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9 **DISTRICT COURT**
CLARK COUNTY, NEVADA

10 SCOTT GOLDMAN, an individual;
11 ALENA SHEEHAN, an individual;
GREGG SEYMOUR, an individual;
12 KIMBERLY FERGUS, an individual;
PATTY JANE (PJ) BELANGER, an
13 individual; EMILEANNE ENCE, an
individual; MARIE ARNOLD, an
14 individual; PAM NORMAN, an
individual; CRISTINA VON
15 LINDENBERG, an individual;
GREGORY RANGLES, an individual;
16 ALAN RYAN VINCENT, an individual;
CYRUS HOJJATY, an individual;
17 BRIDGET HOLDAR, an individual;
HEATHER FLORIAN, an individual;
18 TIMOTHY WAGNER, an individual;
DESIREE DESTEFANO, an individual;
19 MARTIN WALDMAN, an individual;
VEM MILLER, an individual;
20 DANIELLE KEAR, an individual;
DOUGLAS RANGLES, an individual;
21 SUSAN PROFFITT, an individual;
KRISTENE HONZIK, an individual;
22 JENNIFER ROWE, an individual;
PAMELA BENNETTS, an individual;
23 ROBERT MOORHEAD, JR., an
individual; MARIA THERESA F. DIAZ,
24 an individual; ALEXANDREA SLACK,
an individual; JONATHAN MAXHAM,
25 an individual; MARGARET WHITE, an
individual; PERANUT SAE-ANG, an
26 individual; CAROLYN VANZLOW, an
27 individual;
28 individual;

CASE NO.: A-22-851189-C

DEPT. NO.: 17

**SECOND AMENDED COMPLAINT
FOR DECLARATORY &
INJUNCTIVE RELIEF**

**[EXEMPT FROM ARBITRATION:
DECLARATORY RELIEF SOUGHT]**

1 individual; BRIAN COULTER, an
2 individual; HEIDI CLINGEN, an
3 individual;

4 Plaintiffs,

5 v.

6 BARBARA CEGAVSKE, in her official
7 capacity as Nevada Secretary of State;
8 JOSEPH P. GLORIA, in his official
9 capacity as Registrar of Voters for Clark
10 County, Nevada; DOES I-X, inclusive;
11 and ROE CORPORATIONS I-X,
12 inclusive,

13 Defendants.

14 Plaintiffs, by and through their attorneys of record, ADAM R. FULTON, ESQ. and
15 LOGAN WILLSON, ESQ. of the law firm of JENNINGS & FULTON, LTD., hereby files
16 this Second Amended Complaint against Defendants BARBARA CEGAVSKE, JOSEPH
17 P. GLORIA, DOES I through X, and ROE ENTITIES I through X, collectively
18 (“Defendants”), and allege and petition this Court as follows:

19 **PARTIES, JURISDICTION & VENUE**

20 1. Plaintiffs are registered voters in Clark County, Nevada and/or seek to
21 participate in meaningful voter observation in Clark County, Nevada.

22 2. Defendant Barbara Cegavske (“Cegavske”) is the current Secretary of State
23 for the State of Nevada.

24 3. Defendant Joseph P. Gloria (“Gloria”) is the current Registrar of Voters for
25 Clark County, Nevada.

26 4. Plaintiffs are unaware of the true names and capacities whether individuals,
27 corporations, associates, or otherwise of Defendants DOES I through X and ROE
28 ENTITIES I through X, inclusive, and therefore sues these Defendants by such fictitious

1 names. Plaintiffs are informed and believe and thereupon allege that the Defendants, and
2 each of them, are in some manner responsible and liable for the acts and/or omissions
3 alleged in this Second Amended Complaint. Plaintiffs will seek leave of this Court to
4 amend this Second Amended Complaint to allege the true names and capacities of the
5 DOES and ROE ENTITIES Defendants when the true names of the DOES and ROE
6 ENTITIES Defendants are ascertained.
7

8 GENERAL ALLEGATIONS

9 5. Plaintiffs incorporate the allegations in the preceding paragraphs as though
10 fully set forth herein.

11 6. On November 3, 2020, one of the most hotly contested (if not THE most
12 hotly contested) presidential elections in U.S. history occurred (the “2020 Election”).

13 7. For months following the 2020 Election, numerous cases were filed across
14 the U.S. alleging election misconduct, fraud, and impropriety across the board.

15 8. For weeks after the 2020 Election, numerous states conducted recounts in an
16 effort to determine whether the purported election results naming Joseph Biden as president
17 were accurate.
18

19 9. Throughout the initial voting process and the ensuing recounts and audits,
20 numerous allegations of improper ballot counts arose. Part of those allegations centered
21 on the fact that many jurisdictions failed to provide the general public “meaningful
22 observation” of the ballot counting process, and Clark County was no exception.
23

24 10. Election observers are a critical facet of the election process and watch over
25 the voting/election process and report on inconsistencies and election violations.

26 11. Following the 2020 Election, numerous individuals attempting to observe
27 the process were prevented from doing so in any meaningful way. By way of example, the
28

1 following scenarios occurred in Clark County:

- 2 a. Observers were placed in locations where the view of the ballot
3 processing was obscured;
- 4 b. In almost all instances, the observers were placed too far away from
5 the ballot processing to be able to discern what was actually taking
6 place;
- 7 c. Aspects of the ballot processing took place in closed rooms and
8 locations where observers were not allowed access;
- 9 d. Boxes of ballots were moved between various locations without the
10 observers having any opportunity to review the ballots or understand
11 what stage in the counting process the ballots were in;
- 12 e. In the minimal times where observers were theoretically in close
13 enough proximity to observe, they were not afforded ample time to
14 actually observe the process in any meaningful way;
- 15 f. There was in an insufficient number of ambassadors that were
16 required to accompany observers to enable more than a few
17 individuals to meaningfully observe the ballot processing;
- 18 g. Observers were told information that conflicted with what they were
19 seeing during the ballot processing; and
- 20 h. While observers could see that there were mechanical and/or
21 program issues and errors with various pieces of technology in the
22 ballot processing, they were unable to view any screens or understand
23 the actual nature of the issues and errors, which rendered the
24 observation meaningless.
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1 12. There is no question that members of the general public are statutorily
2 entitled to observe the ballot-counting activities pursuant to N.R.S. §§293B.330, 335, and
3 353:

4 **NRS 293B.330 Duties of election board upon and after closing**
5 **of polls; public may observe handling of ballots.**

6 4. The county clerk shall allow members of the general public to
7 observe the handling of the ballots pursuant to subsection 1 if those
8 members do not interfere with the handling of the ballots.

8 **NRS 293B.335 Delivery of ballots and election materials to**
9 **receiving center or counting place; disposition of other**
10 **materials; members of general public allowed to observe**
11 **delivery.**

12 3. Any member of the general public may observe the delivery of
13 a sealed container to a receiving center or to the central counting
14 place if he or she does not interfere with the delivery of the sealed
15 container.

13 **NRS 293B.353 Clerk to allow members of general public to**
14 **observe counting of ballots at central counting place; members**
15 **of general public allowed to photograph or otherwise record**
16 **counting of ballots; request for photograph or recording of**
17 **counting of ballots.**

18 1. The county or city clerk shall allow members of the general
19 public to observe the counting of the ballots at the central counting
20 place if those members do not interfere with the counting of the
21 ballots.

22 13. Following the widespread unrest and questions surrounding the results of the
23 2020 Election, the Nevada Legislature enacted the Nevada Voters' Bill of Rights that was
24 codified under NRS §293.2546. NRS §293.2546(10) states that each voter has the right
25 "*to have a uniform, statewide standard for counting and recounting all votes accurately.*"
26 (Emphasis added.)

27 14. NRS § 293B.354 outlines the requirements for allowing the general public
28 to observe the ballot counting process:

NRS 293B.354 Clerk to submit plans to Secretary of State for
 accommodation of members of general public who observe
 delivery, counting, handling and processing of ballots.

1 1. The county clerk shall, not later than April 15 of each year in
2 which a general election is held, submit to the Secretary of State for
3 approval a written plan for the accommodation of members of the
4 general public who observe the delivery, counting, handling and
5 processing of ballots at a polling place, receiving center or central
6 counting place.

- 5 ...
- 6 3. Each plan must include:
- 7 (a) The location of the central counting place and of each polling
8 place and receiving center;
- 9 (b) A procedure for the establishment of areas within each
10 polling place and receiving center and the central counting place from
11 which members of the general public may observe the activities set
12 forth in subsections 1 and 2;
- 13 (c) The requirements concerning the conduct of the members of
14 the general public who observe the activities set forth in subsections
15 1 and 2; and
- 16 (d) Any other provisions relating to the accommodation of
17 members of the general public who observe the activities set forth in
18 subsections 1 and 2 which the county or city clerk considers
19 appropriate.

15 15. Nevada’s primary election will be taking place on Tuesday, June 14, 2022
16 (the “Primary Election”).

17 16. Nevada’s General Election will be taking place on Tuesday, November 8,
18 2022 (the “General Election”).

19 17. Despite a staggering number of complaints regarding the lack of meaningful
20 observation of the 2020 Election, neither the State of Nevada nor Clark County have
21 redressed the concerns and issues raised, leaving the same concerns and issues destined to
22 repeat at the fast-approaching Primary and General Elections.

23 18. Simply being “in the same room” as the ballot processing operations does
24 not equate to “meaningful observation” as required by law.

25 19. On March 21, 2022, Plaintiffs sent a letter to Defendant Gloria in an effort
26 to address their concerns with regard to their statutory right to meaningfully observe the
27 to address their concerns with regard to their statutory right to meaningfully observe the
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1 upcoming elections. *See* Exhibit 1.

2 20. In the March 21, 2022 letter, Plaintiffs outlined a number of reasonable
3 accommodations that would enable observers to meaningfully observe the ballot
4 processing without interfering with the process. *Id.*

5 21. To date, no response has been received, and the Defendants have yet to
6 disclose the parameters under which interested individuals will be able to observe the ballot
7 processing to ensure that meaningful observation is allowed.

8 22. Given the fast-approaching Primary Election, coupled with the lack of
9 response or efforts to address the previous issues preventing meaningful observation,
10 Plaintiffs are forced to bring this matter to protect their rights and to ensure the integrity of
11 the upcoming elections.
12

13 **FIRST CLAIM FOR RELIEF**

14 **(Declaratory Relief)**

15 23. The allegations contained in the preceding paragraphs of this Second
16 Amended Complaint are incorporated herein by this reference.

17 24. A dispute has arisen, and actual controversy now exists between Plaintiffs
18 and Defendants, including DOES 1-10 and ROE Entities 1-10, and each of them, as to their
19 rights and liabilities with respect to Plaintiffs' rights protected under Nevada law. Based
20 on the lack of response or actions to address these issues to date, Defendants dispute
21 Plaintiffs' claims. Therefore, an actual controversy exists relative to the legal duties and
22 rights of the respective parties, which Plaintiffs request the Court to resolve.
23

24 25. The Defendants actions and/or inactions have created an actual justiciable
25 controversy ripe for judicial determination between Plaintiffs and the Defendants with
26 respect to the construction, interpretation, and implementation of NRS §§ 293.2546,
27 293B.330, .335, .353, and 354.
28

1 26. All of the rights and obligations of the parties arise out of one series of events
2 or happenings, all of which can be settled and determined in a judgment in this one action.
3 Plaintiffs allege that an actual controversy exists between the parties under the
4 circumstances alleged. A declaration of rights, responsibilities and obligations of the
5 parties is essential to determine their respective obligations in connection with Plaintiffs'
6 rights to meaningfully observe the election and ballot counting process. Plaintiffs have no
7 true and speedy remedy at law of any kind.
8

9 27. Further, Plaintiffs are entitled to an award of reasonable attorney fees and
10 costs for having to obtain counsel in this matter to protect their rights and prosecute this
11 matter.
12

SECOND CLAIM FOR RELIEF
(Injunctive Relief)

13
14 28. The allegations contained in the preceding paragraphs of this Second
15 Amended Complaint are incorporated herein by this reference.
16

17 29. The Defendants' prior actions with respect to purportedly allowing
18 individuals such as Plaintiffs to "observe" the 2020 Election process directly conflict with
19 the Nevada legislatures intent in enacting NRS §§ 293.2546, 293B.330, .335, .353, and
20 354. At this juncture, there is no reason to believe that the Defendants will operate any
21 differently for the upcoming Primary and General Elections with respect to observers such
22 as Plaintiffs.
23

24 30. The refusal to allow Plaintiffs to meaningfully observe the election process
25 in accordance with Nevada law constitutes irreparable harm to Plaintiffs with no adequate
26 remedy at law.
27

28 31. Plaintiffs have a reasonable probability of success on the merits of their
underlying claims.

1 32. Public interest favors Plaintiffs because absent injunctive relief, the
2 inconsistent and unlawful practices that prevent individuals such as Plaintiffs from
3 meaningfully observing the election will negatively impact the integrity of the election
4 process and ultimately result in the harm of the general public.

5
6 33. Due to the immediate and ongoing damages that Plaintiffs will sustain by
7 virtue of the Defendants' actions and/or inactions, immediate injunctive relief is necessary
8 and appropriate.

9 34. Therefore, Plaintiffs are entitled to preliminary injunctive relief, requiring
10 the Defendants to issue a plan for the accommodation of Plaintiffs and other interested
11 members of the general public to observe the election process and ballot counting in
12 accordance with the Nevada Constitution and NRS §§ 293.2546, 293B.330, .335, .353, and
13 354.
14

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiffs pray for judgment as follows:

17 1. For a declaration of rights and obligations as between Plaintiffs and
18 Defendants;

19 2. For preliminary injunctive relief requiring the Defendants to grant Plaintiffs
20 the opportunity to meaningfully observe all upcoming elections;

21 3. For preliminary injunctive relief requiring the Defendants to issue a plan for
22 the accommodation of Plaintiffs to meaningfully observe upcoming elections in specific
23 detail, including the following provisions:
24

- 25 i. Observers must be able to personally view that every step of the
26 election is handled with transparency, integrity, and is done lawfully;
- 27 ii. Observers must be allowed to visually inspect each ballot to ensure
28 each ballot is legally counted and processed by the Registrar of Voters' ("ROV") personnel. Observers be permitted within a two (2) foot radius of any ballot counting system or machine. For example,

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- the signature(s) must match on the envelop, the ballot must be filled out properly, the correct form of ballot must be completed, each ballot must be counted and tallied properly and reported properly. Observers must be able to do this at the ROV headquarters, and any remote or central counting location through the entire election process;
- iii. Two (2) Observers to be present at each drop box location from each political party to ensure there are no unauthorized dumping of ballots or illegal ballots processed;
 - iv. Two (2) Observers from each political party to be present at the EMS machine or any machine in where electronic votes are being tabulated or uploaded;
 - v. There must be paper records showing the data and content on each thumb drive and the upload to any tabulating machine must match what is documented to ensure accuracy;
 - vi. If any of the Two (2) Observers from each political party address any issue and cannot resolve the issue, he or she may ask the ROV staff to stop processing. The Observer must then address his/her challenge to the manager, supervisor, or lead;
 - vii. If for any reason, if an Observer from either political party is forced to be removed, they must be immediately replaced with another Observer from their respective political party to ensure each party is properly represented;
 - viii. All Observers must pass background checks, be a resident of the Clark County, Nevada, be registered to vote in Clark County, Nevada, and/or seek to participate in meaningful voter observation in Clark County, Nevada;
 - ix. Each political party must submit a list of their Observers for each location and alternates regarding the same within seven (7) days before the 2022 Primary Election;
 - x. Any independent political party shall be entitled to the aforementioned;
 - xi. Each party, is defined as the chair of the respected parties central committee (ex: Clark County Republican Central Committee would be responsible for the Republican observers);
 - xii. The ROV personnel will issue a badge to Observers, which they must wear while observing. Observers must return their badges each day before leaving the ROV;
 - xiii. The ROV will accommodate requests for observation and requests to enter and leave subject to the availability of ROV personnel;
 - xiv. All drop box locations, all counting areas, EMS areas, and all board rooms used for the 2022 Primary Election must be video-taped using video surveillance at all times. The video-surveillance must be of high

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quality and stored in a manner mutually agreed upon the ROV and both political parties;

- xv. Provide the layout(s) of the ballot counting facility(ies) that depicts where the observers will be allowed to observe from; and
- xvi. Ensure that residents of Clark County be given preference to observe over non-residents of the County or even the State.

4. For entry of an order compelling Defendants to pay Plaintiffs’ costs and attorneys’ fees; and

5. For such other and further relief as the Court may deem just and proper.

Dated: April 22nd, 2022

JENNINGS & FULTON, LTD.

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