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IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

August 22, 2012

NO. 33,755

**JON ROSS BARRIE, and the
INDEPENDENT AMERICAN PARTY OF NEW MEXICO,**

Petitioners,

v.

**DIANNA J. DURAN, in her official capacity
as New Mexico Secretary of State,**

Respondent.

ORDER

WHEREAS, this matter came on for consideration by the Court upon petition for writ of mandamus, response thereto, and oral argument of the parties on August 22, 2012, the Court having considered the foregoing and being sufficiently advised, Justice Richard C. Bosson, Justice Edward L. Chávez, and Justice Charles W. Daniels concurring;

NOW, THEREFORE, IT IS ORDERED that NMSA 1978, Section 1-8-2(D) (2007), does not apply to the case presented and is not a bar to certification of the petitioner candidate;

IT IS FURTHER ORDERED that pursuant to this Court's power of superintending control this matter is REMANDED to District Judge Sarah Singleton in the First Judicial District Court for an evidentiary hearing to resolve petition signature challenges under NMSA 1978, Section 1-8-31 (2011), and

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Judge Singleton may consolidate this matter, at her discretion, with another action petitioners may have already filed in the First Judicial District Court;

IT IS FURTHER ORDERED that the Secretary of State shall have the burden of proceeding and persuasion upon remand as if a challenger under Section 1-8-31;

IT IS FURTHER ORDERED that the evidentiary hearing before the district court shall be held before Friday, September 7, 2012;

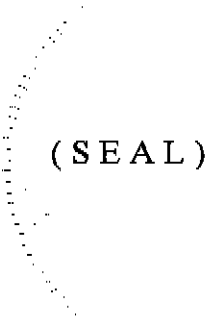
IT IS FURTHER ORDERED that any appeal of the judgment of the district court shall be to this Court by petition for writ of superintending control, with simultaneous briefs of the parties due on or before September 6, 2012;

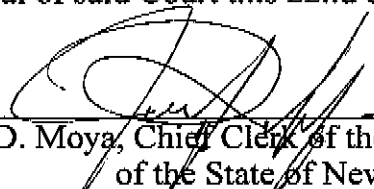
IT IS FURTHER ORDERED that this Court will hold oral argument on any appeal of the district court's decision on Friday, September 7, 2012, at 9:00 a.m.; and

IT IS FURTHER ORDERED that if the parties do not intend to appeal the judgment of the district court the parties shall forthwith notify this Court by joint stipulation.

IT IS SO ORDERED.

WITNESS, Honorable Petra Jimenez Maes, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 22nd day of August, 2012.





Joey D. Moya, Chief Clerk of the Supreme Court
of the State of New Mexico