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14 **FIRST JUDICIAL DISTRICT COURT**
15 **CARSON CITY, NEVADA**

16 JOEY GILBERT, an individual,
17
18 Plaintiff,

19 vs.

20 STEVE SISOLAK, in his official capacity as
21 Governor of Nevada; BARBARA CEGAVSKE,
22 in her official capacity as Secretary of State; and
23 JOSEPH GLORIA in his official capacity as
24 Clark County Registrar of Voters, JAMES B.
25 GIBSON, in his official capacity as Chairman of
26 the CLARK COUNTY BOARD OF
27 COMMISSIONERS, and DEANNA SPIKULA
28 in her official capacity as Washoe County
Registrar of Voters and VAUGHN HARTUNG
in his official capacity as Chair of the WASHOE
BOARD OF COUNTY COMMISSIONERS,
and JOSEPH LOMBARDO, putative
Republican candidate for Governor of Nevada;
and DOES 1 through 10 and ROES 1-10,

Defendants.

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2022 SEP 21 PM 2:20
AUBREY R. [Signature]
BY _____ DEPUTY

Case No.: 22 OC 000851B
Dept. No.: I

**ORDER GRANTING DEFENDANT
JOSEPH LOMBARDO'S MOTION FOR
SANCTIONS**

1 The matter before the Court is the Motion for Sanctions filed by Defendant Joseph Lombardo
2 (“Mr. Lombardo”) on August 19, 2022. The Court, having reviewed the papers, pleadings and
3 supporting exhibits and considered the arguments of counsel at the time of hearing, with good cause
4 appearing and no just reason for delay, hereby rules as follows:

5 I. FINDINGS OF FACT

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7 1. At some point prior to filing his Statement on Contest (“Contest”), Mr. Gilbert and/or
8 his counsel contacted Edward Solomon (“Mr. Solomon”) and retained him to prepare a “Precinct
9 Analysis” of the Clark County results in the 2022 Republican Gubernatorial Primary (“2022
10 Primary”), *i.e.*, the Solomon Report. Mr. Gilbert’s counsel then retained Dr. Oliver Hemmers, Dr.
11 Walter Daugherity and Dr. G. Donald Allen as testifying expert witnesses and provided them with
12 the Solomon Report. All three expert witnesses were effectively retained to vouch for Mr. Solomon’s
13 theories and introduce his findings in the Solomon Report into evidence as all parties agreed Mr.
14 Solomon is unqualified to be an expert in this action. To that end, Mr. Gilbert’s expert witnesses
15 interacted extensively with Mr. Solomon when preparing their reports and responding to issues raised
16 by Mr. Lombardo’s counsel and expert witnesses in this election contest.

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18 2. Mr. Gilbert filed his Contest on July 15, 2022. Therein, Mr. Gilbert relied on a two-
19 step process set forth in the Solomon Report to demonstrate he received more votes than Mr.
20 Lombardo in the 2022 Primary. *See* Contest ¶ 24. The first step was to demonstrate that the result
21 of the 2022 Primary is mathematically or geometrically “impossible” based on the assumption that
22 “[i]n a fair election, we expect a strong linear correlation between Gilbert’s Election Day, Mail-in
23 and Early Vote percentages.” *Id.* ¶¶ 28, 32. After purporting to establish that the reported results of
24 the 2022 Primary are mathematically or geometrically “impossible,” the second step in Mr.
25 Solomon’s theory was to “restore” the votes and determine the actual election results without the
26 interference of a predetermined outcome or algorithm. *See* Contest ¶ 36
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1 3. Courts have applied similar statutes to punish parties and their counsel for filing and
2 maintaining frivolous election contests and other election-related litigation without any reasonable
3 grounds to do so. *See, e.g., King v. Whitmer*, 556 F.Supp.3d 680 (E.D. Mich. 2021) (imposing
4 sanctions under Rule 11, § 1927 and the court’s inherent authority “to deter the filing of future
5 frivolous lawsuits designed primarily to spread the narrative that our election processes are rigged
6 and our democratic institutions cannot be trusted”); *Gaddis v. McCullough*, 827 N.E.2d 66 (Ind. Ct.
7 App. 2005) (imposing sanctions under Indiana’s frivolous litigation statute where there was no
8 reasonable or well-grounded basis for unsuccessful candidates’ election contest); *Reid v. Dalton*, 100
9 P.3d 349 (Wash. Ct. App. 2004) (imposing sanctions under Washington’s frivolous litigation statute
10 where unsuccessful candidate maintained his meritless election contest after being threatened with
11 sanctions by the prevailing candidate unless the contest was withdrawn); *In re: Contest of November*
12 *5, 2019 Gen. Election for Chancery Clerk of Guitman*, 329 So.3d 434 (Miss. 2021) (reversing circuit
13 court’s denial of attorney’s fees to prevailing party under Mississippi’s frivolous litigation statute
14 where losing candidate brought election contest without substantial justification); *Davis v. Dunn*,
15 690 S.E.2d 389 (Ga. 2010) (imposing sanctions under Georgia’s frivolous litigation statute where
16 losing candidate failed to present any factual basis or admissible evidence to cast doubt on the
17 election results).

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20 4. The Court finds that Mr. Gilbert’s Contest is a frivolous action that warrants sanctions
21 under NRS 18.010(2)(b) and NRS 7.085(1). Mr. Gilbert did not—and could not—present any
22 admissible evidence to support the case-dependent thesis that the restored election results show he
23 received the most votes in the 2022 Primary. The fundamental lack of evidence on this pivotal issue
24 proved fatal to the Contest as the Court granted summary judgment in Mr. Lombardo’s favor at the
25 conclusion of discovery. *See* Order dated August 11, 2022 (on file). Because “[a]n action is not
26 well-grounded when there is no evidence to support it,” *Watson Rounds, P.C. v. Eighth Judicial*
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