ears of the GOP
16 to look for those who show up with multiple ballots. And he said
17 they will be given a checklist— still being developed—of what to
document.

18 Graham acknowledged that other state laws limit what party-
19 designated observers can actually do inside the polling places.
Talking to voters is forbidden, as is photography.

20 But Graham said they’re still free to follow voters out into the
21 parking lot, ask them questions, take their pictures and photograph
22 their vehicles and license plate. That information, he said, might give
police and prosecutors the information they need to bring charges.”

- 23 (2) “We’ve talked to a number of different county officials across the
24 state, sheriffs, county attorneys,” said Graham, asking them ‘what do
25 you need’ to bring a case. Graham said what they tell him will be put
26 into a checklist which will be given to observers during their training
Saturday morning at state GOP headquarters in Phoenix.

1 But Graham said that one option, suggested to him by a law
2 enforcement official he would not identify, is to have observers call
3 911 ‘and report a felony in progress.’”

4 Dated: August 29, 2016

s/ Daniel C. Barr

Daniel C. Barr (# 010149)
Sarah R. Gonski (# 032567)
PERKINS COIE LLP
2901 North Central Avenue, Suite 2000
Phoenix, Arizona 85012-2788

Marc E. Elias (WDC# 442007)*
Bruce V. Spiva (WDC# 443754)*
Elisabeth C. Frost (WDC# 1007632)*
Amanda R. Callais (WDC# 1021944)*
PERKINS COIE LLP
700 Thirteenth Street N.W., Suite 600
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
Facsimile: (202) 654-6211
MElias@perkinscoie.com
BSpiva@perkinscoie.com
EFrost@perkinscoie.com
ACallais@perkinscoie.com

Joshua L. Kaul (WI# 1067529)*
PERKINS COIE LLP
One East Main Street, Suite 201
Madison, Wisconsin 53703
Telephone: (608) 663-7460
Facsimile: (608) 663-7499
JKaul@perkinscoie.com

*Attorneys for Plaintiffs Leslie Feldman, Luz
Magallanes, Mercedes Hymes, Julio
Morera, Cleo Ovalle, Former Chairman and
First President of the Navajo Nation
Peterson Zah, the Democratic National
Committee, the DSCC, the Arizona
Democratic Party, Kirkpatrick for U.S.
Senate, and Hillary for America*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

s/ Roopali H. Desai

Roopali H. Desai (# 024295)
Andrew S. Gordon (# 003660)
D. Andrew Gaona (# 028414)
COPPERSMITH BROCKELMAN PLC
2800 N. Central Avenue, Suite 1200
Phoenix, Arizona 85004

Malcolm Seymour*
GARVEY SCHUBERT BAKER
100 Wall Street, 20th Floor
New York, New York 10005-3708
Telephone: (212) 965-4533
MSeymour@gsblaw.com

*Attorneys for Intervenor-Plaintiff
Bernie 2016, Inc.*

**Admitted pro hac vice*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on August 29, 2016, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and a Notice of Electronic Filing was transmitted to counsel of record.

s/ Daniel R. Graziano

EXHIBIT A



State GOP teaches volunteers to scope out "ballot harvesting" this election season

By Howard Fischer, Capitol Media Services Updated Aug 25, 2016 □ (...)



PHOENIX -- The state Republican Party is training volunteers to look for and document illegal "ballot harvesting" after county election officials said they won't enforce the new law.

Party Chairman Robert Graham said the volunteers, who already are designated as poll watchers, will be the eyes and ears of the GOP to look for those who show up with multiple ballots. And he said they will be given a checklist -- still being developed -- of what to document.

Graham acknowledged that other state laws limit what party-designated observers can actually do inside the polling places. Talking to voters is forbidden, as is photography.

But Graham said they're still free to follow voters out into the parking lot, ask them questions, take their pictures and photograph their vehicles and license plate. That information, he said, might give police and prosecutors the information they need to bring charges.

The tactic drew an angry reaction from Enrique Gutierrez, spokesman for the Arizona Democratic Party.

"Republicans have a long history of intimidating voters," he said. "This is just another attempt for them to intimidate more voters at the polls."

Gutierrez acknowledged that observers cannot confront voters inside polling places.

"But, at the same time, if you have poll workers following people to their cars ... that's still voter intimidation," he said.

GOP spokesman Tim Sifert sees the issue differently.

"If anybody ... is potentially committing a crime of some kind, you would expect that citizens should do something about it," he said.

The law, approved earlier this year by the Republican-controlled legislature makes it a felony, punishable by a year in state prison, to knowingly collect blank or filled-out ballots from another person.

It is aimed at the practice of various political and civic groups of having volunteers scour neighborhoods for those who had received early ballots but had failed to mail them back in time to be counted. Secretary of State Michele

Reagan, also a Republican, countered that it created an opportunity for fraud.

But election officials from several counties have said they do not intend to stop and question anyone who shows up at polling places on election day with multiple ballots.

"We're not the police," Maricopa County Recorder Helen Purcell told Capitol Media Services.

Sifert said the new monitoring for ballot harvesters is an extension of what monitors already do.

"Political parties have certain rights, if not responsibilities indeed, to help election officials ensure the integrity of elections," he explained. That's why the law allows "observers" selected by each party to be present not only at polling places but where the ballots are actually tabulated.

Those observers are supposed to notify the polling place's top official if they see anything irregular. The GOP also gives observers a toll-free number to call, connecting them with party attorneys, if they believe laws are being broken.

But Sifert said actually catching those who violate the law is something quite different.

It starts with the fact that someone who brings in multiple ballots is not necessarily breaking the law. . Individuals can collect ballots from family members and others living in the same household. And even caregivers at nursing homes and adult day care centers are permitted to collect ballots.

And then there's the evidence part.

Sifert said poll observers cannot take photos or videos in the polling place -- or even within 75 feet -- of someone marching in with multiple ballots. In fact, he said, the observers are precluded from approaching the voter.

Still, Sifert said there are ways to gather evidence.

"If a poll observer sees something they are free to go outside that 75-foot limit," he said.

"That's where they can turn on their phone to take video or pictures or something like that," Sifert continued. That also includes asking the voter his or her name and why there were multiple ballots.

And if the voter tells the observer to shove off?

"They can take a picture of the person," he said, as well as a photo of the license plate on the voter's car which should help identify the voter.

"We certainly don't recommend harassing anybody," Sifert said, calling the plans "part of documenting something that looks like it could very easily be illegal."

"All that stuff that's in the public view is fair game," he said.

That still leaves the question of whether the tactics might actually provide enough information to result in anyone actually being arrested, much less prosecuted.

"We've talked to a number of different county officials across the state, sheriffs, county attorneys," said Graham, asking them "what do you need" to bring a case. Graham said what they tell him will be put into a checklist which will be given to observers during their training Saturday morning at state GOP headquarters in Phoenix.

But Graham said that one option, suggested to him by a law enforcement official he would not identify, is to have observers call 911 "and report a felony in progress."

The state and national Democratic parties, along with the Clinton campaign, have sued to have the ballot harvesting law voided. They contend the law imposes as a higher burden on minorities than the population at large, something that is forbidden under the federal Voting Rights Act.

A judge has yet to rule on that claim.

□ □ □ □ □



93°

Clear □

TODAY'S E-EDITION

MOST POPULAR

Articles

Images

Videos

Commented

Articles

- YPD: Woman dies after domestic disturbance report
- San Luis pays \$10,000 to settle sexual harassment claim against police officer
- Comings and Goings: Jack & Rosie's closed permanently, local upholsterer opens shop
- Yuma's Most Wanted 8-22-2016
- School bus accident sends 5 to YRMC
- U.S. Navy ship Yuma christened
- Pot faceoff: Campaigns for/against legal marijuana speak out in Yuma
- Imperial County approves funds to aid residents of closing RV park
- Man charged in sexual assault case sentenced
- Prep football season preview: Hawks' chances for success begin up front