

IN THE ARKANSAS SUPREME COURT

**BONNIE MILLER, individually and on behalf of
ARKANSAS VOTERS FIRST and
OPEN PRIMARIES ARKANSAS,
BALLOT QUESTION COMMITTEES**

PETITIONER

v.

No. CV-20-454

**JOHN THURSTON, in his capacity as
Arkansas Secretary of State**

RESPONDENT

**AMENDED RESPONSE TO MOTION TO EXPEDITE
AND FOR PRELIMINARY INJUNCTION**

For his Amended Response to Motion to Expedite and for Preliminary Injunction, Secretary of State John Thurston states:

1. Secretary of State John Thurston restates and incorporates herein his Response to Motion to Expedite and for Preliminary Injunction filed on July 21, 2020, as if stated herein word for word.
2. Pursuant to Ark. Code Ann. § 7-9-126, Thurston has now completed the intake analysis of the initiative petition “A Constitutional Amendment Establishing Top Four Open Primary Elections and Majority Winner General Elections with Instant Runoff if Necessary.”

3. A total of 10,208 signatures were culled, leaving a total of 88,623 signatures on the face of the petition. A total of 89,151 signatures are required on the face of the petition to trigger further analysis. The reasons for the signatures that were culled include:
- a. Some signatures were solicited by paid canvassers prior to the canvasser's required information (name and/or canvassers' statement regarding criminal background) being filed with the Secretary of State; and/or
 - b. Some petition parts were submitted for paid canvassers whose names were never reported to the Secretary of State; and/or
 - c. Some signatures were solicited by paid canvassers but the canvassers' signature card was not filed with the Secretary of State; and/or
 - d. Some petition parts were not notarized; and/or
 - e. Some signatures on petition parts contained verifications dated earlier than the date on which a petitioner signed the petition; and/or
 - f. Some petition parts did not conform to the original draft filed under § 7-9-107; and
 - g. Arkansas Voters First did not comply with Ark. Code Ann. § 7-9-601(b)(3) thus none of the signatures solicited by the

paid canvassers may be counted *for any purpose* pursuant to Ark. Code Ann. § 7-9-601(f).

4. A letter notifying counsel for the sponsor was transmitted via electronic mail on July 22, 2020. *See Exhibit A* attached hereto.
5. Intake analysis of the petition regarding redistricting submitted by Arkansas Voters First is ongoing and final results should be available in the next few days.
6. The results of the analysis of the open primaries initiative petition is proof that the Secretary should be allowed to complete his statutory duties to analyze petitions without court intervention.

WHEREFORE, Secretary of State John Thurston prays that the motion be denied and dismissed; for expedited consideration; and for all other just and proper relief.

Respectfully submitted,

JOHN THURSTON
Arkansas Secretary of State

By: /s/ Gary L. Sullivan
Gary L. Sullivan
Ark Bar No. 92051
Managing Attorney
Arkansas Secretary of State's Office
500 Woodlane St., Suite 256
Little Rock, Arkansas 72201
Phone: (501) 682-3401
gary.sullivan@sos.arkansas.gov

Attorney for Respondent

CERTIFICATE OF SERVICE

I, Gary L. Sullivan, hereby certify that on July 22, 2020, I electronically filed the foregoing with the Clerk of the Court using the eFlex filing system, which shall serve all counsel of record:

/s/ Gary L. Sullivan



JOHN THURSTON

ARKANSAS SECRETARY OF STATE

ELECTRONICALLY FILED
Arkansas Supreme Court
Stacey Pectol, Clerk of the Courts
2020-Jul-22 09:27:33
CV-20-454
2 Pages

David A. Couch
Attorney at Law
1501 N. University Ave., Suite 228
Little Rock, AR 72207

via electronic mail to arhog@me.com

July 21, 2020

Re: Revised Declaration of Insufficiency
Petition Sponsor: Arkansas Voters First
Petition: A Constitutional Amendment Establishing Top Four Open Primary Elections
and Majority Winner General Elections with Instant Runoff if Necessary

Dear Mr. Couch:

Upon initial review of the above referenced petition, our office has determined that the petition must be declared insufficient for the following reasons:

1. After completion of the intake analysis procedure for the above referenced petition, a total of 10,208 signatures were culled, leaving a total of 88,623 signatures on the face of the petition. A total of 89,151 signatures are required on the face of the petition to trigger further analysis. The reasons for the signatures that were culled include:
 - a. Some signatures were solicited by paid canvassers prior to the canvasser's required information (name and/or canvassers' statement regarding criminal background) being filed with the Secretary of State; and/or
 - b. Some petition parts were submitted for paid canvassers whose names were never reported to the Secretary of State; and/or
 - c. Some signatures were solicited by paid canvassers but the canvassers' signature card was not filed with the Secretary of State; and/or
 - d. Some petition parts were not notarized; and/or
 - e. Some signatures on petition parts contained verifications dated earlier than the

date on which a petitioner signed the petition; and/or

- f. Some petition parts did not conform to the original draft filed under § 7-9-107.
2. As more fully explained in my preliminary letter of July 14, 2020, Arkansas Voters First did not comply with Ark. Code Ann. § 7-9-601(b)(3) thus none of the signatures solicited by the paid canvassers may be counted *for any purpose* pursuant to Ark. Code Ann. § 7-9-601(f).

Pursuant to Ark. Code Ann. § 7-9-126(d), the petition must be declared insufficient and this office “shall not accept and file any additional signatures to cure the insufficiency of the petition on its face.”

Sincerely,

A handwritten signature in black ink that reads "John Thurston". The signature is written in a cursive, flowing style.

John Thurston
Secretary of State