

1 Jordan T. Smith, Esq., Bar No. 12097
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8 *Attorneys for Petitioner*

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 REPUBLICAN NATIONAL COMMITTEE,
12
13 Petitioner,

14 v.

15 CLARK COUNTY; CLARK COUNTY
16 ELECTION DEPARTMENT; and JOE P.
17 GLORIA, in his official capacity as the
18 Clark County Registrar of Voters,
19
20 Respondents.

Case No.: A-22-858609-W
Dept. No.: XVI

**REPLY IN SUPPORT OF MOTION TO
LIFT STAY AND APPLICATION FOR
WRIT OF MANDAMUS OR
INJUNCTION DIRECTING THE
CLARK COUNTY REGISTRAR TO
COMPLY WITH NRS 293B.360(2) ON
ORDER SHORTENING TIME**

Hearing: November 2, 2022
Time: 9:00 a.m.

21 **I. INTRODUCTION**

22 The Clark County Registrar and his Democratic allies make the astonishing claim that there
23 is no duty to provide equal representation for all political parties on the important signature
24 verification board. NRS 293B.360(2) mandates otherwise. Cognizant that Clark County's signature
25 verification board does not comply with NRS 293B.360(2), the Registrar and DSCC/DCCC strain
26 to characterize the entity as something else. But there is no question that the signature verification
27 board qualifies as a "mail ballot inspection board" under NRS 293B.360(1)(b) or an "additional
28 board ... the county clerk deems necessary for the expeditious processing of ballots." Indeed, the
Registrar referred to the body as a "board" in its earlier stipulation in this Court and in prior
correspondence.

To avoid NRS 293B.360, the Registrar describes the third-party vendors on the signature
verification board as "employees." However, the Registrar hired them from a third-party temporary

1 staffing agency, and his own internal records do not consider them "employees." They are
2 independent contractors or vendors. And, even if they are employees (they are not), "a mail ballot
3 inspection board" made up of "employees" must still comply with NRS 293B.360(2)'s requirement
4 that "[t]he members of each board must represent all political parties as equally as possible."

5 The Registrar's last-minute efforts to add or schedule more Republicans prove that the
6 Registrar has the ability to "represent all political parties as equally as possible" on the signature
7 verification board, but he simply refused to do so until Petitioner, the Republican National
8 Committee ("RNC"), was forced to file this Motion and Application. Even though the Registrar has
9 made eleventh-hour strides to mitigate his violation of NRS 293B.360(2), the Registrar and the
10 DSCC/DCCC disclaim any continuing obligation to comply with the statute. Therefore, a writ of
11 mandamus is still necessary and warranted. The RNC and Nevada's voters will suffer irreparable
12 harm without judicial relief.

13 **II. ARGUMENT**

14 **A. Clark County is Utilizing a "Board" under NRS 293B.360.**

15 Unable to deny the systematic exclusion of Republicans from the group responsible for
16 verifying mail ballot signatures in Clark County, the Registrar and his Democratic supporters
17 portray the entity as outside the ambit of NRS 293B.360. But the Registrar admits that members
18 of this entity "check the signature used for the mail ballot against all signatures of the voter available
19 in the records of the clerk" and "manually verify the voter's signature." (Clark County Opp'n at 5.)
20 In other words, this entity is inspecting the mail ballots and otherwise assisting with the expeditious
21 processing of ballots. Thus, under NRS 293B.360, Clark County's signature verification board
22 constitutes "a mail ballot inspection board" or, at minimum, an additional board "deem[ed]
23 necessary for the expeditious processing of ballots." See NRS 293B.360(1)(b), (e). A mail ballot
24 inspection board by any other name is still a mail ballot inspection board.

25 The DSCC/DCCC cites abrogated statutes to bolster its contentions. Intentionally, or
26 inadvertently, the DSCC/DCCC skips over NRS 293B.360(1)(b)'s reference to a "mail ballot
27 inspection board" and, instead, it references the abrogated version of an "absent ballot mailing
28 precinct inspection board." (DSCC/DCCC Opp'n at 10.) In 2021, AB 321 replaced the

1 DSCC/DCCC's preferred version. The DSCC/DCCC does not attempt to describe how the functions
2 performed by Clark County's signature verification group do not qualify as a "mail ballot inspection
3 board" under the operative version of NRS 293B.360(1)(b). Nor could it.

4 Clark County itself has referred to this entity as a "board." In its October 5, 2022, Stipulation
5 and Order, Respondents agreed "to provide the RNC with the scheduled roster for all ... manual
6 signature verification *and* counting *board teams*." (Stip. & Or. ¶ 6, Oct. 5, 2022, on file) (emphasis
7 added). Likewise, in its October 9, 2022 correspondence, Clark County stated that it "anticipat[ed]
8 having the manual signature verification *and* counting *board rosters* by mid-week. (Ex. 2)
9 (emphasis added). Clark County only tried to distance itself from calling the entity a "board" after
10 litigation was foreseeable and the significance of the Registrar's violation became apparent.

11 **B. The Temporary Workers on Clark County's Signature Verification Board are
12 not "Employees in the Office of the Clerk."**

13 Next, without evidence, the Registrar and DSCC/DCCC suggest that the third-party vendors
14 verifying signatures pursuant to NRS 293.269927 are County employees. NRS 293.269927 outlines
15 the process for verifying signatures and states that "the clerk or an employee *in the office of the*
16 *clerk* shall check the signature used for the mail ballot by electronic means" (Emphasis added.)
17 However, these individuals are not employees "in the office of the clerk."

18 The Registrar concedes that these individuals were hired through three outside temporary
19 staffing agencies. (Clark County Opp'n at 5.) As a consequence, they are third-party contractors or
20 vendors – not county "employees." Respondents have presented no evidence that the individuals
21 are actually classified as Clark County or Registrar employees. Respondents have not produced any
22 hiring paperwork or contracts. Nor have they disclosed the request for proposal sent to the
23 temporary staffing agencies describing what the agencies *should* have done to find an equal number
24 of all political party representatives for this group.

25 In fact, the Registrar's own internal records produced through other public records requests
26 show the signature verification board members are not considered employees and are classified
27 differently. (Ex. 9.) The partisan roster from the June primary demonstrates that the Registrar
28 distinguishes between "Temp Agency" individuals and "County Employees" (*Id.*) The document

1 does not describe outside-hires as "County Employees." (*Id.*) They are consistently referred to as
2 "Temp Agency" workers. Moreover, the Clark County Code governing "Classification of
3 Personnel" states that "temporary or part-time hourly employees" like these "shall not be entitled to
4 any of the benefits of employment to which other employees are entitled under this chapter."
5 CCC 2.40.030(c)(4), (d). As a result, the temp workers verifying signatures are not "employees in
6 the clerk's office" under NRS 293.269927. If the Registrar has any authority to use them, they must
7 be a member of a "board" under NRS 293B.360.

8 And, even if somehow the third-party vendors are so-called "employees," creating a mail
9 ballot inspection board full of "employees" does not avoid NRS 293B.360(2)'s command to
10 "represent all political parties as equally as possible." A board is a board no matter who staffs it.
11 The statute is clear that county clerks may create various boards to inspect and process mail ballots
12 provided that they "represent all political parties as equally as possible." By contrast, some boards
13 like the "ballot duplicating board" may have differing levels of political party representation.
14 NRS 293B.360(3). But, all other boards must have equal party representation.
15 NRS 293B.360(1)-(2). The Registrar is violating this statutory duty.

16 **C. This Court can Halt the Irreparable Harm to the RNC and All Voters.**

17 The DSCC/DCCC asserts that the RNC's requested relief will cause harm to the public by
18 making last-minute changes to election processes to comply with the law. (DSCC/DCCC
19 Opp'n at 12-14.) But, according to Respondents, the Registrar has already made improvements to
20 mitigate his statutory violation. Respondents claim that "Clark County took actions to increase
21 Republican employees for manual signature verification." (Clark County Opp'n at 6.)¹ Neither
22 Respondents nor the DSCC/DCCC will suffer any harm from continuing to march toward, and
23 reach, parity. Clark County asserts that it "hired enough employees to conduct the election."
24 (*Id.* at 5.) With the addition of Republicans, Respondents *will have more workers than needed* and
25 can reduce the overrepresented parties in a corresponding amount. Doing so will not cause any

26 _____
27 ¹ Clark County has only made efforts to approximate the political party registration
28 percentage in the County. (Clark County Opp'n at 6; Ex. 10.) However, NRS 293B.360(2) requires
all parties to be represented as equally as possible. It does not state that representation is
proportional to party registration.

1 decrease in the total number of workers or cause any loss in efficiency. This is a cost-free solution
2 that will remedy the Registrar's statutory violation.

3 Denying a writ of mandamus will cause irreparable harm to the RNC and all Nevada voters.
4 Elections *must* be held in compliance with the law. There is no valid justification for stacking the
5 signature verification board – or whatever one wants to call it – with a disproportionate number of
6 certain political parties. All political parties should be evenly represented. That the Registrar and
7 another national political party organization would take the opposing position is shocking to say
8 the least.

9 **III. CONCLUSION**

10 For these reasons, the RNC respectfully requests that the Court grant its Motion to Lift the
11 Stay² and grant its Application for a writ of mandamus or injunction ordering the Registrar to
12 comply with NRS 293B.360(2) by convening a signature verification board "represent[ing] all
13 political parties as equally as possible."

14 DATED this 1st day of November, 2022.

15 PISANELLI BICE PLLC

16
17 By: /s/ Jordan T. Smith
18 Jordan T. Smith, Esq., #12097
19 400 South 7th Street, Suite 300
20 Las Vegas, Nevada 89101

21 *Attorneys for Petitioner*

22
23
24
25
26
27 ² Respondents have not filed a formal answer to the RNC's operative Petition. Accordingly,
28 the RNC is filing a First Amended Petition simultaneously with this Reply even though it was not
obligated to do so for the Court to entertain the RNC's requested relief. *See* NRCP 15(a)(1);
(Mot./App. at 11 n.1.)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and that on this 1st day of November, 2022, I caused to be e-filed/e-served through the Court's CM/ECF website and/or emailed true and correct copies of the above and foregoing **REPLY IN SUPPORT OF MOTION TO LIFT STAY AND APPLICATION FOR WRIT OF MANDAMUS OR INJUNCTION DIRECTING THE CLARK COUNTY REGISTRAR TO COMPLY WITH NRS 293B.360(2) ON ORDER SHORTENING TIME** to the following:

Lisa Logsdon, Esq.
Clark County District Attorney
500 S. Grand Central Parkway, Suite 5075
Las Vegas, NV 89106

Joseph Gloria, Esq.
Registrar of Voters, Clark County
965 Trade Drive, Suite A
North Las Vegas, NV 89030

/s/ Kimberly Peets
An employee of Pisanelli Bice PLLC

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EXHIBIT 9

Liberty Room			Freedom Room		
Name	Party	Position	Name	Party	Position
[REDACTED]	NP	Temp Agency	[REDACTED]	DEM	Temp Agency
[REDACTED]	DEM	Temp Agency	[REDACTED]	NP	Temp Agency
[REDACTED]	DEM	Temp Agency	[REDACTED]	REP	Temp Agency
[REDACTED]	NP	Temp Agency	[REDACTED]	NP	Temp Agency
[REDACTED]	NP	Temp Agency	[REDACTED]	NP	Temp Agency
[REDACTED]	NP	Temp Agency	[REDACTED]	DEM	Temp Agency
[REDACTED]	NP	Temp Agency	[REDACTED]	REP	Temp Agency
[REDACTED]	NP	Temp Agency	[REDACTED]	DEM	Temp Agency
[REDACTED]	NP	Temp Agency	[REDACTED]	DEM	Temp Agency
[REDACTED]	NP	Temp Agency	[REDACTED]	REP	Temp Agency
[REDACTED]	NP	Temp Agency	[REDACTED]	REP	Temp Agency
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[REDACTED]	NP	Temp Agency	[REDACTED]	NP	Temp Agency
[REDACTED]	NP	Temp Agency	[REDACTED]		
[REDACTED]	NP	Temp Agency	[REDACTED]		
[REDACTED]	DEM	Temp Agency	[REDACTED]		
[REDACTED]	NP	County Employee	[REDACTED]		

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EXHIBIT 10

Kimberly Peets

From: Lisa Logsdon <Lisa.Logsdon@clarkcountyda.com>
Sent: Friday, October 28, 2022 1:19 PM
To: Jordan T. Smith
Subject: RE: Clark County Signature Verification Board

CAUTION: This message is from an EXTERNAL SENDER.

Hi Jordan,

I apologize, the additional individuals are attending training today (Friday) and are scheduled to begin working on Saturday.

Lisa Logsdon
County Counsel
Clark County District Attorney – Civil Division
Telephone: (702) 455-4761
Email: Lisa.Logsdon@ClarkCountyDA.com

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From: Lisa Logsdon
Sent: Thursday, October 27, 2022 5:27 PM
To: Jordan T. Smith <JTS@pisanellibice.com>
Subject: RE: Clark County Signature Verification Board

Jordan,

Per our conversation, the County will be adding 3 additional computer stations in order to add 6 additional employees with Republican party affiliation assigned to the manual signature verification process. The additional employees will attend training on Saturday morning and will begin working on Saturday after the training. This will make the employees party affiliation scheduled for this room:

<u>Manual Signature Room</u>	<u>Total Registration</u>
23 Democrats (32%)	Dem: 35.47%
14 Republicans (20%)	Rep: 25.84%
33 Non-Partisans (47%)	NP: 31.06%
	O: 7.62%

The party breakdown in Clark County is as follows (as of 10/27/22 at 5:10):

Party	Active Voters
Democratic	466,520
Republican	339,891
Nonpartisan	408,543
Other	100,234
Total	1,315,188

Lisa Logsdon
County Counsel
Clark County District Attorney – Civil Division
Telephone: (702) 455-4761
Email: Lisa.Logsdon@ClarkCountyDA.com

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From: Jordan T. Smith <JTS@pisanellibice.com>
Sent: Thursday, October 27, 2022 1:03 PM
To: Lisa Logsdon <Lisa.Logsdon@clarkcountyda.com>
Subject: RE: Clark County Signature Verification Board

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Lisa,

I appreciate the update but my client cannot let this linger any longer. We have tried for over a week to be as reasonable as possible and suggested a number of different solutions. This is an ongoing issue with the election that requires immediate resolution. Accordingly, we have submitted the attached to Judge Williams for an order shortening time.

The Court has not signed the OST yet but I wanted to send a courtesy copy so you have sufficient opportunity to respond.

Thanks,

Jordan T. Smith
Partner
Pisanelli Bice PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
tel 702.214.2100
fax 702.214.2101

From: Lisa Logsdon <Lisa.Logsdon@clarkcountyda.com>
Sent: Thursday, October 27, 2022 9:25 AM
To: Jordan T. Smith <JTS@pisanellibice.com>
Subject: RE: Clark County Signature Verification Board

CAUTION: This message is from an EXTERNAL SENDER.
Jordan,

Thank you for the list. The election department is continuing to work on identifying additional workers. Once the County has more information, I will provide you with that information.

Lisa Logsdon
County Counsel
Clark County District Attorney – Civil Division
Telephone: (702) 455-4761

Email: Lisa.Logsdon@ClarkCountyDA.com

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From: Jordan T. Smith <JTS@pisanellibice.com>
Sent: Wednesday, October 26, 2022 6:40 PM
To: Lisa Logsdon <Lisa.Logsdon@clarkcountyda.com>
Subject: RE: Clark County Signature Verification Board

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Lisa,

These are the individuals that have confirmed to us that they have applied and have not heard back about their application status.

Jordan T. Smith
Partner
Pisanelli Bice PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
tel 702.214.2100
fax 702.214.2101

From: Lisa Logsdon <Lisa.Logsdon@clarkcountyda.com>
Sent: Wednesday, October 26, 2022 4:57 PM
To: Jordan T. Smith <JTS@pisanellibice.com>
Subject: RE: Clark County Signature Verification Board

CAUTION: This message is from an EXTERNAL SENDER.
I will provide the list to the election department, but thank you for the clarification.

Lisa Logsdon
County Counsel
Clark County District Attorney – Civil Division
Telephone: (702) 455-4761
Email: Lisa.Logsdon@ClarkCountyDA.com

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From: Jordan T. Smith <JTS@pisanellibice.com>
Sent: Wednesday, October 26, 2022 4:53 PM
To: Lisa Logsdon <Lisa.Logsdon@clarkcountyda.com>
Subject: RE: Clark County Signature Verification Board

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Lisa,

Yes, I can provide those names to you. It is my understanding that they applied directly to Clark County and did not go through one of County's temp agencies. Does that make a difference for your present purposes?

Jordan T. Smith
Partner
Pisanelli Bice PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
tel 702.214.2100
fax 702.214.2101

From: Lisa Logsdon <Lisa.Logsdon@clarkcountyda.com>
Sent: Wednesday, October 26, 2022 4:38 PM
To: Jordan T. Smith <JTS@pisanellibice.com>
Subject: FW: Clark County Signature Verification Board

CAUTION: This message is from an EXTERNAL SENDER.
Jordan,

While the County has not had the opportunity to fully respond to the attached letter, could you please provide me the list of the 250 Republicans that applied to work as poll workers and what temp agency they applied through?

Thank you,

Lisa Logsdon
County Counsel
Clark County District Attorney – Civil Division
Telephone: (702) 455-4761
Email: Lisa.Logsdon@ClarkCountyDA.com

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From: Kimberly Peets <kap@pisanellibice.com>
Sent: Tuesday, October 25, 2022 6:13 PM
To: Lisa Logsdon <Lisa.Logsdon@clarkcountyda.com>
Cc: Jordan T. Smith <JTS@pisanellibice.com>
Subject: Clark County Signature Verification Board

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Please see attached correspondence from Jordan T. Smith, Esq. regarding the above.

Thank you,

Kimberly A. Peets
Legal Assistant to Jordan T. Smith, Esq.
PISANELLI BICE PLLC

400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
tel 702.214.2113
fax 702.214.2101

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