

1 WMAN

2 SADMIRA RAMIC, ESQ.

3 Nevada Bar No.: 15984

4 CHRISTOPHER M. PETERSON, ESQ.

5 Nevada Bar No.: 13932

6 SOPHIA A. ROMERO, ESQ.

7 Nevada Bar No.: 12446

8 AMERICAN CIVIL LIBERTIES

9 UNION OF NEVADA

601 South Rancho Drive, Suite B-11

Las Vegas, NV 89106

Telephone: (702) 366-1226

Facsimile: (702) 830-9205

Email: ramic@aclunv.org

Attorneys for Petitioners/Plaintiffs

FILED
FIFTH JUDICIAL DISTRICT

OCT - 4 2022

Nye County Clerk
Deputy

Brittani Smith

FIFTH JUDICIAL DISTRICT COURT

NYE COUNTY, NEVADA

AMERICAN CIVIL LIBERTIES UNION OF
NEVADA, a domestic nonprofit corporation; and
STEVEN BACUS, an individual,

Petitioners/Plaintiffs,

vs.

The COUNTY OF NYE, a governmental entity; and
MARK KAMPF, in his official capacity as interim
County Clerk,

Respondents/Defendants.

Case No.: CV22-0503

Department: 1

HEARING REQUESTED

**ARBITRATION EXEMPTION
CLAIMED:**

Equitable and Extraordinary Relief
Requested

**EMERGENCY PETITION FOR WRIT OF MANDAMUS ENJOINING NYE COUNTY
INTERIM COUNTY CLERK FROM IMPLEMENTING PROPOSED UNLAWFUL
HAND COUNTING MEASURES DURING THE NOVEMBER 2022 GENERAL
ELECTION AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

The Petitioners/Plaintiffs, AMERICAN CIVIL LIBERTIES UNION OF NEVADA
("ACLU of Nevada") (collectively referred to as "Petitioners") and STEVEN BACUS, an
individual, by and through counsel SADMIRA RAMIC, ESQ., CHRISTOPHER M. PETERSON,
ESQ., and SOPHIA A. ROMERO, ESQ., of the AMERICAN CIVIL LIBERTIES UNION OF

1 NEVADA, hereby bring this Petition for Writ of Mandamus (NRS Chapter 34) and Complaint for
2 declaratory (NRS Chapter 30) and injunctive relief (NRS Chapter 33). Petitioners are seeking an
3 order prohibiting Respondents/Defendants, the COUNTY OF NYE and interim County Clerk
4 MARK KAMPF (collectively referred to as "Respondents")¹ from implementing its proposed
5 unlawful hand counting process ("Nye County- 2022 General Election Process") which violates
6 both state and federal law. Specifically, Petitioners are requesting that this Court declare that: 1)
7 the verbal announcement of a selected candidate for each race of each ballot prior to the close of
8 polls on election day, in the presence of the public, will result in the release of election results in
9 violation of NRS 293.3606 and NRS 293.269935; 2) the limitation of touch screens complying
10 with the Americans with Disabilities Act to individuals with "special needs" does not comply with
11 the Help America Vote Act (HAVA) or Article 2, Section 1A of the Nevada Constitution because
12 it impermissibly permits election workers to enquire about a voter's disability or turn away
13 otherwise eligible voters based on arbitrary decision making; and 3) the use of "stringent signature
14 verifications" violates NRS 293.8874 and NRS 293.277.

17 INTRODUCTION

18 On September 6, 2022, the Nye County Clerk's office officially announced that it intended
19 to use paper ballots and hand counting procedures for all ballots during the 2022 General Election.²
20 The announcement indicated that Nye County will "conduct a parallel electronic tabulation of the
21 voted paper ballots along with a hand count of those ballots." The announcement also stated that
22

23
24 ¹ NRS 12.105 State and local governmental agencies may be sued without naming members of their governing bodies;
25 service. Any political subdivision, public corporation, special district, or other agency of state or local government
26 which is capable of being sued in its own name may be sued by naming it as the party without naming the individual
27 members of its governing body in their representative capacity. In addition to any other method which may be provided
by statute or rule of court, service may be made upon the clerk or secretary of the political subdivision, corporation or
agency.

² Nye County Government Website. *Clerk's Office Announces Paper Ballot and Hand Counting Procedures for
General Election*. <https://www.nyecountynv.gov/civicalerts.aspx?aid=1195>. Accessed September 20, 2022.

1 the hand count process will be performed by "citizen volunteers who are registered voters," and
2 that the hand count will be conducted Monday through Friday from October 25, 2022 and
3 continuing through November 10, 2022.

4 In addition to this official announcement, interim Nye County Clerk Mark Kampf gave a
5 presentation to the Nye County Board of Commissioners on September 20, 2022, titled
6 "Presentation regarding the paper ballot and hand-count process to be implemented for the Nye
7 County General Election in November 2022."³ The presentation, in sum and substance, stated:

- 8 1. One ADA touch screen will be available at each polling location
9 which will be "limited to those with special needs";
- 10 2. "Tabulators (vote counters) [will be] used for all ballots";
- 11 3. A parallel hand count process will be used;
- 12 4. The hand count process will be live streamed by video camera;
- 13 5. The hand count team will consist of a reader, a verifier, and three
14 talliers to tally the results;
- 15 6. "Stringent signature verifications" will be used including requiring
16 the voter to show an ID if their signature does not match and "no
17 prompting of voter verification system;" and
- 18 7. The hand count process, as well as "ADA compliance" listed under
19 number one, are "stop gap measure[s] while researching alternative
20 solutions."⁴

21 During this presentation, Kampf provided further details on the hand count process Nye
22 County plans to use during the 2022 General Election and explicitly stated that the process is "very
23 locked in" with no changes to be made. According to Kampf, the counting of ballots will begin on
24 October 25, 2022, and all paper ballots will first be run through a mechanical tabulator. Once the
25 ballots are processed through the mechanical tabulator, all paper ballots will be hand counted. The

26 ³ Minutes, Nye County Board of County Commissioners Meeting, Sept. 20, 2022.

27 ⁴ Nye County Board of Commissioners. *Nye County Board of Commissioners Agenda*.
<https://www.nyecountynv.gov/DocumentCenter/View/41992/Item35>.

1 hand counting team will conduct the count by having the "reader" read out loud the selected
2 candidate for the race from a ballot, the "verifier" verifying that the ballot is being read aloud
3 correctly, and three "talliers" will tally the votes simultaneously. After this process is done for one
4 batch consisting of fifty ballots, the verifier, the reader, and the talliers will check the tallies to
5 determine if they match. If there is a match, all five team members will sign off to that effect. If
6 there is a difference, a recount will be conducted on a special recount tally sheet. The process will
7 be open to the public to view in person, and will also be live streamed so "people at home can
8 become poll watchers."⁵

10 In light of the presentation and Kampf's statements on September 20th, several aspects of
11 Kampf's presented process remain unexplained and pose serious legal questions implicating rights
12 guaranteed under both Nevada and federal law. Outstanding questions include: (1) how Kampf
13 intends to define "special needs" to determine who may use the voting machine; (2) who will
14 determine if an individual voter qualifies as having "special needs" under that definition; (3) what
15 are the "stringent signature verifications" the election workers will use when matching signatures
16 and deciding whether a voter's ballot will be counted; (4) who will decide when the "stringent
17 signature verifications" are required; and (5) how will the election workers be trained on these
18 "stringent signature verifications".

20 These drastic departures from safe, accurate, and transparent democratic voting processes
21 stem from the Nye County Board of Commissioners' call for the clerk of Nye County to "consider
22 administering the 2022 Primary and General elections using only paper ballots and hand-counting
23 the paper ballots."⁶ Nonetheless, the implementation of this process cannot be permitted given that

26 ⁵ Minutes, Nye County Board of County Commissioners Meeting, Sept. 20, 2022.

27 ⁶ Minutes, Nye County Board of County Commissioners Meeting, Mar. 15, 2022.

1 reading aloud a chosen candidate prior to the close of polls on election day constitutes a release of
2 voting results in violation of NRS 293.3606 and NRS 293.269935, which not only prohibit such
3 action, but criminalize it. The need for such protections is prominent because release of such
4 information is vulnerable to misinformation and can act as a catalyst to dissuade voters who have
5 yet to cast their ballot from voting based on a possibly false sense that their vote may not matter.
6 Moreover, the limitations placed on voters with disabilities and the use of undefined "stringent
7 signature verifications" violate state law, the Nevada Constitution, and federal law.
8

9 Kampf's proposals are a rushed attempt to circumvent democracy. With just weeks until
10 voting begins, the hand counting process will undoubtedly impede Nye County voters from
11 exercising their right to vote and unravel the election integrity protections currently in place.
12 Petitioners seek mandamus accordingly.
13

14 PARTIES

15 1. Petitioner/Plaintiff, STEVEN BACUS, is, and was at all times relevant herein, a resident
16 of the State of Nevada, County of Nye, Town of Pahrump. He is a registered voter in Nye County.

17 2. Petitioner/Plaintiff, the AMERICAN CIVIL LIBERTIES UNION OF NEVADA, is a
18 domestic nonprofit, non-partisan organization that works to defend and advance the civil liberties
19 and civil rights of all Nevadans operating in the State of Nevada.

20 3. Respondent/Defendant, COUNTY OF NYE, is a governmental entity.

21 4. Respondent/Defendant, MARK KAMPF, is the interim clerk of Nye County and is the
22 primary election administrator for Nye County.
23

24 JURISDICTION & VENUE

25 5. The transactions and occurrences that give rise to the Petitioners' claims against
26 Respondents occurred in Nye County, Nevada.
27

1 6. This Court has the authority to grant the writ relief requested herein pursuant to NRS
2 34.160.

3 7. This Court has original subject matter jurisdiction over this request for declaratory and
4 injunctive relief under Article 6, Section 6, of the Constitution of the State of Nevada.⁷

5 8. Venue is proper in this Court pursuant to NRS 13.020 and 13.040 because the cause, or
6 some part thereof, arose in Nye County, Nevada. Additionally, Respondents operate and/or reside
7 in Nye County.
8

9 STANDING

10 9. A petitioner has standing in a proceeding on an extraordinary writ when the petitioner has
11 a "beneficial interest" in obtaining writ relief. "[A] beneficial interest sufficient to pursue a
12 mandamus action" is a "substantial interest that falls within the zone of interests to be protected
13 by the legal duty asserted."⁸ In other words, the writ of mandamus must be denied if the petitioner
14 will gain no direct benefit from its issuance and suffer no direct detriment if it is denied.⁹
15

16 10. Petitioner Bacus has standing as a Nye County voter impacted by Nye County's proposed
17 policies.

18 11. The citizens of Nye County, including the ACLU of Nevada's members who reside in Nye
19 County, face the imminent risk of having their fundamental rights as voters infringed upon and not
20 having their vote counted. The ACLU of Nevada has standing in this matter because a) its members
21 would otherwise have standing to sue in their own right; b) the interests it seeks to protect are
22 germane to the organization's purpose; and c) neither the claim asserted nor the relief requested
23
24
25

26 ⁷ See also NRS 30.030 (Uniform Declaratory Judgments Act).

27 ⁸ *Heller v. Legislature of State of Nev.*, 120 Nev. 456, 460- 61, 93 P.3d 746, 749 (2004) (citing *Lindelli v. Town of San Anselmo*, 111 Cal.App.4th 1099, 4 Cal.Rptr.3d 453, 461 (2003)).

⁹ *Id.* (citing *Waste Management v. County of Alameda*, 79 Cal.App.4th 1223, 94 Cal.Rptr.2d 740, 747 (2000)).

1 requires the participation of individual members in the lawsuit.¹⁰

2 STANDARD OF REVIEW – MANDAMUS

3 12. Writ relief is an extraordinary remedy, and therefore, it is within the court's sound
4 discretion whether to grant such relief.¹¹ "Extraordinary writ relief may be available where there
5 is no 'plain, speedy and adequate remedy in the ordinary course of law.'"¹²

6 13. However, even when a legal remedy is available, the court can "still entertain a petition for
7 writ relief where the circumstances reveal urgency and strong necessity."¹³

8 14. A writ of mandamus may be issued by the court "to compel the performance of an act
9 which the law especially enjoins as a duty resulting from an office, trust or station; or to compel
10 the admission of a party to the use and enjoyment of a right or office to which the party is entitled
11 and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or
12 person," when there is no plain, speedy, and adequate remedy in the ordinary course.¹⁴

13 15. The court must examine each request for writ relief individually.¹⁵

14 16. The court will generally exercise its discretion to consider an extraordinary writ where an
15 important legal issue that needs clarification is raised or to promote judicial economy and
16 administration.¹⁶

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18
19
20 ¹⁰ "[W]e have recognized that an association has standing to bring suit on behalf of its members when: (a) its members
21 would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the
22 organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of
individual members in the lawsuit." *Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333, 343, 97 S.Ct.
2434, 53 L.Ed.2d 383 (1977). *Greater Birmingham Ministries v. Sec'y of State for State of Alabama*, 992 F.3d 1299,
1316 (11th Cir. 2021)

23 ¹¹ *Segovia v. Eighth Judicial Dist. Court*, 133 Nev. 910, 911, 407 P.3d 783, 785 (2017).

24 ¹² *Id.* (quoting NRS 34.170 and NRS 34.330).

25 ¹³ *Id.* (quoting *Barngrover v. Fourth Judicial Dist. Court*, 115 Nev. 104, 111, 979 P.2d 216, 220 (1999)).

26 ¹⁴ "The writ may be issued by ... a district court or a judge of the district court, to compel the performance of an act
27 which the law especially enjoins as a duty resulting from an office, trust or station; or to compel the admission of a
party to the use and enjoyment of a right or office to which the party is entitled and from which the party is unlawfully
precluded by such inferior tribunal, corporation, board or person. When issued by a district court or a judge of the
district court it shall be made returnable before the district court." NRS 34.160; NRS 34.170.

¹⁵ *Jeep Corp. v. Second Judicial Dist. Court*, 98 Nev. 440, 443, 652 P.2d 1183, 1185 (1982).

¹⁶ *State Office of the Attorney General v. Justice Court of Las Vegas Township*, 133 Nev. 78, 80, 392 P.3d 170, 172
(2017).

1 17. When a petition for extraordinary relief involves a question of first impression that arises
2 with some frequency, the interests of sound judicial economy and administration favor
3 consideration of the petition.¹⁷

4 CLAIMS FOR RELIEF

5 I. WRIT OF MANDAMUS

6 18. Here, there is no plain, speedy and adequate remedy in the ordinary course of law.

7 19. There is no other method to challenge the unlawful process of counting ballots in Nye
8 County as presented and described by Kampf.
9

10 **A. The hand counting process violates NRS 293.3606 and NRS 293.269935 as it would**
11 **reveal election results prior to the time permitted.**

12 20. The Nevada Legislature has conferred a duty upon county clerks to follow certain
13 procedures when administering elections.

14 21. The Nevada Legislature has set clear mandates regarding the release of election results as
15 well as procedures pertaining to the counting of ballots.

16 22. NRS 293.269925(1) vests the county clerk with the power to establish procedures for the
17 processing and counting of mail ballots.

18 23. NRS 293.269925(2) explicitly states that such procedures must not conflict with
19 293.269935, among other state laws.
20

21 24. NRS 293.269935 states that no voting results of mail ballots may be released until all
22 polling places are closed and all votes have been cast on the day of the election. Any person who
23 disseminates to the public in any way information pertaining to the count of mail ballots before all
24 polling places are closed and all votes have been cast on the day of the election is guilty of a
25

26
27 ¹⁷*A.J. v. Eighth Judicial District Court in and for County of Clark*, 2017, 394 P.3d 1209, 133 Nev. 202, quoting *Cate*
H. v. Eighth Jud. Dist. Ct. ex rel. Cty. of Clark, 124 Nev. 36, 175 P.3d 906 (2008).

1 misdemeanor.

2 25. Similarly, NRS 293.3606 states that the returns for early voting must not be reported until
3 after the polls have closed on election day. Any person who disseminates to the public information
4 relating to the count of returns for early voting before the polls close is guilty of a gross
5 misdemeanor.

6 26. Both statutes criminalize the dissemination of information pertaining to the results of the
7 returns before all polling places close on election day and an individual engaging in such acts is
8 guilty of, at minimum, a misdemeanor.¹⁸

9 27. When counting ballots, the process must be conducted in public, open to observation.¹⁹

10 28. Nevada permits the processing of ballots, in public, prior to election day in *only* the
11 following circumstances:

- 12
- 13 1. Mail-ballots can be processed 15 days before the day of the election;
14 and²⁰
 - 15 2. the returns for early voting can be counted by the counting board
16 starting at 8 a.m. on election day.²¹

17 29. However, Nevada law is clear that the returns of these counts, for both mail-in ballots and
18 early voting returns, *must not* be reported until the polls have closed on election day.²²

19 30. The current process, followed throughout the state and the country, uses mechanical voting
20 systems, and its processing of ballots prior to the closing of polls on election day complies with
21 both the public counting aspect of the law and not releasing *any* information pertaining to the count
22

23

24 ¹⁸ See Nev. Rev. Stat. § 293.269931(3); Nev. Rev. Stat. § 293.3606(5).

25 ¹⁹ See Nev. Rev. Stat. § 293.363(1): "When the polls are closed, the counting board shall prepare to count the ballots
voted. The counting procedure must be public and continue without adjournment until completed."

26 ²⁰ Nev. Rev. Stat. § 293.269931.

27 ²¹ Nev. Rev. Stat. § 293.3606.

²² Nev. Rev. Stat. § 293.269931(3): "No voting results of mail ballots may be released until all polling places are
closed and all votes have been cast on the day of the election"; Nev. Rev. Stat. § 293.3606(2): "The returns for early
voting must not be reported until after the polls have closed on election day."

1 prior to the close of polls on election day.

2 31. Compliance with both of these laws can be achieved simultaneously because mechanical
3 tabulators are programmed not to produce sums until election night, and the results of the election
4 are not printed until the closing of polls on election day.²³

5 32. As further assurance of compliance with these laws, federal law requires that all voting
6 systems certified to the latest federal Voluntary Voting System Guidelines have the capability to
7 process ballots *without* printing the tallies before polls close.²⁴

8 33. Mr. Kampf's current process for hand counting will be public, as required by Nevada state
9 law.²⁵ It involves a reader reading aloud the selected candidate for office, a verifier to assure that
10 it is being read correctly and that the tallies are marked correctly, and three talliers to mark a tally
11 for the vote.²⁶

12 34. However, Kampf's proposed plan does not and cannot comply with all provisions of state
13 and federal law.

14 35. The "reader" verbally stating aloud the elected candidate of a particular office on the ballot
15 will reveal election results prior to the time permitted in violation of NRS 293.269935 and NRS
16 293.3606.

17 36. This is because observers of the hand counting will hear the selected candidate, as will
18 viewers at home watching the live stream of the count.

19 37. On the other hand, if Mr. Kampf decided to have the reader simply read the elected
20 candidate to themselves, then such a process would not be considered "in public" as required by
21 NRS 293.363.

22
23
24
25 ²³ Bipartisan Policy Center. "Ballot Pre-processing Policies Explained." <https://bipartisanpolicy.org/explainer/ballot-pre-processing-explained/>. Accessed on September 20, 2022.

26 ²⁴ Voluntary Voting System Guidelines 2.0, at 1.1.9-K (2020).

27 ²⁵ Minutes, Nye County Board of County Commissioners Meeting, Sept. 20, 2022.

²⁶ *Id.*

1 38. As such, Mr. Kampf's hand counting process violates Nevada state laws. Oddly, these
2 proposals also subject the "tally team volunteers" to criminal prosecution.

3 39. Mr. Kampf has acknowledged these violations, as it pertains to streaming the hand count
4 live on camera, on the record at the Nye County Board of Commissioners meeting, but nonetheless
5 determined that it is not an issue because it would be a "monumental task for anyone to be able to
6 figure that out."²⁷

7
8 **B. The limitation of ADA touch screens to individuals with "special needs" violates**
9 **the Help America Vote Act (HAVA) and Article 2, Section 1A of the Nevada**
10 **Constitution.**

11 40. Mr. Kampf's procedures for accessibility by elderly and disabled voters include one "ADA
12 touch screen" at each polling location, satisfying HAVA's requirements in that manner.

13 41. However, Mr. Kampf has either failed to take a deeper dive into the requirements of HAVA
14 or has chosen to ignore them, as the plan's limitation of the ADA touch screen to "those with
15 special needs" violates HAVA's mandate that all voting systems be accessible to individuals with
16 disabilities "in a manner that provides the same opportunity for access and participation (including
17 privacy and independence) as for other voters."²⁸

18 42. Nevada's Constitution provides similar requirements: "Each voter who is a qualified
19 elector under this Constitution and is registered to vote [...] has the right: To equal access to the
20 elections system without discrimination, including, without limitation, discrimination on the basis
21 of race, age, disability, military service, employment or overseas residence."^{29,30}

22 43. In order to limit the touch screens to those with "special needs," poll workers will inevitably
23 be required to assess whether a voter has such needs by either requesting proof or enquiring the
24

25 ²⁷ *Id.*

26 ²⁸ 42 U.S.C § 15481.

27 ²⁹ Nev. Const. Article 2 § 1A(9).

³⁰ The language of Article 2 § 1A(9) of the Nevada Constitution was codified as part of the "Voter's Bill of Rights" in NRS 293.2546(9).

1 voter about their disability.

2 44. It is unclear what Mr. Kampf means when he says "special needs" as the framing of this
3 language is not legally operative and is insufficiently vague.

4 45. To the extent Mr. Kampf is referring to individuals with disabilities, such inquires violate
5 the privacy of the voter. Separating voters with a disability from those voting on paper ballots, and
6 requiring them to take unnecessary steps to prove they have "special needs" does not create equal
7 access to the elections system as poll workers determining whether someone has a disability,
8 especially given that many disabilities are hidden, will result in qualified voters being turned away
9 at the polls.
10

11 **C. The use of "stringent signature verifications" violate NRS 293.8874 and NRS**
12 **293.277.**

13 46. The use of more "stringent signature verifications," including "no prompting of voter
14 verification information" and "requir[ing] identification if signature or verification fails," conflict
15 with the procedure for checking signatures mandated by the legislature under NRS 293.8874 and
16 NRS 293.277.

17 47. Pursuant to NRS 293.8874, clerks are required to check the signature used for the mail
18 ballot against all signatures of the voter available in the records of the clerk.³¹
19

20 48. If at least two employees in the office of the clerk believe there is a reasonable question of
21 fact as to whether the signature used for the mail ballot matches the signature of the voter, the clerk
22 must contact the voter and ask the voter to confirm whether the signature used for the mail ballot
23 belongs to the voter.³²

24 49. Nothing in this section authorizes the clerk to require an identification card if the signature
25
26

27 ³¹ Nev. Rev. Stat. § 293.8874

³² Nev. Rev. Stat. § 293.8874(1).

1 fails.

2 50. In addition to outlining how verification of a signature is conducted, NRS 293.8874 also
3 defines "reasonable question of fact," and when a "reasonable question of fact" does not exist:

4 For purposes of subsection 1:

5 (a) There is a reasonable question of fact as to whether the
6 signature used for the mail ballot matches the signature of the voter
7 if the signature used for the mail ballot differs in multiple,
8 significant and obvious respects from the signatures of the voter
9 available in the records of the clerk.

10 (b) There is not a reasonable question of fact as to whether the
11 signature used for the mail ballot matches the signature of the voter
12 if:

13 (1) The signature used for the mail ballot is a variation of
14 the signature of the voter caused by the substitution of initials for
15 the first or middle name or the use of a common nickname and it
16 does not otherwise differ in multiple, significant and obvious
17 respects from the signatures of the voter available in the records of
18 the clerk; or

19 (2) There are only slight dissimilarities between the
20 signature used for the mail ballot and the signatures of the voter
21 available in the records of the clerk.

22 Nev. Rev. Stat. § 293.8874.

23 51. Pursuant to NRS 293.277, a registered voter can prove their identity, including when an
24 election worker determines that the voter's signature does not match the signature on the voter's
25 application to register to vote, by providing any of the following: 1) the individual's voter
26 registration card; 2) a driver's license; 3) an identification card issued by the Department of Motor
27 Vehicles; 4) a military identification card; or 5) any other form of identification issued by a
governmental agency which contains the voter's signature and physical description or picture.

52. To the extent that Mr. Kampf requires the registered voter to provide a Nevada
identification card only, such a requirement would violate NRS 293.277.

53. Mr. Kampf's verification process is vague and does not provide explanations as to what
"stringent signature verifications" entails.

II. DECLARATORY JUDGMENT

54. Alternatively,³³ under the Nevada Uniform Declaratory Judgments Act, NRS 30.010 to 30.160, this Court has the power to declare the rights, status and other legal relations of the parties whether or not further relief is or could be claimed, and a declaration may be either affirmative or negative in form and effect, and such declarations have the force and effect of a final judgment or decree.³⁴

55. More specifically, with respect to contracts, statutes, and other writings, NRS 30.040(1) provides:

Any person interested under a deed, written contract or other writings constituting a contract, or whose rights, status, or other legal relations are affected by statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

56. The provisions of the Act are to be liberally construed and administered, and are intended to be remedial, in order to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations.³⁵

57. Such declarations have the force and effect of a final judgment or decree.³⁶

58. This matter satisfies the four elements that must be met for declaratory relief to be granted, as described below.³⁷

59. The facts stated above herein reveal a justiciable controversy in which a claim of right is asserted against one who has an interest in contesting it.

³³ See NRCP 8(a)(3).

³⁴ See NRS 30.030.

³⁵ See NRS 30.140.

³⁶ NRS 30.030.

³⁷ *Kress v. Corey*, 65 Nev. 1, 25-26, 189 P.2d 352, 364 (1948).

1 60. The controversy is between persons whose interests are adverse.

2 61. Steven Bacus has a legally protectable interest in the controversy.

3 62. The ACLU of Nevada, specifically its Nyc County membership, has a legally protectable
4 interest in the controversy.

5 63. The issue involved in the controversy is ripe for determination as Kampf has repeatedly
6 stated that the election process described herein is final and will be implemented for the November
7 2022 election.

8 64. Petitioners hereby incorporate paragraphs 20- 53, above, as if fully set forth herein.

9 65. As such, Petitioners are requesting that this Court declare that: 1) the verbal announcement
10 of a selected candidate for each race of each ballot prior to the close of polls on election day, in
11 the presence of the public, will result in the release of election results in violation of NRS 293.3606
12 and NRS 293.269935; 2) the limitation of ADA touch screens to individuals with "special needs"
13 does not comply with the Help America Vote Act (HAVA) or Article 2, Section 1A of the Nevada
14 Constitution because it impermissibly permits election workers to enquire about a voter's disability
15 or turn away otherwise eligible voters based on arbitrary decision making; and 3) the use of
16 "stringent signature verifications" violates NRS 293.8874 and NRS 293.277.
17
18

19 **III. INJUNCTIVE RELIEF**

20 66. Injunctive relief is a historical equitable remedy that has been codified in Nevada law at
21 NRS 33.010.

22 67. NRS 33.010 states that an injunction may be granted:

23
24 When it shall appear by the complaint that the plaintiff is
25 entitled to the relief demanded, and such relief or any part
26 thereof consists in restraining the commission or
27 continuance of the act complained of, either for a limited
period or perpetually.

1 When it shall appear by the complaint or affidavit that the
2 commission or continuance of some act, during the
3 litigation, would produce great or irreparable injury to the
4 plaintiff.

5 When it shall appear, during the litigation, that the defendant
6 is doing or threatens, or is about to do, or is procuring or
7 suffering to be done, some act in violation of the plaintiff's
8 rights respecting the subject of the action, and tending to
9 render the judgment ineffectual.

10 68. As discussed above, Petitioners/Plaintiffs are entitled to relief regarding the unlawful
11 processes for the November 2022 election and do not have other adequate remedies at law.

12 69. Failing to grant injunctive relief will cause irreparable injury to Petitioners/Plaintiffs
13 because as registered voters of Nye County, the "hand counting process for the general election in
14 November 2022" will undeniably impede their right to vote and their right to have the results of
15 the election not be released prior to the close of polls on election day.

16 70. This violation is impossible to remedy after the election.

17 71. Petitioners/Plaintiffs request injunctive relief, preventing Nye County from implementing
18 the "Nye County- 2022 General Election Process" and to utilize the same procedures used during
19 the November 2020 general election or the June 2022 primary election.

20 REQUEST FOR RELIEF

21 WHEREFORE, Petitioners, Steven Bacus and the ACLU of Nevada ask for the following relief:

- 22 A. A Writ of Mandamus finding that: 1) the verbal announcement of a selected candidate
23 for each race of each ballot prior to the close of polls on election day, in the presence
24 of the public, will result in the release of election results in violation of NRS 293.3606
25 and NRS 293.269935; 2) the limitation of ADA touch screens to individuals with
26 "special needs" does not comply with the Help America Vote Act (HAVA) or Article
27 2, Section 1A of the Nevada Constitution because it impermissibly permits election

1 workers to enquire about a voter's disability or turn away otherwise eligible voters
2 based on arbitrary decision making; and 3) the use of "stringent signature verifications"
3 violates NRS 293.8874 and NRS 293.277.

4 B. All equitable declaratory relief and/or statutory declaratory relief that arises from or is
5 implied by the facts, whether or not specifically requested, including but not limited to
6 a declaration that: 1) the Petitioners/Plaintiffs are entitled to writ/injunctive relief; 2)
7 the verbal announcement of a selected candidate for each race of each ballot prior to
8 the close of polls on election day, in the presence of the public, will result in the release
9 of election results in violation of NRS 293.3606 and NRS 293.269935; 3) the limitation
10 of ADA touch screens to individuals with "special needs" does not comply with the
11 Help America Vote Act (HAVA) or Article 2, Section 1A of the Nevada Constitution
12 because it impermissibly permits election workers to enquire about a voter's disability
13 or turn away otherwise eligible voters based on arbitrary decision making; 4) the use
14 of "stringent signature verifications" violates NRS 293.8874 and NRS 293.277; and 5)
15 Mark Kampf must not conduct the November 2022 general election using the "Nye
16 County- 2022 General Election Process."
17
18

19 C. All equitable injunctive relief that arises from or is implied by the facts, whether or not
20 specifically requested, including an injunction enjoining and prohibiting Mark Kampf
21 from implementing the "Nye County- 2022 General Election Process".
22

23 D. Award Petitioners their reasonable attorney's fees and costs incurred in this action as
24 provided by NRS 18.010; and

25 E. Such other and further relief as the court deems just and equitable.
26
27

1 Dated this 4th day of October 2022.

2 This document does not contain the Social Security
3 number of any person. Pursuant to NRS 53.045, I
4 declare under penalty of perjury that the foregoing
5 is true and correct.

6 **AMERICAN CIVIL LIBERTIES
7 UNION OF NEVADA**

8 
9 SADMIRA RAMIC, ESQ.

10 Nevada Bar No. 15984

11 CHRISTOPHER M. PETERSON, ESQ.

12 Nevada Bar No. 13932

13 SOPHIA A. ROMERO, ESQ.

14 Nevada Bar No.: 12446

15 601 South Rancho Drive, Suite B-11

16 Las Vegas, NV 89106

17 Telephone: (702) 366-1226

18 Facsimile: (702) 366-1331

19 Email: ramic@aclunv.org

20 *Attorneys for Petitioners/Plaintiffs*

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