

Peter Michael Meloy
Robin A. Meguire
MELOY TRIEWEILER
80 South Warren, P.O. Box 1241
Helena, MT 59624-1241
(406) 442-8670
(406) 442-4953 fax

Attorneys for Plaintiffs

**IN THE MONTANA EIGHTH JUDICIAL DISTRICT COURT
CASCADE COUNTY**

MONTANANS FOR JUSTICE:)
VOTE NO ON CI-98, NOT IN)
MONTANA: CITIZENS AGAINST CI-97,)
AND PROPERTY OWNERS AGAINST)
I-154, Political Ballot Committees,)

Plaintiffs,)

v,)

STATE OF MONTANA, by and through)
BRAD JOHNSON, in his capacity as)
Secretary of State; MONTANANS IN)
ACTION, a Montana Corporation,)
CITIZENS RIGHT TO RECALL)
MONTANA, PROTECT OUR HOMES)
MONTANA, STOP OVER SPENDING)
MONTANA, Political Ballot Committees;)
and TREVIS BUTCHER;)

Defendants.)

Cause No. _____

COMPLAINT

As and for its claim for relief against the above-named Defendants,

Plaintiffs allege as follows:

I. PARTIES

1. Plaintiff Montanans for Justice: Vote No on CI-98 is a political committee organized and registered under MCA Title 13, Chapter 37, Part 2, for the purpose of opposing CI-98, with its offices in Cascade County, Montana.

2. Plaintiff Not in Montana: Citizens Against CI-97 is a political committee organized and registered under MCA Title 13, Chapter 37, Part 2, for the purpose of opposing CI-97.

3. Plaintiff Property Owners Against I-154 is a Montana not-for-profit corporation and a political committee organized and registered under MCA Title 13, Chapter 37, Part 2, for the purpose of opposing I-154.

4. Defendant State of Montana is acting in this matter through Brad Johnson, the duly elected Secretary of State.

5. Defendant Stop Over Spending Montana, Defendant Citizens Right to Recall Montana and Defendant Protect Our Homes Montana are political committees organized and registered in support of proposed CI-97, CI-98 and I-154, respectively. Defendant Trevis Butcher is the treasurer of all three of these political committees. Defendant Montanans in Action is a Montana not-for-profit corporation which provided the funds for the signature gathering efforts of all three ballot committees.

II. JURISDICTION & VENUE

6. The Court has jurisdiction to hear this matter pursuant to Section 3-5-302(6), MCA, which authorizes a pre-election challenge to a legally deficient process for including an initiative on the ballot.

7. Venue is proper in this Court under § 25-2-126, MCA, in that Plaintiff Montanans for Justice: Vote No on CI-98 is headquartered in Great Falls, Cascade County, Montana.

III. FACTUAL ALLEGATIONS

8. CI-97 is a proposed constitutional initiative imposing limits on the spending and taxation authority of the State of Montana; CI-98 is a proposed constitutional initiative revising the process by which all levels of judges from city judges to Supreme Court justices could be removed from office. I-154 is a proposed statutory initiative drastically expanding the existing definition of “taking” by governmental units in Montana.

9. Defendants, acting together, organized and carried out the efforts necessary to qualify these three initiatives for placement on the November, 2006 general election ballot. To accomplish this end, they utilized paid signature gatherers. The named defendants were responsible for the signature gatherers’ efforts and were aware of their illegal and deceptive practices, but failed to exercise reasonable care to assure the integrity of the initiative process. The actions of the signature gatherers are imputed to the committee and corporate defendants.

10. To qualify a constitutional initiative for the ballot, petition gatherers must obtain the signatures of ten percent of the total number of qualified voters in the state, including ten percent of the voters in each of the 40 legislative districts (currently a total of 44,615 signatures). Section 13-27-204, MCA. To qualify a statutory initiative for the ballot, petition gatherers must obtain the signatures of

five percent of the total number of qualified voters in the state, including five percent of the voters in each of 34 legislative districts (currently a total of 22,308 signatures). Section 13-27-204, MCA.

11. Defendant Secretary of State certified a total of 52,804 signatures for CI-97, 8,189 over the required number; for CI-98, a total of 51,706 signatures were certified, 7,091 over the required number; and for I-154, 36,604 signatures were certified, 14,296 over the required number. Under § 13-27-302, MCA, a signature gatherer is required to submit an affidavit with each sheet of signatures. The gatherer must swear that he/she gathered or assisted in gathering the accompanying signatures and he/she must certify “that the signatures are genuine, are the signatures of the persons whose names they purport to be,” and “the signers knew the contents of the petition before signing the petition.” The signature gatherer must also provide their current address on the affidavit.

12. As a blatant example of these activities, Marvin King collected signatures for all three proposed initiatives. He periodically filed affidavits as required by § 13-27-302, MCA, as he submitted gathered signatures in support of these three initiatives. King, alone, accounted for 41,761 total signatures on all three petitions. He submitted affidavits on 16,856 signatures in support of CI-97. He also submitted 14,890 signatures in support of CI-98 and 10,015 signatures in support of I-154.

13. In a one-week period of time between June 1st and June 7th, King gathered 3,313 signatures on CI-97, 2,567 signatures on CI-98, and 2,324

signatures on I-154. This total of 8,204 signatures was allegedly gathered in Custer, Rosebud, Lewis & Clark and Yellowstone counties. This is a rate of 49 signatures per hour, almost a signature per minute, for this entire week around the clock. This impossible task was purportedly accomplished in counties some 400 miles apart.

14. In the period June 1st to June 19th, King gathered at least 16,685 signatures from Missoula to Miles City. This is a rate of one signature in one minute, 42 seconds around the clock for 19 days in counties over 600 miles apart.

15. Because of the sheer volume of signatures claimed by King in the foregoing week, it was impossible for him to ascertain that the signers were genuine and they each knew the contents of the three complex initiatives on which he gathered signatures. CI-97 consists of four pages of single-spaced typed provisions. It contains nine distinct substantive sections containing 19 subsections, themselves containing an additional ten sub-sections. CI-98 consists of more than two pages of single-spaced provisions containing 12 distinct substantive sections. I-154 consists of six pages of single-spaced provisions containing two new substantive sections, along with substantive revisions to current statutory language. These initiative proposals amend the Montana Constitution and statutory law in a number of separate and distinct ways. In addition to the foregoing substantive provisions, CI-97 and CI-98 contain four other sections: a savings clause, that it does not affect rights and duties that have matured, penalties that were incurred or proceedings that were

begun before its effective date; a severability clause, that if any section is held invalid, all valid parts that are severable remain in effect, applicability clauses and effective dates upon approval by the electorate. I-154 contains these same four provisions and a section dealing with codification instructions. Copies of these proposed measures are appended for the Court's reference.

16. Section 13-27-101, MCA, provides that “the right of the people to petition to enact laws ... or propose constitutional amendments by initiative ... may be exercised through adherence to the procedures established in this chapter.” While it is important for the people to have the right to propose initiatives, it is also important that the statutory requirements guaranteeing the integrity of the initiative process be followed to ensure that registered voters know what they are placing on the ballot. Section 13-27-302, MCA, provides the mechanism for assuring that the signature gatherer certify that the person signing the petition knew its contents.

IV. DEFENDANTS ENGAGED IN A STATEWIDE PATTERN OF DECEPTIVE PRACTICES IN THE GATHERING OF SIGNATURES

17. Defendants' employed signature gatherers were brought in from out of state to collect signatures in Montana, at a rate of compensation as high as \$1,000 a day. Once they finished gathering signatures in Montana, they would move on to another state. These professional signature gatherers were encouraged to lie and generally engage in a pattern of devious and deceptive practices, including routinely providing false addresses on affidavits, signing other signature gatherer's affidavits despite the fact they had not personally

gathered the signatures, and purposely not leaving a trail as to their future whereabouts. Some of these professional signature gatherers admit deliberately violating other state's laws regarding qualifications for getting initiatives on the ballot.

18. In an effort to maximize the number of signatures, the paid signature gatherers used a "bait and switch" scheme. They represented to the potential signer that if I-154 passed, it would protect property owners from the eminent domain powers of the State and keep the government from taking their homes. If the voter was then interested in signing the petition for I-154, the gatherer then asked the voter to sign "copies" of the petition, which, in fact, were signature pages for CI-97 and CI-98.

19. Section 13-27-302, MCA, requires attesting signature gatherers to report their addresses when attesting to the signature.

20. The signature gatherers gave false addresses when certifying the petitions to the Secretary of State, including shopping centers and other fictitious addresses.

21. The signature gatherers purpose was plainly and simply to make money. They had no concern with assuring their sworn statements that "signers knew the contents of the petition before signing" was truthful, for that would slow their pace, decrease the number of signatures and reduce their pay.

22. In an effort to induce persons to sign petitions for CI-98, the paid signature gatherers deliberately went beyond the petition and initiative language and provided reasons that were calculated to inflame passions and manufacture

a need for CI-98. One example used by signature gatherers was the Nebraska judge who gave probation to a sex offender because the judge deemed prison too dangerous for the 5'1" defendant.

23. Given the sheer volume of signatures attested to by Marvin King during the first three weeks of June, it would be impossible for him to explain the initiatives or permit the elector to review each initiative, and obtain the signatures in 15 different counties spread all over the state.

24. All of these actions and those described in the "factual allegations" constitute a pervasive pattern of illegal and deceptive practices such as to pervert the entire ballot qualification process for all three initiatives

25. All of these actions and those described in the "factual allegations" constitute a "violation of law relating to qualifications for inclusion on the ballot."

V. CLAIM FOR RELIEF

26. For Defendants' paid signature gatherers' pervasive pattern of illegal and deceptive practices, all of the signatures obtained through the services of professional signature gatherers should be discarded.

27. For the failure of Defendants to follow the proper certification process in gathering signatures, the signatures gathered by Defendants through King should be discarded, specifically those signatures gathered during the weeks of June 1st through June 19th.

28. All signatures submitted by gatherers giving false addresses should be discarded.

WHEREFORE, Plaintiffs pray for relief as follows:

1. That this Court take jurisdiction of the matter.
2. That this Court expedite its consideration of this matter.
3. Invalidate all signatures obtained through the services of paid professional signature gatherers.
4. Alternatively, invalidate all signatures obtained by Marvin King, especially those signatures gathered during June 1st through 19th.
5. That upon review, this Court invalidate the signatures submitted by gatherers giving false addresses.
6. That the Court determine that CI-97, CI-98, and I-154 do not qualify for the ballot and enjoin the Secretary of State from publishing these initiatives on the ballot.
7. That this Court award Plaintiffs such other relief as may be appropriate under the circumstances.

DATED this 15th day of August, 2006.

MELOY TRIEWEILER

PETER MICHAEL MELOY
ROBIN A MEGUIRE
Attorneys for Plaintiffs