STATE OF MAINE
CUMBERLAND, SS

LAW COURT
DOCKET NO. _____

DAVID A. JONES, et al. Petitioners v. MATTHEW DUNLAP, in his capacity as the MAINE SECRETARY OF STATE, Respondent and THE COMMITTEE FOR RANKED CHOICE VOTING, et al. Intervenors	)	**MOTION FOR STAY PENDING APPEAL**

Intervenors The Committee for Ranked-Choice Voting, *et al.* (the "Committee") through their undersigned counsel, hereby moves for a stay of the Superior Court's judgment pending Law Court appeal.[1] The Committee and the Secretary have sought appeal of the Superior Court judgment, *inter alia*, to correct a basic arithmetic that resulted in an erroneous reversal of the Secretary's decision based on a mistaken tally of valid signatures. Specifically, the Order erroneously counted 162 signatures that the Secretary's determination had invalidated for other reasons, such as a petition signer not being a registered voter or a petition signer being counted on another petition form.

Although Rule 62(e) of the Maine Rules of Civil Procedures compels that judgments are automatically stayed pending appeal, the Respondent Secretary of State—who also has filed notice of appeal—has indicated that it does not believe that the Rule 62(e) automatic stay applies in this case, and does not intend to recognize a Rule 62(e) stay. The Committee

[1] A copy of the Superior Court's August 24, 2020 Order is attached hereto as Exhibit A.

moves for an order confirming application of Rule 62(e) to automatically stay the Superior Court's judgment during the pendency of appeal. In the alternative, the Committee moves this Court order a stay of the Superior Court judgment pending appeal because appellants the Committee and the Secretary of State demonstrate a likelihood of success of the appeal on the merits and irreparable harm is a stay were not granted.

I. Rule 62(e) Automatically Stay Enforcement of Superior Court's Judgment Pending Appeal.

The Superior Court's August 24, 2020 Order is a judgment subject to Rule 62(e)'s automatic stay pending appeal. Rule 62(e) provides that "the taking of an appeal from a judgment shall operate as a stay of the execution upon the judgment during the pendency of the appeal," except in cases where the court has entered an order for immediate execution of judgment pursuant to Rule 62(c) or cases where the court has granted an injunction pending appeal pursuant to Rule 62(d). The Rules of Civil Procedure define "judgment" as used in Rule 62(e) to include "a decree and any order from which an appeal lies." M.R. Civ. P. 54(a). Additionally, the procedural rules draw no distinction between "execution of judgment," as referenced in Rule 62(e), and general enforcement of the judgment.

The Superior Court's Order on appeal holds that "the Secretary's decision that the proponents failed to provide the required number of signatures is REVERSED." Order at 17. The Committee has filed for the Law Court's review of the Court's reversal order pursuant to M.R. App. P. 2A. Consequently, the Court's August 24, 2020 order is an "order from which an appeal lies" pursuant to Rule 54(a)'s plain definition of a judgment. None of Rule 62(e)'s exceptions apply because the Court's Order does not include—and Petitioners have not requested—any order of immediate execution or order of an injunction pending appeal. *See id.* Moreover, Rule 80C provides no other exception to Rule 62(e)'s application. Therefore, the automatic stay of judgment pending appeal pursuant to Rule 62(e) must apply here.

Importantly, neither Rule 80C nor the Administrative Procedures Act, both of which govern Superior Court review of final agency actions, provide an exception to Rule 62(e)'s automatic stay of the Superior Court's order pending a Law Court appeal. The APA, 5 M.R.S.A. § 11004, provides that a Rule 80C petition to the Superior Court "shall not operate as a stay of the final agency action pending judicial review." But here, no stay of the Secretary's final agency action disqualifying the people's veto petition from ballot qualification is at issue. In fact, the only judgment at issue on appeal is *the* August 24, 2020 Order *reversing* the final agency action, and newly qualifying the people's veto petition. Accordingly, Section 11004's limitations governing how a party can obtain a stay of final agency action fail to trump Rule 62(e)'s automatic stay of a Superior Court's judgment while that very judgment is pending appeal.

No prior Law Court opinion has held that a Superior Court's judgment in a Rule 80C action is not subject to Rule 62(e)'s automatic stay pending appeal. The Court's application of the rule in *Nat'l Org. for Marriage v. Comm'n on Governmental Ethics & Elections Practices*, 2015 ME 103, 121 A.3d 792, ("*NOM*") is instructive to demonstrate Rule 62(e)'s proper application here. *NOM* involved a petitioner who unsuccessfully asked the Superior Court to reverse a final agency compelling it to make public campaign disclosures *and* a court order staying the agency action compelling its public disclosures. The Superior Court affirmed the agency action, allowing the underlying agency's decision to remain in full effect. The Petitioner then appealed to the Law Court, arguing that Rule 62(e)'s automatic stay of judgment must stay *both* the trial court's judgment *and* the final agency action that compelled the petitioner to make public campaign disclosures. *NOM* observed that, where the Superior Court had affirmed the underlying agency action, "a stay of that judgment would have no effect, as it merely denied [the petitioner's] petition for review. Instead, the substance

of [the petitioner's] motion and [petitioner's] prayer for relief make clear that [it] seeks a stay of the Commission's underlying decision." 2015 ME 103, ¶ 10, n.7. But, *NOM* concluded, Rule 62(e) could not extend to stay the agency's underlying decision, because the then-pending Law Court appeal "does not lie directly from the agency's decision but instead from the Superior Court's review of that decision." *NOM,* 2015 ME 103, ¶ 10.

Here, the Committee seeks to stay the judgment that lies "from the Superior Court's review of [the Secretary's] decision," *NOM,* 2015 ME 103, ¶ 10. The Committee does *not* seek any stay or modification of the underlying agency action, which *NOM* determined was a remedy available via 5 M.R.S.A. § 11004, not Rule 62(e). *NOM,* 2015 ME 103, ¶ 11. Consequently, nothing in the *NOM* opinion stands for the proposition that a Superior Court's judgment in a Rule 80C action is somehow exempted or excluded from the plain application of Rule 62(e)'s automatic stay pending appeal of that judgment. The Business Court has erroneously opined (without analysis or explanation) that Rule 62(e) somehow "does not apply to orders issued by the Superior Court on administrative appeals pursuant to M.R. Civ. P. 80C," *Maine Equal Justice Partners v. Hamilton,* No. BCD-AP-18-02, 2018 WL 10400173 (2018). But a plain reading of *NOM* demonstrates that the trial court's *Hamilton* holding was clear error because it was inconsistent with the Law Court's application of Rule 62(e) in *NOM,* and unpersuasive to determine Rule 62(e)'s proper (and automatic) application here.

II. An Order Staying the Superior Court Judgment is Warranted Here, Even if Rule 62(e) Does Not Apply.

A stay of the Superior Court judgment is warranted here because the record demonstrates that the Superior Court decision erroneously and inadvertently included at least 162 signatures that the Secretary's tally of signatures totals failed to account.

A motion for a stay pending appeal filed with the Law Court is subject to the same standards for obtaining injunctive relief applied by the trial courts. *See NOM,* 2015 ME 103,

¶ 14. The party seeking a stay must demonstrate that: (1) it has likelihood of success on the merits (at most, a probability; at least, a substantial possibility); (2) it will suffer irreparable injury absent the stay; (3) such injury outweighs any harm which the granting the stay would inflict on the non-moving party; and (4) the public interest will not be adversely affected by granting the stay. Id.

A. Appellants are Likely to Succeed on the Merits of the Appeal

1. Tally Errors

The Committee seeks reversal of the Superior Court's judgment on appeal because the lower court erroneously tallied the number of validated signatures to total 22 more than the ballot qualification threshold of 63,067 signatures. In fact, the Record demonstrates that the Superior Court miscounted at least 92 signatures that were disqualified by the Secretary for other reasons. Correct count of the signatures necessitating validation by the Superior Court's judgment causes the people's veto petition to fall below the 63,067 signature threshold required for ballot qualification.

Petition signatures are invalidated by the Secretary of State for a variety of issues, including issues related to circulator qualification (designated as a "CIRC" disqualification), issues caused by a petition signer who was not qualified to sign (designated as a "NR" disqualification), or a petitioner signer whose signature was already counted on an earlier petition form (designated as a "DUP" disqualification).

The Superior Court judgment held, as a matter of law, that the signatures collected by circulators Michelle Riordan and Monica Paul—which had been disqualified by the Secretary as CIRC disqualifications—must be counted as valid. *See* Order at 7-10. The Secretary had identified 988 signatures collected by Ms. Paul and Ms. Riordan as disqualified for CIRC, and the Superior Court's judgment added 988 signatures to the petition total on the basis of its holding that the Secretary's basis for a CIRC disqualification was unlawful.

However, the Secretary subsequently recognized that its tally failed to account for secondary bases of disqualification independent of the CIRC disqualification. Petition No. 6293, attached hereto as Exhibit B, provides an example the tally error occurring throughout the Superior Court's tally of the reversed CIRC disqualifications. The Secretary of State originally determined that six of the 17 signatures on petition No. 6293 must be disqualified for "NR" issues because signers were not Maine voters, as required. The Secretary's office subsequently identified the basis for a CIRC disqualification of the entire petition, and then counted 17 CIRC disqualifications, not just the disqualification of 11 otherwise valid signatures. In turn, when the Superior Court held that the CIRC disqualifications on petition No. 6293 were unlawful, the Court added 17 signatures to the tally—not just the 11 valid signatures.

The Secretary subsequently identified that 92 signatures requiring disqualification as NRs or DUPs were erroneously counted as valid when the Superior Court judgment reversed the CIRC disqualification of 988 signatures collected by Ms. Riordan and Ms. Paul. A copy of the Secretary of State's tally accounting for the error is attached hereto as Exhibit C. A corrected count of only those otherwise valid petitions restored by the Superior Court's judgment that the CIRC disqualifications were in error, the people's veto petition at issue swings from 22 signatures above the threshold, to *at least*[2] 70 valid signatures below the 63,067 threshold for ballot qualification.

The issue stemming from the Superior Court's erroneous tally of signatures invalidated for reasons other than the CIRC disqualification at issue in the judgment was never waived by the parties, because the Secretary's inadvertent inability to track secondary

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[2] The Committee has also identified 70 signatures that were erroneously counted as valid among those validated by the Secretary of State from the town of Turner. The Turner errors are not discussed here because they are unnecessary to demonstrate that, even if the Superior Court's judgment is affirmed on questions of law, it still miscounted the number of valid signatures below the required threshold for ballot qualification.

bases for signature disqualification was not known to the parties or the Court. This Court has jurisdiction to review the record on appeal for clear error. An error in the record having been identified, the issue is properly before the Court.

2. Errors of Law

The Committee also seeks appeal on questions of law presented by the Court's validation of petitions collected by circulators who were not registered voters at the time they circulated. The Court's holding is inconsistent with prior holdings of the United States District Court for the District of Maine, in *Initiative & Referendum Institute v. Secretary of State*, No. CIV 98-104-B-C, 1999 WL 33117172 (D. Me. Apr. 23, 1999) and *Maine Taxpayers Action Network v. Sec'y of State*, 2002 ME 64, 795 A.2d 75 (Dana, J. concurring) which held that Maine's constitutional requirement that circulators are active, registered Maine voters was not an unreasonable burden on political speech, and that the state's legitimate interest in requiring circulators to have active registration justified any slight burden the requirement imposed.

B. Irreparable Injury Would Result Without a Stay

Irreparable injury would result if this matter is not stayed pending appeal. Absent a stay, the Secretary has indicated he will move forward with printing a ballot that not only contains the ballot question at issue but also conducts the 2020 Presidential Election in Maine by plurality—*i.e. without* the specific ranked-choice voting mechanism enacted by the Maine Legislature and which Intervenors seek to preserve for the 2020 Presidential Election. Even if Intervenors are granted relief on appeal within the 30 day statutory deadline set by 21-A M.R.S.A. 905(3), it will be too late to change these ballots to ensure that a ranked-choice election is conducted on November 3, 2020. Due to the nature of ranked-choice voting (*e.g.*, the ability to select more than one candidate for President, in order of preference), there is simply no "on" or "off" switch for printing ballots with, or without, this particularized voting

mechanism. And, as stated, the Secretary will move forward *without* ranked-choice voting absent a stay.

At bottom, there is no other adequate remedy at law available to Intervenors on this issue. *See, e.g., Bangor Historic Track, Inc. v. Dep't of Agric.*, 2003 ME 140, ¶ 10 ("'Irreparable injury' is defined as 'injury for which there is no adequate remedy at law.'"). If the matter is not stayed pending appeal, any victory on appeal will be pyrrhic—at least until November, 2024—because, absent a stay, the 2020 Presidential Election, for which Intervenors are seeking to maintain ranked-choice voting, will be conducted *without* this mechanism in place. As this Court is well aware, every Presidential Election carries enormous significance—this one no less than any others. The inability for Mainers to vote ranked-choice in the 2020 Presidential Election would be an irreparable injury without adequate remedy at law.

C. The Balance of Harms Tilts Toward Appellants.

The balancing of harms also favors a stay of the Superior Court's judgment. Absent a stay, the ballots for this election will not permit ranked choice voting for President. Ranked choice voting requires appropriate ballots. The Committee, therefore, would suffer irreparable harm absent a stay. Even if this Court were to reverse the Superior Court's judgment, such a reversal would come after ballots are printed. There could not be ranked choice voting for president in Maine in 2020 without a stay and the Committee would, therefore, suffer irreparable harm.

On the other hand, if this Court issues a stay but ultimately affirms the Superior Court's judgment, Petitioners would suffer no irreparable harm. If the ballots permit ranked choice voting, this Court could order that only a voter's first choice for President is counted. Therefore, even with a stay, Maine's Presidential election could move forward based on a plurality alone. A plurality vote can occur with ranked choice ballots, but ranked choice

voting cannot occur without ranked choice ballots. Accordingly, the balance of harms favors the Committee and a stay of the Superior Court's judgment.

D. The Public Interest is Served by the Grant of a Stay

The interest of justice, and therefore the public interest, favors the entry of a stay to prevent the enforcement of a judgment based on erroneous calculations. This is especially true where, as here, the central issue on appeal is whether petitioners reached a threshold of 63,067 signatures. The accurate tabulation of valid signatures is essential to the just resolution of this case. The Superior Court determined that petitioners met that 63,067 threshold through a clear calculation error. It would be antithetical to the public interest to enforce a judgment that is based, entirely, on a calculation error.

CONCLUSION

For the aforementioned reasons, the Committee respectfully requests that the court affirm that Rule 62(e)'s automatic stay of judgments applies here, and in the alternative grant a stay of the Superior Court's August 24, 2020 judgment while appeal in pending.

Dated at Portland, Maine, this 28th day of August, 2020.

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STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP 20-0016

DAVID A. JONES *et. al.*,
Petitioner

v.

SECRETARY OF STATE,
Respondent

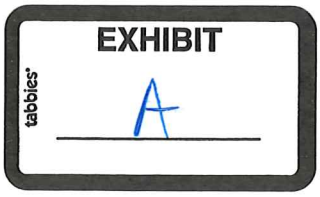
and

COMMITTEE FOR RANKED
CHOICE VOTING, *et. al.*
Intervenors

ORDER

OVERVIEW

Backers of a petition (Petitioners) seek to place a "peoples' veto" referendum on the ballot that would repeal legislation submitting presidential elections in Maine to ranked choice voting. The Petitioners appeal the Secretary of State's ("Secretary") decision that there were an insufficient number of valid signatures to place the issue on the November 2020 ballot. The Secretary opposes the appeal. The Committee for Ranked Choice Voting and others ("Committee"), all proponents of ranked choice voting, intervened and oppose the appeal as well. Neither the legality nor the desirability of ranked choice voting is at issue in this appeal. The issue here is whether the Secretary improperly invalidated or validated petitions and individual signatures seeking to place the issue on the ballot. Upon review of the facts and law governing this case, and in light of the Secretary's Amended and Supplemental Determinations, this court finds that the Secretary improperly invalidated the signatures collected by Monica Paul and Michelle



Riordan. As such, the court finds that the Petitioners collected enough signatures to place their petition on the November 2020 ballot and hereby reverses the Secretary's decision.

FACTS

The Petitioners are supporters of a petition that seeks to place on the November ballot a "people's veto" of Pub Laws 2019, CH. 5389 known as "An Act to Implement Ranked Choice Voting for Presidential Primary and General Elections in Maine" ("Act"). The Secretary approved the timely application for a people's veto referendum petition. *Payne v. Sec'y of State*, 2020 ME 110, ___ A.3d ___.

The proponents of the people's veto set out to collect the 63,067 signatures necessary to put the veto on the ballot. On June 15, 2020, the proponents filed a number of petitions with the Secretary that contained a total of 72,512 signatures; at which time the Secretary began the process to determine whether the petitions and the signatures complied with the Maine Constitution and Maine law. On July 15, the Secretary issued his Determination of the Validity of a Petition for People's Veto of (the Act) ("Determination"). The Secretary invalidated 11,178 signatures, leaving the petition with only 61,334 signatures and short of the required number of signatures.

The Petitioners brought a timely appeal raising a variety of issues challenging the Secretary's Determination. The Committee intervened. After a conference with counsel on August 3, the court remanded the matter to the Secretary without objection. On remand, the Secretary was to reconsider its invalidations in light of the additional evidence provided by both the Petitioners and the Committee. The Secretary issued an Amended Declaration on August 12. The Secretary invalidated 11,299 signatures, leaving a shortfall of 1,775 signatures. Amended Declaration, pp. 8-9.

Because the court must decide the issue by August 24, the parties agreed to an accelerated briefing schedule. On Friday, August 21, the court held a status conference

with counsel. The court, with the agreement of the Secretary and the Petitioners, but over the objection of the Committee, remanded this case back to the Secretary for further findings with respect to the petitions from the Town of Turner and allowed supplemental briefs to be filed on August 24.

The Petitioner's original challenge focuses on several categories of ballots that the Secretary determined to be invalid in an effort to overcome the shortfall.

1. Town of Turner	809 signatures
2. Circulators Riordan and Paul	988 signatures[1]
3. Town of Freeport	160 signatures
4. Notary Pettengill	24 signatures
5. Materially altered signatures	12 signatures
	1993 signatures

On August 24, the Secretary issued a Supplement to its Amended Determination ("Supplement"). This Supplement reinstated 809 signatures that were previously invalidated. There are now 10,490 invalidated signatures, a shortfall of 966 signatures.

Altogether, the Petitioner now challenges enough qualifications to get over the 966-signature gap. In addition, the Intervenor objects to the validation of the 809 signatures from the Town of Turner.

ANALYSIS

When the Superior Court hears an appeal of a decision by a state agency, the court may:

A. Affirm the decision of the agency;

[1] The Secretary noted in a supplemental memorandum that the Secretary invalidated 306 signatures on the Monica Paul petition, not 262 as previously calculated.

B. Remand the case for further proceedings, findings of fact or conclusions of law or direct the agency to hold such proceedings or take such action as the court deems necessary; or

C. Reverse or modify the decision if the administrative findings, inferences, conclusions or decisions are:

1) In violation of constitutional or statutory provisions;
2) In excess of the statutory authority of the agency;
3) Made upon unlawful procedure;
4) Affected by bias or error of law;
5) Unsupported by substantial evidence on the whole record; or
6) Arbitrary or capricious or characterized by abuse of discretion.

5 M.R.S. § 11007. The court reviews the evidence for findings not supported by the evidence, errors of law, or abuse of discretion. *Knutson v. Dep't of Sec'y of State*, 2008 ME 124, ¶8, 954 A.2d 1054.

"The Secretary of State is the constitutional officer entrusted with administering—and having expertise in—the laws pertaining to the direct initiative process." *Reed v. Sec'y of State*, 2020 ME 57, ¶ 18, ___ A.3d ___. The court must defer to the Secretary's interpretation of the relevant law as long as it is reasonable. *Id.* The court can only reverse the Secretary on the grounds of abuse of discretion if the Secretary "exceeded the bounds of the reasonable choices available to him." *Forest Ecology Network v. LURC*, 2012 ME 36, ¶ 28, 39 A.3d 74. With respect to the Secretary's findings of fact, the court must examine:

> "the entire record to determine whether, on the basis of all the testimony and exhibits before it, the agency could fairly and reasonably find the facts as it did. [The reviewing court] must affirm findings of fact if they are supported by substantial evidence in the record, even if the record contains inconsistent evidence or evidence contrary to the result reached by the agency. The 'substantial evidence' standard does not involve any weighing of the merits of evidence. Instead it requires [the court] to determine whether there is any competent evidence in the record to support a finding. Administrative agency findings of fact will be vacated only if there is no competent evidence in the record to support a decision. Any [c]ourt review that would redecide the weight and significance given the evidence by the administrative agency would lead to ad hoc judicial

> decision-making, without giving due regard to the agency's expertise, and would exceed [the court's] statutory authority."

Friends of Lincoln Lakes v. Bd. of Envtl. Prot., 2010 ME 18, ¶¶ 13-14, 989 A.2d 1128(internal citations omitted). When an agency concludes that the party with the burden of proof failed to meet that burden, the reviewing court will reverse that conclusion only if the record compels a contrary conclusion to the exclusion of any other inference. *Kelley v. Me. Pub. Employees. Ret. Sys.*, 2009 ME 27, ¶16, 967 A.2d 676; *see also Concerned Citizens to Save Roxbury v. Bd. Of Envtl. Prot.*, 2011 ME 39, ¶ 24, 15 A.3d 1263. On appeal, it is the Petitioner's burden to show that there is insufficient evidence for the Secretary to make its determination. *Town of Jay v. Androscoggin Energy, LLC*, 2003 ME 64, ¶ 10, 822 A.2d 1114.

The right to the "people's veto" is provided by the Maine Constitution. ME Const., Art. IV, Part 3d, § 17. The Constitution provides that a proponent of the referendum must obtain the signatures of ten percent of the number voting in the last gubernatorial election. *Id.* The Maine Constitution also imposes requirements on the conduct of a petition drive that are designed to maintain the integrity of the process. *Id.* §20. These limits govern those who circulate the petitions, known as "circulators," the notaries who take the circulator's oath upon completion of the petitions, and the municipal officials who certify the petitions. *Id.* Once this process is completed, the petitions are then sent to the Secretary so that he may determine if they are valid.

Relevant to this case, the Constitution requires that petitions be deposited with the town officials "by the hour of 5:00 p.m., on the 5th day before the petition must be filed in the office of the Secretary of State, or, if such 5th day is a Saturday, a Sunday or a legal holiday, by 5:00 p.m., on the next day which is not a Saturday, a Sunday or a legal holiday." *Id.* § 20. In this case, the petitions needed to be submitted by 5 P.M. on June

10. The Maine Constitution also requires that a "Circulator must appear on the voting list of the city, town or plantation of the circulator's residence as qualified to vote for Governor. . ." *Id.*

In addition to the Constitution, the Legislature has issued a set of statutory guidelines that overly the constitutional framework outlined above. Again, relevant to this case, the statute states that a notary must take the circulator's oath and sign the petition. 21-A M.R.S. § 902. "*After* the petition is signed and verified in this manner. the petition must be submitted to the registrar for certification." *Id.*(emphasis supplied). In addition, any notary providing the circulator's oath must not have a conflict of interest. A conflict of interest would include "providing any other services, regardless of compensation, to initiate the direct initiative or people's veto referendum .... or ...providing services other than notarial acts, regardless of compensation, to promote the direct initiative or people's veto referendum for which the petition is being circulated." 21-A M.R.S.A. § 903-E.

A failure to comply with the rules on the part of a circulator or notary can lead to disqualification of an entire petition. *Maine Taxpayer's Action Network* v. *Sec'y of State,* 2002 ME 64, ¶ 13, 795 A.2d 75, 80. Although there are not enough decisions from the Law Court arising from the initiative and peoples veto process to fully flesh out the contours of the Secretary's discretion when validating or disqualifying petitions or signatures, there are a few decisions that shed some light. In *Reed v. Secretary of State,* the Secretary validated a sufficient number of signatures to allow an initiative regarding the CMP power line to go forward. *Reed,* 2020 ME 24, ¶ 10, ___ A.3d ___. The Law Court deferred to the Secretary's decision to distinguish between those petitions where the oath was administered when the notary did not have a conflict and those when it did have a conflict. *Reed,* 2020 ME 57, ¶¶ 20-22, ___ A.3d ___. In *Maine Taxpayer's Action Network,*

the Law Court upheld the Secretary's decision to invalidate the petitions on the grounds that the circulator was not a resident of Maine and that he falsely stated his identity. *Me. Tapayers Action Network*, 2002 ME 64, ¶ 6, 795 A.2d 75. In *McGee v. Secretary of State*, the Law Court found that the Secretary had no discretion to accept applications three days after the statutory deadline. 2006 ME 50 ¶16, 896 A.2d 933.[2] In *Palesky v. Secretary of State*, the Court found the Secretary could disqualify petitions when the oath was not taken from the circulator, when signatures were not on the approved petition form, and when the signatures had not been approved by the registrar. 1998 ME 103, 711 A.2d 129. The Law Court has not decided whether the Secretary has the discretion to qualify petitions or signatures after determining that any violations are *de minimus*. *Reed*, ¶ 13, n. 12, ___ A.3d ___.

I. PETITIONERS OBJECTIONS

The Petitioners make five categories of objections to the Secretary's Amended Determination.

A. Disqualification based on the circulators who were not registered to vote until after they collected their signatures.

The Secretary disqualified several signatures because the circulators were not registered voters at the time they collected the signatures. Amended Determination, pp. 1-2. In their brief, the Petitioners only raise the 988 signatures collected by Monica Paul and Michelle Riordan. Petitioner's Brief, pp. 6-7,13-16. Although the Amended Determination, p. 8, identifies 1175 signatures in this category, the court cannot rule on the remaining signatures by other circulators. The other parties have assumed they were abandoned have had no reason to address petitions submitted by any other circulator.

[2] In *McGee*, the court then found the statutory deadline inconsistent with the Maine Constitution and ultimately confirmed the Secretary's decision. ¶ 39.

them. The total number of signatures considered after clarification by the Secretary is 988.

In *Hart v. Secretary of State,* the Law Court addressed the constitutionality of the residence requirement that is confirmed in the same provision in the Maine Constitution that requires the circulators to be registered voters. 1998 ME 189, ¶ 13, 715 A.2d 165. The Court "acknowledged that the initiative petition process involves political discourse that is protected by the first amendment of the federal constitution." *Id.* ¶ 9. The Court found, however, that the Maine Constitution's requirements that the circulators be residents served a compelling state interest in the regulation of initiative process. *Id.* The court noted, but did not address, the voter registration requirement at issue here and observed that voter registration issue was on its way to the U.S. Supreme Court. *Id.* ¶ 8. The issue with respect to a circulator's voter registration arose again in *Maine Taxpayers Action Network,* but was not addressed by the majority. 2002 ME 64, ¶¶ 22-29, 795 A.2d 75.

The United States Supreme Court did address the voter registration requirement and ruled that Colorado's requirement that circulators to be registered to vote is unjustified and infringes on the first amendment rights of the circulators to conduct core political speech. *Buckley v. American Const. Law Found.*, 525 U.S. 182, 197 (1999). The Court did not find that the state interest of fraud detection or administrative efficiency justified the requirement. *Id.* at 192. The Court determined that requiring circulators to be registered would eliminate a large pool of registered voters. *Id.* at 194-95. The Court's other reason is that some voter eligible adults have a politically based objection to registering to vote. *Id.* at 195.

In *Initiative & Referendum Institute v. Secretary of State,* the Magistrate for the US District Court for the District of Maine applied *Buckley* to the issue of whether the requirement that circulators be registered voters was constitutional. 1999 U.S. Dist. Lexis

22071 (D. Me. April 23, 1999). The *IRI* court noted that the *Buckley* decision was largely based on the numbers of eligible voters in Colorado who were not registered, thus reducing the number of available circulators. *Id.* at **43-46. Evidence in *IRI*, on the other hand, suggested that the percentage of unregistered voters in Maine is low. *Id.* at *45. The court concluded that the State had a compelling interest in locating circulators when investigating the validity of petitions and that requiring voter registration advanced that goal. *Id.* at *46. The *IRI* court noted, however that the State's interest in requiring voter registration was modest, but that the plaintiffs in that case had offered nothing in response. *Id.* at *48. Justice Dana makes similar arguments in his concurrence in *Maine Taxpayers Action Network*, 2002 ME 64, ¶¶ 27-29, 795 A.2d 75.

Both *IRI* and Justice Dana's concurrence are distinguishable from the case at hand. Here, the State disqualified the petitions because the circulators collected signatures prior to registering to vote. The circulators were registered to vote at the time the petitions were submitted to the Secretary of State, satisfying the State's interest to the extent voter registration makes it easier to locate circulators in the event an investigation is necessary. The Secretary has not persuaded the court that the temporal voter registration requirements, which do not appear either in the Maine Constitution or in statute, "are justified by a compelling state interest and are narrowly tailored to serve that interest." *Wyman v. Secretary of State*, 625 A.2d 307, 311 (Me. 1993). Therefore, the court would reverse the Secretary's disqualification of the 988 signatures collected by circulators Riordan and Paul, and challenged by the Petitioner in his Brief, on the grounds those circulators were not registered to vote at the time they collected the signatures. 5 M.R.S.A. § 11007(C)(1).

The Secretary objects to this argument, stating that the constitutionality of these provisions was not properly raised. The Court finds it was adequately pled. *See* Petition

at ¶ 34. The Secretary notes correctly that the issue of constitutionality was not originally briefed. However, the court raised the issue with the parties at its August 21 conference and the parties had time to brief it. Therefore, the court has chosen to address it.

B. Disqualifications based on petitions filed with the Town of Turner

The Secretary originally disqualified petitions from the Town of Turner because they were not submitted before the deadline imposed by the Maine Constitution. On remand, the Secretary had four days to review a large volume of material. Secretary's Brief, p. 4. An investigator unsuccessfully attempted to call the Turner Clerk. Although the Secretary felt as though confirming the Clerk's affidavit by phone was an important part of the investigation, time constraints prevented it from happening. Choosing to rely on the date stamps on the petitions, the Secretary chose not to accept the Clerk's affidavit when making the Amended Determination.

Upon further review of the Secretary's Amended Determination, the court was concerned that potential mistakes of a municipal official, as opposed to a notary or circulator selected by the proponents, had disqualified the petitions. The Secretary had insufficient time to complete tasks it determined ware necessary to investigate these signatures. Therefore, the court determined it was necessary to remand the case a second time so that the Secretary could make additional findings towards a determination of whether the Turner petitions were submitted on time. 5 MRSA § 11007(4)(B).[3] The court

[3] The court would have preferred to wait until the briefing was completed and then remanded. Unfortunately, it was impossible. The parties treat the statutory August 24 deadline as a hard deadline. 21-A MRSA § 905(2). By late Wednesday, August 19, all the parties had submitted an initial brief. Although the court had not yet decided any of the issues raised, at that point, the court was concerned that the Turner signatures *might* decide the case. Given that the reply briefs were not due to the end of the day on Friday August 21 and a decision due on August 24, the court decided on the remand after a discussion with the parties on Friday morning and after the Secretary indicated a willingness to follow up with the Turner town clerk.

notes that the Secretary and the Petitioners agreed to the remand, but the Committee did object.

After the second remand, the Secretary has determined that the 809 signatures found on petitions certified by the Town of Turner were submitted on time. As such, the Secretary has Supplemented its Amended Determination, concluding that only 10,490 signatures are invalid, rather than the previous number of 11,299.

The Court finds, for the reasons stated in the Supplemental Amended Declaration, that the evidence supports the Secretary's decision.

C. **The Secretary's decision not to disqualify the petition from the Town of Freeport was not an abuse of discretion.**

The Secretary disqualified four petitions from the Town of Freeport on the grounds the town's registrar notarized the petitions the day after they were certified. Amended Determination p. 3. The Secretary determined it ran afoul of the of the requirement in 21-A MRSA § 902 that the circulator's oath be completed before the Town certifies the petitions. A properly administered circulator's oath has been described as a critical step to prevent fraud in the petition process. *Maine Taxpayers Action Network,* 2002 ME 64, ¶ 13, 795 A.2d 75.

The court defers to the Secretary's interpretation of the statute with respect to the timeliness requirement. The Secretary's disqualification of the petition was a reasonable choice and the court is not permitted by law to second guess that. The Freeport petitions are distinguishable from the other Towns at issue in that the late circulator's oath came on a different day. The Secretary's use of that distinction in disqualifying the Freeport petitions instead of the petitions where the town clerk completed the oath on the same day as accepting the petitions was within the Secretary's discretion and was not arbitrary or capricious.

The Petitioner argues that she was not actually done her certification on March 5 and should have dated the certification on March 5 instead of March 4. That would be a second date change since the petition was certified. The court notes that the burden of selecting a notary both to complete the oath who does not have a conflict and to get the oath properly completed before the submission of petitions rests on the proponent of the referendum. The Petitioners cannot blame the Town for accepting petitions that have not had the oath completed. The Secretary does not have to accept shifting date changes, particularly after submission the notary's an incorrect affidavit as part of this litigation.

The court's decision is also based on Secretary's obligation and right to manage the petition process. *Maine Taxpayer's Action Network*, 2002 ME 64, ¶ 12, n.8, 795 A.2d 75 (Secretary has "plenary power to investigate and determine the validity of petitions"). The Secretary had to review over 9000 petitions bearing over 70,000 signatures. As part of the management of the process, which is necessary to assure the correct number of qualified signatures are counted, the Secretary has to rely on contemporaneous dates and correctly dated petitions. The burden is on the proponents to manage their end of the process so that the initial submissions are correct. Although the Secretary does listen to efforts to correct errors on remand, it is in the Secretary's discretion to rely on the document in its original form instead of as purportedly corrected. In this case, the notary submitted an affidavit that was incorrect and the Petitioners have asked the Secretary to consider changing first the date of notarization from March 5th to March 4th and then the date of certification from March 4th to March 5th. It is well within the Secretary's discretion to rely on the original dates and the law does not allow the court to weigh competing evidence to overturn the Secretary's position.

D. **The Secretary's disqualification of 24 signatures where notary Kim Pettingill failed to date her notarization.**

The same principle applies here. Here, a notary left dates off of petitions totaling 24 signatures. The obligation is on the proponents to get it right the first time. On the original remand the Petitioners provided an affidavit where the notary averred she could reproduce the dates using her log. The Secretary has the discretion to rely on the petitions themselves rather than the subsequent explanation.

After the Amended Declaration was completed, the Petitioners provided a log that they argued supported the notary's position. The Petitioners point out that they had limited time to put together their evidence. Everyone, including the court, is operating under strict time limits. That is why the burden is on the proponents to get the petitions notarized correctly. It also provides less chance to open the process up to outside interpretation or ad hoc interpretation by the courts.

To rule otherwise could endlessly extend the process. That cuts both ways. For example, the Committee has objected to the Secretary's decision to accept the explanation of notaries who also work for the Republican Party. The Committee argued that the petitions should be excluded. The Committee would likely want further investigation into the statements in those affidavits. In managing the investigation, however, it is the Secretary who determines when the evidence is sufficient for the Secretary to choose between two competing versions. The court could not, and sees no reason to, disturb the Secretary's decision on this issue either.

E. The Secretary's invalidation of 12 signatures as materially altered was within its discretion.

The Secretary invalidated 12 signatures were the dates had been changed. The Secretary points out that he invalidates those signatures only if the obliterated date is undetectable or clearly invalid. The modifications were initialed by the voters to confirm that it is the voter who made the change. The Secretary's concern is fraud and the

Secretary is uniquely positioned to determine which alterations pose a risk of fraud and which do not. The invalidations were within the Secretary's discretion.

II. THE INTERVENORS' OBJECTIONS TO PETITIONS VALIDATED BY THE SECRETARY

The Intervenors object to several categories of signatures that the Secretary qualified.

A. The Secretary had the discretion to validate the signatures found on petitions that were certified the same day in which the circulator's oath was administered.

The Secretary validated the signatures on certain petitions that were certified by the registrars in the towns of Boothbay, Sidney, Dexter, and Warrant, even though the circulator's oath was or may have been administered prior to the submission of the petition. On remand, the Secretary determined that the circulator's oath on these petitions were administered on the same day that the petitions were submitted. Amended Determination at pg. 2-4.

Title 21-A section 902 governs the verification and certification of petitions. Generally, a circulator must "sign the petition and verify by oath or affirmation before a notary public" that the signatures on the petition are legitimate. Then, "after the petition is signed and verified in this manner, the petition must be submitted to the registrar for certification . . ." If a petition submitted to the registrar "[is] not signed and verified in accordance with [section 902], the registrar may not certify the petition[] and is required only to return the petitions." The Intervenor argues that section 902 requires that the circulator's oath be administered prior to the submission of the petition as a matter of law. However, if the language of a statue is ambiguous, the court must defer to the Secretary's interpretation if that interpretation is reasonable. *Knutson*, 2008 ME 124, ¶ 9, 954 A.2d 1054.

Here, the language of section 902 does not state that a petition submitted to the registrar must be *rejected* if the circulator's oath has not been completed, only that the registrar must return the petition. In response to this, the Secretary has taken the position that a petition's signatures are valid so long as the circulator's oath is administered on the same day that the petition is submitted to the registrar. As such, there is no explicit language in section 902 that makes the Secretary's interpretation is unreasonable. The Secretary is also in the best position to determine whether the same day oath administration is sufficient to prevent fraud. The Secretary also has the discretion to determine the scope of its investigation. Therefore, the decision to validate the signatures certified by the towns of Boothbay, Sidney, Dexter, and Warren was well within the Secretary's broad discretion.

B. The Secretary had the discretion to validate the signatures found on the petitions notarized by Kim Pettengill.

The Secretary validated the signatures on petitions that Kim Pettengill notarized even though Pettengill had been reimbursed for certain tasks completed on behalf of the petition campaign. Although the Secretary found that Pettengill had in fact performed these tasks, those tasks were "de minimis" and did not disqualify Pettengill from administering the circulator's oath. Amended Determination at pg. 6. The Secretary's factual findings must be affirmed if "they are supported by substantial evidence in the record, even if the record contains inconsistent evidence or evidence contrary to the result reached by the agency." *Concerned Citizens to Save Roxbury v. Bd. Of Envtl. Prot.*, 2011 ME 39, ¶ 24, 15 A.3d 1263. Nevertheless, the Intervenor's argue that the Secretary's finding of de minimis impact are contrary to law and therefore does not fall within the Secretary's discretion to resolve factual disputes.

Here, there is ample evidence to support the de minimis determination made by the Secretary. The Secretary, after considering evidence submitted by Petitioners, agreed with the Petitioners that the expenses reimbursed to Pettengill were mere "errands of convenience" and therefore did not give rise to any concerns regarding bias or impropriety. This factual determination is well within the Secretary's discretion. The Secretary must be able to determine, as an evidentiary matter, whether or not certain actions are in fact de minimus if he is to carry out his duties effectively. To hold otherwise would strip the Secretary of his fact-finding power. This result is simply inconsistent with the broad discretion afforded to the Secretary. Therefore, the Secretary's decision to validate the signatures on petitions notarized by Pettengill was well within his discretion.

C. The Secretary had the discretion to validate signatures on petitions notarized by members of the Maine Republican Party State Committee.

The Secretary validated signatures found on petitions that were notarized by members of the Maine Republican Party State Committee. Affidavits submitted by the Petitioners showed that the Republican Party State Committee made no expenditures to notarizes who are registered with the State Committee and made no official action with regard to this particular citizen initiative. Similar to the conclusion reached above, such a factual and evidentiary determination is squarely within the Secretary's broad discretion. Therefore, the Secretary had the discretion to validate the signatures found on the petitions notarized by members of the Maine Republican Party State Committee. While the court recognizes that this issue is of concern, the court defers to the Secretary's conclusion, which is supported by substantial evidence in the record.

D. The Secretary had the discretion to validate signatures on petitions that were notarized and certified by the same town registrar.

The Intervenor argues that the Secretary should have invalidated the petitions that were both notarized and certified by the same town registrar. This argument does not appear to raise any ambiguity in the law. Therefore, given the Secretary's broad discretion in the citizen initiative process, the Secretary had the discretion to validate the petitions that were notarized and certified by the same town registrar and the court sees no need to second guess that decision. It makes sense that a circulator, looking for a notary unlikely to have a conflict of interest, would go to the local town office.

CONCLUSION

In order for the court to overturn the Secretary's decision, the court must require the Secretary to validate 966 signatures that had been disqualified (after the Secretary reversed it's decision on the Town of Turner petitions). After the Secretary revised the number of signatures invalidated in relation to Monica Paul, the total that are at issue in respect to the voter registration issue is 988. With the Court's decision with respect to those signatures, the Petitioners now have enough signatures. Therefore, the Secretary's decision that the proponents failed to provide the required number of signatures is REVERSED. 5 M.R.S.A. § 11007(C).

This Order is incorporated on the docket by reference pursuant to M.R.Civ.P. 79(a).

DATE: Aug 24, 2020

Thomas R. McKeon
Justice, Maine Superior Court

People's Veto Referendum

P.L. 2019, c. 539, "An Act To Implement Ranked-choice Voting for Presidential Primary and General Elections in Maine"

Perry #4

004961

Do you want to reject a new law that would require presidential elections in Maine to be decided using ranked-choice voting?

Date of Issuance: **February 3, 2020**

Deadline for Filing with the Secretary of State: **90th day after Final Adjournment of 129th Second Regular Session**

	Registrar use only	SIGNATURE	DATE SIGNED	ACTUAL STREET ADDRESS (Not P.O. Box)	MUNICIPALITY (Where Registered)	NAME PRINTED
1.	✓		5/20	266 Gulnic RD	PERRY	NICHOLAS BITAR
2.	NR		5/20	22 ABANAKI LN	Perry	Vic LAPLANTE
3.	NR		05/21/20	181 Lake Rd	Perry	Christy Chambers
4.	✓		5/21/20	478 Gis Cove Rd	Perry	Michael Ba[illegible]
5.	✓	Lee Harris	5-21-20	356 Shore Rd.	Perry	Lee Harris
6.	✓		5-21-20	855 Shore Rd	Perry	Megan Patterson
7.	✓		5/21/20	86 Shore Rd	Perry	Vicki Shields
8.	✓	Karen Tinker	5/21/20	149 Hadley Rd	Perry	Karen Tinker
9.	✓		5/21/20	154 LAKE Rd	Perry	Roger Keezer
10.	NR		5-21-20	25 Warrior Rd Perry ME	Perry	John R Francis
11.	✓		5/21/20	5 TAHO RD.	PERRY	JANE E. LONGFELLOW
12.	NR		5/21/20	181 Lake Rd	Perry	Richard T. Williams
13.	NR	Keith C. Moore	5/21/20	13 wekosos LN Perry	Perry	Keith A. Moore
14.	✓		5/21/20	536 Old Eastport Rd. Perry	Perry	Pasquale N Cambelos
15.	NR		5/21/20	PO Box 86	Perry	Annette M Sockabasin
16.	✓		5/21/20	149 JUDIAH RD Perry	Perry	Chris Altvater
17.	✓		5/23/20	535 Shoreld	Perry	Ruth A Daugherty
18.						
19.						
20.						
21.						
22.						
23.						
24.						
25.						

CIRCULATOR'S OATH

I hereby make oath that I am the Circulator of this petition; that I personally witnessed all of the signatures to this petition; and, to the best of my knowledge and belief, each signature is that of the person whose name it purports to be.

Signature of Circulator Monica Paul *Printed Name* Monica Paul

Signature of Notary [signature] *Printed Name* [illegible]

WESLEY RYAN HUCKEY
~~Notary Public, State of Maine~~
My Commission Expires Mar. 24, 2022

Subscribed to and sworn before me on this date: 5/26/20 **(Date must be completed by Notary)**

Date my Notary Commission expires: 3/24/22

REGISTRAR'S CERTIFICATION

Municipality Perry TOTAL VALID 11 TOTAL INVALID 6

I hereby certify that the names of all the petitioners listed as valid appear on the voting list as qualified to vote for Governor.

DATE & TIME PETITION RECEIVED:
6-1-2020
9:30 AM

Signature of Registrar: [signature]

Date petition certified: 6-1-2020

PETITION LOG

FOR SECRETARY OF STATE USE ONLY

PETITION #: 6293 VALID: ~~10~~ 11 17 INVALID: 6

# INVALID	REASON	SIGNATURE LINES
~~6~~	~~NR~~	~~2, 3, 10, 12, 13, 15~~
B-17	CIRC	1-17

S.O.S. STAFF: LCL COMMENTS:

Please Turn Over for Legislation and Instructions.

EXHIBIT B tabbies

James Monteleone

From: Gardiner, Phyllis <Phyllis.Gardiner@maine.gov>
Sent: Tuesday, August 25, 2020 5:12 PM
To: Patrick Strawbridge; James Monteleone
Cc: Matthew Saldaña
Subject: Jones v. Sec'y State, AP-20-16
Attachments: SOS work sheet for Michelle Riordan petitions.pdf; SOS work sheet for Monica Paul petitions.pdf

EXTERNAL EMAIL

Dear Patrick and Jim,

Justice McKeon assumed in his decision that reversing the Secretary's CIRC determination would restore a total of 988 signatures on the petitions circulated by Monica Paul and Michelle Casey-Riordan, but that turns out to be incorrect. A number of signatures on those petitions were invalid as duplicates or because voters were not registered. Those reasons were effectively superceded by the CIRC determination. The SOS staff today reviewed the Paul and Riordan petitions and calculated the gains and losses as shown on the attached handwritten work sheets. Their analysis shows a net gain of 656 signatures on Michelle Casey-Riordan's petitions and a net gain of 254 signatures on Monica Paul's petitions, for a total of 910, not 988 signatures. Added to the total of 62,101 valid signatures in the Secretary's corrected determination of August 24, 2020, this would give petitioners 63,011 valid signatures – still 56 short of the minimum required to qualify the people's veto for the ballot. The attached work sheets include the petition numbers, so you can check and see if you disagree with the SOS's math.

We feel an obligation to bring this to the attention of the Court – and a motion for reconsideration seems to be the appropriate vehicle. I plan to draft that tonight and submit it to the Court tomorrow. I don't believe this tolls the appeal period, which is only 3 days from the date of Justice McKeon's decision, pursuant to 21-A M.R.S. § 905(3).

If you have any questions or wish to suggest another approach here, please let me know. Thanks, and sorry for complicating your life (and mine!).

Regards,

Phyllis

Michelle Casey - Riordan

	Restore Circ Inv	Remove Dups/other	Net Actual Gain
9020	+3	-2 Dups (#8993 Lines 3+4)	+1
9021	+39	-1 Dups (#8984 Line 2)	+38
9022	+40	—	+40
9023	+40	-1 Dup this petition	+39
9024	+40	-1 Dup (#8991 Line 1)	+39
9025	+40	—	+40
9026	+40	-2 Dup (#9047 ✓ lines 7+11)	+38
9027	+40	-1 Dup (#8989 Line 2)	+39
9028	+40	-2 Dup (8994/7, 8960/37)	+38
9029	+40	—	+40
9030	+40	-2 Dup (line 29 this petit 9409/24 ✓)	+38
9031	+40	-4 Dup (8961/5, 9409/19 ✓, 9041/23, 8921/1)	+36
9032	+40	-1 Dup (8960/10)	+39
9033	+40	-3 Dup 8960/24, 8984/1 ✓, 8984	+37
9034	+40	-3 Dup 8961/1, 8960/24, 9409/3 ✓	+37
9035	+40	-2 Dup this pet line 27, 8916/1	+38
9036	+40	-1 Dup ✓9041/15	+39
9037	+40	—	+40
	+682	-26 Dup	(+656)

Murrieta Park

	Restore Circ/Inv		Remove Dup/other		Actual Net Gain
4881	+1		—		+1 ✓
4913	+14		-1 Dup (4911/13)		+14 ✓
4987	+3		—		+3 ✓
4991	+1		—		+1 ✓
5105	+1		—	20	+1 ✓
5238	+1	32	—		+1 ✓
5331	+1		—		+1 ✓
5663	+10		-2 Dup (5675/79 5671/38)		+8 ✓
5844	+3		-2 Reg (1,3)		+1 ✓
6275	+3		—		+3 ✓
6293	+17		-6 Reg (2/3/10/12 13/15)		+11 ✓
6317	+1		—	22	+1 ✓
6361	+1	30	—		+1 ✓
6437	+1		—		+1 ✓
6856	+3		—		+3 ✓
6857	+1		—		+1 ✓
6863	+8		-4 Reg (2/3/6/7)		+4 ✓
7193	+19		-1 Reg (13) -1 Dup (7205/1)		+17 ✓
7342	+3	31	—		+3 ✓
7883	+1		-1 Dup (9417/14)		+0 ✓
7986	+1		-1 Dup (7990/21)		+0 ✓
8264	+2		—	32	+2 ✓
8637	+1		—		+1 ✓
8639	+1	9	—		+1 ✓
8728	+1		—		+1 ✓
8892	+1		—		+1 ✓
8898	+1		—		+1 ✓
9056	+1	(102)	— (-19)	(84)	+1

(2)

Monica Paul

(1)

	Restore Circ/nv		Remove Dup/other	Actual Net Gain	
148	+4		-1 Reg	+3	
470	+1		—	+1	
505	+3		-1 Dup (thisp4)	+2	
524	+3		-1 Dup -1 Reg	+1	
597	+1	18	—	+1	11
704	+1		—	+1	
746	+3		-3 Dup (726/30 727/25 726/29)	ø	
1294	+1		—	+1	
1374	+1		—	+1	
1527	+40	61	-7 Reg (6, 20, 30, 35, 38, 39, 40)	+33	48
1528	+21		-6 Reg (6, 9, 12, 13, 15, 18&K)	+15	
1538	+7		-1 Dup -1 Reg	+5	
1765	+2	12	—	+2	
1818	+2		-1 Dup (1827h)	+1	37
1860	+1		—	+1	
1951	+24		-1 Dup (1975/14) -3 Reg	+20	
2194	+6	30	-2 Reg (215)	+4	
2287	+1		—	+1	
2430	+4		-1 Reg (2)	+3	
2456	+10		-1 Reg (3) -2 Dup 2453/1, 2459/29	+7	
2553	+2		—	+2	
2823	+3		—	+3	
2952	+1		—	+1	26
3040	+3	34	—	+3	
3405	+4		—	+4	
3638	+3		—	+3	
3639	+1		—	+1	
4810	+2	(155)	—	+2	(122)

Monica Paull

(3)

	Restore Circ / Invalid	Remove Dup/other	Actual Net Gain
9175	+1	—	+1
9181	+1	—	+1
9404	+3	-1 Reg (1)	+2
	+262	-52	+210
1935	+ 1	—	-1
1950	+ 2	—	2
2234	+ 20	- 2 Reg - 6 Dup	12
2235	1	—	1 (34)
2236	15 (48)	- 1 Reg - 2 Dup (-14)	12
2603	2	- 2 Dup	0
2626	5	- 1 Reg	4
2743	1	—	1
8075	1	—	1
	+310	-66	244
2282	8	—	8
2283	2	—	2
	+320	-66	(+254)

Remand