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12 Regulated Sports Wagering

13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF SACRAMENTO

15 (UNLIMITED JURISDICTION)

16 MARK MACARRO, EDWIN "THORPE"
ROMERO, ANTHONY ROBERTS, JEFF L.
17 GRUBBE and COALITION TO AUTHORIZE
REGULATED SPORTS WAGERING,
18 SPONSORED BY CALIFORNIA INDIAN
GAMING TRIBES,

19 Petitioners,

20 vs.

21 ALEX PADILLA, in his official capacity as
22 Secretary of State of the State of California,

23 Respondent.

FILED/ENDORSED

JUN 25 2020

By: H. PEMELTON
Deputy Clerk

CASE NO.: 34-2020-80003404-CU-WM-GDS

Action Filed: June 9, 2020

**DECLARATION OF ANGELO
PAPARELLA IN SUPPORT OF VERIFIED
PETITION FOR WRIT OF MANDATE**

**STATEWIDE ELECTION MATTER –
JULY 20, 2020 DEADLINE**

IMMEDIATE ACTION REQUESTED

Hearing:

Date: July 2, 2020

Time: 1:30 p.m.

Dept.: 17

Judge: The Honorable James P. Arguelles

BY FAX

DECLARATION OF ANGELO PAPARELLA

I, Angelo Paparella, declare as follows:

1. I have managed California petition drives since 1988, resulting in more than 44 million signatures and qualified hundreds of state and local initiatives. I also assist clients with compliance with the California Elections Code, the formatting of ballot initiatives, and the printing of formatted ballot initiatives. In addition to petition management services, I act as a political consultant to ballot measure committees on field strategy and operations.

2. I graduated from Notre Dame University in 1992.

3. I was a founding member and the Director of Operations for Voter Revolt from 1987 to 1992. Voter Revolt was a grassroots citizen organization that successfully qualified and won approval of Proposition 103 in California in 1988.

4. Since 1992, I have personally worked on over 260 total ballot measure campaigns in California. Among numerous other examples, I helped qualify the following statewide ballot measures in California: Proposition 61 pertaining to drug pricing in 2016; Proposition 47 pertaining to criminal sentencing in 2014; and Proposition 31 pertaining to California's state budget in 2012.

5. My company, 2020 BallCamp, LLC ("BallCamp") was hired by The Coalition to Authorize Regulated Sports Wagering, Sponsored by California Indian Gaming Tribes ("the Committee") to provide petition circulation and signature gathering services for the proposed "California Sports Wagering Regulation and Unlawful Gambling Enforcement Act" (the Initiative).

6. On or about January 21, 2020 the Committee provided me with a copy of the California Attorney General's Title and Summary for the Initiative. The Monaco Group, a printing and direct mail production company, immediately laid out, formatted and printed petitions to qualify the Initiative. On or about January 23, 2020, BallCamp and its agents began collecting voters' signatures, in person, with the goal of qualifying the Initiative for the November 2020 ballot. Throughout the circulation process, I was in regular contact with the Initiative's proponents (Petitioners in this case), the Committee's general consultants, and the Committee's counsel, Olson Remcho LLP.

1 7. The number of signatures needed to qualify an initiative in California is based
2 on the voter turnout in the last gubernatorial election and is currently at an all-time high because of
3 historic voter turn-out rates in the 2018 gubernatorial election. In order to qualify a statutory initiative
4 for the November, 2020 election, a campaign is required to submit 623,212 valid signatures. In
5 contrast, to qualify a constitutional amendment for the November, 2020 election, a campaign must
6 submit 997,139 valid signatures.

7 8. In addition to this requirement, California law requires that proponents obtain
8 110 percent of the required number of signatures, as determined by a random sample (or
9 1,096,853 signatures in this case), in order to qualify for the ballot. If you fall short, you cannot submit
10 additional signatures. I always recommend that my ballot measure committee clients collect more
11 signatures than is legally required, because a certain percentage of signatures will be invalidated by
12 county registrars for various reasons (e.g., a person is not registered to vote). Based on historical
13 validity rates, for this Initiative, I previously recommended submitting approximately 1.6 million
14 signatures in order to qualify under the random sampling methodology in time for the November, 2020
15 election. I am now recommending that the Committee submit approximately 1.4 million signatures
16 since we are no longer trying to qualify for 2020 and do not have to qualify under random sampling.

17 9. All petition signatures must be turned in to county elections officials within
18 180 days of the Attorney General's title and summary. In this case, that would require the Committee
19 to turn in signatures on or before July 20, 2020. However, because the Committee wanted to qualify in
20 time for the Initiative to be considered at the November, 2020 general election, the Committee's goal
21 was to turn in all signatures by May 1, 2020, which was the Secretary of State's recommended
22 deadline to qualify for the November, 2020 ballot.

23 10. From January, 2020 until mid-March, 2020, BallCamp, its agents, and the
24 Committee collected approximately 971,373 signatures to qualify the Initiative for the November 2020
25 ballot, at a cost of more than \$7 million.

26 11. On March 16, 2020 six Bay Area counties (Alameda, Contra Costa, Marin,
27 Santa Clara, San Francisco, and San Mateo) issued orders (effective March 17, 2020) directing all
28 individuals living in those counties to shelter at their place of residence, with certain exceptions for

1 providing or receiving essential services and engaging in certain essential activities. Petition gathering
2 was not included as an essential service or activity.

3 12. On March 19, 2020, the Governor issued an Executive Order which imposed a
4 similar stay-at-home order throughout the state. Again, signature gathering was not designated as an
5 essential activity and was therefore prohibited by the stay-at-home order.

6 13. As a result of the statewide stay-at-home order, non-essential businesses around
7 the state were required to shut down and public gatherings and events were canceled. In most
8 circumstances, areas for potential public gatherings, such as parks and beaches, were closed to the
9 public.

10 14. Based on my experience, gathering signatures for a petition requires the ability
11 for circulators to come into close contact with individual voters in places where the public congregates,
12 including store-parking lots, libraries, parks, and public events. By law, signatures on petitions must
13 be witnessed by a "circulator," who attests that the signature was obtained in his or her presence.
14 Because signature gathering necessarily involves person-to-person contact, typically in high volume
15 locations, the issuance of these stay-at-home orders brought signature-gathering efforts for this
16 initiative and others to a screeching halt. While certain essential businesses, such as grocery stores,
17 remained open, the vast majority of businesses were closed and all large, public gatherings were
18 canceled. Even permissible activities (e.g., grocery shopping), were limited in many instances (e.g.,
19 limited store hours) and individuals were advised to remain socially distant (i.e., at least six feet away)
20 from all other individuals.

21 15. The March 19, 2020 order remained in place until early May -- a period of
22 almost two months. This period was a critical time in the signature-gathering process. While the
23 timelines to qualify an initiative for the November ballot vary, my experience has been that most
24 campaigns seeking to qualify an initiative for a November election typically gather the largest number
25 of signatures in late March and early April. Fewer signatures are typically gathered in January and
26 February because of less favorable weather and fewer hours of daylight. Once the time change occurs
27 in March, the ability of circulators to gather signatures increases. The signature gathering campaign
28

1 typically builds momentum during the spring, recruiting more staff in March. In this case, all signature
2 gathering was essentially prohibited during the most critical period.

3 16. On May 4, 2020 the Governor announced that the state would be moving to
4 "stage 2" of a four-stage re-opening process, which would be determined by state public health
5 officials. On May 7, 2020, public health officials announced that eligible counties could move to
6 "stage 2," which allowed for limited re-opening of some businesses, provided the businesses and
7 patrons practiced social distancing and other hygiene measures. The order also provided for the
8 gradual re-opening of additional businesses in counties when they are eligible to move to "expanded
9 stage 2." Individual counties were also allowed to maintain more restrictions in place.

10 17. Over the course of May, 2020, most counties moved to the "expanded stage 2."
11 However, it is my understanding that several counties (San Francisco, Alameda, Contra Costa, Marin,
12 Santa Clara and Imperial) are still operating under the early stage 2 restrictions and have not been
13 cleared for expanded stage 2.

14 18. Although the stage 2 orders did not expressly permit signature gathering, they
15 did not expressly prohibit it (although one large county, Ventura, specifically prohibited signature
16 gathering until very recently). Based on this, BallCamp resumed some signature gathering efforts in
17 late May, 2020.

18 19. On June 5, 2020, the state released guidelines for counties to begin moving to
19 stage 3, possibly starting June 12, 2020, on a county by county basis. It is my understanding that this
20 has allowed for businesses such as bars and gyms to reopen. As a practical matter, both early and
21 expanded stage 2, as well as early stage 3, contain significant restrictions on commercial activity and
22 in-person communications. Many retail businesses continue to operate on a pick-up basis (rather than
23 walk-in) and many retail locations remain closed. Large gatherings remain prohibited.

24 20. While circulators have attempted to resume signature collection efforts outside
25 of businesses such as grocery stores (in counties where it is permitted), the circulators have faced
26 unprecedented challenges in doing so. Signature gathering is not a process that lends itself well to
27 social distancing because it is nearly impossible to hand someone a clipboard when they are six feet
28 away from you. Circulators generally need to be close to voters to explain the measure, instruct the

1 voter where to sign the actual petition, and properly witness the voter signing the petition. Because of
2 public health concerns, even in places where circulators are permitted to collect signatures, voters have
3 been reluctant to speak with circulators and have sometimes verbally abused circulators for attempting
4 to collect signatures.

5 21. In addition to the unprecedented challenges that the stay-at-home orders have
6 imposed on the actual collection of signatures, they have also created extreme challenges for the
7 signature verification process that happens following the collection of signatures. Signature
8 verification typically happens in very small, rented spaces that make social distancing difficult.

9 22. In addition, as part of the signature verification process, my firm generally
10 reviews the voter files in certain large counties to ensure a favorable validity rate for signatures. This
11 requires personal inspection of records at the county elections offices. County elections offices were
12 among those closed for in-person services in most counties by the stay-at-home orders. It is my
13 understanding that the county elections offices in five of the ten most populous counties remain closed
14 to public access (Los Angeles, Orange, San Diego, Riverside, and Fresno). Without the ability to
15 access these records, I cannot provide my clients with an accurate validity rate and therefore need to
16 recommend that my clients collect even more signatures than normal (at higher cost and increased
17 effort) to ensure that they will have enough valid signatures to qualify.

18 23. Another problem in resuming signature gathering is that a number of circulators
19 have been reluctant to continue circulating petitions because they are observing the stay-at-home
20 orders and/or because they are concerned for their own health or that of family members.

21 24. While there are alternative methods to collect signatures, my experience is that
22 these methods are costly and not extremely effective. Collecting signatures via a door-to-door
23 campaign is difficult because people often do not open the door for circulators. This is true during
24 ordinary times, but would be even more challenging now as a result of the virus. The same social
25 distancing problems that exist for signature gathering in public apply equally to door-to-door efforts. I
26 am aware that certain campaigns have attempted to collect signatures via mail and email campaigns,
27 but these have generally been ineffective and, in the case of mail, prohibitively expensive. When
28 sending petitions via email, the return rate is extremely low. In addition, it is extremely difficult for

1 voters to print the petition, sign in all of the correct locations, staple, and send the petition back. As a
2 result, we often receive petitions that are incorrectly signed, missing pages, or assembled incorrectly.
3 All such errors render the petitions unusable.

4 25. While shelter-in-place restrictions have loosened somewhat in recent weeks and
5 more businesses have been permitted to open, collecting signatures remains a challenge and signature
6 collection rates have been significantly lower than before the stay-at-home orders were issued. The
7 Bay Area is typically a place where we obtain a large number of signatures; signatures there are
8 currently at an all-time low. Los Angeles County typically provides approximately one-third of all
9 signatures for a statewide petition; it is currently very difficult to obtain even minimal numbers of
10 signatures there. Although we are gradually trying to increase signature gathering activities, I estimate
11 that we are currently operating with approximately 10% of the signatures gatherers we had prior to the
12 stay-at-home orders and are obtaining approximately 10% of what we were obtaining prior to the stay-
13 at-home orders. While we hope to build up to 20,000 signatures per week, the social distancing
14 guidelines in place, reluctance of voters to engage with circulators, reduced number of circulators, and
15 reduced access to county elections offices all continue to make both collection and verification of
16 signatures extremely difficult.

17 26. Before the stay-at-home orders went into effect, BallCamp was obtaining an
18 average of 100,000-120,000 signatures per week; approximately 127,000 signatures were obtained in
19 the last full week before the stay-at-home orders took effect. My company was involved in signature
20 gathering for several other initiatives; the number of signatures gathered by this Initiative exceeded the
21 number of signatures obtained by the other initiatives. For example, the Initiative obtained 971,373
22 signatures between January and the stay-at-home order. An initiative concerning privacy (#1879 [19-
23 0021A1]) obtained 695,904 signatures; an initiative regulating plastic use (#1885 [19-0028A1])
24 obtained 694,199 signatures, and the stem cell initiative (#1880 [19-0022A1]) obtained 672,875
25 signatures.

26 27. Based on my prior experience, in the absence of the state's stay-at-home orders,
27 I believe the Committee would have collected enough signatures to qualify the Initiative on or before
28 May 1, 2020. Because only measures that qualify before 131 days prior to the election (this year,

1 June 24) are eligible to be placed on the November, 2020 ballot, May 1, 2020 was the Secretary of
2 State's recommended deadline to submit to county elections officials in order to qualify for the
3 November, 2020 election.

4 28. However, even if the May 1 deadline had been missed for some reason, the
5 Committee would most certainly have obtained the requisite number of signatures before July 20, 2020
6 (the 180-day circulation period permitted by law). If signatures were turned in too late to qualify under
7 the random sampling methodology allow for certification of the results before June 24, 2020, the
8 Initiative would be placed on the November, 2022 ballot. Although this was not a preferable outcome,
9 it would be vastly preferable to being forced to start completely over.

10 29. The stay-at-home orders have imposed a virtually insurmountable burden on the
11 Initiative meeting the 180-day circulation deadline, particularly because it contains a constitutional
12 amendment and will therefore require a much higher number of signatures. In my opinion, no
13 initiative could reasonably be expected to obtain the requisite number of signatures if it only has two
14 months of unfettered access to voters.

15 30. Absent a suspension or extension of the 180-day deadline for initiative
16 qualification, the unreasonable burdens imposed over the past three months – and those which continue
17 today and are likely to be with us for some time – will prevent Petitioners and the Committee from
18 qualifying the Initiative. This will force them to start the process over; because of the substantial
19 resources invested already and uncertainty about the future, the measure may never qualify for the
20 ballot and voters may never have an opportunity to consider it, even though almost a million voters
21 have already signed the petition.

22 31. In my opinion, in order to ensure sufficient access to voters, it would be
23 necessary to completely exclude the approximately two months the state was in stage 1 because that
24 was effectively a prohibition on signature gathering. It would also be necessary to exclude the time
25 that any part of the state has been in stage 2 because of the significant restrictions in place. In the
26 alternative, I believe that the stay-at-home orders require the current 180-day deadline to be extended
27 by at least 90 days to afford Petitioners a reasonable opportunity to meet the signature requirement,
28 and possibly more if restrictions on activities continue at the current level or increase.

1 I declare under penalty of perjury that the foregoing is true and correct. I have firsthand
2 knowledge of the same, except as to those matters described on information and belief, and if called
3 upon to do so, I could and would testify competently thereto. Executed this 18 day of June 2020, in
4 Los Angeles, California.

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7 _____
8 ANGELO PAPARELLA
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1 **PROOF OF SERVICE**

2 I, the undersigned, declare under penalty of perjury that:

3 I am a citizen of the United States, over the age of 18, and not a party to the within
4 cause of action. My business address is 555 Capitol Mall, Suite 400, CA 95814.

5 On June 23, 2020, I served a true copy of the following document(s):

6 **Declaration of Angelo Paparella in Support of**
7 **Verified Petition for Writ of Mandate**

8 on the following party(ies) in said action:

9 Leslie R. Lopez
10 Deputy Attorney General
11 Office of the Attorney General
12 1300 I Street
13 Sacramento, CA 95814
14 Phone: (916) 210-6486
15 Email: Leslie.Lopez@doj.ca.gov

Attorney for Respondent Secretary of State
Alex Padilla

16
17
18
19 ☒ **BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at
20 the email addresses listed based on a court order or an agreement of the parties to
21 accept service by email. No electronic message or other indication that the
transmission was unsuccessful was received within a reasonable time after the
transmission.

22 I declare, under penalty of perjury, that the foregoing is true and correct. Executed on,
23 June 23, 2020 in Sacramento, California.

24
25
26 
ANN BARNER

27 (00412995)

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OF CALIFORNIA
SACRAMENTO COUNTY