

By Email Only: tabitha.lehman@sedgwick.gov

June 20, 2017

Ms. Tabitha Lehman, Election Commissioner
Sedgwick County Election Office
510 N. Main, #101
Wichita, KS 67203

**Re: Petition Signatures by Federal Form & Motor-Voter Registrants
Our File No.:16-0007718**

Dear Ms. Lehman:

Janice Bradley has advised me that, on Tuesday, June 13, 2017, you told her that your office will not validate petition signatures of anyone who registered to vote using the federal voter registration form or the motor-voter registration process under the National Voter Registration Act (NVRA) unless such registrant has submitted documentary proof of citizenship (DPOC) to your office or to the office of the Kansas Secretary of State. When Ms. Bradley asked you about the effect of the pending injunctions entered by federal and state courts, you told her that the court orders only require that the voters registered under the NVRA (by federal form and the motor-voter process) be allowed to vote in elections and that those injunctions do not require the election authorities in Kansas to count signatures of those registered voters for purposes of validating petition signatures.

If the above paragraph accurately represents your position, I disagree with you whole heartedly. As you know, three courts have entered injunctive relief that has in effect required the Kansas Secretary of State and all 105 local election authorities in Kansas – including the Sedgwick County Election Office – to enter upon the voter registration rolls the names of all voters who have used the processes required by the NVRA to register to vote regardless of whether those registrants have provided DPOC. *See Fish v. Kobach*, Case No. 16-2105-JAR (D. Kan. May 17, 2016) (requiring Kansas elections officials to register motor-voter registrants regardless of DPOC status); *League of Women Voters of the United States v. Election Assistance Comm.*, Case No. 16-5196 (D.C. Cir., Sept. 26, 2016) (enjoining EAC from allowing Kansas to require federal form registrants to produce DPOC as a condition of voter registration); *Brown v. Kobach*, Case No. 2016-CV-550 (Shawnee Co. Dist. Ct., Nov. 4, 2016) (enjoining Secretary of State’s regulation requiring local election authorities to implement a dual registration system).

The effect of these court orders is that citizens who have used the federal form or the motor-voter process to register to vote are “legally qualified electors” and are thus able to validly sign initiative and other petitions under Kansas law. *See* K.S.A. 25-3601 to 25-3607. For that reason, you will be in violation of Kansas law if you refuse to validate the petition signatures of those registered voters.

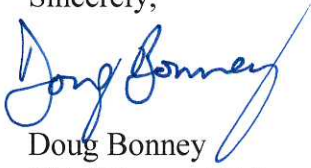
Ms. Tabitha Lehman, Election Commissioner

June 20, 2017

Page 2

Please indicate by the close of business on Friday, June 23, 2017, whether you will treat voters registered pursuant to the above-referenced court orders as “legally qualified electors” for purposes of validating petition signatures. If you reject the signatures of such registered voters for purposes of the initiative petition Ms. Bradley’s group is circulating (or for any other proper petition), we will have no choice other than to return to court and seek a further order requiring you to validate the petition signatures of such voters.

Sincerely,

A handwritten signature in blue ink that reads "Doug Bonney". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Doug Bonney
Chief Counsel & Legal Director
Direct Dial: (913) 490-4102
dbonney@aclukansas.org