IN THE SUPREME COURT OF THE STATE OF NEVADA

FAIR MAPS NEVADA,

Appellant,

v.

ERIC JENG, AN INDIVIDUAL; AND FRANCISCO V. AGUILAR, IN HIS OFFICIAL CAPACITY AS NEVADA SECRETARY OF STATE,

Respondents.

Supreme Court Case No. 88263

District Court Case Nos. 23 OC 000137 1B and 23 OC 000138 1B

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TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

INTRODUCTION 1

ARGUMENT 2

I. The Petitions Do Not Require an Appropriation or Expenditure of Money 2

A. Jeng Cannot Retroactively Describe His Allegations as Record Evidence 3

B. Both *Reid* and *Helton* Weigh in Favor of the Petitions 5

C. *Reid*'s Impact Limits Nevadans' Fundamental Right to Amend the Nevada Constitution by Initiative Petition 8

II. The Petitions Include Legally Sufficient Descriptions of Effect 11

III. The Doctrine of Issue Preclusion Is Inapplicable and Does Not Bar Fair Maps' Arguments 13

A. The Doctrine of Issue Preclusion is Inapplicable Here 14

B. Jeng Waived His Issue Preclusion Argument 19

IV. The Interpretation of NRS 295.061(1) as Directory Unfairly Affects Initiative Petitions 20

CONCLUSION 22

CERTIFICATE OF COMPLIANCE 23

CERTIFICATE OF SERVICE 25

RETRIEVED FROM DEMOCRACYDOCKET.COM

TABLE OF AUTHORITIES

Cases

A Cab, LLC v. Murray,
137 Nev. 805, 501 P.3d 961 (2021)..21

ASAP Storage, Inc. v. City of Sparks,
123 Nev. 639, 173 P.3d 734 (2007)... 10, 21

Bennett v. Fidelity & Deposit Co. of Maryland,
98 Nev. , 652 P.2d 1178 (1982)...13

Educ. Freedom PAC v. Reid,
138 Nev. Adv. Op. 47, 512 P.3d 296 (2022)................................. passim

Educ. Initiative PAC v. Comm. to Protect Nev. Jobs,
129 Nev. 35, 293 P.3d 874 (2013)..13

Egan v. Chambers,
129 Nev. 239, 299 P.3d 364 (2013)..10

Five Star Cap. Corp. v. Ruby,
124 Nev. 1048, 194 P.3d 709 (2008)..16

Helton v. Nev. Voters First PAC,
138 Nev. Adv. Op. 45, 512 P.3d 309... passim

Herbst Gaming, Inc. v. Heller,
122 Nev. 877, 141 P.3d 1224 (2006)..11

Jackson v. Fair Maps Nevada PAC,
No. 80563, 2020 WL 4283287 (Order of Affirmance,
July 24, 2020) 14, 15, 16, 19

McNamee v. Eighth Jud. Dist. Ct.,
134 Nev. 392, 450 P.3d 906 (2019)..10

Miller v. Burk,
124 Nev. 579, 188 P.3d 1112 (2008)..9

RETRIEVED FROM DEMOCRACYDOCKET.COM

Nevadans for Nev. v. Beers,
122 Nev. 930, 142 P.3d 339 (2006) 15

Nevadans for the Prot. Of Prop. Rts. v. Heller,
122 Nev. 894, 141 P.3d 1235 (2006) 8

Parklane Hosiery Co v. Shore,
439 U.S. 322 (1979) 19

Personhood Nev. v. Bristol,
126 Nev. 599, 245 P.3d 572 (2010) 14, 16, 18

Rupert v. Stienne,
90 Nev. 397, 528 P.2d 1013 (1974) 9

St. James Village, Inc. v. Cunningham,
125 Nev. 211, 210 P.3d 190 (2009) 16

State v. Lloyd,
129 Nev. 739, 312 P.3d 467 (2013) 9

Stocks v. Stocks,
64 Nev. 431, 183 P.2d 617 (1947) 21

Univ. & Cmty. College Sys. of Nev. v. Nevadans for Sound Gov't,
120 Nev. 712, 100 P.3d 179 (2004) 15

Weddell v. Sharp,
131 Nev. 233, 350 P.3d 80 (2015) 17

Statutes

Article 19, Section 6 of the Nevada Constitution .... passim

Nev. Const. art. 19, § 2 .... 1, 8

NRS 295.061(1) .... i, 17, 20, 21

Rules

NRAP 28(e) 23

NRAP 28.2 23

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NRAP 32(a)(4) 23
NRAP 32(a)(5) 23
NRAP 32(a)(6) 23
NRAP 32(a)(7) 23
NRAP 32(a)(7)(C) 23
NRAP 36(c)(2) 20
NRCP 5(b) 25

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INTRODUCTION

Fair Maps proposed the Petitions to allow Nevadans to exercise their constitutional right to address the current problems with redistricting by amending the Nevada Constitution to transfer responsibility for redistricting from the Nevada Legislature to a newly established independent redistricting commission.

Whether to adopt the independent redistricting commission is a question for the people, not for the court. Nev. Const. art. 19, § 2. Yet, the district court chose to answer the question itself when it barred the Petitions from proceeding to the voters under an expansive and unsupported interpretation of *Educ. Freedom PAC v. Reid*, 138 Nev. Adv. Op. 47, 512 P.3d 296, 302 (2022).

The district court, at Jeng's urging, ignored that the Petitions seek only to shift the preexisting, mandatory expenses the Legislature already incurs to the new independent redistricting commission. Indeed, this Court previously rejected a similar unfunded mandate challenge in *Helton v. Nev. Voters First PAC*, where it affirmed the conclusion that an initiative petition seeking to reform elections that were already required to occur *would not* require the expenditure of money to implement. 138

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Nev. Adv. Op. 45, 512 P.3d 309, 318. The Court concluded the challenger's argument was simply "unsupported speculation." *Id.* Jeng has no answer to *Helton*, and his speculative arguments regarding the cost of the independent redistricting commission are unavailing.

Contrary to the district court's ruling, the Petitions simply do not impose any *new requirement* for an expenditure or appropriation that would necessitate a funding provision. And because the Petitions do not require a funding provision, the Petitions' descriptions of effect properly describe the Petitions. Finally, Jeng's futile argument that the Petitions are precluded by this Court's 2020 order on a different petition issued prior to *Reid* can be summarily dismissed by this Court because the order on the 2020 Petition was on a different legal issue and regardless, was not a final ruling on the merits. This Court should accordingly reverse the district court's order.

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ARGUMENT

I. The Petitions Do Not Require an Appropriation or Expenditure of Money

Jeng's attempt to use *Reid* to bar the Petitions fails because the Petitions do not impose a *new requirement* for an expenditure or appropriation that would necessitate a funding provision. Jeng only

speculates—and fails to present any actual and non-speculative evidence—that the independent redistricting commission proposed in the Petitions would result in a government expenditure. The district court's decision thus warrants reversal because its expansive interpretation of *Reid* chills the people's constitutional initiative power and flies in the face of well-established policy directives for initiative proposals.

A. Jeng Cannot Retroactively Describe His Allegations as Record Evidence.

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The district court reasoned, based only on generic assumptions, that "any time a new or any government body is created for whatever reason . . . it's going to cost them something." 1 SA 29:15-18. As a result, the voters of Nevada were deprived of their ability to eliminate political gerrymandering and change the redistricting process in Nevada. Yet Nevada law requires more than guesswork and political aphorisms in order to circumvent the constitutional right to circulate a petition. Jeng did not submit a witness, a declaration, or an expert report in support of the critical issue of whether the Petitions would result in a government expenditure.

The record citations by Jeng are to unverified newspaper articles and other documents that were not authenticated or admitted by the

district court. 1 JA 1-9, 35-44, 70-79, 104-114. Further, not one citation discusses the specific Petitions at issue here or the process selected by the Petitions. *Id.* Specifically, Jeng references the California Citizens Redistricting Commission which "incurred more than $10 million in costs before the adoption of the final set of maps" but did not describe whether these costs were higher or lower than the redistricting process that was replaced. RAB 24 (citing 1 JA 5, 39, 74-75 109).

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Jeng also cites to the requirement of public meetings for the independent redistricting commission. RAB 27. If the standard for petitions is that they cannot result in a single additional meeting without also including a provision for raising revenue in order to support these ancillary costs, then Fair Maps submits Article 19, Section 6 will have been interpreted in an absurd fashion that would thwart the intent of Nevada voters.

In the absence of any language in the Petitions directing or requiring an expenditure of funds, Jeng simply speculates the Petitions will require the expenditure of government funds. RAB 23-27. But, because Jeng bears the burden of demonstrating the invalidity of the Petitions, mere speculation is insufficient—actual evidence is needed

regarding the expected costs. *Helton*, 138 Nev. Adv. Op. 45, 512 P.3d at 318. Because Jeng failed to present any actual evidence, the district court's decision should be reversed.

B. Both *Reid* and *Helton* Weigh in Favor of the Petitions.

In determining that constitutional petitions were also subject to Article 19, Section 6 of the Nevada Constitution, *Reid* looked to "legislative history and public policy" rather than to the plain meaning of the provisions. *Reid*, 138 Nev. Adv. Op. 47, 512 P.3d at 302. The legislative history purportedly supported the objective of preventing a petition from being "presented to the voters that did not contain funding provisions when the initiative would require an appropriation or expenditure." *Id.* The cited public policy benefits were similarly to prevent petitions from creating "a hole in the state's budget merely because they proposed changes via constitutional amendment, rather than statutory amendment." *Id.* Therefore, at least according to *Reid*, the interpretation of Article 19, Section 6 is guided by the principle that a petition needs to "provide for the necessary revenue" to support the petition's appropriation or expenditure of money. *Id.*

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Without any evidence indicating the Petitions would have a net effect on the "state's budget," Jeng cannot demonstrate the Petitions do not "provide for the necessary revenue." *Id.* Jeng attempts to distinguish *Helton* as a case with "existing government bodies" and "existing funding streams." RAB 28. Yet, the Petitions establish the Independent Redistricting Commission within the Legislative Branch so that the same funding used for the legislators' drawing of the maps will be used instead for the Commission's drawing of the maps. 1 JA 161-181. This confirms *Helton*'s application to the present dispute and highlights the speculative nature of the evidence relied upon by Jeng.

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It is simply not enough under *Helton* for Jeng to claim the need for an expenditure is "obvious." RAB 28. Here, just as in *Helton*, it is equally possible the Petitions would not require any additional revenue other than what was already devoted to the legislative redistricting process. Because the Independent Redistricting Commission will be situated within the Legislative Branch, there is no basis to conclude the "existing funding stream" will be insufficient. While Jeng argues the change is that the Legislature will now need to fund a "new Commission," this is irrelevant under *Reid*'s concerns about the net effect of initiative

petitions and not the shifting of expenses from one area of government to another. RAB 29.

Similarly, Jeng's argument about "offsetting cuts" is specious. RAB 29-30. First, *Reid*'s concerns about overall budgetary impact would actually be completely alleviated if any new expenses were offset. Fair Maps did not argue though there would be any "offsetting cuts," rendering Jeng's position a strawman. Instead, Fair Maps argued that the same expenses currently borne within the Legislative Branch will continue to be borne by the Legislative Branch, but under the auspices of the Independent Redistricting Commission. Second, Article 19, Section 6 explicitly uses the phrase "necessary revenue," thus implying the important analysis is whether the effect of the Petitions would require "necessary revenue" to stay budget neutral. Accordingly, Jeng is incorrect that it "makes no difference that funding for the Commission could conceivably be offset by cuts to the Legislature's own operational budget." RAB 29. But even more telling, Jeng argues that these "cuts" are "entirely speculative." *Id.* Yet, the savings that could be created by the Petitions is no more "speculative" than the "costs" that Jeng attempts to ascribe to the Petitions.

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C. *Reid*'s Impact Limits Nevadans' Fundamental Right to Amend the Nevada Constitution by Initiative Petition

Modifying *Reid* to explain that Article 19, section 6 applies only to initiative petitions seeking a statutory change, but not to initiative petitions seeking a constitutional change, furthers this Court's obligation to "make every effort to sustain and preserve the people's constitutional right to amend their constitution through the initiative process." *Nevadans for the Prot. Of Prop. Rts. v. Heller*, 122 Nev. 894, 912, 141 P.3d 1235, 1247 (2006). Jeng contends Fair Maps only offers "mere disagreement" with this Court's decision in *Reid*, however, Fair Maps has demonstrated *Reid* runs afoul of the constitutional right to file ballot questions. RAB 34-37.

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Reid held that Article 19, section 2's reference to Article 19, section 6, obliviated the plain meaning of Article 19, section 6 and through some sort of reverse incorporation, combined the two sections such that their independent language was blurred together. 138 Nev. Adv. Op. 47, 512 P.3d at 302-03. Essentially, *Reid* concluded that the phrase "subject to the limitations of" meant that unless every single provision of the limiting paragraph was identical in scope to the referring paragraph, then ambiguity would result. *Id.* This result is not countenanced by

constitutional or statutory interpretation principles and would frequently result, as it did here, in absurd interpretations.

This court will overturn precedent when there are "compelling reasons for so doing." *Miller v. Burk*, 124 Nev. 579, 597, 188 P.3d 1112, 1124 (2008) (footnote omitted). Compelling reasons include "badly reasoned" or "unworkable" decisions. *State v. Lloyd*, 129 Nev. 739, 750, 312 P.3d 467, 474 (2013) (internal quotation marks omitted). "The doctrine of stare decisis must not be so narrowly pursued that the . . . law is forever encased in a straight jacket." *Rupert v. Stienne*, 90 Nev. 397, 400, 528 P.2d 1013, 1015 (1974). Here, Jeng has demonstrated compelling reasons to overturn because, under the expansive interpretation of *Reid*, any constitutional petition that potentially could increase expenses, in any way, is invalid, including numerous constitutional initiative petitions that have already been approved by Nevadans. Further, under *Reid*'s interpretation, any potential concern that a constitutional initiative petition is an unfunded mandate will require the initiative petition to include a taxing provision in the Nevada Constitution—fundamentally changing the way the Nevada Constitution exists. Such a taxing provision will need to generate a level of revenue

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that will be deemed sufficient, an insurmountable challenge made clear by the vague and speculative examples of cost cited by Jeng.

Jeng also argues this Court already considered Article 19, Section 6's text and concluded it is "ambiguous because it conflicts internally with Article 19, Section 2." RAB 36 (*quoting Reid*, 138 Nev. Adv. Op. 47, 512 P.3d at 302). Be that as it may, this Court has overruled prior interpretations of governing law it later determined were inaccurate. For instance, in *Egan v. Chambers*, this Court overruled a prior case when the Court's prior interpretation of the statute "unnecessarily reached beyond its plain language." 129 Nev. 239, 242-43, 299 P.3d 364, 366-67 (2013). Likewise, in *ASAP Storage, Inc. v. City of Sparks*, this court overruled prior caselaw because the holdings interpreted a statute to create an ambiguity when none existed. 123 Nev. 639, 653-54, 173 P.3d 734, 743-44 (2007). Further, in *McNamee v. Eighth Jud. Dist. Ct.*, this court overruled a prior decision when it "broadened the scope" of the NRCP "by expanding its reach beyond its precise words." 134 Nev. 392, 396, 450 P.3d 906, 909-10 (2019).

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Here, just as in *Egan*, *ASAP Storage*, and *McNamee*, this Court should revisit its decision in *Reid* because it went beyond the plain

language of Article 19, Section 6 of the Nevada Constitution and significantly curtailed the constitutional right of Nevadans to amend their own Constitution. *Reid*, 138 Adv. Op. 47, 512 P.3d at 306 (Herndon, J., concurring in part, dissenting in part) (stating "under the plain language of Article 19, Section 6 of the Nevada Constitution, its funding mandate applies only to initiative petitions proposing statutes or statutory amendments, not to initiatives proposing constitutional amendments."). Even if this Court does not modify *Reid*, it should clarify *Reid* only applies in cases in which there is evidence of a direct and non-discretionary appropriation or expenditure requirement in the initiative petition itself. *See Helton*, 138 Nev. Adv. Op. 45, 512 P.3d at 318; *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 890-91, 141 P.3d 1224, 1232-33 (2006).

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II. The Petitions Include Legally Sufficient Descriptions of Effect

Jeng challenges the Petitions' descriptions of effect, however, this challenge fails. RAB 32-34. While Jeng argues the descriptions of effect are deficient because they fail to explain the Petitions will result in an expenditure of state funds, as discussed, the Petitions do not require an appropriation of funds. *See supra*, Section I.

Jeng also argues the description of effect for Petition C-04-2023 is deficient because it fails to explain that the Petition would require mid-cycle redistricting and invalidate the existing legislative plans and congressional districts early. RAB 33-34. Contrary to Jeng's assertion, the description of effect for Petition C-04-2023 clearly states "[t]his amendment will require redistricting following the 2026 election and each federal census thereafter." 1 JA 50; *see also Helton*, 138 Nev. Adv. Op. 45, 512 P.3d at 317 (determining the description of effect was valid because the description of effect was "not incorrect in its statement" and that the "public is smart enough to understand" the description). Here, just as in *Helton*, the public is smart enough to understand that mid-cycle redistricting is necessary by the description of effect's statement that redistricting is required following the 2026 election.

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Moreover, Jeng seeks to add hypothetical requirements to the description of effect for Petition C-04-2023. RAB 33-34. There is simply no requirement in the Petition that the Commission must "invalidate the existing legislative plans and congressional districts early." *Id.* at 33. Because the descriptions of effect are not required to include "hypothetical" effects, the descriptions of effect are a "straightforward,

succinct and nonargumentative statement of what the initiative petition[s] will accomplish and how [they] will achieve those goals. *Educ. Initiative PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 38, 293 P.3d 874, 876 (2013).

III. The Doctrine of Issue Preclusion Is Inapplicable and Does Not Bar Fair Maps' Arguments

Rather than have this Court review the merits of this case, Jeng attempts to argue Fair Maps is precluded from arguing that the Petitions will require an expenditure of funds based on this Court's decision regarding a previous petition Fair Maps submitted in 2020. Jeng's position can be summarily rejected by this Court, because as the party asserting preclusion, Jeng bore the burden of proving the preclusive effect of the judgment. *Bennett v. Fidelity & Deposit Co. of Maryland*, 98 Nev. 494, 452, 652 P.2d 1178, 1180 (1982). Jeng failed to meet his burden to prove the preclusive effect of the 2020 Petition judgment because issue preclusion is inapplicable to the instant case. Even if issue preclusion applied, Jeng failed to demonstrate all the required factors were met. Finally, Jeng waived any argument regarding issue preclusion because he raised it for the first time in his reply brief in the district court. 2 JA 184, 226.

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A. The Doctrine of Issue Preclusion is Inapplicable Here

Jeng's issue preclusion argument is irreconcilable with this Court's decision in *Personhood Nev. v. Bristol*, where it considered whether a district court's order in a moot ballot petition appeal could have a preclusive effect on future litigation. 126 Nev. 599, 601-02, 245 P.3d 572, 574 (2010). This Court concluded that because the appeal was rendered moot, it was unnecessary to vacate the district court's order because "the district court's order has no preclusive effect, and thus, there is no need to set the order aside to avoid it being used as binding precedent." *Id.* at 605, 245 P.3d at 576.

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Here, just as in *Bristol*, Fair Maps' cross-appeal on the 2020 Petition was rendered moot. *Jackson v. Fair Maps Nevada PAC*, No. 80563, 2020 WL 4283287, at *1 (Order of Affirmance, July 24, 2020). Jeng's argument that Fair Maps was responsible for the 2020 Petition's mootness is unavailing. RAB 15. Fair Maps did not—and could not—moot its own argument. The 2020 Petition was not dismissed due to Fair Maps' actions, such as abandonment or withdrawal of its cross-appeal, but rather by this Court's own conclusion that "[i]n light of our above-

mentioned determination, however, t*his issue is moot*." *Jackson*, 2020 WL 4283287, at *1 (emphasis added).

Although Fair Maps' cross-appealed from the district court's order regarding the original description of the 2020 Petition, Jeng urges this Court to disregard the appeal because Fair Maps didn't "press its challenge" enough. RAB 15. This argument, while incorrect, also ignores the nature of initiative petition litigation. The timeline to submit an initiative petition, overcome any legal challenge to the petition, including an appeal, and collect enough signatures in time to appear on the ballot is extremely short. *See, e.g.*, *Univ. & Cmty. College Sys. of Nev. v. Nevadans for Sound Gov't*, 120 Nev. 712, 720-21, 100 P.3d 179, 186 (2004) (opting to consider moot ballot petition appeal because it fell within the capable of repetition exception to mootness in part because "persons soliciting signatures for an initiative or referendum have a relatively short time in which to gather signatures"). Given the amended description for the 2020 Petition was already found to be sufficient in the district court, Fair Maps proceeded with collecting signatures on its only viable petition. *See Nevadans for Nev. v. Beers*, 122 Nev. 930, 940, 142

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P.3d 339, 345 (2006) (holding an initiative petition without a compliant description of effect is not operative).

Moreover, Fair Maps contended its original description for the 2020 Petition was sufficient, and it cross-appealed the district court's determination that it was not. Particularly since the cross-appeal was fully briefed and submitted for decision, it is unclear what Jeng suggests Fair Maps should have done to further pursue its appeal. That this Court ultimately found the cross-appeal to be moot is precisely the type of mootness "by no fault of the appellant" that *Bristol* recognizes is insufficient to preclude future litigation. 126 Nev. at 605, 245 P.3d at 576.[1]

Additionally, even if issue preclusion were to apply, Jeng failed to demonstrate the required factors for issue preclusion were met. *Five Star Cap. Corp. v. Ruby*, 124 Nev. 1048, 1055, 194 P.3d 709, 713 (2008),

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[1] Although Jeng focuses on this Court's note that stated, "we note that Fair Maps has not indicated that it would prefer to proceed with its original petition instead of its amended petition," this statement is dictum and not a final preclusive ruling. RAB 14-15 (citing *Jackson,* 2020 WL 4283287, at *1); *see also St. James Village, Inc. v. Cunningham*, 125 Nev. 211, 216, 210 P.3d 190, 193 (2009) ("A statement in a case is dictum [and not controlling] when it is unnecessary to a determination of the questions involved" (internal quotation marks omitted)).

holding modified on other grounds by Weddell v. Sharp, 131 Nev. 233, 350 P.3d 80 (2015) (outlining the four-part test for whether issue preclusion should apply).

First, the issue in the prior litigation was not identical because the plaintiff in *Jackson* did not argue that the 2020 Petition violated Article 19, Section 6 of the Nevada Constitution. While Jeng summarily dismisses this as irrelevant without analysis, *see* RAB 13-14, this Court should not. In *Jackson*, the plaintiff argued the description of effect for the 2020 Petition should be rewritten pursuant to NRS 295.061(1). 1 JA 25-30. Thus, the issues raised in this action are entirely different legal issues. Moreover, this Court should recognize that *Jackson* was decided in 2020, two years prior to the *Reid* decision in 2022, which fundamentally altered the constitutional initiative petition landscape. As such, there was no opportunity for Fair Maps to litigate in *Jackson* whether the 2020 Petition was an unfunded mandate in violation of Article 19, Section 6. Furthermore, the years are different and the 2020 Petition required an earlier redistricting.[2] 1 JA 54-58. Petition C-03-

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[2] Jeng's argument that Fair Maps waived any argument regarding issue preclusion should be disregarded. RAB 12-13. As discussed herein, Jeng only raised his issue preclusion argument for the first time on reply. *See*

2023 requires redistricting only be completed "following each federal census." *Id.* at 15-16. For all of these reasons, the issue in the prior litigation was not identical, and the first prong of the *Five Star* test cannot be satisfied.

Second, as discussed, the ruling on the 2020 Petition was not on the merits and did not become final. *See Bristol*, 126 Nev. at 605, 245 P.3d at 576. And, at the time *Jackson* was decided, this Court had yet to issue its opinion in *Reid*. To adopt Jeng's interpretation that Fair Maps previously litigated whether the petition would result in an expenditure of state funds to fund the Commission would be fundamentally unfair to Fair Maps. Prior to *Reid*, this Court had *never* held that "Article 19, Section 6 is ambiguous." 138 Nev. Adv. Op. 47, 512 P.3d at 302. Thus, at the time *Jackson* was litigated, it was impossible for Fair Maps to predict the way this Court would rule in *Reid* two years later, and to preclude Fair Maps on this ground would be unjust.

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supra, Section III(B). Moreover, the district court denied Fair Maps' motions to file sur-replies and specifically stated any arguments in the proposed sur-replies "did not affect the Court's conclusions in this matter." 2 JA 357. Thus, Fair Maps could not have waived any argument that it was not afforded the opportunity to raise in the first place.

Third, Jeng fails to cite to any of this Court's caselaw permitting what he seeks to do—non-mutual offensive issue preclusion, in which "the plaintiff seeks to foreclose the defendant from litigating an issue the defendant previously litigated unsuccessfully in an action with another party." *Parklane Hosiery Co v. Shore*, 439 U.S. 322, 326 n.4 (1979). Jeng was not a party in the 2020 Petition action. *See Jackson*, 2020 WL 4283287, at *1.

Accordingly, Jeng failed to meet his burden in demonstrating the 2020 Petition judgment precludes from Fair Maps from contending the Petitions will require an expenditure of funds and the district court erred in finding otherwise.

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B. Jeng Waived His Issue Preclusion Argument

Although issue preclusion is inapplicable here, Jeng's arguments regarding issue preclusion were also waived. Jeng attempts to avoid waiver by contending issue preclusion was a "central component of his arguments," however, issue preclusion was simply *never* mentioned until his reply brief. RAB 18-20; *see also* 2 JA 184, 226.

If Jeng believed the Petitions were barred by issue preclusion, he had ample opportunity to raise the argument in either his Complaints or

Opening Briefs in Support of the Complaints, considering he originally brought his action solely against the Secretary of State, a party to the 2020 Petition proceedings. 1 JA 1-138; *see also* NRAP 36(c)(2) (allowing the use of unpublished disposition for issue preclusion). Rather than afford Fair Maps an opportunity to respond, however, Jeng waited until his reply to raise the argument for the first time. Ultimately, Jeng's suggestion that Fair Maps should have predicted Jeng would raise issue preclusion—despite any mention of the argument in his briefing and the lack of a final ruling on the merits on the 2020 Petition—falls flat. The district court's subsequent adoption of the untimely argument was therefore in error.

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IV. The Interpretation of NRS 295.061(1) as Directory Unfairly Affects Initiative Petitions

While "district courts must make every effort to comply with the expedited, statutory time frame for considering initiative challenges," the practical effect is that ballot initiative challenges are often used as a tactic to delay initiative petitions from being placed on the ballot. Jeng contends *Reid* was correct to hold that NRS 295.061(1)'s 15-day hearing-setting deadline is directory rather than mandatory, and Fair Maps provides only "disagreement" with that conclusion. RAB 37-40.

Contrary to Jeng's assertion, Fair Maps has demonstrated initiative petitions are being unreasonably challenged to unfairly delay initiative petitions from ever reaching the voter's ballots. Indeed, as demonstrated in this case, from the time the Complaints were filed to the time the district court issued its order, it took 90 days for a decision to be rendered on the Petitions—in clear contravention of NRS 295.061(1). *Reid*'s holding of NRS 295.061(1) as directory is precisely the type of practical and unsound decision that this Court should revisit. *A Cab, LLC v. Murray*, 137 Nev. 805, 811, 501 P.3d 961, 969-70 (2021) (overruling prior caselaw, in part, due to serious practical concerns); *Stocks v. Stocks*, 64 Nev. 431, 438, 183 P.2d 617, 620 (1947) (stating courts "will indeed depart from the doctrine of stare decisis where such departure is necessary to avoid the perpetuation of error); *ASAP Storage, Inc.*, 123 Nev. at 653, 173 P.3d at 743 ("[L]egal precedents of this Court should be respected until they are shown to be unsound in principle" (quotation marks omitted)).

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CONCLUSION

For all the above reasons, this Court should reverse the district court's order.

Dated this 1st day of April 2024.

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type-style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point font, Century Schoolbook font. I further certify that this brief complies with the type-volume limitation of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it contains 4,215 words.

Under NRAP 28.2, I hereby certify that I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), which requires every assertion about matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions if this brief does not conform to the requirements of the Nevada Rules of Appellate Procedure.

Dated this 1st day of April 2024.

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDONALD CARANO LLP and that on April 1, 2024, a true and correct copy of the foregoing **APPELLANT'S REPLY BRIEF** was e-filed and e-served on all registered parties to the Supreme Court's electronic filing system.

/s/ *Pamela Miller*
An Employee of McDonald Carano

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