

COPY

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10 **IN THE FIRST JUDICIAL DISTRICT COURT**
11 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

12 ERIC JENG, an individual,

13 Plaintiff,

14 vs.

15 FRANCISCO V. AGUILAR, in his
16 official capacity as NEVADA
SECRETARY OF STATE,

17 Defendant.

Case No.: 230C00138-1B

Dept. No.: 5

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF
CHALLENGING INITIATIVE
PETITION C-03-2023**

**Priority Matter Pursuant to NRS
295.061(1)**

Arbitration Exemption: Declaratory
and Injunctive Relief

21 Plaintiff Eric Jeng, an individual registered to vote in Nevada, files this
22 Complaint for Declaratory and Injunctive Relief against Francisco V. Aguilar, in his
23 official capacity as the Nevada Secretary of State, pursuant to NRS 295.061, 30.030,
24 and 30.010. Plaintiff alleges and complains as follows:

REC'D & FILED
2023 DEC - 7 AM 9:25
D. ORTIZ
CLERK

BRAVO SCHRAGER LLP

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JURISDICTION AND VENUE

10 1. This Court has jurisdiction to hear Plaintiff's claims pursuant to NRS
11 295.061 and to grant declaratory and injunctive relief pursuant to NRS 30.030,
12 30.040, and 33.010.

13 2. Venue is proper under NRS 13.020 and 13.040, as this action is against
14 a public officer for acting in his official capacity, and under NRS 295.061(1), which
15 provides that petitions may be challenged "by filing a complaint in the First Judicial
16 District Court."

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PARTIES

10 3. Plaintiff Eric Jeng is a resident of and a registered voter in Clark
11 County, Nevada.

12 4. Defendant Francisco V. Aguilar is the Nevada Secretary of State (the
13 "Secretary") and is sued in his official capacity. The Secretary is responsible for
14 qualifying initiatives for submission to the Legislature and the electorate and
15 disqualifying initiatives that are determined to be invalid. See NRS 295.015, 295.045,
16 295.055, 295.061.

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GENERAL FACTUAL ALLEGATIONS

18 5. On November 14, 2023, Sondra Cosgrove, on behalf of the Fair Maps
19 Nevada PAC, filed Initiative Petition designated as C-03-2023 (the "Petition") with
20 the Secretary. See **Exhibit 1**, a true and accurate copy of the Notice of Intent to
21 Circulate Statewide Initiative or Referendum Petition associated with the Petition.

22 6. The Petition seeks to amend Article 4, Section 5 of the Nevada
23 Constitution to (1) establish a new seven-member state body, the "Independent
24 Redistricting Commission" and (2) require that the Commission rather than the
25 Legislature draw legislative districts. See Ex. 1 at 2.

26 7. The Petition includes the following description of effect:

27 This measure will amend the Nevada Constitution to establish
28 a redistricting commission to map electoral districts for the Nevada

1 Senate, Assembly, and U.S. House of Representatives.

2 The Commission will have seven members, four who will be
3 appointed by the leadership of the Legislature, and three who are
4 unaffiliated with the two largest political parties who will be
5 appointed by the other four commissioners. Commissioners may not
6 be partisan candidates, lobbyists, or certain relatives of such
7 individuals. Commission meetings shall be open to the public which
8 shall have opportunities to participate in hearings.

9 The Commission will ensure, to the extent possible, that the
10 districts comply with the U.S. Constitution, have an approximately
11 equal number of inhabitants, are geographically compact and
12 contiguous, provide equal opportunities for racial and language
13 minorities to participate in the political process, respect areas with
14 recognized similarities of interests, including racial, ethnic,
15 economic, social, cultural, geographic, or historic identities, do not
16 unduly advantage or disadvantage a political party, and are
17 politically competitive.

18 This amendment will require redistricting following each
19 federal census.

20 Ex. 1 at 3.

21 8. The substance of the Petition is nearly identical to a petition that was
22 previously circulated, and the subject of significant litigation, in 2019. See **Exhibit**
23 **2**, a true and accurate copy of Initiative Petition C-02-2019; see also *Jackson v. Fair*
24 *Maps Nevada PAC*, No. 19-OC-002909 1B (1st Jud. Dist. Ct. Nev., Carson City Jan.
25 2, 2020) (**Exhibit 3**), *aff'd*, No. 80563 (Nev. July 24, 2020) (**Exhibit 4**).

26 9. In reviewing a challenge to the 2019 petition's description of effect, the
27 First Judicial District Court concluded that the description was "inadequate in that
28 it does not provide potential signatories with enough information about the cost
consequences of the Petition—specifically, that it will result in the expenditure of
state funds." Exhibit 3 at 4. The Court therefore rewrote the description of effect to
specify that the 2019 petition "will result in the expenditure of state funds to fund
the Commission." *Id.*

10 10. The 2019 petition was circulated to voters with that revised description
11 but failed to attract sufficient signatures for inclusion on the ballot.

1 FIRST CAUSE OF ACTION

2 **Violation of Unfunded Mandate Prohibition, Nev. Const. Art. 19, Sec. 6**

3 11. The foregoing paragraphs of this Complaint are realleged and fully
4 incorporated as if set forth in full herein.

5 12. Article 19, Section 6 of the Nevada Constitution prohibits any initiative
6 that “makes an appropriation or otherwise requires the expenditure of money, unless
7 such statute or amendment also imposes a sufficient tax, not prohibited by the
8 Constitution, or otherwise constitutionally provides for raising the necessary
9 revenue.” (emphasis added). Accordingly, when an initiative “creat[es] a new
10 requirement for the appropriation of state funding that does not now exist and
11 provides no discretion to the Legislature about whether to appropriate or expend the
12 money” but does not provide for the necessary revenue, it does not comply with Article
13 19, Section 6 and is thus void. *Educ. Freedom PAC v. Reid*, C, 512 P.3d 296, 303-04
14 (Nev. 2022).

15 13. “Section 6 applies to *all* proposed initiatives, without exception, and *does*
16 *not permit* any initiative that fails to comply with the stated conditions.” *Rogers v.*
17 *Heller*, 117 Nev. 169, 173, 18 P.3d 1034, 1036 (2001) (per curiam). When an initiative
18 violates this “threshold content restriction” by creating an unfunded mandate, it is
19 void ab initio and pre-election intervention by the courts is warranted. *Herbst*
20 *Gaming, Inc. v. Heller*, 122 Nev. 877, 890, 141 P.3d 1224, 1233 (2006) (per curiam)
21 (quoting *Rogers*, 117 Nev. at 173, 18 P.3d at 1036).

22 14. Notably, “[t]he fact that [an] initiative leaves it up to the Legislature to
23 determine how to fund the proposed change does not exclude the initiative from the
24 funding mandate.” *Educ. Freedom PAC*, 512 P.3d at 303. An initiative makes an
25 appropriation or expenditure when “the budgeting official must approve the
26 appropriation or expenditure, regardless of any other financial considerations.”
27 *Herbst Gaming*, 122 Nev. at 890, 141 P.3d at 1233.

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1 15. The Petition imposes an unfunded mandate in violation of Article 19,
2 Section 6 because it creates a new state body, the Commission, but it raises no new
3 revenue to pay the expenses of that body.

4 16. The Commission will unavoidably incur substantial expenses if the
5 Petition is adopted.

6 17. The First Judicial District Court held in 2019 that the materially
7 identical 2019 petition “will result in the expenditure of state funds.” Exhibit 3 at 4.¹

8 18. Redistricting commissions in other states have required millions of
9 dollars of state funding to carry out their duties. In California, the Citizens
10 Redistricting Commission incurred more than \$10 million in costs before the adoption
11 of the final set of maps from July 1, 2020 through December 27, 2021. Letter from
12 Antonio Le Mons, Commissioner on California Citizens Redistricting Commission, to
13 Hans Hemann, Joint Legislative Budget Committee, and Charles LaSalle,
14 Department of Finance (June 30, 2023), [https://wedrawthelines.ca.gov/wp-](https://wedrawthelines.ca.gov/wp-content/uploads/sites/64/2023/07/wd-2023-06-30-LegislatureExpReport.pdf)
15 [content/uploads/sites/64/2023/07/wd-2023-06-30-LegislatureExpReport.pdf](https://wedrawthelines.ca.gov/wp-content/uploads/sites/64/2023/07/wd-2023-06-30-LegislatureExpReport.pdf).

16 19. In Arizona, appropriations for the Independent Redistricting
17 Commission totaled \$12,716,227 for 2011-2017 and \$8,400,000 for 2021-2022.
18 Independent Redistricting Commission, FY 2023 Appropriations Report,
19 <https://www.azjlb.gov/23AR/irc.pdf>.

20 20. In Ohio, the Office of Budget and Management estimated that a
21 constitutional amendment establishing a redistricting commission and requiring new
22 districts to be redrawn would cost between \$11 million and \$15.2 million over an
23 eight-year period. Letter from Timothy Keen, Director of Ohio Office of Budget &
24 Management, to Jon Husted, Ohio Secretary of State (Oct. 3,

25
26 ¹ The challenger in the 2019 case challenged only the description of effect, so
27 the Court did not consider the implications of this holding under Article 19, Section
28 6. *See id.*

1 2012), <https://www.ohiosos.gov/globalassets/ballotboard/2012/2-fiscalanalysis.pdf>.
2 Redistricting expenditures under the Ohio Redistricting Commission amounted to
3 \$625,000 from 2020 through October 2021, for “redistricting mapping software
4 applications, consulting and research services, mileage reimbursements, and other
5 such expenses related to the process of redistricting.” Fiscal Note & Local Impact
6 Statement for S.B. 258 (Nov. 3,
7 2021), <https://www.legislature.ohio.gov/download?key=17742&format=pdf>.

8 21. There is no reason to believe that the funding requirements for the
9 redistricting commission the Petition proposes for Nevada would be any different.
10 The Petition imposes numerous requirements on the Commission’s maps, which must
11 comply with the U.S. Constitution and federal law, are approximately equal in
12 population, are geographically contiguous, do not deny or abridge the equal
13 opportunity of racial or language minorities, do not favor any political party, reflect
14 city, county, and township boundaries, keep communities of interest together, are
15 reasonably compact, and consider the number of politically competitive districts. Ex.
16 1 at 2. Complying with these requirements will require significant expert and
17 technological support.

18 22. This is further supported by and consistent with reapportionment and
19 redistricting historically in this state. Nevada legislative committees that have
20 studied reapportionment and redistricting have similarly relied upon the assistance
21 of staff, including research staff, legislative counsel, redistricting and GIS specialists,
22 and special masters, all of which carry significant expenses. See, e.g., Nevada
23 Legislature Committee to Conduct an Interim Study of the Requirements for
24 Reapportionment and Redistricting in the State of Nevada (Aug. 27, 2020),
25 <https://www.leg.state.nv.us/App/InterimCommittee/REL/Document/16591>;
26 Committee to Conduct an Investigation into Matters Relating to Reapportionment
27 and Redistricting in Nevada,
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1 <https://www.leg.state.nv.us/App/InterimCommittee/REL/Interim2021/Committee/19>
2 09/Staff; Nevada Legislature, Summary Minutes of the Public Hearing by Special
3 Masters to Receive Testimony Concerning Redistricting of Legislative and
4 Congressional Districts,
5 <https://www.leg.state.nv.us/App/InterimCommittee/REL/Document/14769>.

6 23. The Petition also requires the Commission to hold public meetings, with
7 an opportunity for public viewing, testimony, and participation, to provide public
8 notice of proposed plans and an opportunity for public review and comment, and to
9 make its records available as public records. Exhibit 1 at 2. All of that costs money,
10 but the Petition raises no revenue to fund it.

11 24. By creating the Commission, the Petition therefore “creat[es] a new
12 requirement for the appropriation of state funding that does not now exist.” *Educ.*
13 *Freedom PAC*, 512 P.3d at 304. The Petition leaves “budgeting officials no discretion
14 in appropriating or expending the money mandated by the initiative—the budgeting
15 official must approve the appropriation or expenditure” to comply with its provisions.
16 *Herbst Gaming*, 122 Nev. at 890, 141 P.3d at 1233. Because the Petition *requires* an
17 appropriation and expenditure but does *not* “provide[] for raising the necessary
18 revenue” as Article 19, Section 6 requires, it is void ab initio. *Rogers*, 117 Nev. at 173,
19 18 P.3d at 1036.

20 SECOND CAUSE OF ACTION

21 **Violation of Description of Effect Requirement, NRS 295.009(1)(b)**

22 25. The foregoing paragraphs of this Complaint are realleged and fully
23 incorporated as if set forth in full herein.

24 26. NRS 295.009(1)(b) requires that initiative petitions “set forth, in not
25 more than 200 words, a description of the effect of the initiative or referendum if the
26 initiative or referendum is approved by the voters.” The purpose of the description of
27 effect is to “prevent voter confusion and promote informed decisions.” *Nevadans for*
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1 *Nev. v. Beers*, 122 Nev. 930, 939, 142 P.3d 339, 345 (2006) (per curiam) (quoting
2 *Campbell v. Buckley*, 203 F.3d 738, 746 (10th Cir. 2000)).

3 27. “[A] description of effect must identify what the law proposes and how it
4 intends to achieve that proposal.” *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*,
5 129 Nev. 35, 42, 293 P.3d 874, 879 (2013). In doing so, it “must be straightforward,
6 succinct, and nonargumentative, and it must not be deceptive or misleading.” *Id.*, 293
7 P.3d at 879 (cleaned up) (quoting *Las Vegas Taxpayer Accountability Comm. v. City*
8 *Council*, 125 Nev. 165, 183, 208 P.3d 429, 441 (2009)). A description must also
9 sufficiently “explain the[] ramifications of the proposed amendment” to allow voters
10 to make an informed decision. *Nev. Judges Ass’n v. Lau*, 112 Nev. 51, 59, 910 P.2d
11 898, 903 (1996).

12 28. While a description of effect does not need to explain every possible
13 effect, it must at a minimum accurately describe the main consequences of the
14 initiative. See, e.g., *Las Vegas Taxpayer Accountability Comm.*, 125 Nev. at 184, 208
15 P.3d at 441 (finding description of effect materially misleading where it “materially
16 fails to accurately identify the consequences of the referendum’s passage”). This
17 includes “the need for or nature of the revenue source” to fund a proposed initiative.
18 *Educ. Freedom PAC*, 512 P.3d at 304.

19 29. The Petition’s description of effect is legally deficient because it fails to
20 include a material fact that the First Judicial District Court held must be included in
21 the description of the materially identical 2019 petition. Exhibit 3 at 4–5.

22 30. The Petition’s description of effect does not include a statement that the
23 Petition “will result in the expenditure of state funds to fund the Commission,” which
24 the First Judicial District Court ordered to be added to the 2019 petition’s description
25 of effect. *Id.* at 5. Like the original description for the 2019 petition, the Petition’s
26 description therefore “does not provide potential signatories with enough information

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1 about the cost consequences of the Petition—specifically, that it will result in the
2 expenditure of state funds.” *Id.* at 4.

3 31. The Petition’s description of effect therefore fails to sufficiently “identify
4 what the law proposes and how it intends to achieve that proposal.” *Educ. Initiative*
5 *PAC*, 129 Nev. at 42, 293 P.3d at 879. This omission renders the Petition’s description
6 of effect legally deficient.

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiff asks this Court to enter an order:

9 1. Declaring that the Petition does not comply with Article 19, Section 6 of
10 the Nevada Constitution because it impermissibly creates an unfunded mandate, and
11 is therefore invalid;

12 2. Declaring that the Petition’s description of effect does not comply with
13 NRS 295.009(1)(b) because it is deceptive, misleading, and fails to explain the
14 ramifications of the proposed amendment to allow voters to make an informed
15 decision, and is therefore invalid;

16 3. Enjoining and prohibiting the Secretary from placing the Petition on the
17 2024 general election ballot, or from taking further action upon it;

18 4. Awarding Plaintiff his reasonable costs and attorneys’ fees; and

19 5. Granting such other relief as the Court deems appropriate.
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AFFIRMATION

The undersigned hereby affirm that the foregoing document does not contain the social security number of any person.

DATED this 6th day of December, 2023.

BRADLEY S. SCHRAGER, ESQ (SBN 10217)

By: 

BRADLEY S. SCHRAGER, ESQ. (SBN 10217)

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Attorneys for Plaintiff

Exhibit 1

Exhibit 1

State of Nevada
Secretary of State
Francisco V. Aguilar



Notice of Intent
Statewide Initiative or
Referendum Petition
NRS 295.009 and 295.015

Pursuant to NRS 295.015, before a petition for initiative or referendum may be presented to registered voters for signatures, the person who intends to circulate the petition must provide the following information:

NAME OF PERSON FILING THE PETITION

Sondra Cosgrove

NAME(S) OF PERSON(S) AUTHORIZED TO WITHDRAW OR AMEND THE PETITION (provide up to three)

1. Sondra Cosgrove
2. Richard MacLean
3. Edward Gonzalez Jr.

NAME OF THE POLITICAL ACTION COMMITTEE (PAC) ADVOCATING FOR THE PASSAGE OF THE INITIATIVE OR REFERENDUM (if none, leave blank)

Fair Maps Nevada

Please note, if you are creating a Political Action Committee for the purpose of advocating for the passage of the initiative or referendum, you must complete a separate PAC registration form.

Additionally, a copy of the initiative or referendum, including the description of effect, must be filed with the Secretary of State's office at the time you submit this form.

X Sondra Cosgrove

Signature of Petition Filer

11/14/2023

Date

State of Nevada - Initiative Petition – Constitutional Amendment

EXPLANATION: Matter in *bolded italics* is new language to be added to the Nevada Constitution by this Amendment. Matter in strikethrough is existing language in the Nevada Constitution to be deleted by this Amendment.

The People of the State of Nevada do enact as follows:

Section 1: Article 4, Section 5 of the Nevada Constitution is hereby amended to read as follows:

Section 5. Number of Senators and members of Assembly; ~~apportionment.~~ Senators and members of the Assembly shall be duly qualified electors in the respective counties and districts which they represent, and the number of Senators shall not be less than one-third nor more than one-half of that of the members of the Assembly.

It shall be the mandatory duty of the Legislature at its first session after the taking of the decennial census of the United States in the year 1950, and after each subsequent decennial census, to fix by law the number of Senators and Assemblymen, ~~and apportion them among the several counties of the State, or among legislative districts which may be established by law, according to the number of inhabitants in them,~~ respectively.

Section 2: Article 4 of the Nevada Constitution is hereby amended by adding thereto new sections to be designated as Sections 5A, 5B and 5C, to read as follows:

Section 5A. Apportionment; Creation of Independent Redistricting Commission.

- 1. There is created within the legislative branch of state government the Independent Redistricting Commission. It shall be the duty of the Commission after each decennial census of the United States, to apportion the number of Senators and Assemblymen among legislative districts established by the Commission and to apportion the number of representatives in the United States House of Representatives among districts established by the Commission.*
- 2. The Commission shall be composed of seven members who are registered and eligible to vote in Nevada, and who satisfy the qualification standards in subsection 3. The Senate Majority Leader, Senate Minority Leader, Speaker of the Assembly, and Assembly Minority Leader shall each appoint one Commissioner. The four Commissioners appointed in this manner shall appoint three additional Commissioners, each of whom, for at least four years immediately preceding their appointment, has not been registered or affiliated with the largest political party or the second largest political party, according to voter registration data published by the Secretary of State as of the earliest day in January of the redistricting year, and none of whom, if registered or affiliated with a political party, is affiliated or registered with the same political party as another Commissioner.*
- 3. Within four years preceding appointment and during their term, no Commissioner may be a registered lobbyist; a candidate for a federal, state, or partisan local office; an elected official to a federal, state, or partisan local office; an officer or member of the governing body of a national, state, or local political party; a paid consultant or employee of a federal, state, or partisan local elected official or candidate, or of a political action committee, or of a committee sponsored by a political party, or of a committee that seeks to influence elections to federal, state, or partisan local offices; an employee of the Legislature; an employee of the State of Nevada, except for employees in the judicial branch, the armed forces, or a state institution of higher education; or related within the third degree of consanguinity or affinity to any individual disqualified under this subsection.*
- 4. The term of office of each Commissioner shall expire once the Commission has completed its obligations for a census cycle but not before any judicial review of the redistricting plan is complete and shall expire no later than the release of the following decennial census of the United States.*
- 5. All meetings of the Commission shall be open to the public. The Commission shall ensure that the public has opportunities to view, present testimony, and participate in hearings before the Commission. All Commission materials shall be public records.*

6. *The Commission shall adopt rules to govern its administration and operation.*
7. *The powers granted to the Commission are legislative functions not subject to the control or approval of the Legislature and are exclusively reserved to the Commission.*

Section 5B. Criteria for Determination of Districts; Approval of Final Plans.

1. *In adopting a redistricting plan, the Independent Redistricting Commission shall use the following criteria, in the order listed, to draw districts: Ensure that districts comply with the United States Constitution and applicable federal law; Ensure that districts have an approximately equal number of inhabitants; Ensure that districts are geographically contiguous; Ensure that districts are not drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or elect representatives of their choice, whether by themselves or voting in concert with other persons; Ensure that districts, when considered on a statewide basis, do not unduly advantage or disadvantage a political party; Ensure that districts reflect, to the extent possible, county, city, and township boundaries; Minimize, to the extent practicable, the division of communities of interest, meaning an area with recognized similarities of interests, including but not limited to racial, ethnic, economic, social, cultural, geographic, or historic identities, but not including common relationships with political parties or political candidates; Ensure that districts are reasonably compact; and to the extent practicable, after complying with the requirements above, consider the number of politically competitive districts, measured by creating a reasonable potential for the party affiliation of the district's representative to change at least once between federal decennial censuses.*
2. *Not later than 180 days from the release of the decennial census of the United States, the Commission shall approve a redistricting plan for the Nevada State Senate, the Nevada State Assembly, and Nevada's Congressional Districts, after providing public notice of each proposed final plan and allowing sufficient time for public review and comment. A final plan may be approved by the Commission only upon at least five affirmative votes, including at least one Commissioner registered with the largest political party, one Commissioner registered with the second largest political party, and one Commissioner not registered or affiliated with the largest or second largest political party, according to voter registration data published by the Secretary of State as of the earliest day in January of the redistricting year.*

Section 5C. Severability.

Should any part of this Amendment be declared invalid, or the application thereof to any person, thing, or circumstance be held invalid, such invalidity shall not affect the remaining provisions or application of this Amendment which can be given effect without the invalid provision or application, and to this end the provisions of this Amendment are declared to be severable. This Section shall be construed broadly to preserve and effectuate the purpose of this Amendment.

[The remainder of this page is blank.]

DESCRIPTION OF EFFECT

This measure will amend the Nevada Constitution to establish a redistricting commission to map electoral districts for the Nevada Senate, Assembly, and U.S. House of Representatives.

The Commission will have seven members, four who will be appointed by the leadership of the Legislature, and three who are unaffiliated with the two largest political parties who will be appointed by the other four commissioners. Commissioners may not be partisan candidates, lobbyists, or certain relatives of such individuals. Commission meetings shall be open to the public which shall have opportunities to participate in hearings.

The Commission will ensure, to the extent possible, that the districts comply with the U.S. Constitution, have an approximately equal number of inhabitants, are geographically compact and contiguous, provide equal opportunities for racial and language minorities to participate in the political process, respect areas with recognized similarities of interests, including racial, ethnic, economic, social, cultural, geographic, or historic identities, do not unduly advantage or disadvantage a political party, and are politically competitive.

This amendment will require redistricting following each federal census.

County of _____ (Only registered voters of this county may sign below)
 Petition District _____ (Only registered voters of this petition district may sign below)

			This Space For Office Use Only
1	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY
	YOUR SIGNATURE	DATE / /	CITY COUNTY
2	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY
	YOUR SIGNATURE	DATE / /	CITY COUNTY
3	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY
	YOUR SIGNATURE	DATE / /	CITY COUNTY
4	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY
	YOUR SIGNATURE	DATE / /	CITY COUNTY
5	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY
	YOUR SIGNATURE	DATE / /	CITY COUNTY

DESCRIPTION OF EFFECT

This measure will amend the Nevada Constitution to establish a redistricting commission to map electoral districts for the Nevada Senate, Assembly, and U.S. House of Representatives.

The Commission will have seven members, four who will be appointed by the leadership of the Legislature, and three who are unaffiliated with the two largest political parties who will be appointed by the other four commissioners. Commissioners may not be partisan candidates, lobbyists, or certain relatives of such individuals. Commission meetings shall be open to the public which shall have opportunities to participate in hearings.

The Commission will ensure, to the extent possible, that the districts comply with the U.S. Constitution, have an approximately equal number of inhabitants, are geographically compact and contiguous, provide equal opportunities for racial and language minorities to participate in the political process, respect areas with recognized similarities of interests, including racial, ethnic, economic, social, cultural, geographic, or historic identities, do not unduly advantage or disadvantage a political party, and are politically competitive.

This amendment will require redistricting following each federal census.

County of _____
 Petition District _____

(Only registered voters of this county may sign below)

(Only registered voters of this petition district may sign below)

This Space For
Office Use Only

6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE	DATE / /	CITY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE	DATE / /	CITY	

Place Affidavit on last page of document.

THE FOLLOWING AFFIDAVIT MUST BE COMPLETED AND SIGNED:

AFFIDAVIT OF CIRCULATOR
(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____
(print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

Signature of Circulator

Subscribed and sworn to or affirmed before me this _____
day of _____, _____, by _____.

Notary Public or person authorized to administer oath

Exhibit 2

Exhibit 2

State of Nevada - Initiative Petition - Constitutional Amendment

C-02-2019

FILED NV.SDS
2019 NOV 4 PM 4:16

EXPLANATION: Matter in *bolded italics* is new language to be added to the Nevada Constitution by this Amendment. Matter in strikethrough is existing language in the Nevada Constitution to be deleted by this Amendment.

The People of the State of Nevada do enact as follows:

Section 1: Article 4, Section 5 of the Nevada Constitution is hereby amended to read as follows:

Section 5. Number of Senators and members of Assembly; ~~apportionment.~~ Senators and members of the Assembly shall be duly qualified electors in the respective counties and districts which they represent, and the number of Senators shall not be less than one-third nor more than one-half of that of the members of the Assembly.

It shall be the mandatory duty of the Legislature at its first session after the taking of the decennial census of the United States in the year 1950, and after each subsequent decennial census, to fix by law the number of Senators and Assemblymen, ~~and apportion them among the several counties of the State, or among legislative districts which may be established by law, according to the number of inhabitants in them, respectively.~~

Section 2: Article 4 of the Nevada Constitution is hereby amended by adding thereto new sections to be designated as Sections 5A, 5B and 5C, to read as follows:

Section 5A. Apportionment; Creation of Independent Redistricting Commission.

- 1. There is created within the legislative branch of state government the Independent Redistricting Commission. It shall be the duty of the Commission in the year 2023, and after each subsequent decennial census of the United States, to apportion the number of Senators and Assemblymen among legislative districts established by the Commission and to apportion the number of representatives in the United States House of Representatives among districts established by the Commission.*
- 2. The Commission shall be composed of seven members who are registered and eligible to vote in Nevada, and who satisfy the qualification standards in subsection 3. The Senate Majority Leader, Senate Minority Leader, Speaker of the Assembly, and Assembly Minority Leader shall each appoint one Commissioner. The four Commissioners appointed in this manner shall appoint three additional Commissioners, each of whom, for at least four years immediately preceding their appointment, has not been registered or affiliated with the largest political party or the second largest political party, according to voter registration data published by the Secretary of State as of the earliest day in January of the redistricting year, and none of whom, if registered or affiliated with a political party, is affiliated or registered with the same political party as another Commissioner.*
- 3. Within four years preceding appointment and during their term, no Commissioner may be a registered lobbyist; a candidate for a federal, state, or partisan local office; an elected official to a federal, state, or partisan local office; an officer or member of the governing body of a national, state, or local political party; a paid consultant or employee of a federal, state, or partisan local elected official or candidate, or of a political action committee, or of a committee sponsored by a political party, or of a committee that seeks to influence elections to federal, state, or partisan local offices; an employee of the Legislature; an employee of the State of Nevada, except for employees in the judicial branch, the armed forces, or a state institution of higher education; or related within the third degree of consanguinity or affinity to any individual disqualified under this subsection.*
- 4. The term of office of each Commissioner shall expire once the Commission has completed its obligations for a census cycle but not before any judicial review of the redistricting plan is complete and shall expire no later than the release of the following decennial census of the United States.*

5. All meetings of the Commission shall be open to the public. The Commission shall ensure that the public has opportunities to view, present testimony, and participate in hearings before the Commission. All Commission materials shall be public records.
6. The Commission shall adopt rules to govern its administration and operation.
7. The powers granted to the Commission are legislative functions not subject to the control or approval of the Legislature and are exclusively reserved to the Commission.

Section 5B. Criteria for Determination of Districts; Approval of Final Plans.

1. In adopting a redistricting plan, the Independent Redistricting Commission shall use the following criteria, in the order listed, to draw districts: Ensure that districts comply with the United States Constitution and applicable federal law; Ensure that districts have an approximately equal number of inhabitants; Ensure that districts are geographically contiguous; Ensure that districts are not drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or elect representatives of their choice, whether by themselves or voting in concert with other persons; Ensure that districts, when considered on a statewide basis, do not unduly advantage or disadvantage a political party; Ensure that districts reflect, to the extent possible, county, city, and township boundaries; Minimize, to the extent practicable, the division of communities of interest, meaning an area with recognized similarities of interests, including but not limited to racial, ethnic, economic, social, cultural, geographic, or historic identities, but not including common relationships with political parties or political candidates; Ensure that districts are reasonably compact; and to the extent practicable, after complying with the requirements above, consider the number of politically competitive districts, measured by creating a reasonable potential for the party affiliation of the district's representative to change at least once between federal decennial censuses.
2. Not later than July 1, 2023, and thereafter not later than 180 days from the release of the decennial census of the United States, the Commission shall approve a redistricting plan for the Nevada State Senate, the Nevada State Assembly, and Nevada's Congressional Districts, after providing public notice of each proposed final plan and allowing sufficient time for public review and comment. A final plan may be approved by the Commission only upon at least five affirmative votes, including at least one Commissioner registered with the largest political party, one Commissioner registered with the second largest political party, and one Commissioner not registered or affiliated with the largest or second largest political party, according to voter registration data published by the Secretary of State as of the earliest day in January of the redistricting year.

Section 5C. Severability.

Should any part of this Amendment be declared invalid, or the application thereof to any person, thing, or circumstance be held invalid, such invalidity shall not affect the remaining provisions or application of this Amendment which can be given effect without the invalid provision or application, and to this end the provisions of this Amendment are declared to be severable. This Section shall be construed broadly to preserve and effectuate the purpose of this Amendment.

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DESCRIPTION OF EFFECT

This measure will amend the Nevada Constitution to establish an Independent Redistricting Commission to oversee the mapping of fair and competitive electoral districts for the Nevada Senate, Nevada Assembly, and U.S. House of Representatives.

The Commission will consist of seven Nevada voters, four who will be appointed by the leadership of the Nevada Legislature, and three who are unaffiliated with the two largest political parties who will be appointed by the other four commissioners. Commissioners may not be partisan candidates, lobbyists, or certain relatives of such individuals. All meetings of the Commission shall be open to the public who shall have opportunities to participate in hearings before the Commission.

The Commission will ensure, to the extent possible, that the electoral districts comply with the United States Constitution, have an approximately equal number of inhabitants, are geographically compact and contiguous, provide equal opportunities for racial and language minorities to participate in the political process, respect areas with recognized similarities of interests, including racial, ethnic, economic, social, cultural, geographic, or historic identities, do not unduly advantage or disadvantage a political party, and are politically competitive.

This amendment will require redistricting by the Commission beginning in 2023 and thereafter following each federal census.

County of _____ **(Only registered voters of this county may sign below)**
 Petition District _____ **(Only registered voters of this petition district may sign below)**

		This Space For Office Use Only	
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE _____ DATE _____ / /	CITY _____	COUNTY _____
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE _____ DATE _____ / /	CITY _____	COUNTY _____
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE _____ DATE _____ / /	CITY _____	COUNTY _____
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE _____ DATE _____ / /	CITY _____	COUNTY _____
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE _____ DATE _____ / /	CITY _____	COUNTY _____

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This measure will amend the Nevada Constitution to establish an Independent Redistricting Commission to oversee the mapping of fair and competitive electoral districts for the Nevada Senate, Nevada Assembly, and U.S. House of Representatives.

The Commission will consist of seven Nevada voters, four who will be appointed by the leadership of the Nevada Legislature, and three who are unaffiliated with the two largest political parties who will be appointed by the other four commissioners. Commissioners may not be partisan candidates, lobbyists, or certain relatives of such individuals. All meetings of the Commission shall be open to the public who shall have opportunities to participate in hearings before the Commission.

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This amendment will require redistricting by the Commission beginning in 2023 and thereafter following each federal census.

County of _____ (Only registered voters of this county may sign below)
 Petition District _____ (Only registered voters of this petition district may sign below)

This Space For
Office Use Only

6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE _____ DATE / /	CITY	COUNTY
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE _____ DATE / /	CITY	COUNTY

Place Affidavit on last page of document.

THE FOLLOWING AFFIDAVIT MUST BE COMPLETED AND SIGNED:

AFFIDAVIT OF CIRCULATOR
(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)

COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____
(print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

Signature of Circulator

Subscribed and sworn to or affirmed before me this
_____ day of _____, _____ by

Notary Public or person authorized to administer oath

Exhibit 3


Exhibit 3

MCDONALD CARANO
100 WEST LIBERTY STREET, TENTH FLOOR • RENO, NEVADA 89501
PHONE 775.788.2000 • FAX 775.788.2020

1 Adam Hosmer-Henner, Esq. (NSBN 12779)
Lucas Foletta, Esq. (NSBN 12154)
2 MCDONALD CARANO
100 West Liberty Street, 10th Floor
3 Reno, NV 89501
(775) 788-2000
4 ahosmerhenner@mcdonaldcarano.com
lfoletta@mcdonaldcarano.com

5 *Attorneys for Defendant*
6 *Fair Maps Nevada PAC*

REC'D & FILED
2020 JAN -2 PM 12:15

AUBREY ROWLATT
CLERK
BY  DEPUTY

7 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
8 **IN AND FOR CARSON CITY**

9 * * *

10 REV. LEONARD JACKSON,

11 Plaintiff,

12 vs.

13 FAIR MAPS NEVADA PAC, and
14 BARBARA CEGAVSKE, in her official
capacity as Nevada Secretary of State,

15 Defendants.

Case No. 19 OC 00209 1B

Dept. No. I

[PROPOSED] ORDER

16 **ORDER**

17
18 This matter having come before this Court pursuant to Plaintiff Reverend Leonard
19 Jackson's Complaint for Declaratory Relief ("Complaint") and Plaintiff's Opening Brief in
20 Support of Complaint for Declaratory and Injunctive Relief ("Opening Brief"), and having
21 considered Defendant Fair Maps Nevada PAC's ("Fair Maps") Answer and Answering Brief in
22 Response to Plaintiff's Opening Brief in Support of Complaint for Declaratory and Injunctive
23 Relief ("Answering Brief") and Plaintiff's Reply Brief in Support of Complaint for Declaratory
24 Relief ("Reply Brief") as well as the arguments of counsel at the hearing held December 23,
25 2019, the Court finds as follows:

26 //

27 //

28

JA000025

MCDONALD CARANO
100 WEST LIBERTY STREET, TENTH FLOOR • RENO, NEVADA 89501
PHONE 775.788.2000 • FAX 775.788.2020

PROCEDURAL BACKGROUND

1
2 Fair Maps filed Initiative Petition #C-02-2019 (“Petition”) on November 4, 2019 to
3 amend the Nevada Constitution by adding a new section to the Nevada Constitution to establish
4 a redistricting commission to map electoral districts for members of the Nevada Senate, Nevada
5 Assembly, and Nevada’s delegation to the U.S. House of Representatives. The Petition includes
6 the following description of effect:

7 This measure will amend the Nevada Constitution to establish an
8 Independent Redistricting Commission to oversee the mapping of fair and
9 competitive electoral districts for the Nevada Senate, Nevada Assembly, and U.S.
10 House of Representatives.

11 The Commission will consist of seven Nevada voters, four who will be
12 appointed by the leadership of the Nevada Legislature, and three who are
13 unaffiliated with the two largest political parties who will be appointed by the
14 other four commissioners. Commissioners may not be partisan candidates,
15 lobbyists, or certain relatives of such individuals. All meetings of the Commission
16 shall be open to the public who shall have opportunities to participate in hearings
17 before the Commission.

18 The Commission will ensure, to the extent possible, that the electoral
19 districts comply with the United States Constitution, have an approximately equal
20 number of inhabitants, are geographically compact and contiguous, provide equal
21 opportunities for racial and language minorities to participate in the political
22 process, respect areas with recognized similarities of interests, including racial,
23 ethnic, economic, social, cultural, geographic, or historic identities, do not unduly
24 advantage or disadvantage a political party, and are politically competitive.

25 This amendment will require redistricting by the Commission beginning in
26 2023 and thereafter following each federal census.

27 Plaintiff filed his Complaint and the Opening Brief on November 26, 2019, in which he
28 argues that the Petition’s description of effect fails to comply with NRS 295.009(1)(b). More
specifically, he contends that description of the commission as independent and the description
of effect’s statement that the commission will oversee “the mapping of fair and competitive
electoral districts,” are materially misleading statements. Compl. ¶¶ 15 & 23. He also asserts
that the description of effect is deceptive and misleading because it fails to inform voters of a
specific practical effect of passage of the Petition—that the redistricting commission will “undo”
electoral maps generated by the Legislature in 2021 “thus potentially doubling the resources that
would otherwise be spent on redistricting following the 2020 census.” *Id.* at ¶¶ 30. Plaintiff’s
Complaint is limited to his challenge to the description of effect.

1 Fair Maps contends that the use of the term independent and the characterization of the
2 commission's objective of creating fair and competitive electoral districts is neither deceptive
3 nor misleading and amount to attacks on the policy reflected in the Petition and not the
4 description of effect. Ans. Br. 6-8. Fair Maps also contends that Plaintiff's claim that there will
5 be additional redistricting costs as a result of Petition is speculative and hypothetical and
6 therefore need not be addressed in the description of effect. *Id.* at 8-10.

7 **LEGAL STANDARDS**

8 Article 19, Section 2 of the Nevada Constitution enshrines the people's right to amend
9 the Nevada Constitution by initiative petition. Specifically it states that "the people reserve to
10 themselves the power to propose, by initiative petition, . . . amendments to this Constitution."
11 Nev. Const. art. 19, § 2(1). The Nevada Constitution further provides that the Legislature "may
12 provide by law for procedures to *facilitate* the operation thereof." *Id.* art. 19, § 5 (emphasis
13 added). In interpreting such laws, the courts "must make every effort to sustain and preserve the
14 people's constitutional right to amend their constitution through the initiative process."
15 *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 912, 141 P.3d 1235, 1247
16 (2006).

17 NRS 295.009(1)(b) provides that a petition must "[s]et forth, in not more than 200
18 words, a description of the effect of the initiative . . . if the initiative . . . is approved by the
19 voters." NRS 295.009(1)(b). The Nevada Supreme Court has noted that "[a] description of effect
20 serves a limited purpose to facilitate the initiative process," and that a description of effect
21 should be reviewed with an eye toward that limited purpose. *Educ. Initiative PAC v. Comm. to*
22 *Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013). Thus, while a description of
23 effect need not "delineate every effect that an initiative will have," it must be "a straightforward,
24 succinct, and nonargumentative statement of what the initiative will accomplish and how it will
25 achieve those goals." *Id.* at 38, 293 P.3d at 876. A description of effect cannot "be deceptive or
26 misleading." *Id.* at 42, 293 P.3d at 879.

27 In reviewing a description of effect, "it is inappropriate to parse the meanings of the
28 words and phrases used in a description of effect" as closely as a reviewing court would a

1 statutory text. *Id.* at 48, 293 P.3d at 883. Such an approach “comes at too high a price in that it
2 carries the risk of depriving the people of Nevada of their constitutional right to propose laws by
3 initiative.” *Id.* Thus, a reviewing court “must take a holistic approach” to the required analysis.
4 *Id.* “The opponent of a ballot initiative bears the burden of showing that the initiative’s
5 description of effect fails to satisfy this standard.” *Id.* at 42, 293 P.3d at 879.

6 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

7 In this case, the description of effect for the Petition does not meet the requirements of
8 NRS 295.009(1)(b). The description of effect could be argumentative or confusing or
9 misleading to voters as currently written. The description of effect does not adequately explain
10 to voters what is meant by the term “independent” or the phrase “fair and competitive.” The
11 Court further finds that the description of effect is inadequate in that it does not provide potential
12 signatories with enough information about the cost consequences of the Petition—specifically,
13 that it will result in the expenditure of state funds. *See, e.g., Nev. Judges Ass’n v. Lau*, 112 Nev.
14 51,59 (1996). The Petition also does not adequately inform voters that the Petition would result
15 in redistricting in 2023 after the Legislature has already drawn electoral districts after the 2020
16 Census.

17 The Court finds that the above-referenced deficiencies may be cured through the revised
18 description of effect provided herein. NRS 295.061(3) provides that “[i]f a description of the
19 effect of an initiative or referendum required pursuant to NRS 295.009 is challenged
20 successfully . . . and such description is amended in compliance with the order of the court, the
21 amended description may not be challenged.” NRS 295.061(3). Thus, the Court, in consultation
22 with the parties, identifies a new description of effect that satisfies the legal standard required by
23 NRS 295.061(3). This revised description of effect states:

24
25 “This measure will amend the Nevada Constitution to establish a redistricting
26 commission to map electoral districts for the Nevada Senate, Assembly, and U.S. House of
Representatives.

27 The Commission will have seven members, four who will be appointed by the leadership
28 of the Legislature, and three who are unaffiliated with the two largest political parties who will
be appointed by the other four commissioners. Commissioners may not be partisan candidates,

MCDONALD & CARANO

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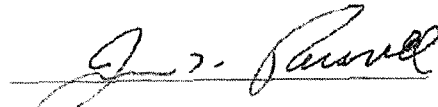
1 lobbyists, or certain relatives of such individuals. Commission meetings shall be open to the
2 public who shall have opportunities to participate in hearings.

3 The Commission will ensure, to the extent possible, that the districts comply with the
4 U.S. Constitution, have an approximately equal number of inhabitants, are geographically
5 compact and contiguous, provide equal opportunities for racial and language minorities to
6 participate in the political process, respect areas with recognized similarities of interests,
7 including racial, ethnic, economic, social, cultural, geographic, or historic identities, do not
8 unduly advantage or disadvantage a political party, and are politically competitive.

9 This amendment requires redistricting after each federal census, beginning in 2023,
10 which could replace maps drawn by the Legislature after the 2020 census, and will result in the
11 expenditure of state funds to fund the Commission.”

12 **IT IS THEREFORE ORDERED** and declared that the description of effect filed with
13 the Secretary of State on November 4, 2019 failed to satisfy the requirements of NRS
14 295.009(1)(b). Thus, any signatures collected on the Petition containing the description of effect
15 are invalid. However, Defendant Fair Maps may re-file an amended petition with the revised
16 description of effect as set forth by this Order, which cures all deficiencies raised by Plaintiff
17 and identified by the Court. Upon re-filing, the description of effect will have been amended in
18 compliance with this Order and be accorded the finality set forth in NRS 295.061(3) and shall
19 not be subject to further challenge. NRS 295.061(3).

20 Dated this 2 day of ~~December~~ ^{January} 2020, 2019.

21 
22 District Court Judge James Russell

23 Respectfully submitted by:

24 MCDONALD CARANO LLP

25 By: /s/ Adam Hosmer-Henner
26 Adam Hosmer-Henner, Esq. (NSBN 12779)
27 Lucas Foletta, Esq. (NSBN 12154)
28 MCDONALD CARANO
100 West Liberty Street, 10th Floor
Reno, NV 89501
Attorneys for Defendant Fair Maps PAC

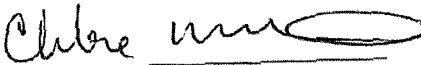
CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on this 2 day of January 2020 I deposited for mailing, postage paid, at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

Kevin K. Benson, Esq.
123 West Nye Lane, Suite 487
Carson City, NV 89706

Adam Hosmer-Henner, Esq.
Lucas Foletta, Esq.
MCDONALD CARANO
100 West Liberty Street, 10th Floor
Reno, NV 89501

Gregory L. Zunino, Esq.
100 N Carson Street
Carson City, NV 89701



Chloe McClintick, Esq.
Law Clerk, Dept. 1

Exhibit 4

Exhibit 4

IN THE SUPREME COURT OF THE STATE OF NEVADA

REV. LEONARD JACKSON,
Appellant/Cross-Respondent,
vs.
FAIR MAPS NEVADA PAC,
Respondent/Cross-Appellant,
and
BARBARA K. CEGAVSKE, IN HER
OFFICIAL CAPACITY AS NEVADA
SECRETARY OF STATE,
Respondent.

No. 80563

FILED

JUL 24 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal and cross-appeal from a district court order granting declaratory relief in a ballot initiative matter. First Judicial District Court, Carson City; James Todd Russell, Judge.

Reverend Leonard Jackson contends that the district court lacked “jurisdiction” to “rewrite” Fair Maps Nevada PAC’s description of effect. We are not persuaded by Jackson’s argument, as he has presented no authority that actually supports his position, *see Edwards v. Emperor’s Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (requiring parties to support arguments with salient authority), nor has he explained how construing NRS 295.061(3) in such a manner would further any public policy goals, *see Tam v. Eighth Judicial Dist. Court*, 131 Nev. 792, 800, 358 P.3d 234, 240 (2015) (recognizing that we construe statutes in accordance with “reason and public policy” (internal quotation marks omitted)).

Jackson next contends that Fair Maps’ rewritten description of effect is still misleading. We disagree. While a description of effect must not be deceptive or misleading, *Educ. Initiative PAC v. Comm. to Protect*

Nev. Jobs, 129 Nev. 35, 42, 293 P.3d 874, 879 (2013), Jackson's fixation on the description's use of "could" instead of "will" requires an improperly "hyper-technical" analysis of the description, *id.* at 49, 293 P.3d at 883-84. We are likewise unpersuaded that the district court failed to make sufficient factual findings. The only shortcoming Jackson alleges pertains to an issue that appeared in the original description of effect but that is absent from the amended description. Accordingly, we affirm the district court's order insofar as Jackson challenges it.

On cross-appeal, Fair Maps argues that the district court erred in determining that its original description of effect was misleading. In light of our above-mentioned determinations, however, this issue is moot, and we therefore dismiss Fair Maps' cross-appeal. *Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) ("This court's duty is not to render advisory opinions . . ."). In so doing, we note that Fair Maps has not indicated that it would prefer to proceed with its original petition instead of its amended petition. In light of the foregoing, we

ORDER the judgment of the district court AFFIRMED.

Pickering, C.J.
Pickering

Gibbons, J.
Gibbons

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

Cadish, J.
Cadish

Silver, J.
Silver

cc: Hon. James Todd Russell, District Judge
Benson Law LLC
Attorney General/Carson City
McDonald Carano LLP/Reno
Carson City Clerk