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5 *Attorneys for Plaintiffs*
6 *Fair Maps Nevada PAC, Sondra Cosgrove,*
7 *Douglas Goodman, and Robert MacDonald*

8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 FAIR MAPS NEVADA, a Nevada political action
committee, SONDRA COSGROVE, DOUGLAS
11 GOODMAN, and ROBERT MACDONALD,

12 Plaintiffs,

13 vs.

14 BARBARA CEGAVSKE, in her official capacity
as Nevada Secretary of State, JOSEPH P. GLORIA,
15 in his official capacity as Clark County Registrar of
Voters, DEANNE SPIKULA, in her official
16 capacity as Washoe County Registrar of Voters,
KRISTINA JAKEMAN, in her official capacity as
17 Elko County Clerk, SADIE SULLIVAN, in her
official capacity as Lander County Clerk, LACEY
18 DONALDSON, in her official capacity as Pershing
County Clerk-Treasurer, VANESSA STEVENS, in
19 her official capacity as Storey County Clerk-
Treasurer, NICHOLE BALDWIN, in her official
20 capacity as White Pine County Clerk, SANDRA
MERLINO, in her official capacity as Nye County
21 Clerk, TAMMI RAE SPERO, in her official
capacity as Humboldt County Clerk, KATHY
22 LEWIS, in her official capacity as Douglas County
Clerk-Treasurer, LINDA ROTHERY, in her
23 official capacity as Churchill County Clerk-
Treasurer, LACINDA ELGAN, in her official
24 capacity as Esmeralda County Clerk-Treasurer,
LISA C. LLOYD, in her official capacity as
25 Lincoln County Clerk, LISA HOEHNA, in her
official capacity as Eureka County Clerk,
26
27
28

CASE NO.:

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

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1 CHRISTOPHER NEPPER, in his official capacity
2 as Mineral County Clerk-Treasurer, NIKKI
3 BRYAN, in her official capacity as Lyon County
4 Clerk-Treasurer, and AUBREY ROWLATT, in her
5 official capacity as Carson City Clerk-Recorder

6 Defendants.

7 Fair Maps Nevada, a Nevada political action committee (“Fair Maps”), Sondra Cosgrove,
8 Douglas Goodman, and Robert MacDonald (together “Plaintiffs”), by and through their attorneys
9 of record of the law firm MacDonald Carano LLP, complain and allege against Barbara
10 Cegavske in her official capacity as Nevada Secretary of State, Joseph P. Gloria in his official
11 capacity as Clark County Registrar of Voters, Deanna Spikula in her official capacity as Washoe
12 County Registrar of Voters, Kristina Jakeman in her official capacity as Elko County Clerk,
13 Sadie Sullivan in her official capacity as Lander County Clerk, Lacey Donaldson in her official
14 capacity as Pershing County Clerk-Treasurer, Vanessa Stevens in her official capacity as Storey
15 County Clerk-Treasurer, Nichole Baldwin in her official capacity as White Pine County Clerk,
16 Sandra Merlino in her official capacity as Nye County Clerk, Tammi Rae Spero in her official
17 capacity as Humboldt County Clerk, Kathy Lewis in her official capacity as Douglas County
18 Clerk-Treasurer, Linda Rothery in her official capacity as Churchill County Clerk-Treasurer,
19 LaCinda Elgan in her official capacity as Esmeralda County Clerk-Treasurer, Lisa C. Lloyd in
20 her official capacity as Lincoln County Clerk, Lisa Hoehna in her official capacity as Eureka
21 County Clerk, Christopher Nepper in his official capacity as Mineral County Clerk-Treasurer,
22 Nikki Bryan in her official capacity as Lyon County Clerk-Treasurer, and Aubrey Rowlatt in her
23 official capacity as Carson City Clerk-Recorder (“Defendants”) as follows:

24 NATURE OF THE ACTION

25 1. This action arises out of Fair Maps’ proposal to amend the Nevada Constitution.
26 Fair Maps proposes to amend the Nevada Constitution to provide for the establishment of an
27 independent redistricting commission to draw Nevada’s electoral maps for the State Senate,
28 Assembly and U.S. House of Representatives. Toward that end, Fair Maps filed Amended
Initiative Petition C-02-2019 (the “Initiative”) on November 4, 2019.

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1 2. Since the Initiative was filed, however, the Covid-19 pandemic (“Pandemic”) has
2 gripped our state and country. In response, all levels of the government have issued social
3 distancing requirements that preclude the interpersonal contact necessary to gather sufficient
4 signatures to qualify the Initiative for the November 2020 ballot using traditional means; Fair
5 Maps cannot engage in the direct person to person contact necessary to solicit signatures on an
6 initiative circulated by hand as is traditionally done and in the time allotted pursuant to state law.

7 3. In recognition of this difficulty, Fair Maps requested relief from the Secretary of
8 State (the “Secretary”), Nevada’s chief elections officer. Fair Maps requested that the Secretary
9 (1) extend the deadline for submitting the Initiative for verification, (2) clarify that Fair Maps
10 may circulate the Initiative electronically, and (3) clarify that signers may execute the Initiative
11 using electronic signatures. The Secretary of State refused, indicating that Nevada statutes
12 preclude both actions.

PARTIES

13
14 4. Plaintiff Fair Maps is a Nevada Committee for Political Action Advocating
15 Passage or Defeat of a Ballot Question registered pursuant to NRS 294A.230. Fair Maps filed
16 the Initiative and is advocating for its passage. Fair Maps is responsible for circulating the
17 Initiative for signature and otherwise qualifying it for the ballot. Fair Maps’ address is PO Box
18 751271, Las Vegas, Nevada 89136. The interests Fair Maps seeks to protect in this action, in
19 addition to the ability to place the Initiative on the ballot, relate to the voting rights of all
20 Nevadans including its supporters and funders, and these interests are germane to Fair Maps’
21 purpose.

22 5. Plaintiff Dr. Sondra Cosgrove is a duly registered Nevada voter and resident of
23 Las Vegas, Nevada. She has voted in every election in Nevada since 1988, including voting on
24 ballot questions. She has signed the Initiative. She is also the President of the League of
25 Women Voters of Southern Nevada and the League of Women Voters of Nevada. She is a
26 professor of history at the College of Southern Nevada. If the Initiative is not included on the
27 ballot, she will be unable to vote for it.

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1 6. Plaintiff Robert MacDonald is a duly registered Nevada voter and resident of Las
2 Vegas, Nevada. He has voted in every election in Nevada since 2016, including voting on ballot
3 questions. He has not signed the Initiative because he is adhering to the social distancing
4 recommendations and requirements issued by State, federal and local government. MacDonald’s
5 adherence to these requirements is particularly important as he has a pre-existing condition that
6 makes her particularly susceptible to the health risks associated with COVID-19.

7 7. Plaintiff Douglas Goodman is a duly registered Nevada voter and resident of
8 Sparks, Nevada. he has voted in every election in Nevada since 2014, including voting on ballot
9 questions. He intends to be a circulator of the Initiative. However, Goodman has not begun
10 circulating the Initiative because she is adhering to the social distancing recommendations and
11 mandates issued by State, Federal and local government.

12 8. Defendant Barbara Cegavske (“Secretary of State” or the “Secretary”) is the
13 Nevada Secretary of State and is named as a Defendant in her official capacity. Secretary
14 Cegavske is the Chief Officer of elections for the State of Nevada. NRS 293.124(1). Her
15 responsibilities include, but are not limited to, execution and enforcement of all provisions of
16 state and federal law relating to elections, including NRS 295.056 and NRS 295.0575. *See id.*
17 She is further authorized to “provide interpretations and take other actions necessary for the
18 effective administration of the statutes and regulations governing the conduct of primary,
19 general, special and district elections in this State.” NRS 293.247(4).

20 9. Defendant Joseph P. Gloria is the Clark County Registrar of Voters and is sued
21 in his official capacity. He is responsible for implementing certain of Nevada’s election laws,
22 and his responsibilities include verifying initiatives. NRS 295.056(1).

23 10. Defendant Deanna Spikula is the Washoe County Registrar of Voters and is sued
24 in her official capacity. She is responsible for implementing Nevada’s election laws, and her
25 responsibilities include verifying initiatives. *Id.*

26 11. Defendant Kristina Jakeman is the Elko County Clerk and is sued in her official
27 capacity. She is responsible for implementing Nevada’s election laws, and her responsibilities
28 include verifying initiatives. *Id.*

1 12. Defendant Sadie Sullivan is the Lander County Clerk and is sued in her official
2 capacity. She is responsible for implementing Nevada’s election laws, and her responsibilities
3 include verifying initiatives. *Id.*

4 13. Defendant Lacey Donaldson is the Pershing County Clerk-Treasurer and is sued
5 in her official capacity. She is responsible for implementing Nevada’s election laws, and her
6 responsibilities include verifying initiatives. *Id.*

7 14. Defendant Vanessa Stevens is the Storey County Clerk-Treasurer and is sued in
8 her official capacity. She is responsible for implementing Nevada’s election laws, and her
9 responsibilities include verifying initiatives. *Id.*

10 15. Defendant Nichole Baldwin is the White Pine County Clerk, and is sued in her
11 official capacity. She is responsible for implementing Nevada’s election laws, and her
12 responsibilities include verifying initiatives. *Id.*

13 16. Defendant Sandra Merlino is the Nye County Clerk, and is sued in her official
14 capacity. She is responsible for implementing Nevada’s election laws, and her responsibilities
15 include verifying initiatives. *Id.*

16 17. Defendant Tammi Rae Spero is the Humboldt County Clerk, and is sued in her
17 official capacity. She is responsible for implementing Nevada’s election laws, and her
18 responsibilities include verifying initiatives. *Id.*

19 18. Defendant Kathy Lewis is the Douglas County Clerk-Treasurer, and is sued in her
20 official capacity. She is responsible for implementing Nevada’s election laws, and her
21 responsibilities include verifying initiatives. *Id.*

22 19. LaCinda Elgan is the Esmeralda County Clerk-Treasurer, and is sued in her
23 official capacity. She is responsible for implementing Nevada’s election laws, and her
24 responsibilities include verifying initiatives. *Id.*

25 20. Lisa C. Lloyd is the Lincoln County Clerk, and is sued in her official capacity.
26 She is responsible for implementing Nevada’s election laws, and her responsibilities include
27 verifying initiatives. *Id.*

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1 21. Lisa Hoehna is the Eureka County Clerk, and is sued in her official capacity. She
2 is responsible for implementing Nevada’s election laws, and her responsibilities include
3 verifying initiatives. *Id.*

4 22. Christopher Nepper is the Mineral County Clerk-Treasurer, and is sued in his
5 official capacity. He is responsible for implementing Nevada’s election laws, and her
6 responsibilities include verifying initiatives. *Id.*

7 23. Nikki Bryan is the Lyon County Clerk-Treasurer, and is sued in her official
8 capacity. She is responsible for implementing Nevada’s election laws, and her responsibilities
9 include verifying initiatives. *Id.*

10 24. Aubrey Rowlett is the Carson City Clerk-Recorder, and is sued in her official
11 capacity. She is responsible for implementing Nevada’s election laws, and her responsibilities
12 include verifying initiatives. *Id.*

13 JURISDICTION AND VENUE

14 25. This Court has federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and
15 1343 because this action arises under the U.S. Constitution and seeks equitable and other relief
16 for the deprivation of constitutional rights under color of state law.

17 26. This Court has supplemental jurisdiction over related state law claims pursuant to
18 28 U.S.C. § 1367 because Plaintiffs’ state law claims are interrelated with Plaintiffs’ federal
19 claims and arise out of a common nucleus of operative fact.

20 27. This Court has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§
21 2201 and 2202.

22 28. This Court has personal jurisdiction over Defendants, who are sued in their
23 official capacities. The Secretary is a state official who works in Carson City, Nevada. Joseph
24 P. Gloria is a county official who works in Clark County, Nevada. Deanna Spikula is a county
25 official who works in Washoe County, Nevada. Kristina Jakeman is a county official who works
26 in Elko County, Nevada. Sadie Sullivan is a county official who works in Lander County,
27 Nevada. Lacey Donaldson is a county official who works in Pershing County, Nevada. Vanessa
28 Stevens is a county official who works in Storey County, Nevada. Nichole Baldwin is a county

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1 official who works in White Pine, County. Sandra Merlino is a county official who works in
2 Nye County, Nevada. Tammi Rae Spero is a county official who works in Humboldt County,
3 Nevada. Kathy Lewis is a county official who works in Douglas County, Nevada. Linda
4 Rothery is a county official who works in Churchill County, Nevada. LaCinda Elgan is a county
5 official who works in Esmeralda County, Nevada. Lisa C. Lloyd is a county official who works
6 in Lincoln County, Nevada. Lisa Hoehna is a county official who works in Eureka County,
7 Nevada. Christopher Nepper is a county official who works in Mineral County, Nevada. Nikki
8 Bryan is a county official who works in Lyon County, Nevada. Aubrey Rowlatt is a local
9 government official who works in Carson City, Nevada.

10 29. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1) because
11 Defendants are State and local officials working in Nevada. A substantial part of the events
12 giving rise to these claims occurred and continue to occur in this District, making venue also
13 proper under 28 U.S.C. § 1391(b)(2).

14 FACTUAL BACKGROUND

15 **A. The Initiative**

16 30. On November 4, 2019, Plaintiff filed Initiative Petition C-02-2019 pursuant to
17 Article 19, Section 2. If enacted, the Initiative will amend the Nevada State Constitution to
18 provide for an independent redistricting commission to map electoral districts for the Nevada
19 Senate, Assembly and U.S. House of Representatives.

20 31. On November 26, 2019, a lawsuit was brought in Carson City, Nevada
21 challenging the legal sufficiency of the description of effect appended to the Initiative. On
22 January 7, 2020, Fair Maps filed Amended Initiative Petition C-02-2019 (the “Initiative”) to
23 reflect changes made to the description of effect following resolution of the case in district court.
24 A copy of the Initiative is included here as Exhibit 1.

25 32. While Fair Maps continued and will continue to gather signatures in support of
26 the Initiative, the challenger to the Initiative appealed to the Nevada Supreme Court where issues
27 relating to the Initiative remain pending. This appeal is meritless as the challenger was the
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1 prevailing party at the district court and the appeal is intended only to cause delay in order to
2 hamper the ability of the Initiative to qualify for the November 2020 ballot.

3 33. Pursuant to the Nevada Constitution, in order to qualify the Initiative for inclusion
4 on the November 2020 ballot, the Initiative must be signed “by a number of registered voters
5 equal to 10 percent or more of the number of voters who voted at the last preceding general
6 election in not less than 75 percent of the counties in the State, but the total number of registered
7 voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted
8 in the entire State at the last preceding general election.” Nev. Const. art. 19, § 2(2).

9 34. NRS 295.056(3) establishes the date by which the proponent of an initiative must
10 submit initiative documents for verification to the county clerks. NRS 295.056(3). Where, as
11 here, the initiative proposes an amendment to the Nevada State Constitution, the deadline is the
12 fifteenth day after the primary election. *Id.* This year, that date falls on June 24, 2020.

13 35. Included with each document of the Initiative must be a circulator’s affidavit.
14 NRS 295.0575. Pursuant to NRS 295.0575, the affidavit must, among other things, affirm that
15 the circulator “personally circulated the document,” and “the signatures were affixed in the
16 circulator’s presence.” NRS 295.0575(1), (5).

17 **B. The Pandemic**

18 36. The Pandemic has resulted in the near total cessation of public activity in Nevada.
19 This necessary public health action is the result of the adoption of guidance by the federal
20 government and adherence to legal directives issue by the Governor of the State of Nevada.

21 37. On January 30, 2020, the World Health Organization declared that the novel
22 coronavirus (COVID-19) constitutes a Public Health Emergency of International Concern. (Ex.
23 2 at 2.)

24 38. On January 31, 2020, President Donald Trump suspended entry into the United
25 States by all foreign nationals who had traveled to China in the past 14 days. (Ex. 3 at 3-6.)

26 39. On February 24, 2020, President Trump asked Congress to allocate \$2.5 billion
27 for a COVID-19 response. (Ex. 4 at 3.)
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1 40. On February 25, 2020, the Director of the National Center for Immunization and
2 Respiratory Diseases at the Centers for Disease Control and Prevention (“CDC”) announced that
3 “[d]isruption to everyday life may be severe” as a result of the virus. (Ex. 5 at 2.) Regarding the
4 spread, the Director stated that “[i]t’s not so much a question of if this will happen anymore but
5 rather more of a question exactly when this will happen,” and called upon the American public to
6 “work with us to prepare.” (*Id.* at 1.)

7 41. On February 26, 2020, CDC officials stated that “[n]on-pharmaceutical
8 interventions or NPIs will be the most important tools in our response to this virus,” and that
9 such NPIs included “social distancing measures.” (Ex. 6 at 1-2.)

10 42. On February 27, 2020, the CDC issued further guidance recommending that
11 affected local communities reducing the frequency of large gatherings and limiting the number
12 of attendees. (Ex. 7.)

13 43. On March 13, 2020, the President declared a national state of emergency
14 regarding COVID-19. (Ex. 8 at 2-3.)

15 44. The CDC recommends that Americans practice social distancing including
16 maintaining a distance of six feet between persons. (Ex. 9.)

17 45. On March 16, 2020, the President recommended broad social distancing
18 guidelines for all Americans to “slow the spread” of COVID-19. (Ex. 10.) The guidance was
19 initially for a fifteen-day effective period. (*Id.*) On April 2, 2020, President Trump extended the
20 guidance for thirty days. (*See* Ex. 11.)

21 46. President Trump’s social distancing guidelines focus on reducing interpersonal
22 contact of all Americans. His guidelines recommend the following actions, among others:

- 23 • Listen to and follow the direction of your **STATE AND LOCAL**
- 24 **AUTHORITIES**
- 25 • **IF YOU FEEL SICK**, stay home. Do not go to work. Contact your medical
- 26 provider.

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- 1 • **IF SOMEONE IN YOUR HOUSEHOLD HAS TESTED POSITIVE** for the
- 2 Coronavirus, keep the entire household at home. Do not go to work. Do not go to
- 3 school. Contact your medical provider.
- 4 • **IF YOU ARE AN OLDER PERSON**, stay at home and away from other people.
- 5 • **IF YOU ARE A PERSON WITH A SERIOUS UNDELRYING HEALTH**
- 6 **CONDITION** that can put you at increased risk . . . , stay home and away from
- 7 other people. (*Id.* at 1.)

8 47. The President’s guidance includes direction specifically for people that are
9 healthy:

- 10 • Work or engage in schooling **FROM HOME** wherever possible.
- 11 • **AVOID SOCIAL GATHERINGS** in groups of 10 or more people.
- 12 • Avoid eating and drinking at bars, restaurants, and food courts—**USE DRIVE-**
- 13 **THRU, PICKUP, OR DELIVERY OPTIONS.** (*Id.* at 2.)

14 48. On March 12, 2020, Governor Sisolak issued a Declaration of Emergency to
15 facilitate the State’s response to the Pandemic. (Ex. 12.)

16 49. Since issuing the Declaration of Emergency, Governor Sisolak issued several
17 legal directives consistent with the President’s guidelines and the CDC’s recommendations,
18 which have drastically limited interpersonal contact in Nevada.

19 50. On March 31, 2020, Governor Sisolak issued a “stay at home” order. (Ex. 13.) In
20 that order, Emergency Directive 010, the Governor extended his March 12, 2020 Declaration of
21 Emergency through April 30, 2020. (*Id.* § 1.) He further ordered all Nevadans to stay in their
22 home and not gather socially, subject to certain limited exceptions. (*Id.* § 2.)

23 51. Although Emergency Directive 010 “does not prohibit individuals from engaging
24 in outdoor activity, including without limitation, activities such as hiking, walking, or running,”
25 individuals engaging in that activity must comply with Emergency Directive 007, maintain at
26 least six feet distancing from other individuals, and not congregate in groups beyond their
27 household members. (*Id.* § 6.)

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1 52. The Governor issued Emergency Directive 007 on March 24, 2020. (Ex. 14.)
2 That order imposes certain social distancing requirements on Nevadans. Specifically, it provides
3 that, with the exception of persons residing in the same household, Nevadans must “to the extent
4 practicable, abide by social distancing practices by maintaining a minimum six-foot distance
5 between persons in public spaces, whether privately or publicly owned.” (*Id.* § 2.) It also
6 requires that local governments limit Nevadans use of recreational spaces. (*Id.* § 3.) Individuals
7 that violate the social distancing restrictions in the order are subject to criminal and civil
8 penalties. (*Id.* §§ 5-6.)

9 53. In addition to the restrictions identified above, Governor Sisolak closed non-
10 essential business, including many retail establishments. (Ex. 15 §§ 1-2.)

11 54. Governor Sisolak also ordered the closure of state buildings. (Ex. 16 at 2.)

12 55. Local governments have taken similar action and agreed to use their enforcement
13 authority to enforce the Governor’s directives. (Ex. 17.)

14 56. On April 29, 2020, Governor Sisolak extended his stay at home order, with
15 limited modifications, through May 15, 2020. (Ex. 18 § 8.)

16 **C. Signature gathering during the Pandemic**

17 57. The Governor’s actions make it extremely difficult to collect signatures to qualify
18 the Initiative for the ballot in a traditional in-person manner.

19 58. Under normal circumstances, signatures are gathered using a variety of methods,
20 all of which require interpersonal contact inconsistent with the mandated social distancing.
21 Eligible voters are contacted door-to-door at their homes, in front of retail establishments,
22 restaurants and entertainment venues, or in or around government buildings to solicit their
23 interest in signing an initiative. If, after a brief conversation, an individual is interested in
24 signing the initiative, the person signs the same piece of paper—most likely using the same
25 pen—that others have signed.

26 59. Due to the actions by the government, traditional signature gathering is extremely
27 difficult and it is implausible that Fair Maps or any other initiative in Nevada will meet NRS
28 295.056(3)’s submission deadline.

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1 60. Nevadans have been ordered to stay at home. Most government buildings are
2 closed. Restaurants, bars and entertainments venues are closed. Many retail establishments are
3 closed. Public events have been canceled *en masse*. People are prohibited from gathering in
4 parks in substantial numbers, and individuals must adhere to the extent practicable to a six-foot
5 social distancing limitation.

6 61. It is extremely challenging to gather physical ink signatures on hard copy
7 documents in the time allotted as is traditionally done to qualify an initiative for the ballot. It is
8 equally challenging to satisfy the circulator’s affidavit requirement in the traditional manner—by
9 personal observation of signatures affixed in the presence of the circulator.

10 62. Nothing in Nevada law, despite the Secretary’s position, prohibits satisfying the
11 signature and circulator’s affidavit requirements through alternative means. Electronic
12 signatures may be used to execute an initiative and the circulator’s affidavit requirement is
13 satisfied where the circulator circulates an initiative electronically for electronic signature.

14 63. Electronic signatures are widely utilized in Nevada in other contexts, including,
15 court filings, business license filings, and corporate filings. *See Nev. Electronic Filing and*
16 *Conversion Rule 11.*

17 64. As detailed below, any application of the statute to require physical signatures, in
18 general or during the Pandemic, impermissibly infringes Plaintiffs’ constitutional rights, both
19 state and Federal.

20 **D. Nevada and other states have taken action to protect political speech in light**
21 **of COVID-19**

22 65. On March 24, 2020, the Secretary announced that Nevada would conduct its June
23 9, 2020 primary election by all mail out of concerns for the health and safety of voters and poll
24 workers related to the Pandemic. (Ex. 19.) In doing so, the Secretary authorized all Nevada
25 voters to vote by absentee ballot and required that all registered voters in Nevada be mailed an
26 absentee ballot. (*Id.*) No voter will be required to request an absentee ballot to receive one.
27 (*Id.*) However, the Secretary also ordered that one polling place in each county be available to
28

1 voters accommodate same-day voter registration, as well as assist voters who have issues with
2 the ballot that was mailed to them. (*Id.*)

3 66. In mandating that the primary be conducted by all mail, the Secretary did so
4 despite the fact that an all-mail primary conflicts with certain elements of Nevada law, including
5 NRS 293.272, which requires that most Nevadans who register to vote by mail or computer
6 must, for the first election in which the person votes at which that registration is valid, vote in
7 person unless he or she has previously voted in the county in which he or she is registered to
8 vote. NRS 293.272(1).

9 67. In addition to taking precautions to safeguard the primary election, the Secretary
10 has suspended in-person transactions at her office and is accepting all election filings
11 electronically. (Ex. 20.)

12 68. Other jurisdictions in the United States have responded to the Pandemic by
13 changing election processes and rules for elections and initiatives to accommodate political
14 speech in the midst of the Pandemic.

15 69. Ohio postponed their 2020 primary election until April 28, 2020. (Ex. 21.) Ohio
16 conducted the election almost exclusively by mail and voting centers only opened for people
17 with disabilities to vote in person. (*See id.*)

18 70. On March 25, 2020, a Virginia state court granted a preliminary injunction and
19 ordered a reduction in the number of signatures needed for candidates to enter Virginia's primary
20 election from 10,000 to 3,000. The court found that "the circumstances as they exist in the
21 Commonwealth of Virginia and across the United States are not normal right now," and that the
22 regulations requiring the signatures were not narrowly tailored because they "do[] not provide
23 for emergency circumstances, like those that currently exist." *Faulkner v. Va. Dep't of*
24 *Elections*, No. CL 20-1456, slip op. at 3 (Va. Cir. Ct. Mar. 25, 2020) (attached here as Exhibit
25 22.)

26 71. On April 17, 2020, the Massachusetts Supreme Judicial Court, Massachusetts'
27 highest court, ordered three forms of relief for candidates seeking access to the ballot: first a
28 reduction in the signature requirements by 50%, second an extension of the deadlines for filing

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1 of signatures, and third, a requirement that the Secretary of State accept electronic rather than
 2 wet-ink original signatures. The court agreed with petitioners that “these extraordinary times of
 3 a declared state of emergency arising from the COVID-19 pandemic create an undue burden on
 4 prospective candidate’s constitutional right to seek elective office.” *Goldstein v. Sec’y of*
 5 *Commonwealth*, 142 N.E.3d 560, 564 (Mass. 2020) (attached here as Exhibit 23.)

6 72. On April 20, 2020, a federal court in Michigan granted a motion for preliminary
 7 injunction reducing the state signature requirement for a candidate to Michigan’s Eleventh
 8 Congressional District after finding that “the State’s actions in the form of enforcing both the
 9 Stay-at-Home Order and the statutory ballot-access requirements operate in tandem to impose a
 10 severe burden” on the Plaintiff. *Esshaki v. Whitmer*, No. 2:20-cv-10831-TGB, 2020 WL
 11 1910154, at *1 (E.D. Mich. Apr. 20, 2020) (attached here as Exhibit 24.)

12 **E. Nevada Secretary of State and the Initiative**

13 73. On April 20, 2020, Plaintiffs’ counsel contacted the Secretary and made two
 14 requests. Fair Maps requested that Defendant clarify that NRS 295.0575 may be satisfied by
 15 electronic circulation of the Initiative and by the affixing of electronic signatures. (Ex. 25 at 3.)
 16 Fair Maps also requested that Defendant extend the deadline for submission of the Initiative for
 17 verification by at least six weeks. (*Id.* at 4.)

18 74. By letter of the same day, the Secretary denied Fair Maps’ requests. (Ex. 26 at 1.)

19 75. Federal courts evaluating challenges to laws that regulate the election process
 20 apply the framework from *Anderson v. Celebrezze*, 460 U.S. 780 (1983), and *Burdick v. Takushi*,
 21 504 U.S. 428 (1992). Under *Burdick*’s balancing and means-end fit framework, strict scrutiny is
 22 applied when the First or Fourteenth Amendment rights are subject to “‘severe’ restrictions.”
 23 *Pub. Integrity All., Inc. v. City of Tucson*, 836 F.3d 1019, 1024 (9th Cir. 2016) (quoting *Burdick*,
 24 504 U.S. at 434). However, “when a state election law provision imposes only ‘reasonable,
 25 nondiscriminatory restrictions’ upon the First and Fourteenth Amendment rights of voters, ‘the
 26 State’s important regulatory interests are generally sufficient to justify’ the restrictions.” *Id.*

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CAUSES OF ACTION

I. INITIATIVE VERIFICATION AND EQUAL PROTECTION

**CLAIM 1: Undue Burden on the Right to Engage in Political Speech
(First and Fourteenth Amendments)**

76. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint and the paragraphs below as though fully set forth herein.

77. The First Amendment and Fourteenth Amendments to the U.S. Constitution enshrine the right of every Nevadan to speech and political expression free from government interference. Circulation of initiative is core political speech. *Prete v. Bradbury*, 438 F.3d 949, 961 (9th Cir. 2006).

78. The challenged restrictions impose a severe burden on Plaintiffs' First Amendment Rights by impeding their ability to advocate for the Initiative and limiting their ability to actually earn a place for the Initiative on the ballot. Due this severe burden, strict scrutiny applies to the challenged restrictions. *Angle v. Miller*, 673 F.3d 1122, 1133 (9th Cir. 2012).

79. In light of the restrictions imposed by the government in response to the Pandemic, requiring that the Initiative be submitted for verification no later than June 24, 2020 cannot withstand strict scrutiny. Doing so is not narrowly tailored to satisfy a compelling government interest.

80. Requiring the Initiative to be submitted for verification by June 24, 2020 will likely unnecessarily preclude the Initiative from appearing on the ballot. More time can—and should be—allotted to collect signatures to ensure Plaintiffs' right to engage in political speech is sufficiently protected, and doing so will not compromise the government's interest in ensuring that only verified initiatives are included on the ballot. Even if more time is allotted to gather the required signatures, the county clerks will have sufficient time to verify the Initiative.

81. The Secretary has taken the necessary action to facilitate an all-mail primary, and she must similarly do so to protect Plaintiffs' constitutionally protected rights. In refusing to do so, she is violating Plaintiffs' constitutional rights.

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1 82. Absent relief from this Court, requiring the Initiative to be submitted for
2 verification no later than June 24, 2020 will prevent Plaintiffs from engaging in constitutionally
3 protected speech in violation of the First and Fourteenth Amendments to the U.S. Constitution.

4 83. Plaintiffs will suffer irreparable harm and injury and have no plain, adequate or
5 speedy remedy at law to address the wrongs herein complained of other than this action. A
6 substantial loss or impairment of freedom of expression will continue to occur absent injunctive
7 relief.

8 **CLAIM 2: Undue Burden on the Right to Engage in Political Speech**
9 **(Nevada Constitution)**

10 84. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
11 Complaint and the paragraphs below as though fully set forth herein.

12 85. Article 1, Section 9 of the Nevada Constitution enshrines the right of every
13 Nevadan to speech and political expression free from government interference. *See Univ. &*
14 *Cnty. Coll. Sys. of Nev. v. Nevadans for Sound Gov't*, 100 P.3d 179, 187 (Nev. 2004). Article
15 19, Section 2(1) of the Nevada Constitution provides that “the people reserve to themselves the
16 power to propose, by initiative petition, statutes and amendments to statutes and amendments to
17 this Constitution, and to enact or reject them at the polls.” Nev. Const. art 19, § 2(1).

18 86. Nevadans’ right to engage in political speech by circulating a ballot initiative as
19 articulated by the Nevada Constitution is subject to First Amendment analysis. *Univ. & Cnty.*
20 *Coll. Sys. of Nev.*, 100 P.3d at 187 (concluding that the protections afforded by Article 1, Section
21 9 and Article 19, Section 2 are subject to First Amendment analysis).

22 87. The challenged restrictions impose a severe burden on Plaintiffs’ First
23 Amendment Rights by impeding their ability to advocate for the Initiative and limiting their
24 ability to actually earn a place for the Initiative on the ballot. Due this severe burden, strict
25 scrutiny applies to the challenged restrictions. *Angle*, 673 F.3d at 1133.

26 88. In light of the restrictions imposed by the government in response to the
27 Pandemic, requiring that the Initiative be submitted for verification no later than June 24, 2020
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1 cannot withstand strict scrutiny. Doing so is not narrowly tailored to satisfy a compelling
2 government interest.

3 89. Requiring the Initiative to be submitted for verification no later than June 24,
4 2020 will likely unnecessarily preclude the Initiative from the ballot. More time can—and must
5 be—allotted to collect signatures to ensure Plaintiffs’ right to engage in political speech is
6 sufficiently protected, and doing so will not compromise the government’s interest in ensuring
7 that only verified initiatives are included on the ballot. Even if more time is allotted to gather the
8 required signatures, the county clerks will have sufficient time to verify the Initiative.

9 90. The Secretary has taken the action necessary to facilitate an all-mail primary, and
10 she must similarly do so to protect Plaintiffs’ constitutionally protected rights. In refusing to do
11 so, she is violating Plaintiffs’ constitutional rights.

12 91. Absent relief from this Court, requiring the Initiative to be submitted for
13 verification no later than June 24, 2020 will prevent Plaintiffs from engaging in constitutionally
14 protected speech in violation of the Nevada Constitution.

15 92. Plaintiffs will suffer irreparable harm and injury and have no plain, adequate or
16 speedy remedy at law to address the wrongs herein complained of other than this action. A
17 substantial loss or impairment of freedom of expression will continue to occur absent injunctive
18 relief.

19 **CLAIM 3: Undue Burden on the Right to Engage in Political Speech**
20 **(Due Process and 42 U.S.C. § 1983)**

21 93. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
22 Complaint and the paragraphs below as though fully set forth herein.

23 94. The Due Process clause of the U.S. Constitution guarantees the right to due
24 process of law and to equal protection of the laws.

25 95. The challenged restrictions impose a severe burden on Plaintiffs’ First
26 Amendment Rights by impeding their ability to advocate for the Initiative and limiting their
27 ability to actually earn a place for the Initiative on the ballot. Due this severe burden, strict
28 scrutiny applies to the challenged restrictions. *Angle*, 673 F.3d at 1133 .

1 96. In light of the restrictions imposed by the government in response to the
2 Pandemic, requiring that the Initiative be submitted for verification no later than June 24, 2020
3 cannot withstand strict scrutiny. Doing so is not narrowly tailored to satisfy a compelling
4 government interest.

5 97. Requiring the Initiative to be submitted for verification no later than June 24,
6 2020 will likely unnecessarily preclude the Initiative from the ballot. More time can—and must
7 be—allotted to collect signatures to ensure Plaintiffs’ right to engage in political speech is
8 sufficiently protected, and doing so will not compromise the government’s interest in ensuring
9 that only verified initiatives are included on the ballot. Even if more time is allotted to gather the
10 required signatures, the county clerks will have sufficient time to verify the Initiative.

11 98. The Secretary has taken the action necessary to facilitate an all-mail primary, and
12 she must similarly do so to protect Plaintiffs’ constitutionally protected rights. In refusing to do
13 so, she is violating Plaintiffs’ constitutional rights.

14 99. Absent relief from this Court, requiring the Initiative to be submitted for
15 verification no later than June 24, 2020 will prevent Plaintiffs from engaging in constitutionally
16 protected speech in violation of the Due Process Clause.

17 100. Plaintiffs will suffer irreparable harm and injury and have no plain, adequate or
18 speedy remedy at law to address the wrongs herein complained of other than this action. A
19 substantial loss or impairment of freedom of expression will continue to occur absent injunctive
20 relief.

21 **CLAIM 4: Undue Burden on the Right to Vote**
22 **(First and Fourteenth Amendments)**

23 101. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
24 Complaint and the paragraphs below as though fully set forth herein.

25 102. The First Amendment and Fourteenth Amendments to the U.S. Constitution
26 enshrine the right of every Nevadan to vote. *Burdick*, 504 U.S. at 441.

27 103. The challenged restrictions impose a severe burden on Plaintiffs’ First
28 Amendment Rights to vote by impeding their ability to vote on the Initiative on the November

1 ballot. Due this severe burden, strict scrutiny applies to the challenged restrictions. *Angle*, 673
2 F.3d at 1133.

3 104. In light of the restrictions imposed by the government in response to the
4 Pandemic, requiring that the Initiative be submitted for verification no later than June 24, 2020
5 cannot withstand strict scrutiny. Doing so is not narrowly tailored to satisfy a compelling
6 government interest.

7 105. Requiring the Initiative to be submitted for verification no later than June 24,
8 2020 will likely unnecessarily preclude the Initiative from the ballot and thus preclude Plaintiffs
9 and other Nevada voters from voting on the measure. More time can—and must be—allotted to
10 collect signatures to ensure Plaintiffs’ right to vote is sufficiently protected. Doing so will not
11 compromise the government’s interest in ensuring that only verified initiatives are included on
12 the ballot. Even if more time is allotted to gather the required signatures, the county clerks will
13 have sufficient time to verify the Initiative.

14 106. The Secretary has taken the action necessary to facilitate an all mail primary, and
15 she must similarly do so to protect Plaintiffs’ constitutionally protected rights. In refusing to do
16 so, she is violating Plaintiffs’ constitutional rights.

17 107. Absent relief from this Court, requiring the Initiative to be submitted for
18 verification no later than June 24, 2020 will prevent Plaintiffs from exercising their right to vote,
19 in violation of the First and Fourteenth Amendments to the U.S. Constitution.

20 108. Plaintiffs will suffer irreparable harm and injury and have no plain, adequate or
21 speedy remedy at law to address the wrongs herein complained of other than this action. A
22 substantial loss or impairment of freedom of expression will continue to occur absent injunctive
23 relief.

24 **CLAIM 5: Undue Burden on the Right to Vote**
25 **(Nevada Constitution)**

26 109. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
27 Complaint and the paragraphs below as though fully set forth herein.
28

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1 110. Article 2, Section 1 specifically guarantees the rights of Nevadans to vote “upon
2 all questions submitted to the electors” at an election. Nev. Const. art. 2, § 1.

3 111. The challenged restrictions impose a severe burden on Plaintiffs’ right to vote by
4 impeding their ability to vote on the Initiative on the November ballot. Due this severe burden,
5 strict scrutiny applies to the challenged restrictions. *Angle*, 673 F.3d at 1133.

6 112. In light of the restrictions imposed by the government in response to the
7 Pandemic, requiring that the Initiative be submitted for verification no later than June 24, 2020
8 cannot withstand strict scrutiny. Doing so is not narrowly tailored to satisfy a compelling
9 government interest.

10 113. Requiring the Initiative to be submitted for verification no later than June 24,
11 2020 will likely unnecessarily preclude the Initiative from the ballot and thus preclude Plaintiffs
12 and other Nevada voters from voting on the measure. More time can—and must be—allotted to
13 collect signatures to ensure Plaintiffs’ right to vote is sufficiently protected. Doing so will not
14 compromise the government’s interest in ensuring that only verified initiatives are included on
15 the ballot. Even if more time is allotted to gather the required signatures, the county clerks will
16 have sufficient time to verify the Initiative.

17 114. The Secretary has taken the action necessary to facilitate an all-mail primary, and
18 she must similarly do so to protect Plaintiffs’ constitutionally protected rights. In refusing to do
19 so, she is violating Plaintiffs’ constitutional rights.

20 115. Absent relief from this Court, requiring the Initiative to be submitted for
21 verification no later than June 24, 2020 will prevent Plaintiffs from exercising their right to vote,
22 in violation of the Nevada Constitution.

23 116. Plaintiffs will suffer irreparable harm and injury and have no plain, adequate or
24 speedy remedy at law to address the wrongs herein complained of other than this action. A
25 substantial loss or impairment of freedom of expression will continue to occur absent injunctive
26 relief.

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**CLAIM 6: Undue Burden on Right to Vote
(Due Process and 42 U.S.C. §1983)**

117. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint and the paragraphs below as though fully set forth herein.

118. The Due Process clause of the U.S. Constitution guarantee the right to due process of law and to equal protection of the laws.

119. The challenged restrictions impose a severe burden on Plaintiffs' First Amendment Rights to vote by impeding their ability to vote on the Initiative on the November ballot. Due this severe burden, strict scrutiny applies to the challenged restrictions. *Angle*, 673 F.3d at 1133.

120. In light of the restrictions imposed by the government in response to the Pandemic, requiring that the Initiative be submitted for verification no later than June 24, 2020 cannot withstand strict scrutiny. Doing so is not narrowly tailored to satisfy a compelling government interest.

121. Requiring the Initiative to be submitted for verification no later than June 24, 2020 will likely unnecessarily preclude the Initiative from the ballot. More time can—and must be—allotted to collect signatures to ensure Plaintiffs' right to engage in political speech is sufficiently protected, and doing so will not compromise the government's interest in ensuring that only verified initiatives are included on the ballot. Even if more time is allotted to gather the required signatures, the county clerks will have sufficient time to verify the Initiative.

122. The Secretary has taken the action necessary to facilitate an all-mail primary, and she must similarly do so to protect Plaintiffs' constitutionally protected rights. In refusing to do so, she is violating Plaintiffs' constitutional rights.

123. Absent relief from this Court, requiring the Initiative to be submitted for verification no later than June 24, 2020 will prevent Plaintiffs from engaging in constitutionally protected speech in violation of the Due Process Clause.

124. Plaintiffs will suffer irreparable harm and injury and have no plain, adequate or speedy remedy at law to address the wrongs herein complained of other than this action. A

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1 substantial loss or impairment of freedom of expression will continue to occur absent injunctive
2 relief.

3 **II. CIRCULATOR’S AFFIDAVIT AND EQUAL PROTECTION**

4 **CLAIM 7: Undue Burden on the Right to Engage in Political Speech**
5 **(First and Fourteenth Amendments)**

6 125. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
7 Complaint and the paragraphs below as though fully set forth herein.

8 126. The First Amendment and Fourteenth Amendments to the U.S. Constitution
9 enshrine the right of every Nevadan to speech and political expression free from government
10 interference. Circulation of initiatives is core political speech. *Bradbury*, 438 F.3d at 961.

11 127. The challenged restrictions impose a severe burden on Plaintiffs’ First
12 Amendment Rights by impeding the Initiative’s proponents from qualifying it for the ballot and
13 thus precluding Plaintiffs from voting on the Initiative. Due this severe burden, strict scrutiny
14 applies to the challenged restrictions. *Angle*, 673 F.3d at 1133.

15 128. In light of the restrictions imposed by the government in response to the
16 Pandemic, the Secretary’s interpretations requiring 1) hand signatures rather than electronic
17 signatures and 2) the observation of these signatures in person rather than electronically, cannot
18 withstand strict scrutiny. Doing so is not narrowly tailored to satisfy a compelling government
19 interest.

20 129. The Secretary’s requirements will likely preclude the Initiative from being
21 included on the ballot notwithstanding the fact that it is unnecessary to satisfy the government’s
22 interest in avoiding fraud in signature gathering. The use of electronic signatures on an
23 electronically circulated initiative is sufficient to guard against the government’s concern
24 regarding fraud and will ensure that Plaintiffs have a reasonable opportunity to gather the
25 required signatures.

26 130. The Secretary has taken the action necessary to facilitate an all-mail primary, and
27 she must similarly do so to protect Plaintiffs’ constitutionally protected rights. In refusing to do
28 so, she is violating Plaintiffs’ constitutional rights.

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1 131. Absent relief from this Court, requiring the use of hand signatures observed in
2 person to qualify the Initiative for the ballot will prevent Plaintiffs from engaging in
3 constitutionally protected speech in violation of the First and Fourteenth Amendments.

4 132. Plaintiffs will suffer irreparable harm and injury and have no plain, adequate or
5 speedy remedy at law to address the wrongs herein complained of other than this action. A
6 substantial loss or impairment of freedom of expression will continue to occur absent injunctive
7 relief.

8 **CLAIM 8: Undue Burden on the Right to Engage in Political Speech**
9 **(Nevada Constitution)**

10 133. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
11 Complaint and the paragraphs below as though fully set forth herein.

12 134. Article 1, Section 9 of the Nevada Constitution enshrine the right of every
13 Nevadan to speech and political expression free from government interference. *See Univ. &*
14 *Cnty. Coll. Sys. of Nev.*, 100 P.3d at 187. Article 19, Section 2(1) of the Nevada Constitution
15 provides that “the people reserve to themselves the power to propose, by initiative, statutes and
16 amendments to statutes and amendments to this Constitution, and to enact or reject them at the
17 polls.” Nev. Const. art 19, § 2(1).

18 135. Nevadans’ right to engage in political speech by circulating a ballot initiative as
19 articulated by the Nevada Constitution is subject to First Amendment analysis. *Univ. & Cnty.*
20 *Coll. Sys. of Nev.*, 100 P.3d at 187 (concluding that the protections afforded by Article 1, Section
21 9 and Article 19, Section 2 are subject to First Amendment analysis).

22 136. The challenged restrictions impose a severe burden on Plaintiffs’ First
23 Amendment Rights by impeding the Initiative’s proponents from qualifying it for the ballot and
24 thus precluding Plaintiffs from voting on the Initiative. Due this severe burden, strict scrutiny
25 applies to the challenged restrictions. *Angle*, 673 F.3d at 1133.

26 137. In light of the restrictions imposed by the government in response to the
27 Pandemic, the Secretary’s interpretations requiring 1) hand signatures rather than electronic
28 signatures and 2) the observation of these signatures in person rather than electronically, cannot

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1 withstand strict scrutiny. Doing so is not narrowly tailored to satisfy a compelling government
2 interest.

3 138. Requiring the use of hand signatures observed in person will likely preclude the
4 Initiative from being included on the ballot notwithstanding the fact that it is unnecessary to
5 satisfy the government's interest in avoiding fraud in signature gathering. The use of electronic
6 signatures on an electronically circulated initiative is sufficient to guard against the government's
7 concern regarding fraud and will ensure that Plaintiffs have a reasonable opportunity to gather
8 the required signatures.

9 139. The Secretary has taken the action necessary to facilitate an all mail primary, and
10 she must similarly do so to protect Plaintiffs' constitutionally protected rights. In refusing to do
11 so, she is violating Plaintiffs' constitutional rights.

12 140. Absent relief from this Court, requiring the use of hand signatures observed in
13 person to qualify the Initiative for the ballot will prevent Plaintiffs from engaging in
14 constitutionally protected speech in violation of the Nevada Constitution.

15 **CLAIM 9: Undue Burden on Right to Engage in Political Speech**
16 **(Due Process and 18 U.S.C. Sect. 1983)**

17 141. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
18 Complaint and the paragraphs below as though fully set forth herein.

19 142. The Due Process clause of the U.S. Constitution guarantee the right to due
20 process of law and to equal protection of the laws.

21 143. The challenged restrictions impose a severe burden on Plaintiffs' First
22 Amendment Rights by impeding the Initiative's proponents from qualifying it for the ballot and
23 thus precluding Plaintiffs from voting on the Initiative. Due this severe burden, strict scrutiny
24 applies to the challenged restrictions. *Angle*, 673 F.3d at 1133.

25 144. In light of the restrictions imposed by the government in response to the
26 Pandemic, the Secretary's interpretations requiring 1) hand signatures rather than electronic
27 signatures and 2) the observation of these signatures in person rather than electronically, cannot
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1 withstand strict scrutiny. Doing so is not narrowly tailored to satisfy a compelling government
2 interest.

3 145. Requiring the use of hand signatures observed in person will likely preclude the
4 Initiative from being included on the ballot notwithstanding the fact that it is unnecessary to
5 satisfy the government's interest in avoiding fraud in signature gathering. The use of electronic
6 signatures on an electronically circulated initiative is sufficient to guard against the government's
7 concern regarding fraud and will ensure that Plaintiffs have a reasonable opportunity to gather
8 the required signatures.

9 146. The Secretary has taken the action necessary to facilitate an all-mail primary, and
10 she must similarly do so to protect Plaintiffs' constitutionally protected rights. In refusing to do
11 so, she is violating Plaintiffs' constitutional rights.

12 147. Absent relief from this Court, requiring the use of hand signatures observed in
13 person to qualify the Initiative for the ballot will prevent Plaintiffs from engaging in
14 constitutionally protected speech in violation of the Due Process Clause.

15 **CLAIM 10: Undue Burden on the Right to Vote**
16 **(First and Fourteenth Amendments)**

17 148. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
18 Complaint and the paragraphs below as though fully set forth herein.

19 149. The First Amendment and Fourteenth Amendments to the U.S. Constitution
20 enshrine the right of every Nevadan to vote.

21 150. The challenged restrictions impose a severe burden on Plaintiffs' First
22 Amendment Rights by impeding the Initiative's proponents from qualifying it for the ballot and
23 thus precluding Plaintiffs from voting on the Initiative. Due this severe burden, strict scrutiny
24 applies to the challenged restrictions. *Angle*, 673 F.3d at 1133.

25 151. In light of the restrictions imposed by the government in response to the
26 Pandemic, the Secretary's interpretations requiring 1) hand signatures rather than electronic
27 signatures and 2) the observation of these signatures in person rather than electronically, cannot
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1 withstand strict scrutiny. Doing so is not narrowly tailored to satisfy a compelling government
2 interest.

3 152. Requiring the use of hand signatures observed in person will likely preclude the
4 Initiative from being included on the ballot and thus preclude Plaintiffs and other Nevada voters
5 from voting on it notwithstanding the fact that use of electronic signatures on an electronically
6 circulated initiative is sufficient to guard against the government’s concern regarding fraud and
7 will ensure that Plaintiffs have a reasonable opportunity to gather the required signatures.

8 153. The Secretary has taken the action necessary to facilitate an all-mail primary, and
9 she must similarly do so to protect Plaintiffs’ constitutionally protected rights. In refusing to do
10 so, she is violating Plaintiffs’ constitutional rights.

11 154. Absent relief from this Court, requiring the use of hand signatures observed in
12 person to qualify the Initiative for the ballot will prevent Plaintiffs from exercising their
13 constitutionally protected right to vote.

14 **CLAIM 11: Undue Burden on the Right to Vote**
15 **(Nevada Constitution)**

16 155. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
17 Complaint and the paragraphs below as though fully set forth herein.

18 156. Article 2, Section 1 specifically guarantees the rights of Nevadans to vote “upon
19 all questions submitted to the electors” at an election. Nev. Const. art. 2, § 1.

20 157. The challenged restrictions impose a severe burden on Plaintiffs’ First
21 Amendment Rights by impeding the Initiative’s proponents from qualifying it for the ballot and
22 thus precluding Plaintiffs from voting on the Initiative. Due this severe burden, strict scrutiny
23 applies to the challenged restrictions. *Angle*, 673 F.3d at 1133.

24 158. In light of the restrictions imposed by the government in response to the
25 Pandemic, requiring that use of hand signatures observed in person to qualify the Initiative be for
26 the ballot cannot withstand strict scrutiny. Doing so is not narrowly tailored to satisfy a
27 compelling government interest.
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1 159. Requiring the use of hand signatures observed in person will likely preclude the
2 Initiative from being included on the ballot and thus preclude Plaintiffs and other Nevada voters
3 from voting on it notwithstanding the fact that use of electronic signatures on an electronically
4 circulated initiative is sufficient to guard against the government’s concern regarding fraud and
5 will ensure that Plaintiffs have a reasonable opportunity to gather the required signatures.

6 160. The Secretary has taken the action necessary to facilitate an all-mail primary, and
7 she must similarly do so to protect Plaintiffs’ constitutionally protected rights. In refusing to do
8 so, she is violating Plaintiffs’ constitutional rights.

9 161. Absent relief from this Court, requiring the use of hand signatures observed in
10 person to qualify the Initiative for the ballot will prevent Plaintiffs from exercising their
11 constitutionally protected right to vote.

12 **CLAIM 12: Undue Burden on the Right to Vote**
13 **(Due Process Clause and 42 U.S.C. § 1983)**

14 162. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
15 Complaint and the paragraphs below as though fully set forth herein.

16 163. The Due Process clause of the U.S. Constitution guarantees the right to due
17 process of law and to equal protection of the laws.

18 164. The challenged restrictions impose a severe burden on Plaintiffs’ First
19 Amendment Rights by impeding the Initiative’s proponents from qualifying it for the ballot and
20 thus precluding Plaintiffs from voting on the Initiative. Due this severe burden, strict scrutiny
21 applies to the challenged restrictions. *Angle*, 673 F.3d at 1133.

22 165. In light of the restrictions imposed by the government in response to the
23 Pandemic, requiring in-person observation of hand signatures cannot withstand strict scrutiny.
24 Doing so is not narrowly tailored to satisfy a compelling government interest.

25 166. Requiring the use of hand signatures observed in person will likely preclude the
26 Initiative from being included on the ballot and thus preclude Plaintiffs and other Nevada voters
27 from voting on it notwithstanding the fact that use of electronic signatures on an electronically
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1 circulated initiative is sufficient to guard against the government’s concern regarding fraud and
2 will ensure that Plaintiffs have a reasonable opportunity to gather the required signatures.

3 167. The Secretary has taken the action necessary to facilitate an all-mail primary, and
4 she must similarly do so to protect Plaintiffs’ constitutionally protected rights. In refusing to do
5 so, she is violating Plaintiffs’ constitutional rights.

6 168. Absent relief from this Court, requiring the use of hand signatures observed in
7 person to qualify the Initiative for the ballot will prevent Plaintiffs from exercising their
8 constitutionally protected right to vote.

9 **CLAIM 13: Declaratory Relief**
10 **(28 U.S.C. §§ 2201 and 2202, NRS 30.040)**

11 169. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
12 Complaint and the paragraphs below as though fully set forth herein.

13 170. The Secretary interpreted NRS 295.0575 to preclude the use of electronic means
14 to circulate the Initiative and further interpreted NRS 295.0575 to preclude the use of electronic
15 means to sign the Initiative.

16 171. The Secretary’s interpretation is inconsistent with the plain meaning of NRS
17 295.0575.

18 172. NRS 295.0575 does not preclude the use of electronic means to circulate or sign
19 the Initiative.

20 173. There is an actual controversy between the parties as set forth herein. A
21 substantial loss or impairment of freedom of expression will continue to occur so long as
22 Defendants’ enforcement of the statutes continues.

23 174. This Court should declare that NRS 295.0575 does not preclude circulation or
24 signing of the Initiative by electronic means and should specifically authorize Plaintiffs to
25 circulate the Initiative electronically for electronic signature.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Declare that the application of NRS 295.056(3) violates the U.S. Constitution and Nevada Constitution by unduly burdening the initiative process;

B. Declare that the application of NRS 295.0575 violates the U.S. Constitution and Nevada Constitution by unduly burdening signature gathering efforts in support of the Initiative;

C. Issue a temporary restraining order and preliminary injunction enjoining the enforcement of NRS 295.056 and NRS 295.0575 to deny ballot access for the Initiative for at least so long as the Emergency Directives remain in place, subject to further extension;

D. Issue a preliminary injunction extending the deadline to submit a ballot question for verification for at least the same period for which Nevada’s stay at home order is in place;

E. Issue a preliminary injunction to permit the electronic circulation of the Initiative and to accept electronic signatures;

F. Award Plaintiffs their costs, disbursements and reasonable attorneys’ fees in bringing this action; and

G. Award such other relief and enter such other orders as necessary and appropriate.

DATED May 6, 2020.

McDONALD CARANO LLP

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