

SUPREME COURT OF ARIZONA

JENNIFER CLARK, et al.,	)	Arizona Supreme Court
	)	No. CV-26-0274-AP/EL
Plaintiffs/Appellees,	)	
	)	Maricopa County
v.	)	Superior Court
	)	No. CV2026-029802
ADRIAN FONTES, in his official	)	
capacity as Secretary of State,	)	FILED 08/18/2026
	)	
Defendant/Appellee.	)	
	)	
and	)	
	)	
PROTECT EDUCATION ACCOUNTABILITY	)	
NOW, a political action	)	
committee, et al.,	)	
	)	
Real Party in Interest	)	
/Appellants.	)	
	)	

DECISION ORDER

Plaintiffs Clark, et al., ("Challengers") filed an *Amended Verified Complaint* challenging the legal sufficiency of circulator registrations and petition signatures pursuant to A.R.S. § 19-118(F) and 19-122(C). On August 13, 2026, the trial court entered an under advisement ruling as a final judgment, ("Ruling"). On August 14, 2026, real-party-in-interest Protect Education Accountability Now (the "Committee") filed a *Statement Identifying Appeal as Expedited Election and Request for Initial Telephonic Scheduling Conference*. The same day, Plaintiffs filed *Cross-Appellants' ARCAP 10 Statement in Expedited Election Matter and Request for Scheduling Conference*.

The Court, en banc, has considered this expedited election

matter.¹ The Court appreciates the efforts and professionalism of the Special Master, the parties, and especially the trial court's comprehensive and careful analysis under the compressed timeframe.

Residence

Challengers' cross-appeal raises one issue, which is a pure question of statutory interpretation, reviewed de novo. See *Smith v. Fontes*, 260 Ariz. 201, 204 ¶ 14 (2025). Challengers, Amici Speaker Steve Montenegro and President Warren Petersen ("Legislative Leadership") and Arizona Chamber of Commerce & Industry ("Chamber") ask the Court to revisit the trial court's interpretation of "residence" to require more than the place where the circulator was living. They urge the Court to recognize that residence requires an intent to return or singular domicile. This issue overlaps with and extends the Committee's appeal of the trial court ruling that invalidated the sheets where the circulator affidavit listed a commercial mailbox instead of a residence address.²

¹ Justice King did not participate in the consideration of this matter.

² The Committee raised an as applied challenge arguing that the requirement to provide a residence address violated the circulator's first amendment rights due to her fears that publishing her home address would compromise her safety. However, the circulator evidently made no effort to protect her address under A.R.S. § 16-153 and the Committee concedes that, "[N]o evidence was presented collaborating or contradicting Ms. Nelson's claim of having stalkers as the reason she used her mailing address." On this record, we cannot conclude that the Committee has met the burden to establish an as applied challenge.

This Court has already construed the word "residence." In *Leibsohn v. Hobbs*, 254 Ariz. 1, 5 ¶ 12 (2022), the Court held that "the plain meaning of 'residence' is the place where one actually lives." The trial court considered the testimony of circulators and disqualified petition sheets from circulators who incorrectly listed a mailing address that was not where the circulators were then living, including shelters and commercial businesses. Amicus Legislative Leadership directs the Court to *Leibsohn's* language, "[t]he plain meaning of 'residence' is 'the place where one actually lives.' . . . and 'address' plainly means 'a place where a person or organization may be communicated with.'" *Id.* Notably, *Leibsohn* addressed the registration under A.R.S. § 19-118(B)(1), and not the affidavit on the circulator sheets under A.R.S. § 19-112. *Id.* at 4, ¶ 9. And, as *Leibsohn* recognized, circulators are subpoenaed through the sponsoring committee—A.R.S. § 19-118(B)(4). *Id.* at 6 ¶ 16. And if they don't show up, upon the subpoenaing party's request, their signatures are disqualified, as they were here—§ 19-118(E). *Id.* at 6 ¶ 16.

The requirement for a "residence address, street and number . . . or if no street address, a description of residence location" for the circulator affidavit serves to assist in identification of a circulator with reference to a specific time, when the affidavit is completed, and place. Circulators may have the same or similar names, and cell phone numbers change.

Challengers argue, “‘Residence’ is established through the confluence of ‘actual physical presence’ and ‘an intent to remain,’” as discussed in *McDowell Mountain Ranch Land Coal. v. Vizcaino*, 190 Ariz. 1, 3 (1997). That requirement harkens back to the day when circulators of initiative or referendum petitions were required to be “qualified electors,” which is no longer a requirement. See A.R.S. § 19-118(A) (requiring registration by circulators who are not residents of the state). Domicile is therefore not a consideration. We reject both Challengers’ and the Committee’s efforts to expand or limit the definition of “residence” for the circulator affidavits to anything other than a place where a person actually lives at the time the attestation is made on the affidavit. ¶ 19-112(D).

IT IS ORDERED affirming the trial court’s rulings overruling the Challengers’ objections to residence.

IT IS FURTHER ORDERED affirming the trial court’s ruling on Objection Two (B)(6) disqualifying the circulator sheets where the circulator did not provide the address at which she was living on the circulator affidavit.

Committee’s Other Issues on Appeal

Address Written by Someone Other than the Signer

Because the Special Master found that certain sheets “contain names or addresses written by someone other than the signer,” the trial court believed itself “constrained” by *Parker v. City of Tucson*, 233 Ariz. 422 (App. 2013), and ordered that “any initiative signature

sheets which contain names and/or addresses printed by someone other than the signer must be stricken." The Committee appeals this ruling. We conclude that the governing statutes do not compel that result.

The construction of A.R.S. §§ 19-112 and 19-121.01 presents a question of law we review de novo. *Smith*, 260 Ariz. at 204 ¶ 14. Section 19-112(D) prescribes that a circulator file an affidavit stating, among other things, that "each individual printed the individual's own name and address and signed this sheet of the foregoing petition in my presence on the date indicated" The affidavit is made subject to § 19-115, pertaining to a signer's incapacity. Section 19-121.01 does not provide an express remedy where, as here, the same addresses for multiple signers appear to have been written by the same person.

We hold that absent additional evidence that the someone has inserted multiple addresses, thus demonstrating that the circulator's affidavit was knowingly false or fraudulent rather than inadvertent error, the proper remedy is to void the specific signatures at issue, not the entire signature sheet. No such evidence was presented here beyond isolated instances of addresses with the same handwriting for persons residing at the same address.

IT IS FURTHER ORDERED reversing the trial court's ruling to the extent it struck entire signature sheets containing lines written in the same hand and directing that only the individual signature lines printed by someone other than the elector be stricken under

§ 19-121.01(A)(3)(f).

Calculation Method

The Committee's remaining challenge concerns the method for counting valid signatures, and in particular the treatment of the duplicate signatures the trial court removed under Objection Twenty. The construction and application of the signature-verification statutes, A.R.S. §§ 19-121.01 to -121.04, present questions of law we review de novo. *Smith*, 260 Ariz. at 204 ¶ 14.

The Legislature has prescribed the method for determining whether an initiative petition bears enough valid signatures. The Secretary of State first removes facially invalid signatures and sheets under § 19-121.01, and if there are sufficient signatures to meet or exceed the constitutional minimum, the Secretary then transmits a random sample of the remaining signatures to the county recorders for verification. §§ 19-121.01(B), -121.02. From the recorders' review, the Secretary derives a validity rate and projects it against the total number of eligible signatures to determine whether the petition satisfies the constitutional threshold. §§ 19-121.01, -121.04. Duplicate signatures are accounted for by retaining one signature from each set of duplicates and removing the rest. § 19-121.02(A)(8). We applied this framework in *Mussi v. Hobbs*, 255 Ariz. 395 (2023), and again in *Smith*, 260 Ariz. 201.

The trial court followed that framework. It removed all but one signature from each set of duplicates identified in Objection Twenty,

leaving a single valid signature standing for each signer. That is what § 19-121.02(A)(8) directs: the statute preserves one signature and disqualifies the duplicates, no more and no less.

The trial court also accounted for *Smith*. Rather than apply § 19-121.04 mechanically, the court directed the Secretary of State to compute the result under the statute first and, if the measure would fail under that formula but qualify under the *Smith* method, to apply *Smith* instead—because using the statutory formula in that circumstance would double-count invalid signatures and unconstitutionally raise the effective threshold above fifteen percent. See *Smith*, 260 Ariz. at 207 ¶ 30. That conditional instruction implements both *Mussi* and *Smith*: it preserves the statutory formula the Legislature prescribed while switching to *Smith*'s narrower method precisely when, and only when, a double count would otherwise invalidate a measure from the ballot. The court did not leave the *Smith* question for another day; it built the safeguard into its judgment.

The Committee contends that this approach double-counts. It reasons that because duplicates are identified in the sample, and the sample drives the projected validity rate, removing the same duplicates again from the total subtracts them twice; from this it argues that honoring the retain-one rule requires either crediting each duplicate set with an additional signature or doubling the projection multiplier. We are not persuaded. Removing all but one

signature of a duplicate set does not fail to retain one—it retains exactly one, which is all § 19-121.02(A)(8) requires. And the validity rate is a proportion applied once to the eligible total. The Committee's proposed adjustments would credit the petition with signatures the Legislature has directed be removed.

Nor does *Smith* aid the Committee. There we recognized that layering the county-recorder subtraction step onto the projected validity rate can double-count disqualified signatures, and we omitted that step—but only because the double count was dispositive and tied to specific signatures the recorders had already removed. We were explicit that the holding was as applied and did not rewrite the statutory formula. *Smith*, 260 Ariz. at 208 ¶ 34. The Committee identifies no specific signatures subtracted twice; its objection is that double-counting is theoretically possible, not that it demonstrably occurred. The trial court correctly accounted for the circumstances that may arise if the concerns raised in *Smith* are at issue in this challenge. The trial court applied the correct method, and we affirm it.

Because the sufficiency of the petition ultimately turns on applying the county validity rate to the signatures that remain after the trial court's rulings—including the duplicates removed under Objection Twenty and the signature lines addressed above—we remand for the trial court to apply the validity rate and to determine whether the petition contains at least 255,949 valid signatures.

IT IS ORDERED affirming the trial court's calculation method computing under § 19-121.04 first and applying the *Smith* method only when the statutory formula would otherwise defeat a measure that qualifies without double-counting, applying A.R.S. § 19-121.02(A)(8), and removing the remaining duplicate signatures identified in Objection Twenty.

IT IS FURTHER ORDERED remanding to the trial court to apply the county validity rate to the remaining signatures and to determine whether the petition satisfies the constitutional signature requirement.

DATED this 18th day of August, 2026.

/s/
ANN A. SCOTT TIMMER
Chief Justice

TO:
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