Paul F. Eckstein (#001822)
Alexis E. Danneman (#030478)
ADanneman@perkinscoie.com
PERKINS COIE LLP
2901 N. Central Avenue, Suite 2000
Phoenix, Arizona 85012
Telephone: 602.351.8000
Facsimile: 602.648.7000
DocketPHX@perkinscoie.com

Attorneys for Amici Arizonans for Clean Elections and Louis Hoffman

ARIZONA SUPERIOR COURT

MARICOPA COUNTY

MATTHEW G. MADONNA, an Arizona citizen; SANDRA L. BAHR, an Arizona citizen; ANIMAL DEFENSE LEAGUE OF ARIZONA, an Arizona non-profit corporation; FRIENDS OF ASBA, INC., an Arizona nonprofit corporation; ARIZONA ADVOCACY NETWORK, an Arizona non-profit corporation; PLANNED PARENTHOOD ADVOCATES OF ARIZONA, an Arizona non-profit corporation, Plaintiffs, v. STATE OF ARIZONA, Defendant, and STEVE YARBROUGH and J.D. MESNARD, in their official capacities, respectively, as President of the Arizona Senate and Speaker of the Arizona House of Representatives, Intervenor Defendants.	No. CV2017-007407 **MOTION FOR PERMISSION TO APPEAR AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFFS** (Assigned to the Hon. Joshua Rogers)

Arizonans for Clean Elections and Louis Hoffman (collectively, "*amici*")

respectfully move, pursuant to this Court's inherent authority, to file a brief as *amici curiae* to explain the history of the inclusion of the initiative in the Arizona Constitution. All parties have consented to *amici* filing a brief in this matter.

I. Arizona Trial Courts Have the Authority to Accept *Amicus* Briefs.

"Courts have inherent power to do all things reasonably necessary for the administration of justice." *Schavey v. Roylston*, 8 Ariz. App. 574, 575, 448 P.2d 418, 419 (1968). Consistent with this principle, Arizona trial courts have regularly accepted *amicus* briefs to assist the court even though no court rule specifically provides for the filing of an *amicus* brief at the trial court level. *Home Builders Ass'n of Cent. Arizona v. City of Apache Junction*, 198 Ariz. 493, 496 n.4, 11 P.3d 1032, 1035 (App. 2000) (noting that *amici* were allowed to file briefs in the trial court); *Ackel v. Ackel*, 83 Ariz. 207, 212, 318 P.2d 676, 679 (1957) (noting that "[t]he court did not err in permitting appellant to appear as an amicus curiae" in the trial court).

II. Interests of the *Amici Curiae*.

As discussed more fully in the *amicus* brief submitted contemporaneously with this Motion, each *amicus* party has strong connections to and an interest in the Arizona Citizens Clean Elections Act ("Act") and the Arizona Citizens Clean Elections ("Commission") that administers the Act. The citizens of Arizona enacted the Act by initiative. In the view of *amici*, the Act has substantially benefited the citizens of Arizona since its 1998 passage by allowing an alternative to the difficulties arising from the prevalence of money in politics. Though, the Act would not exist without the initiative process. *Amici* are thus acutely aware of the positive effects stemming from the Constitution's robust power of initiative and share a strong interest in the preservation of that power.

Amicus Arizonans for Clean Elections ("ACE") is an unincorporated committee of citizens dedicated to fostering clean, honest, fair elections. ACE directed drafting of the language of the Act. ACE's board of directors contains seven people, each of whom was involved in different ways in creating and passing the initiative petition that became the

Act. *Amicus* Louis Hoffman is a member of the board of directors of ACE. He drafted the statutory language of the Act. Louis also served on the Commission for six years and is a former Commission Chair. In the early 1990s, he assisted certain members of the Arizona Legislature in revising statutory language of the statutes related to petition circulation and signatures. *See* A.R.S. Title 19, Articles 2 and 3.

III. Accepting the *Amici*'s Brief Will Assist the Court and Defendants Have Consented to Its Filing.

The appellate rules governing *amicus* curiae briefs provide that such briefs may be filed where, as relevant here: (1) "[t]he brief is filed with the written consent of the parties," Ariz. R. Civ. App. P. 16(b)(1)(A), or where (2) a court determines that *amici* "can provide information, perspective, or argument that can help the appellate court beyond the help that the parties' lawyers provide," *id.* at 16(b)(1)(C)(iii). While these rules do not govern these court proceedings, they provide useful guidance and, when applied, indicate that an *amicus* brief is appropriate.

First, all parties have consented to the filing of this brief.[1] Second, the brief of the *amici* provides useful history relevant to the resolution of the constitutional issue in this case. Specifically, it explains how the framers of Arizona's Constitution intended not only to provide a strong power of initiative, but also to make it easy for the people of Arizona to exercise this power.

IV. Conclusion.

For the foregoing reasons, *amici* respectfully request that this Court grant its motion for leave to file the accompanying brief.

---

[1] Defendants consented to the participation of the *Amici* so long as they did not "create, extend, or enlarge the issues" in this case. *City of Tempe v. Prudential Ins. Co.*, 109 Ariz. 429, 432, 510 P.2d 745, 748 (1973). *Amici* have not done so.

Dated: June 27, 2017

PERKINS COIE LLP

By: _____

Paul F. Eckstein
Alexis E. Danneman
2901 N. Central Avenue, Suite 2000
Phoenix, AZ 85012

Attorneys for Intervenors Arizonans for Clean Elections and Louis Hoffman

Copy of the foregoing e-mailed June 27, 2017, to:

Roopali H. Desai (rdesai@cblawyers.com)
D. Andrew Gaona (agaona@cblawyers.com)
COPPERSMITH BROCKELMAN PLC
2800 North Central Avenue, Suite 1200
Phoenix, Arizona 85004
Attorneys for Plaintiffs

David J. Cantelme (djc@cb-attorneys.com)
D. Aaron Brown (dbrown@cb-attorneys.com)
Cantelme & Brown, P.L.C.
3003 North Central Avenue, Suite 600
Phoenix, Arizona 85012
Attorneys for Intervenor Defendants

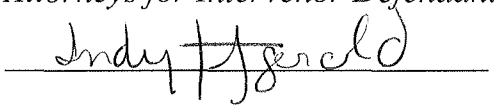

Exhibit A

Paul F. Eckstein (#001822)
Alexis E. Danneman (#030478)
ADanneman@perkinscoie.com
PERKINS COIE LLP
2901 N. Central Avenue, Suite 2000
Phoenix, Arizona 85012
Telephone: 602.351.8000
Facsimile: 602.648.7000
DocketPHX@perkinscoie.com

Attorneys for Amici Arizonans for Clean Elections and Louis Hoffman

ARIZONA SUPERIOR COURT

MARICOPA COUNTY

MATTHEW G. MADONNA, an Arizona citizen; SANDRA L. BAHR, an Arizona citizen; ANIMAL DEFENSE LEAGUE OF ARIZONA, an Arizona non-profit corporation; FRIENDS OF ASBA, INC., an Arizona nonprofit corporation; ARIZONA ADVOCACY NETWORK, an Arizona non-profit corporation; PLANNED PARENTHOOD ADVOCATES OF ARIZONA, an Arizona non-profit corporation, Plaintiffs, v. STATE OF ARIZONA, Defendant, and STEVE YARBROUGH and J.D. MESNARD, in their official capacities, respectively, as President of the Arizona Senate and Speaker of the Arizona House of Representatives, Intervenor Defendants.	No. CV2017-007407 **AMICUS BRIEF SUBMITTED BY ARIZONANS FOR CLEAN ELECTIONS AND LOUIS HOFFMAN** (Assigned to the Hon. Joshua Rogers)

Arizonans for Clean Elections and Louis Hoffman submit this brief as *amici curiae* in support of the Plaintiffs' Application For Preliminary Injunction.

I. Introduction.

The Arizona Constitution specifically reserves to the people "the power to propose laws and amendments to the constitution and to enact or reject such laws and amendments at the polls, *independently of the legislature*." Ariz. Const. art. IV, pt. 1, § 1(1) (emphasis added). That language establishes the legislative authority of Arizona citizens as co-equal to the legislature. Put differently, citizens have "as great as the power of the Legislature to legislate." *State v. Osborn*, 16 Ariz. 247, 250, 143 P. 117, 118 (1914).

The history of the Arizona Constitution reinforces the Constitution's textual bar on diluting the power of the people to legislate. The selection of delegates to the Arizona Constitutional Convention turned on views about the power of initiative, and a majority of delegates supported including initiative in the Constitution. Moreover, efforts to limit the power of initiative were consistently rejected. The history "shows beyond the possibility of contradiction that the people themselves deliberately and intentionally announced that . . . the legislative authority, acting in a representative capacity only, was in all respects intended to be subordinate to direct action by the people." *Whitman v. Moore*, 59 Ariz. 211, 220, 125 P.2d 445, 450-51 (1942), *overruled on other grounds by Renck v. Super. Ct. of Maricopa Cty.*, 66 Ariz. 320, 327, 187 P.2d 656 (1947).

Consistent with the textual and historical underpinnings for initiatives, the Supreme Court has favored a "liberal construction" of technical requirements, *id.*, and thus has regularly required only "substantial compliance." *See, e.g.*, *Wilhelm v. Brewer*, 219 Ariz. 45, 46, 192 P.3d 404, 405 (2008); *Feldmeier v. Watson*, 211 Ariz. 444, 447, 123 P.3d 180, 183 (2005). The Legislature's efforts to undo this line of precedent through the passage of 2017 Laws, Chapter 151 (House Bill "H.B." 2244)—which imposes a "strict compliance" standard of review for initiative petitions—does violence to the history and original meaning of the Constitution's initiative provisions.

At bottom, by making it more difficult to qualify initiatives by a strict construction standard, thereby diluting the power of the people to legislate, H.B. 2244 turns on its head the framers' intention that legislative authority should be subordinate to direct action by

the people. *See Whitman*, 59 Ariz. at 218, 125 P.2d at 450. Similarly, H.B. 2244 runs roughshod over the Constitution's requirement that the power of initiative be *independent* of the Legislature, Ariz. Const. art. IV, pt. 1, § 1(1), making the power of initiative *dependent* on the Legislature.[1]

II. Interest of the *Amici Curiae.*

Each *amicus* party has strong connections to and an interest in the Arizona Citizens Clean Elections Act ("Act") and the Arizona Citizens Clean Elections ("Commission") that administers the Act. The citizens of Arizona enacted the Act by initiative. In the view of *amici*, the Act has substantially benefited the citizens of Arizona since its 1998 passage by allowing an alternative to the difficulties arising from the prevalence of money in politics. Repeated political scandals revealed both corruption and the appearance of corruption in Arizona politics. Legislators and state officials have had difficulties with honest self-regulation in connection with election financing. The Act partially addressed such issues, but more could be done.

But because the Act reduced the power of incumbent legislators, it would not exist without the initiative process. Additionally, the Act would have been stillborn had the courts considered it under a strict construction standard. As the Arizona Supreme Court noted in a challenge to the law, "if technical compliance were required" the Act, as drafted, would not have complied with the applicable initiative requirements. *Meyers v. Bayless*, 192 Ariz. 376, 378, 965 P.2d 768, 770 (1998). Nevertheless, because the Court held that "the substantial compliance rule applies" to initiatives, it found that the Act was legally sufficient. *Id. Amici* are thus acutely aware of the positive effects stemming from the Constitution's robust power of initiative and share a strong interest in the preservation of that power.

Amicus Arizonans for Clean Elections ("ACE") is an unincorporated committee of

---

[1] Ironically, when providing for requirements for the form of petitions in A.R.S. § 16-315(A), which relates to the Legislature's own nomination petitions, the Legislature has required that the petitions only "be in *substantially* the following form." A.R.S. § 16-315(A) (emphasis added).

citizens dedicated to fostering clean, honest, fair elections. ACE directed drafting of the language of the Act. ACE's board of directors contains seven people, each of whom was involved in different ways in creating and passing the initiative petition that became the Act. *Amicus* Louis Hoffman is a member of the board of directors of ACE. He drafted the statutory language of the Act. Louis also served on the Commission for six years and is a former Commission Chair. In the early 1990s, he assisted certain members of the Arizona Legislature in revising statutory language of the statutes related to petition circulation and signatures. *See* A.R.S. Title 19, Articles 2 and 3.[2]

Amici should "provide information, perspective, or argument that can help the . . . court beyond the help that the parties' lawyers [have] provide[d]." Ariz. R. Civ. App. P. 16(b)(1)(C)(iii). To this end, the *amici* offer this brief, which explains how the framers of Arizona's Constitution intended not only to provide a strong power of initiative, but also to make it easy for the people of Arizona to exercise this power.

III. Argument.

The Arizona Supreme Court has properly taken into account the history of the initiative power in considering how to construe the Constitution's initiative provisions. *Whitman*, 59 Ariz. at 218, 125 P.2d at 450; *see also State ex rel. Morrison v. Nabours*, 79

---

[2] From their respective first-hand experience, *amici* know how difficult it is to place Arizona initiatives on the ballot already and how much damage stricter rules can cause to future initiative efforts. For example, in 1998, the Clean Elections initiative needed 112,961 signatures to qualify for the ballot, and ACE obtained 144,810 valid signatures (128% of the requirement). To get that many signatures validated, ACE needed to collect even more as a "pad" to guard against possible signature invalidation. An initiative submitted for the 2018 election would require even more signatures, specifically 150,642 valid signers. Ariz. Const. art. IV, pt. 1, § 1(2) (10% of qualified electors), § 1(7) (defining "qualified electors" as number of votes cast for governor); Ariz. Secretary of State, Initiative, Referendum and Recall, https://www.azsos.gov/elections/initiative-referendum-and-recall (last visited June 26, 2017) (calculating number). Even under the "substantial compliance" regime, a large number of signatures are invalidated. *See, e.g.*, David R. Berman, Ph.D., *The Future of 'Direct Democracy' in Arizona: Petition Circulators, Election Officials and the Law*, ASU Morrison Institute for Public Policy 2014 9, https://morrisoninstitute.asu.edu/sites/default/files/content/products/Elex_Signatures.pdf (last visited June 26, 2017) (elections officials invalidated 32.8% of all signatures on initiative petitions during the 2006-12 period). Under a "strict compliance" regime, the "pad" would need to increase, adding to the cost of signature gathering and increasing the risk of litigation.

Ariz. 240, 245, 286 P.2d 752, 755 (1955) ("[A] Constitution should be construed so as to ascertain and give effect to the intent and purpose of the framers and the people who adopted it."). That history "shows clearly that it was the opinion of the delegates" that the power of initiative was among the most important constitutional provisions. *Whitman*, 59 Ariz. at 219, 125 P.2d at 450. As established below, two facts make this clear: (1) support for the power of initiative was an integral factor in the selection of delegates to the Arizona Constitutional Convention and a significant majority of delegates supported including initiative in the Constitution; and (2) early efforts to limit the power of initiative were consistently rejected.

Accordingly, in light of that history, the Arizona Supreme Court has held that "requirements as to the form and manner in which citizens exercise their power of initiative should be liberally construed." *Kromko v. Super. Ct. In & For Cty. of Maricopa*, 168 Ariz. 51, 57-58, 811 P.2d 12, 18-19 (1991); *see also Whitman*, 59 Ariz. at 450-51, 125 P.2d at 220. To apply a "strict compliance standard" would require "nearly perfect compliance with the constitutional and statutory" initiative requirements. *Comm. for Pres. of Established Neighborhoods v. Riffel*, 213 Ariz. 247, 249, 141 P.3d 422, 424 (App. 2006). This would allow "technical restrictive constructions" to be placed on the laws governing initiative and would result in "the purpose and policy of the people in establishing the same [being] entirely defeated." *Whitman*, 59 Ariz. at 221, 125 P.2d at 451 (quoting *In re Initiative Petition No. 23, State Question No. 38*, 127 P. 862, 866 (Okla. 1912)).

A. Even Before the Constitutional Convention Convened, Inclusion of the Power of Initiative in the Constitution Was a "Foregone Conclusion."

"The Arizona Constitutional Convention was held at a time of great ferment and reform in American political history called 'the Progressive Era.'" Paul F. Eckstein, *The Debate Over Direct Democracy at the Arizona Constitutional Convention*, Arizona Attorney 32 (Feb. 2012), http://www.azattorneymag-digital.com/azattorneymag/201202?folio=32&pg=34#pg34 ("Eckstein, *The Debate*"). As a general matter, the Progressive

movement was "dedicated to enhancing the political power and economic welfare of ordinary citizens." Paul F. Eckstein et. al., *What Didn't Make It into the Arizona Constitution*, 44 Ariz. St. L.J. 513, 514–15 (2012) ("Eckstein, *What Didn't Make It*").

To that end, "[i]n the political realm, the Progressives advocated sweeping structural changes." Toni McClory, *Understanding the Arizona Constitution* 26 (2d ed. 2010). Such reforms "were designed to allow voters to participate more directly in the lawmaking process by what has come to be called, logically enough, forms of 'direct democracy.'" Eckstein, *The Debate*, at 32. Among the most important forms of direct democracy advocated by the progressives was the power of initiative, which allowed "interested citizens . . . to draft and initiate legislation and constitutional amendments for the approval of qualified voters." *Id.* at 32–33.

The push to include such progressive, direct democracy provisions, including initiative, was particularly strong in the Midwest and Western states. *See* Charles Foster Todd, The Initiative and Referendum in Arizona 3-4 (M.A. Thesis, University of Arizona 1931), http://arizona.openrepository.com/arizona/bitstream/10150/316117/1/azu_td_box 702_e9791_1931_32_w.pdf. As a result of such efforts, "[b]y the time the delegates to the Arizona Constitutional Convention convened in Phoenix on October 10, 1910," ten states had already adopted initiative and referendum, South Dakota, Utah, Oregon, Montana, Oklahoma, Michigan, Maine, Missouri, Arkansas and Colorado. Eckstein, *The Debate*, at 33.

Given that background, it is also not surprising that "[i]nitiative and referendum, by the time of the campaign for election of [delegates to the Arizona Constitution], had become a widely advertised and discussed matter." Todd, *supra*, at 18. Consequently, one of the primary issues surrounding Arizona's constitutional convention was whether to include direct democracy provisions, including initiative, in the Constitution. *See* John D. Leshy, *The Arizona State Constitution* 12 (2d ed. 2013).

From the start, "initiative and referendum were the predominant issues in the campaign" for election to the Arizona constitutional convention. Todd, *supra*, at 18; *see*

also Whitman, 59 Ariz. at 218, 125 P.2d at 450 ("It is a notorious fact that the choice of delegates to the constitutional convention was fought out primarily upon" the "question of whether Arizona should follow" the example of other states of including initiative and referendum in their constitutions). Ultimately, "a majority of delegates to the Arizona Constitutional Convention were pledged to include all three forms of direct democracy in the new Arizona Constitution or were chosen at county conventions where there was overwhelming support for those provisions." Eckstein, *The Debate*, at 34; *see also* The Supreme Court of Arizona, *The Records of the Arizona Constitutional Convention of 1910* 193, 206 (John S. Goff ed.) (recounting a delegate saying that most delegates had pledged to support a constitution that "would contain an operative initiative and referendum law").

Given the identity of the delegates selected, "[t]he inclusion of the principles of initiative and referendum in the Constitution was a foregone conclusion in the minds of most of the delegates before they assembled at Phoenix." Todd, *supra*, at 24. But, this did not stop the small minority of delegates opposed to initiative from "press[ing] their case despite the odds." Lisa T. Hauser, *The Powers of Initiative and Referendum: Keeping the Arizona Constitution's Promise of Direct Democracy*, 44 Ariz. St. L.J. 567, 568 (2012); *see also id.* at 567 (noting that thirty-nine of the fifty-two delegates were pledged to support initiative). Though, as discussed below, their efforts were unsuccessful.

B. Efforts to Limit the Power of Initiative Were Consistently Rejected in Favor of a Strong Power of Initiative.

"The delegates devoted parts of four days in November 1910 (November 4, 5, 7 and 28) to direct democracy provisions." Eckstein, *The Debate*, at 34; Goff, *supra*, at 175-225, 228-36, 732-51. They discussed a variety of topics, including whether direct democracy provisions should be extended to school boards and what percentage of those voting should be required to sign petitions to secure a spot on a statewide ballot. Goff, *supra*, at 176-97, 219-25. But, the most discussed topic during that time was whether Arizona should adopt the direct democracy provisions outlined in other states'

constitutions, most notably the Oregon Constitution. Eckstein, *The Debate*, at 33-34; *see also* Goff, *supra*, at 179, 198-209. This debate largely reflected support for including direct democracy provisions, including initiative, within the Arizona Constitution. *See* Eckstein, *The Debate* at 34 (noting that eight democrats "spoke in favor of adoption or asked questions designed to support the adoption of the Oregon-type provision on direct democracy").

Consistent with the majority of delegates' support of initiative, throughout the debate delegates criticized efforts that would curtail or weaken the power of initiative. For example, delegates criticized efforts to remove some of the procedural details and processes related to initiative that certain drafts of the Constitution had included. *See* Goff, *supra*, at 194 ("[T]he expectations of the people of Arizona are that we shall have a safe and operative initiative and referendum, containing such details as will guard our legislature, and I see no detail of this measure that is unnecessary.").

Most significantly, the delegates completely rejected a raft of arguments by a handful of delegates opposed to the inclusion of initiative and referendum provisions in the Constitution *at all*. Eckstein, *The Debate*, at 34 (noting the four primary critics of the initiative process were Republicans Samuel Kingan, Edward Doe, William Fennimore Cooper, and Edmund Wells). That minority of delegates opposed initiative and referendum for three primary reasons.

First, the dissenting delegates argued that direct democracy provisions were unconstitutional under the Guarantee Clause of the U.S. Constitution, which provides that every state shall have a "republican" form of government. U.S. Const. art. IV, § 4. The delegates contended that the Guarantee Clause required states to use representative government, not a government in which voters could adopt laws through direct democracy. Eckstein, *The Debate*, at 34; *see also* Goff, *supra*, at 747 (delegate acknowledging an argument that initiative was unconstitutional under the Guarantee Clause). At the time, no court had ever ruled that any direct democracy provision violated the Guarantee Clause. But, the question was pending in a lawsuit before the U.S.

Supreme Court challenging Oregon's initiative provision. Leshy, *supra*, at 12 n.32.

The pending Supreme Court case formed the basis of the delegates' second argument, that the inclusion of direct democracy provisions would delay Arizona's statehood because the President or Congress would wait until the Supreme Court issued its ruling. Goff, *supra*, at 740, 747; Eckstein, *The Debate*, at 34. Third, and finally, the minority delegates predicted that the President of the United States, President Taft, would veto the Arizona Constitution if it contained direct democracy provisions based on previous statements opposing direct democracy provisions. Goff, *supra*, at 740, 747.

None of those arguments, however, persuaded the Convention to excise the initiative power from the Constitution. Indeed, none of the risks identified by the dissenting delegates turned out to be problems. "Five days after Arizona became a state, the U.S. Supreme Court refused to set aside the Oregon initiative provision, finding that the issue raised was a political question beyond the purview of the federal courts." Leshy, *supra*, at 12 n.32; *see Pac. States Tel. & Tel. Co. v. Oregon*, 223 U.S. 118 (1912). Neither President Taft or Congress delayed their statehood decision on the basis of the case's pendency. And, President Taft approved the Constitution despite the presence of the power of initiative. Eckstein, *The Debate*, *supra*, at 36.

Ultimately, the delegates adopted a constitution with strong provisions for direct democracy, including unequivocally granting the people of Arizona "the power to propose laws and amendments to the constitution and to enact or reject such laws and amendments at the polls, independently of the legislature."[3] Ariz. Const. art. IV, pt. 1, § 1(1); *see also* Goff, *supra*, at 750 (recounting a delegate praising the inclusion of direct democracy provisions and looking forward to "Arizona occupying her proud position among the sisterhood of states, the admired of all admirers, and known to the world at large as a Commonwealth in which the only sovereign recognized shall be the freely expressed and

[3] *Cf. also Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n*, 135 S. Ct. 2652, 2675 (2015) ("[I]t would be perverse to interpret the term 'Legislature' in the Elections Clause so as to exclude lawmaking by the people[.]").

honestly declared will of the people, and the only scepter honored shall be the freeman's ballot or the patriot's strong arm").

Indeed, shortly after the Constitution's ratification, the people took additional steps to further strengthen the power of initiative. As adopted, the original Constitution provided that "[t]he veto power of the Governor shall not extend to Initiative or Referendum measures approved by a majority of the qualified electors." Ariz. Const. art. IV, pt. 1, § 1(6) (1910). By initiative, this provision was amended in 1914, shortly after the convention, to provide: "[T]he veto power of the Governor, [or the power of the Legislature], to repeal or amend, shall not extend to initiative or referendum measures approved by a majority vote of the qualified electors." *Id.* (bracketed portion added). This amendment strengthened the initiative power by barring not only the Governor but also the Legislature from repealing or amending certain measures passed by initiative or referendum. *See* Publicity Pamphlet, 1914 General Election, at 40-42, http://azmemory.azlibrary.gov/utils/getfile/collection/statepubs/id/10521/filename/10812.pdf%23toolbar=1&navpanes=1&search=%22PDF%20(Portable%20Document%20Format)%22 (last visited June 26, 2017).

IV. Conclusion.

The effort to restrict the constitutional power of initiative by requiring "substantial compliance" does violence to the history of Arizona's initiative power and breaches the Constitution's clear mandate that the people's power to legislate "is as great as the power of the Legislature to legislate." *Osborn*, 16 Ariz. at 250, 143 P. at 118. To allow the Legislature to impose by statute a "strict compliance" requirement as set forth in H.B. 2244—a standard expressly and repeatedly rejected by the Supreme Court before the statute, *see, e.g.*, *Feldmeier*, 211 Ariz. at 447, 123 P.3d at 183—would significantly burden the rights of the people to act by initiative in a manner equal to the Legislature. It would also make the power of initiative *dependent* on the Legislature in violation of the Constitution's command that the power of initiative exist "*independently of the legislature*." Ariz. Const. art. IV, pt. 1, § 1(1) (emphasis added).

Dated: June 27, 2017

PERKINS COIE LLP

By: _____

Paul F. Eckstein
Alexis E. Danneman
2901 N. Central Avenue, Suite 2000
Phoenix, AZ 85012

Attorneys for Intervenors Arizonans for Clean Elections and Louis Hoffman

Copy of the foregoing e-mailed June 27, 2017, to:

Roopali H. Desai (rdesai@cblawyers.com)
D. Andrew Gaona (agaona@cblawyers.com)
COPPERSMITH BROCKELMAN PLC
2800 North Central Avenue, Suite 1200
Phoenix, Arizona 85004
Attorneys for Plaintiffs

David J. Cantelme (djc@cb-attorneys.com)
D. Aaron Brown (dbrown@cb-attorneys.com)
Cantelme & Brown, P.L.C.
3003 North Central Avenue, Suite 600
Phoenix, Arizona 85012
Attorneys for Intervenor Defendants