

Heller v. Give Nev. A Raise, Inc., 96 P.3d 732 (2004)¹

**CONSTITUTIONAL LAW – FREE SPEECH – BALLOT
INITIATIVES**

I. Introduction

Direct democracy, the process by which the people conduct direct law making through the circulation of petitions and (subject to the petition qualifying) subsequent ratification by the voters in an upcoming election, has often been a hub for electoral and legal controversy.² In *GNAR*,³ the Nevada Supreme Court drew on U.S. Free Speech Constitutional law to save a couple of 2004 ballot campaigns, while making the ballot process for future petitions (at least logistically) a little bit easier. Below is a description of the *GNAR* opinion and its holding, along with a few comments regarding *GNAR*'s questionable lack of deference to the ballot-petition expertise of the Nevada Secretary of State.

But first, to provide context to the discussion that follows, here is how the process of direct democracy often works. Individuals who agree to circulate a petition and acquire the signatures of registered voter (either because they are being paid or in some instances because they believe in the cause the petition supports) will go to some locale where they are likely to run into registered voters. The circulator when encountering a fellow citizen will ask, "Are you willing to sign this petition which ...[stating the cause in question.]" The next question most certainly out of the mouth of the circulator then is, "Are you a registered voter?"

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² See generally Sylvia Lazos, *Judicial Review of Initiatives and Referendums in Which Majorities Vote on Minorities' Democratic Citizenship*, 60 OHIO ST. L. J., 399, 414 (1999). (To wit, Professor Lazos contends:

"Direct democracy might undermine the capacity of the legislature to take far-sighted action. Initiatives and referendums are often introduced at the behest of small, well-organized groups that have intense preferences on some issue. The legislature might justifiably resist their pressure. By getting their proposals on the ballot, these groups might not only secure the laws they desire, but they might bully the legislature into kowtowing to their demands."²

"...complex issues are presented to the voters on a yes or no basis without the benefits of deliberation and without the check of representatives having to be accountable to the interests of others... representative democracy militates against self interest and careless decisionmaking, while direct democracy fails to 'filter' out the passions evident in direct democracy. In direct democracy, voters do not have the time or motivation to work through the implications of a proposal. Studies show that voters often are confused or fail to understand the full implications of their vote. Voting falls off as the ballot lengthens, indicating that voters may not even be sufficiently motivated to read through the ballot.")

³ *Heller v. Give Nev. A Raise, Inc.*, 96 P.3d 732 (2004)

This question is of the utmost importance because: (1) if he/she supports the petition personally, the petition cannot qualify unless the signers are later to be confirmed as registered voters; (2) the petition circulator, if being paid, is usually paid per signature with either a bonus price or the per signature price being subject to the signature being valid (or verified as that of a registered voter.) In fact, smart initiative-petition campaigns will have a separate operation whereby each signature will be checked for verification before the totality of the signatures are turned in for qualification. This allows a petition circulation campaign to know where they stand at various points during the circulation period. It also will inform a campaign as to how much it owes its circulators.

The answer the potential petition signer gives is all that the circulator has to go on. From that point, Nevada law requires that the circulator must sign an affidavit regarding each petition that was circulated to, in essence, assert that the registered voter inquiry was asked and answered affirmatively and that the signatures are genuine.⁴ The Nevada Constitution in Article 19, sec. 3(1) (hereinafter “3(1)”) also requires that an affidavit be provided as a part of a signature book signed by a registered voter attesting again that the signatures are genuine and that those questions were asked and answered affirmatively.⁵ This was previously thought to mean that circulators must also be registered voters.⁶

Five years ago, the U.S. Supreme Court asserted that any state requirement that a petition circulator must also be a registered voter was an unconstitutional violation of free speech.⁷ In response, Nevada, via the Attorney General’s office stated that the Nevada laws “must be read so as not to conflict with the United States Constitution and therefore may no longer be interpreted as requiring the petition circulator to be a registered voter.”⁸ The Nevada Secretary of state over four years ago issued an interpretation (discussed *infra*) that made this possible allowing a registered voter to validate petitions circulated pursuant to 3(1) by those who aren’t voter eligible. Also, the Nevada Administrative Code’s discussion of the affidavit requirement leaves open the possibility for separate affidavits, asking for an affidavit that satisfies the 3(1) requirement and an affidavit signed by the person who circulated document.⁹

⁴ See NEV. CONST. art.19, § 3(1) (2004).

⁵ *Id.*

⁶ 1999 Nev. Op. Atty. Gen. 198 (1999) (*available at* 1999 WL 1289587).

⁷ Buckley v. Am. Constitutional Law Found., Inc., 525 U.S. 182, 197 (1999).

⁸ 1999 Nev. Op. Atty. Gen. 198 (1999) (*available at* 1999 WL 1289587).

⁹ NEV. ADMIN. CODE 293.182(2004)

“1. A person who submits a petition that consists of more than one document to the county clerk for verification of the signatures shall sequentially number each page of each document in the petition, beginning with the number 1. 2. If a petition consists of more than one document, each of those documents must, in addition to any other requirements: (a) Contain sequentially numbered spaces for: (1) The name of each person signing the petition; (2) The signature of the person; (3) The residential address of the person; (4) The name of the county where the person is a registered voter; and (5) The date of the signature. (b) Have attached to it, when filed: (1) The affidavit required pursuant to [section 3 of article 19 of the constitution of the State of Nevada](#); and (2) An affidavit signed by the person who circulated the document...”

This year a significant number of petitions in a couple of well-funded, seemingly viable ballot campaigns failed to meet the 3(1) affidavit requirements and were thrown out by the Secretary of State resulting in the failure of those petition campaigns. The Nevada court system came to the rescue of the fledgling efforts. It chose, notwithstanding the Secretary of State interpretation, which effectively allowed the unregistered to circulate petitions, to invalidate the Secretaries' interpretation and the 3(1) registered voter affidavit requirement.

II. The GNAR rule:

The First Amendment of the United States protects against undue governmental interference of free political speech.¹⁰ The extension of the protection will invalidate state law requirements that ballot initiative circulators must be registered voters.¹¹ Nevada may not by law require that an initiative petition document be in any way accompanied by the affidavit of a signatory who must also be a registered voter because such a requirement constitutes an impermissible burden of political speech.¹² Such a requirement, to survive federal constitutional muster, must be narrowly tailored to serve a compelling governmental interest.¹³ Nevada's affidavit signatory registered voter requirement embodied in 3(1) is not narrowly tailored because Nevada has other measures in place to safeguard the initiative process from corruption.¹⁴ Moreover, such a requirement fails to "tangibly" advance the Nevada's interests in protecting the initiative process from corruption.¹⁵

III. GNAR's Facts, Disposition and Analysis

a. Facts

Give Nevada a Raise is a labor union sponsored attempt to raise Nevada's minimum wage requirement.¹⁶ The petition effort gathered more than 51,337 signatures to get the question placed on the November 2004 election ballot.¹⁷ However, the Nevada Secretary of State ("SOS") decided to discount thousands of the signatures turned in because they were not accompanied by a valid affidavit that was signed by a registered voter who had signed their booklet and the petition effort lacked the sufficient signatures to qualify for the ballot as a result.¹⁸ The petition effort filed a complaint for injunctive, declaratory and writ relief against the SOS, hoping to compel the minimum-wage initiative's placement on the 2004 ballot.¹⁹ A district court bench trial ruled for the

¹⁰ *Heller v. Give Nev. A Raise, Inc.*, 96 P.3d 732, 735 (2004)

¹¹ *Id.*

¹² *Id.* at 733.

¹³ *Id.* at 735.

¹⁴ *Id.* at 738.

¹⁵ *Id.*

¹⁶ Website: Vote Yes on Question 6 Give Nevada a Raise! *available at* <http://www.givenevadaaraise.com/>

¹⁷ *Give Nev. A Raise Inc.*, 96 P.3d at 734.

¹⁸ *Id.* (Also told they did not qualify under this line of reasoning were the backers of the "Stop Frivolous Lawsuits" and "Protect Your Legal Rights Act" initiatives, called People for a Better Nevada. People for a Better Nevada intervened in this action and adopted Give Nevada A Raise, Inc.'s complaint.)

¹⁹ *Id.*

petition effort and the SOS was ordered to qualify the signatures that had been stricken.²⁰ The SOS, among others, appealed.²¹

b. Disposition

In *GNR*, the Nevada Supreme Court looked at 3(1),²² and determined it to be a severe burden on the freedom of speech granted by the United States Constitution.²³ According to the Court, this requirement compels the use of registered voters as circulators or compels “unregistered circulators to be accompanied by a registered voter who is willing to sign a petition booklet and execute an affidavit under oath authenticating the booklet’s signatures.”²⁴

c. Analysis

The Nevada Supreme Court applied *Buckley v. American Constitutional Law Foundation, Inc.* (“*ACLF*”) (discussed *infra*, section IV) which had invalidated a Colorado state petition circulator registered voter requirement on free speech grounds.²⁵ The court recognized that regulations which impose sever burdens on speech must (survive strict scrutiny and) be narrowly tailored to serve a compelling state interest.²⁶

i. Undue Burden

The Court concluded that section 3(1) of Article 19 of Nevada’s constitution, “exacerbated” by a companion statute (NRS 295.055(2)),²⁷ created the requisite severe burden on political speech to impose strict scrutiny.²⁸ The court recognized that unregistered voters could circulate petitions, but interpreted that in order to obtain the affidavits required by 3(1):

“[circulators] must (1) convince a registered voter who signed a particular petition booklet to execute an affidavit, attesting that the booklet's signatures are genuine

²⁰*Id.*

²¹ *Id.* at 735.

²² NEV. CONST. art.19, § 3(1) (2004)

(“Each referendum petition and initiative petition shall include the full text of the measure proposed. Each signer shall affix thereto his or her signature, residence address and the name of the county in which he or she is a registered voter. The petition may consist of more than one document, but *each document shall have affixed thereto an affidavit made by one of the signers of such document to the effect that all of the signatures are genuine and that each individual who signed such document was at the time of signing a registered voter in the county of his or her residence.* The affidavit shall be executed before a person authorized by law to administer oaths in the State of Nevada. The enacting clause of all statutes or amendments proposed by initiative petition shall be: ‘The People of the State of Nevada do enact as follows:’”) (emphasis added).

²³ *Give Nev. A Raise Inc.*, 96 P.3d at 738.

²⁴ *Id.*

²⁵ *Id.* at 735.

²⁶ *Id.*

²⁷ The statute states, “Each document of the petition must bear the name of a county, and only registered voters of that count may sign the document.”

²⁸ *Give Nev. A Raise Inc.*, 96 P.3d at 736.

and that the signatories were, at the time of signing, registered voters in their county of residence; and (2) arrange for execution to take place before a notary.”²⁹

Recognizing 3(1)’s purpose, to ensure the integrity and reliability of the circulation process, the court opined that to effectuate this goal, a 3(1) affidavit must be executed by someone who actually participated in the gathering of signatures. Or, in other words, an unregistered circulator would have to gather signatures while accompanied by a registered voter who would eventually execute the 3(1) affidavit.³⁰ According to the Court, 3(1)’s extra steps for unregistered circulators imposed a “burden on political speech that is no less severe than the direct registration requirement invalidated in *Buckley v. ACLF*.”³¹

The Court further noted that a two person circulation requirement would cut in half the number of voices available to convey the initiative-petition’s political message, while reducing the size of its reachable audience.³² It also found agreement from a Pennsylvania federal district court who dealt with a similar ballot circulation law.³³

The Nevada SOS, 4 years ago, interpreted 3(1) and NRS 295.055(2) to comport with free speech constitutional law and *ACLF*.

“[A] circulator who is not registered to vote need not be accompanied by a registered voter, so long as the circulator can locate a registered voter from the county of circulation who is willing to sign all of the circulator’s booklets and provide authenticating affidavits based solely on the circulator’s representations of genuineness and residency.”³⁴

The court responded that the SOS interpretation, which allowed the registered affiants affidavit execution solely on the information and belief of the unregistered circulators representations, made the affidavit meaningless and contrary to 3(1)’s purpose of making more strict, commencing and carrying out initiative petitions.³⁵ It then at least seemingly

²⁹ *Id.*

³⁰ *Id.* (according to the Court, a registered voter “who is willing to sign the petition booklet and execute a Section 3(1) affidavit under oath for that booklet, attesting that the signatures are genuine and that the signatories were, at the time of signing, registered voters in the count of their residence,” would have to accompany an unregistered circulator.).

³¹ *Id.*

(“Requiring two persons to circulate each booklet of an initiative petition cuts in half the number of voices available to convey the initiative-petition’s political message and reduces the size of the reachable audience. This point is buttressed by evidence offered in the district court that initiative-petition sponsors are unlikely to use circulators who need a companion to authenticate signatures.”).

³² *Id.* (The court noted that this point was “buttressed by evidence offered in the district court that initiative-petition sponsors are unlikely to use circulators who need a companion to authenticate signatures.”).

³³ *Id.* at 736-37 (citing *Morrill v. Weaver*, 224 F.Supp.2d 882, 886, 900 (E.D.Pa. 2002) (indicating that unlike the statute in that case Section 3(1) is incapable of a constitutional construction).

³⁴ *Id.* at 737; *see also* Interpretation of the Secretary of State #00-01 available at <http://sos.state.nv.us/nvelection/press/interpretation.htm>.

³⁵ *Give Nev. A Raise Inc.*, 96 P.3d at 737.

asserted that 3(1) even under the SOS' interpretation would constitute an undue burden of speech by proffering the following:

“...requiring a circulator to convince a booklet signer, who may be a complete stranger, uncertain about the initiative-petition circulation process, with absolutely no familiarity with the booklet's signatories, to execute an authentication affidavit under oath imposes a severe burden in itself.”³⁶

ii. Not Narrowly Tailored

The SOS cited compelling interests of “ensuring that the initiative signature gathering process is fair, honest, reliable and verifiable.”³⁷ The Court agreed that policing the integrity of the petition process was a compelling state interest.³⁸

However, in determining whether the state's requirements were narrowly tailored the Court looked to “the alternatives to Section 3(1)'s burdens and the degree to which those burdens achieve, serve or advance the State's interest.”³⁹ It found that similar to what the Supreme Court found of Colorado in *ACLF*, Nevada has numerous, less speech restrictive measures, such as a circulator's affidavit, that already exist to ensure the petition process' integrity.⁴⁰ Moreover, it found that a 3(1) affidavit fails to advance the state's interest because the most competent person “to attest to the genuineness of signatures and the residency of signatories may be an unregistered circulator (or a registered, nonresident circulator), who cannot sign the Section 3(1) affidavit.”⁴¹ It concluded,

“even if we were to follow appellants' suggestion that Section 3(1) be somehow interpreted to allow a Section 3(1) affiant to rely on the ‘uncontradicted assertion of the circulator’ as to genuineness and residency, the value of an affidavit not based on personal knowledge is ...highly suspect and directly contravenes [the drafters of 3(1)'s purpose] to ‘make the requirements to commence and carry through an initiative petition more strict.’”⁴²

Hence, the Nevada Supreme Court concluded that Nevada's registered voter affidavit requirement fails to survive strict constitutional scrutiny⁴³

IV. GNR's application of U.S. Constitutional Law

In *ACLF* the United States Supreme Court invalidated a number restrictions Colorado had placed on its petition process, including a provision that required petition

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.* at 737-38.

⁴⁰ *Id.* at 738.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*; see also *id.* at n.35 (“We note that local residency requirements, like the one found in NRS 295.055(2) are constitutionally infirm.”).

circulators to be a registered voter.⁴⁴ Such provisions, according to Justice Ginsburg, drastically reduced “the number of persons, both volunteer and paid, available to circulate petitions.”⁴⁵ Central to the Supreme Court’s ruling was an additional burden on speech in *ACLF*, namely, that the choice not to register to vote implicates political thought and expression.⁴⁶ According to the Court, individuals may fail to register out of ignorance or apathy, but they may also choose not to register as a form of private and public protest that, for example, the political process is not responsive to their needs.⁴⁷

Justice Ginsburg concluded that the state failed to justify any compelling reason for the speech restriction.⁴⁸ Colorado had cited needing to police lawbreakers among petition circulators (seeking to “ensure that circulators will be amenable to the Secretary of State’s subpoena power”).⁴⁹ The Court reasoned however that the interest in reaching law violators was already served by the requirement that each circulator submit an affidavit setting out several particulars.⁵⁰

ACLF was an offshoot of the Court’s previous *Meyer* decision, where a state restriction prohibiting the payment of petition circulators was invalidated.⁵¹ Central to the ruling in *ACLF* was that the requirement that circulator be registered voters, decreased the pool of circulators just like the pool of circulators was reduced from the paid circulator prohibition in *Meyer*.⁵² Accordingly, the test to be applied is: does the provision limit the number of voices who will convey the initiative proponents’ message, consequently cutting down the size of the audience those proponents can reach?⁵³

Prophetically, in his dissent, Justice Rehnquist, contended that “while today’s judgment is ostensibly circumscribed in scope, it threatens to invalidate a whole host of historically established state regulations of the electoral process in general.”⁵⁴

Applying *ACLF* (referring to it as *Buckley*)⁵⁵ the Nevada Court stated the following:

“Under Section 3(1), then, circulation may be accomplished either by a registered voter or a two-person team composed of an unregistered person and a registered

⁴⁴ *Buckley v. Am. Constitutional Law Found., Inc.*, 525 U.S. 182, 197 (1999) (“*ACLF*”).

⁴⁵ *Id.* at 193 (The Supreme Court noted that as many as 400,000 persons eligible to vote were not registered in Colorado.).

⁴⁶ *Id.* at 195.

⁴⁷ *Id.* at 195-96.

⁴⁸ *Id.* at 197.

⁴⁹ *Id.* at 196.

⁵⁰ *Id.* (particulars include the address at which he or she resides, including the street name and number, the city or town and the county.)

⁵¹ *Meyer v. Grant*, 486 U.S. 414, 422, 425 (1988).

⁵² *ACLF*, 525 U.S. at 194.

⁵³ *See id.* at 194-95.

⁵⁴ *Id.* at 231 (Rehnquist, J., dissenting).

⁵⁵ This comment refers to the Supreme Court case as *ACLF* rather than *Buckley* because *Buckley* is the oft used name for a more well known piece of Supreme Court precedent in the area of free speech and campaign finance laws, *Buckley v. Valeo*.

voter. In either instance, Section 3(1) mandates the use of circulators who are registered voters and who are willing to sign the petition. If unregistered circulators are unable to locate a registered-voter companion, their only alternative, if they wish to participate in the circulation process, is to register to vote. Requiring a circulator to be a registered voter is expressly precluded by *Buckley*, and requiring an unregistered circulator to be accompanied by a registered voter fails under *Buckley*'s reasoned disapproval of circulation restrictions that 'significantly inhibit communication with voters about proposed political change.' Requiring two persons to circulate each booklet of an initiative-petition cuts in half the number of voices available to convey the initiative-petition's political message and reduces the size of the reachable audience."⁵⁶

V. Comments

In analyzing this opinion, it is important to remember the state of the law Give Nevada a Raise and the other 2004 petition campaigns were compelled to follow coming into this election year and before the *GNAR* case was decided. As previously noted, that law, as interpreted by the SOS, compelled that petition campaigns, when employing unregistered circulators, simply had to execute affidavits on those petitions by a registered voter who need not be present when the petitions were collected. If the SOS' interpretation is given legal effect, it is hard to see a burden of speech along the lines of *Meyer* and *ACLF*.

Indeed, the weakest point of *GNAR* is the Nevada Court's assertion that even under the SOS interpretation a "severe" speech burden exists because a circulator would need to convince "a complete stranger, uncertain about the initiative-petition circulation process, with absolutely no familiarity with the booklet's signatures" to execute the required affidavits.⁵⁷ Here, the Court is showed a "real-world" political naivety with regard to how ballot campaigns work. Finding a registered voter to execute the 3(1) affidavit may add another logistical requisite (as the drafters of the provision wanted by the way.) However, the execution of these affidavits would be easily fulfilled by any viable (well funded or highly politically popular) petition campaign. Just like circulators can be compensated for gathering signatures, a petition campaign can also compensate a registered voter to sign each affidavit, fulfilling the Nevada Constitution's (as what the drafter's thought would be a) further verification of the process. Because unregistered voters are allowed to participate in the political process and because the number of voices there to carry a political message is hardly (in the real world) limited by the added logistical requirement, it is difficult to see a true burden on political speech under the SOS' interpretation as it stood. Hence, there exists a good argument the *ACLF* was not applicable to *GNAR*.

Remove the existence of the SOS interpretation (as the Justices did) and *GNAR* is a defensible opinion in that one might reasonably reconcile (as the Justices also did) 3(1)'s plain meaning and *ACLF* to require a registered voter to accompany an

⁵⁶ *Heller v. Give Nev. A Raise, Inc.*, 96 P.3d 732, 736 (2004).

⁵⁷ *Id.* at 737.

unregistered circulator. Such a requirement would be an impermissible substantial burden on speech reducing the available voices to carry a political message and there is no conceivable compelling state interest advanced by such a requirement.

However, as already alluded to, the Nevada Supreme Court failed to give a fully reasonable justification to substitute their interpretation “post-circulation-period” for that of the SOS. Indeed, they discarded the SOS’ interpretation because it failed to fulfill the drafter’s intent of making ballot initiatives strict.⁵⁸ Then it invalidated the entire provision as being too strict. While within the province of the judiciary, this is a surprising lack of deference for the interpretation of the SOS.

At least one state, Ohio, has recognized that proper deference should be given to the Secretary of State.⁵⁹ And that makes sense. Electoral interpretation should be the principle province of the SOS. The SOS is state government’s highest elected “expert” on the petition process and has to deal with ballot campaign laws (at least) every two years. Secretaries know and understand the real political world surrounding the electoral / ballot circulation process and have a better understanding of the restrictive effects or results caused by various electoral requirements.

The Court failed to state whether Give Nevada a Raise or any previous ballot campaign in the last four years had actually employed the two person circulation tactic or that petition failed because of it. The court simply casts the SOS interpretation of 3(1) off as rendering the affidavits meaningless.⁶⁰ But in the “real world” such affidavits are actually fairly meaningless, under the SOS interpretation, or not.

Remember the idea behind 3(1) is to ensure that circulators are not wasting the state’s time by turning in signatures that aren’t “genuine” or by turning signatures of unregistered voters. This is fulfilled when the circulator (registered or unregistered) asks the potential signers and relies on what they say. *GNAR* contended that the two-person circulation team was the only way to interpret 3(1) as to give it any effect. It asserted that for a 3(1) affidavit to mean anything the person signing it needed to be present when the circulator asked the “are you a registered voter” question, seemingly, to ensure that it was asked.

Yet, in reality, circulators have every incentive to ask this question. If they don’t, they either will not get paid, or the petition they are supporting will fail when the invalid signatures are thrown out. Whether the “registered” 3(1) affiant is present to execute the affidavit when the circulator asks the question or whether they are there after the circulator has finished collecting his/her signatures for the day matters little. The check on whether or not genuine signatures of registered voters are turned in is inherently served by the approval or rejection of those signatures in the signature approval process.

⁵⁸ *See id.* at 737.

⁵⁹ *See State ex rel. Barth v. Hamilton Cty. Bd. of Elections*, 602 N.E.2d 1130, 1135 (Ohio 1992) (“When an election statute is subject to two different, but equally reasonable, interpretations, the interpretation of the Secretary of State, the state’s chief election officer, is entitled to more weight.”)

⁶⁰ *Give Nev. A Raise Inc.*, 96 P.3d at 737.

Hence, 3(1) realistically added very little to the integrity of the petition process in the first place. So, the Nevada Court's invalidation of it is in turn of benign effect. But 3(1) is after all in the Nevada Constitution to serve the intent of making the petition process (albeit slightly) more difficult. The SOS interpretation preserved the provision without mandating the two-person unregistered circulator requirement and had been (for four years) the law for petition campaigns to follow and countless petitions have qualified under that interpretation in recent years.

This case would have rested on completely different grounds if Give Nevada a Raise, months ago after beginning the collection of signature had sought relief from the court because they were pairing registered voters with their unregistered circulators and failing to acquire enough signatures because of it. Indeed this case looks very little like a petition campaign stifled by the undue speech burdens of Nevada law. More so, the reality seems to be that with at least constructive knowledge of the SOS interpretation, Give Nevada a Raise failed to follow the SOS' requirements with respect to a few thousand petitions or it was mismanaged allowing for defective petitions to slip through the cracks and this resulted in a defective petition. Facing a losing campaign, Give Nevada a Raise then sought and was given a bailout by the Nevada Court system. The *GNAR* opinion gives us very little reason think otherwise.

VI. Conclusion

As noted, the invalidation of 3(1) and the SOS interpretation of it will do little in the future other than to remove the SOS' logistical requirement that in effect was easily complied with. However, proponents of unfettered direct democracy in Nevada will love the effect of *GNAR*, because it does remove one more potential defect to qualifying a petition, referendum, or recall campaign – where defects can (as *GNAR* seemingly indicates) slip through the cracks. Moreover, it seems that the Nevada Supreme Court (without any contemplation of Political Question doctrine) is more than willing to jump into the political fray of the qualification of ballot initiative campaigns. And, it seems, the Nevada court will hardly think twice before disagreeing with the SOS as far as the application of initiative election law is concerned. This can only encourage the future role of the courts in our political processes.