

## County-Based Ballot-Nomination Signature Requirement

*Arizona Public Integrity Alliance v. Bennett*  
(*Neil V. Wake, D. Ariz. 2:14-cv-1044*)

Thirteen days before a deadline for primary-election nomination petitions, a federal complaint challenged a requirement of a minimum number of signatures in each of at least three counties as favoring less populous counties. After a hearing held two weeks after the complaint was filed, the district judge denied a motion for preliminary relief as barred by laches. Several weeks later, the state conceded that the county-based signature requirement was unconstitutional, and the judge signed a stipulated judgment in the plaintiffs' favor.

*Subject:* Getting on the ballot. *Topics:* Getting on the ballot; laches; equal protection; primary election; early voting.

Thirteen days before the May 28, 2014, due date for primary-election nomination petitions, four Maricopa County voters and an organization advocating ethics and integrity in government filed a federal complaint in the District of Arizona challenging the portion of the signature requirements that required a minimum number of signatures in at least three counties, claiming that a county-based requirement advantaged voters in less populous counties.<sup>1</sup>

A. Nomination petitions shall be signed:

1. If for a candidate for the office of United States senator or for a state office, excepting members of the legislature and superior court judges, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least *one-half of one per cent of the voter registration of the party of the candidate in at least three counties* in the state, but not less than one-half of one per cent nor more than ten per cent of the total voter registration of the candidate's party in the state.<sup>2</sup>

According to the complaint, six signatures in Greenlee County for a Republican candidate would be equivalent for the county-based portion of the signature requirement to 3,553 signatures in Maricopa County.<sup>3</sup> With their complaint, the plaintiffs filed a motion for a temporary restraining order and a preliminary injunction.<sup>4</sup>

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1. Complaint, *Ariz. Pub. Integrity Alliance Inc. v. Bennett*, No. 2:14-cv-1044 (D. Ariz. May 15, 2014), D.E. 1; Opinion at 3, *id.* (June 23, 2014), D.E. 23, 2014 WL 3715130; see Howard Fischer, *Suit Seeking to Change AZ Nominating Process*, *Ariz. Daily Star*, May 21, 2014, at A7.

2. *Ariz. Rev. Stat.* § 16-322 (emphasis added).

3. Complaint, *supra* note 1, at 4.

4. Motion, *Ariz. Pub. Integrity Alliance Inc.*, No. 2:14-cv-1044 (D. Ariz. May 15, 2014), D.E. 4.

On the following day, Judge Neil V. Wake set the case for hearing on May 29.<sup>5</sup> On May 28, Judge Wake denied a May 21 motion<sup>6</sup> by the plaintiffs to consolidate the injunction hearing with a trial on the merits because of the defendant secretary of state's inadequate time to prepare a merits defense.<sup>7</sup>

On June 23, approximately one month before the beginning of early voting for the primary election, Judge Wake denied the plaintiffs immediate relief because of their delay in bringing the action.<sup>8</sup>

Plaintiffs began looking seriously at the constitutionality of the county-distribution requirement in December 2013. They gave notice to the State on May 2, 2014, that they intended to seek an injunction, but they did not do so until May 15, 2014. The Court set accelerated briefing and a hearing for May 29, 2014.<sup>9</sup>

On July 31, Judge Wake approved a stipulation that the county-based portion of the signature requirement was unconstitutional and the secretary would not enforce it.<sup>10</sup>

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5. Order, *id.* (May 16, 2014), D.E. 8.

6. Motion, *id.* (May 21, 2014), D.E. 15.

7. Order, *id.* (May 28, 2014), D.E. 21.

8. Opinion, *supra* note 1; see Howard Fischer, *For Now, State Office Seekers Still Need Signatures from 3 Counties*, Ariz. Daily Star, June 24, 2014, at A6.

9. Opinion, *supra* note 1, at 3.

10. Order, *Ariz. Pub. Integrity Alliance Inc.*, No. 2:14-cv-1044 (D. Ariz. July 31, 2014), D.E. 26; see Howard Fischer, *State Yields on 3-County Petition Rule*, Ariz. Daily Star, July 25, 2014, at C2.