UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
EASTERN DIVISION

Elizabeth Jane Sinner, Whitney Oxendahl, Carol Sawicki, Lois Altenburg, And North Dakota Voters First, Plaintiffs, vs. Alvin Jaeger, in his official capacity as Secretary of State of North Dakota, Defendant.	**AFFIDAVIT OF IRWIN JAMES NARUM (JIM) SILRUM** **Case No. 3:20-cv-00076**

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

Irwin James Narum (Jim) Silrum, states as follows:

1. I declare under penalty of perjury that the statements made in this affidavit are true and correct to the best of my knowledge and belief.

2. I am the Deputy Secretary of State ("Deputy") for the State of North Dakota and have held this position since November 2003. As Deputy, my duties include assisting the North Dakota Secretary of State ("Secretary") in carrying out the duties of the office of Secretary of State ("SOS"), including general duties, elections, licensing, central indexing, and business registration and information. A detailed list of the duties can be found on the Secretary of State website at http://sos.nd.gov/about-office/duties-secretary-state.

3. My specific duties for the SOS in elections are to assist the Secretary who serves as the state of North Dakota's chief election officer, specifically: training county election officials; prescribing the form and content of statewide election ballots, receiving and filing petitions for initiated, constitutional, and referred measures; receiving candidate filings from individuals seeking statewide, legislative, or judicial office; filing oaths of office for legislative, judicial, and executive officials; filing campaign disclosure statements of

statewide, judicial, and legislative candidates, state political parties, district political parties, political committees, and independent expenditure filers; and certifying names of elected statewide, judicial, legislative, and multi-county jurisdiction candidates of the state.

4. I have reviewed the Plaintiffs filings in the above captioned action, including the Complaint (Doc.1), Plaintiffs' Motion for Preliminary Injunction (Doc. 4), Brief in Support of Plaintiffs' Motion for a Preliminary Injunction (Doc. 5), and supporting exhibits (Docs. 5-1 through 5-23).

5. In the Plaintiffs' filings, they fail to explain in any practical detail how electronic signature solutions such as DocuSign could be utilized for the large scale collection of petition signatures and submission to the SOS for review. Plaintiffs only state that, "[s]ervices like DocuSign can ensure 'comprehensive security from start to finish' including by a digital audit trail, anti-tampering control, and unalterable, systematic capture of signing data." Doc 5. pp. 17-18 (quoting DocuSign, Product security, https://www.docusign.com/trust/security/product-security). The DocuSign website includes explanations of how electronic signatures can be obtained, but is silent as to how the DocuSign solution would work for the large scale collection of petition signatures and submission to the SOS for review pursuant to the North Dakota Constitution (Article III, Section 3) and North Dakota state law (NDCC § 16.1-01-09). If electronic signature solutions were to be implemented in North Dakota for initiative ballot signature collection and submission to the SOS for review, a process and regulations would need to be developed to ensure compliance with state law, to ensure uniformity and fairness, and to ensure the signatures submitted can be timely investigated by the SOS. This is true even if some state law requirements, such as in person witnessing of signatures, in-person notarization of circulators' signatures are suspended by the Court.

6. There are a number of unanswered questions that would make it difficult to develop such a process and regulations:

- How will a petition circulator gathering signatures remotely or on the internet be able to accurately and securely verify that each individual signor is a qualified North Dakota elector, and that each signature is a genuine signature of the individual whose name it purports to be. N.D. Cent. Code § 16.1-01-09(3) requires circulators to swear to these facts.

- What is the form of the petition presented to each signor? Would each person requesting the opportunity to sign a petition be sent the petition with no other signatures included, or would each be sent the entirety of the petition with the already-obtained signatures included on it?

- What will the Sponsoring Committee submit to the SOS to review? Will the Sponsoring Committee submit 26,904 or more petitions with a single electronic signature on each, or will the Sponsoring Committee submit one petition with 26,904 or more electronic signatures? Will the Sponsoring Committee submit a paper summary, or an electronic report generated by DocuSign or another third-party vendor, and what would be the contents of the submission?

- What process, software, and tools would the SOS need to accept the electronic signatures, and to investigate them?

7. Undoubtedly more questions would surface if the SOS and the Plaintiffs were to attempt to implement an electronic signature solution, and each question would require an answer prior to the first electronic signature being obtained. The SOS does not dispute the validity of electronic signatures for many purposes such as contracts, agreements, and general correspondence, but does dispute that all necessary questions could be answered and an acceptable solution be put in place that would comply with the North Dakota Constitution and North Dakota Century Code prior to the Constitutional deadline of July 6, 2020, for the possibility of a measure to be included on the General Election ballot in November, 2020.

8. The election on June 9, 2020, is fast approaching. The SOS has only six employees who cover election responsibilities, with each having worked many hours of overtime each week since the start of April and this will likely continue until the end of

June. Since some of these staff members of the SOS would need to be involved in whatever signature solution could be determined, indeed if one could be determined, where would we find the time in our schedules now and after the election to take on the monumental task requested of the Plaintiffs? Any statewide election is demanding of the time for our limited number of staff, but the June 2020 election is the first election ever conducted in the state that will be all by mail, without any polling places in use, and in the midst of a pandemic. This has been an extraordinary undertaking by the SOS's office and the state's 53 offices of the county auditors and our focus must continue toward the goal of administering another well-run election because all of North Dakota is counting on this from us.

Dated this 19 day of May, 2020.

Irwin James Narum (Jim) Silrum
North Dakota Deputy Secretary of State

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

Subscribed and sworn to before me
this 19th day of May, 2020.

Char Zander
Notary Public

CHAR ZANDER
Notary Public
State of North Dakota
My Commission Expires Oct 03, 2022