IN THE SUPREME COURT OF THE STATE OF NEVADA

JENNIFER FLEISCHMANN, an individual, Appellant, vs. REPAIR THE VOTE PAC, a political action committee; and FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY OF STATE, Respondent.	Case No. 88307 First Judicial District Court Case No.: 23 OC 00136 1B

APPEAL FROM THE FIRST JUDICIAL DISTRICT COURT,
CARSON CITY, NEVADA
THE HONORABLE WILLIAM MADDOX
DISTRICT COURT CASE NO. 23 OC 00136 1B

RESPONDENT REPAIR THE VOTE'S ANSWERING BRIEF

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NRAP 26.1 Disclosure

I hereby certify that the following are the persons and entities described in NRAP 26.1(a) and must be disclosed. These representations are made in order that Judges of this Court may evaluate possible disqualifications or recusal:

1. David C. O'Mara, Esq.

2. The O'Mara Law Firm, P.C.

There are no applicable disclosures regarding parent corporations or stock ownership. There are no corporations or other entities with any ownership interest in The O'Mara Law Firm, P.C.

The following attorneys or entities have appeared on behalf of Respondent:

1. David C. O'Mara, Esq.

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Dated: April 19, 2024

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I. JURISDICTIONAL STATEMENT

The Court has jurisdiction over this appeal pursuant to NRAP 3A(b)(1) because it is an appeal from a final order. The Court also has jurisdiction over this appeal pursuant to NRAP 3A(b)(3) because it refused to grant an injunction. The final order was entered on March 6, 2024. The notice of entry of the order was filed on March 11, 2024. The notice of appeal was filed on March 11, 2024. The appeal is timely because it was filed within 30 days after the entry of the final judgment pursuant to NRAP 4(a)(1).

II. ROUTING STATEMENT

This appeal originates from the appeal of an Order involving a ballot or election issue, and thus is presumptively retained by the Nevada Supreme Court. Additionally, the Nevada Supreme Court has issued an order setting this matter for expedited oral argument on May 8, 2024, at 11:00 a.m.

III. STATEMENT OF ISSUES

The Issues presented by Appellant in this matter are as follows:

a. Whether the Petition contains an unfunded mandate in violation of Article 19, Section 6 of the Nevada Constitution.

b. Whether the Petition's description of effect satisfies NRS 295.009(1)(b).

c. Whether the district court abused its discretion when it declined to preclude Ms. Fleischmann from challenging the Petition pursuant to NRS

295.061 when a previous challenge to an identical petition was successfully made and resulted in an amended description and the legal principles of res judicata and collateral estoppel.

IV. STATEMENT OF THE CASE

On November 8, 2023, David C. Gibbs, filed Petition C-02-2023, on behalf of Repair the Vote. JA0014. The Petition seeks to amend Article 2 of the Nevada Constitution to require that all persons voting in person present an approved photo identification before being provided a ballot. JA0016. Additionally, the Petition requires that voters submitting a mail-in ballot provide additional verification of their identity when completing their mail-in ballot. Id.

On December 4, 2023, Appellant, Jennifer Fleischmann ("Appellant") filed a Complaint for Declaratory and Injunctive Relief Challenging Initiative Petition C-02-2023 (JA 0001-00042) and a Memorandum of Points and Authorities in Support of Complaint for Declaratory and Injunctive Relief Challenging Initiative Petition C-02-2023 in the First Judicial District Court. JA 0043-0054. Appellant claimed that (1) the Petition contains an unfunded mandate in violation of Article 19, Section 6, and (2) The Petition's description of effect is inadequate and thus violative of NRS 295.009(1)(b). JA 0003-11. Appellant sought to obtain declaratory and injunctive relief barring the Secretary of State from taking further action on the Petition. JA0011-12.

Repair the Vote intervened in this matter on January 31, 2024. JA0073. Repair the Vote filed its Responding Brief on February 9, 2024, which was docketed by the Court on February 13, 2024. JA0080-0126.

Appellant filed her Reply in Support of Memorandum of Points and Authorities in Support of Complaint for Declaratory and Injunctive Relief Challenging Initiative Petition C-02-2023 on February 21, 2024. JA 0127-0134.

On February 26, 2024, the Honorable William Maddox conducted a hearing and issued an oral decision denying Ms. Fleishmann's request for declaratory and injunctive relief. *See* Transcript of Proceeding, JA0135-JA0170. A written decision was filed on March 6, 2024. JA 0171-0177. A Notice of Entry was filed on March 11, 2024 (JA 0178 -0188) and the notice of appeal was filed the next day. JA 0189-0199.

V. STATEMENT OF THE FACTS

The Petition submitted by Respondent seeks to change Article 2 of the Nevada Constitution and would provide a requirement that "each voter in Nevada shall present photo identification to verify their identity when voting in person at a polling place during early voting or on election day before being provided a

ballot.[1] JA 0015. The Petition provides nine (9) different forms of identification that would be allowed to verify the identity of the voter. JA 0015.

The Petition would also seek to require Nevadans who vote by mail to include an identifying number from a list of several sources including a Nevada Driver's license number, social security number or the voter number provided by the county clerk when the person registered to vote. JA 0015.

Previously, in 2022, Repair the Vote filed Initiative Petition C-03-2022, which was subject to litigation in *Persaud-Zamora v. Cegavske*, 22 OC 00022 1B. JA 0100-0114. As a result of this litigation, the district court concluded that the Secretary of State shall accept the amendment of the foregoing Description of Effect:

> If passed, this initiative would amend the State Constitution to require that all persons voting in person present an approved photo identification before being provided a ballot. It also requires that voters submitting a mail-in ballot provide additional verification of their identity when completing their mail-in ballot.

JA 104. The district court's amendment of the Description of Effect was not appealed.

Currently before the Court is a challenge by Appellant to the exact language from the previous 2022 petition which states, in full:

---

[1] Nevada law

> If passed, this initiative would amend the State Constitution to require that all persons voting in person present an approved photo identification before being provided a ballot. It also requires that voters submitting a mail-in ballot provide additional verification of their identity when completing their mail-in ballot.

JA 0016.

VI. SUMMARY OF ARGUMENT

Repair the Vote makes four (4) substantive arguments regarding the validity of the Petition. ***First***, the Petition does not impose an unfunded mandate in violation of Article 19, Section 6. ***Second***, the description of effect is proper and valid because it is straightforward, succinct, and a nonargumentative summary of what the initiative is designed to achieve and how the initiative intends to reach those goals. ***Third***, NRS 295.061 precludes Appellant from challenging the description of effect of an initiative because the initiative was previously challenged successfully and was amended in compliance with the order of the district court. ***Fourth***, Appellant is precluded from bringing a challenge to the initiative under the legal doctrines of res judicata and collateral estoppel.

VII. STANDARD OF REVIEW

The Nevada Supreme Court will consider challenges to an initiative petition preelection in limited circumstances, such as when those challenges are based on the statutory requirement for the description of effect or the preclusion against unfunded mandates. *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 883-84, 141 P.3d 1224, 1228 (2006).

Appellant bears the burden of demonstrating the proposed initiative is clearly invalid. *See Las Vegas Taxpayer Accountability Comm. v. City Council of Las Vegas*, 125 Nev. 165, 176, 208 P.3d 429, 436 (2009) (holding that the party challenging a ballot measure "bear[s] the burden of demonstrating that the measures are clearly invalid"); *see also Helton v. Nevada Voters First PAC,* 138 Nev. Adv. Op. 45, 512 P.3d 309 (2022). Because the district court resolved the challenge to the initiative in the absence of any factual dispute, our review is de novo. *Nevadans for Nev. v. Beers*, 122 Nev. 930, 942, 142 P.3d 339, 347 (2006).

The Nevada Supreme Court reviews the district court's statutory construction determination de novo. *Sonia F. v. Dist. Ct*. 125 Nev. 38, 215 P.3d 705, 707 (2009).

The availability of claim and issue preclusion is a question of law reviewed de novo. *See Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1058, 194 P.3d 709, 715 (2008); *University & Cmty. Coll. Sys. v. Sutton*, 120 Nev. 972, 984, 103 P.3d 8, 16 (2004) (reviewing de novo whether issue preclusion is available). Once a court determines that preclusion applies, then the Court revives the actual decision to the discretion of the district court. *State Univ. & Comm. Coll. Sys. v. Sutton*, 120 Nev. 972, 984, 103 P.3d 8, 16 (2004).

VIII. ARGUMENT

A. The Petition does not impose an unfunded mandate because it does not mandate Nevade to provide free voter identification.

1. The petition does not explicitly or implicitly compel an appropriation or expenditure.

When an initiative neither explicitly nor implicitly compels the appropriations or expenditures of state funds, it does not violate Article 19, Section 6 of the Nevada Constitution. *See Herbst Gaming, Inc. v. Heller*, 117 Nev. 169, 141 P.3d 1224, 1233. An "appropriation is the setting aside of fund(s)" and an "expenditure of money is the payment of funds." *Rogers v. Heller*, 117 Nev. 169, 18 P.3d 1034, 1036.

The district court concluded that "nothing in the text of the Initiative would require a Nevada official to appropriate funds to [sic], or to expend new funds." JA 0175. Contrary to Appellant's claims, the Petition does not explicitly, nor implicitly compel an appropriation or expenditure of State funds.

The Initiative merely expands the information that must be provided when a person votes in person or by mail and does not require the setting aside or for the payment of funds. The Initiative does not require, explicitly or implicitly, that the State implements a program to provide free photo identification. Indeed, the Initiative does not seek to create any new forms of identification as the forms of identification and the agencies that issue the photo identification already exist. JA

0015. In fact, the Initiative simply provides that when voting in person, a voter must provide any one of several forms of photo identification listed within the Initiative. *Id*. Additionally, the Initiative provides that when voting by mail, a voter will provide, through several different avenues, information that will be used to verify the identity of the voter.

The Initiative does not violate Article 19, Section 6 of the Nevada Constitution because it does not impose an unfunded mandate upon the State and the district court's decision must be affirmed.

2. *The Initiative can be implemented and enforced without providing free identification.*

Appellant claims that the Initiative, as written, violates the Twenty-Fourth Amendment because under federal constitutional law, Nevada would be required to provide free identification cards to all voters who need one.

The Twenty-fourth Amendment provides:

> The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

U.S. Const. amend. XXIV, § 1. Appellant argues that being required to provide photo identification when voting in person would unconstitutionally force Nevadans to pay a government fee and thus, this payment is indirectly equivalent to a tax on the right to vote.

The requirement that all voters provide photo identification when voting in person is neither a poll tax itself, nor is it a burden imposed on voters who refuse to pay a poll tax. *Gonzalez v. Arizona*, 677 F.3d 383, 12 Cal. Daily Op. Serv 4138, Cf. Harman, 380 U.S. at 541–42, 85 S.Ct. 1177.

In *Gonzalez*, the United States Court of Appeals, Ninth Circuit evaluated whether Arizona's requirement that voters show identification at the polls constitutes a poll tax. The Gonzalez court relied upon the United States Supreme Court case, *Harman*, 380 U.S. at 541–42, 85 S. Ct. 1177, when it determined that even though obtaining the necessary identification may have a cost, the fee imposed on voters was not a prerequisite for voting. *Gonzalez*, 677 F.3d 408.

The Initiative's requirement to provide photo identification, likewise, is not a poll tax under *Harman* and *Gonzalez*. Requiring voters to show identification at the polls does not constitute a tax, nor does the identification requirement place a material burden on a voter. *Id*. All voters are required to present identification at the polls, and thus, as a matter of law, does not impose a poll tax, in violation of the Twenty-Fourth Amendment.

Additionally, the Initiative is not an unconstitutional poll tax under the Fourteenth Amendment's Equal Protection Clause. Appellant argues that the Equal Protection Clause imposes a similar prohibition in state elections, as a state violates the Clause "whenever it makes the affluence of the voter or payment of

any fee an electoral standard." *Harper v. Va. Bd. of Educations*, 383 U.S. 663, 666 (1966).

The implementation of a photo identification requirement falls outside *Harper's* rule that "restrictions on the right to vote are invidious if they are unrelated to voter qualifications" *Crawfor*d *v. Marion County Election Bd*. 553 U.S. 181,189, 128 S.Ct. 1610 (Stevens, J. announcing the judgment of the Court). "Requiring voters to provide documents proving their identity is not an invidious classification based on impermissible standards of wealth or affluence, even if some individuals have to pay to obtain the documents. On the contrary, such a requirement falls squarely within the state's power to fix core voter qualifications." *Gonzalez v. Arizona*, 677 F.3d at 408.

Any payment associated with obtaining the documents required under the Initiative is related to the State's legitimate interest in assessing the eligibility and qualifications of voters, and thus, the requirement of photo identification is not an invidious restriction under *Harper*, and the burden is minimal under *Crawford*." *Id*. As such, there is no violation of the Twenty-Fourth Amendment, nor the Fourteenth Amendment's Equal Protection Clause.

Accordingly, the Initiative does not implicitly mandate an expenditure by the State, and thus, is not in violation of Article 19, Section 6 of the Nevada Constitution.

3. *Appellant's unfunded mandate claim is an impermissible substantive challenge to the Petition***.**

"The substantive validity of an initiative should be challenged if and when the initiative becomes law. *See Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 141 P.3d 1224. Appellant claims that her argument is not that the Initiative is substantively unconstitutional and could not be enforced if enacted. Appellant claims that the Initiative can be enforced, but only if the Legislature appropriates the funds necessary to expand access to free identification to all voters who need it.

Regardless of how creative Appellant's argument is, whether the Initiative can or cannot be enforced upon passage is a challenge that is brought "if and when the Initiative becomes law." *Id*.

Additionally, the implementation of a photo identification requirement to vote is not a violation of the Fourteenth or Twenty-Fourth Amendment as argued by Appellant. *Gonzalez v. Arizona*. 677 F.3d 383, 12 Cal. Daily Op. Serv 4138.

Moreover, even Appellant acknowledges that any harm is speculative since the measure may not even pass at election time. *Id*., *see* Opening Brief, p. 21 ("If the Petition is approved by the voters.").

As such, Appellant's claim that the Initiative is "substantively enforceable so long as the Legislature also expands access to free identification," is a substantive challenge since the Initiative does not provide for free identification, nor does it require the State to provide free identification. No matter how creative Appellant

is, the Initiative does not require an appropriate or expenditure and is not in violation of Article 19, section 6.

B. The Petition's description of effect is proper and valid.

An Initiative must set forth, in 200 words, "a description of the effect of the initiative" NRS 295.009(1)(b) "A description of effect serves a limited purpose to facilitate the initiative process, and to that end, it must be straightforward, succinct, and a nonargumentative summary of what the initiative is designed to achieve and how it intends to reach those goals. *Education Init. v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013).

Again, Appellant argues that the description of effect is not sufficient because it fails to tell the voter that if enacted, federal law will require Nevada to provide free voter identification to all who need it, at state expense. *See* Opening Brief, p. 24. However, the Initiative does not require Nevada to provide free voter identification.

Additionally, a description need not describe every effect adopting the Initiative might have. *Education Initiative v. Comm. to Protect Nev. Jobs*, 129 Nev. 37, 293 P.3d 874 (2013). The Initiative clearly sets forth the effect as it will amend the State Constitution and will now require all persons voting in person present an approved photo identification before being provided a ballot. Additionally, it provides that voters submitting a mail in ballot provide additional

verification so that their identity can be verified. Those Nevadans that are presented with the Initiative for signature can read the description of effect and will be informed at the time of signing of the nature and effect of what is being proposed, which is to amend the State Constitution. *Stumpf v. Lau*, 108 Nev. 826, 833, 839 P.2d 120, 124 (1992)

Accordingly, the goal of the Initiative is to require photo identification for voters who cast their ballots in person and to require additional information from voters casting their ballots by mail. To achieve these goals, the Initiative is seeking to amend the State Constitution.

As such, the district court's decision that the description of effect adequately summarizes the Initiative and complies with NRS 295.009 should be affirmed. The Nevada Supreme Court should not adopt Appellant's arguments because it would require the description of effect to delineate every effect that an initiative will have, or it could have, if passed. This type of requirement demanded by Appellant would obstruct, rather than facilitate, the peoples' right to the initiative process. *Education Initiative v. Comm. to Protect Nev. Jobs,* 293 P.3d 874, 876 (2013)

C. NRS 295.061(3) precludes a second challenge to the description of effect.

The Nevada Supreme Court will interpret a statute by its plain meaning unless the statute or regulation is ambiguous. *Savage v. Pierson*, 123 Nev. 86, 89, 157 P.3d 697, 699 (2007), the plain meaning "would provide an absurd result,"

Simmons Self-Storage Partners, LLC v. Rib Roof, Inc., 130 Nev. 540, 546, 331 P.3d 850, 854 (2014), or the interpretation "clearly was not intended," *Sheriff, Clark Cty. v. Burcham*, 124 Nev. 1247, 1253, 198 P.3d 326, 329 (2008).

In this case, NRS 295.061 specifically provides unambiguous language that, if the description is amended in compliance with the order of the court, ***the amended description may not be challenged.***

The passage of NRS 295.061 was to streamline the initiative process and to minimize the costs on the judicial resources and parties seeking to have an initiative placed on the ballot. The statue is to prevent situations such as what the Nevada Supreme Court is presented with today.

Reading NRS 295.061 as argued by Appellant would have an absurd result. Indeed, even if the Nevada Supreme Court determined that a description of effect was valid, after a successful challenge and amendment, the same person or a new party will be able to challenge the description of effect in subsequent litigation, and as many times as they wished.

In 2022, Judge Maddox issued an order, after the plaintiff successfully challenged the description of effect to an Initiative that sought to achieve the exact same goals as the pending Initiative and uses the exact same language. Compare JA 0100-0108 and JA 0193-0199.The district court's 2022 Order was not appealed.

Now, under Appellant's analysis, if the 2022 Initiative was appealed and subsequently affirmed, Appellant would still be entitled to challenge the language of the description of effect if the same Initiative came back before the Court.

NRS 295.061 was passed specifically to stop someone from bringing multiple actions against an Initiative's description of effect after it has already been scrutinized and amended by the Court.

As such, while the Nevada Supreme Court can affirm the district court's findings on the merits, it should take this opportunity to determine that NRS 295.061 precludes the serial challenging of the description of effect when there has already been a successful challenge and amendment.

D. Res Judicata and Collateral Estoppel apply as Appellant was in privity with Persaud-Zamora.

The doctrines of Res Judicata and Collateral Estoppel are "designed to preserve scarce judicial resources and to prevent vexation and undue expense to parties." *See Univ. of Nev. v. Tarkanian*, 110 Nev. 581, 598, 879 P.2d 1180, 1191 (1994). The doctrines are premised on fairness to the defendant and sound judicial administration by acknowledging that litigation over a specific controversy must come to an end. *Five Star Capital Group v. Ruby*, 124 Nev. 1048, 1058, 194 P.3d 709, 715 (quoting Restatement (Second) of Judgments § 19 cmt. a (1982)).

On April 26, 2022, the Honorable William A. Maddox issued the Findings of Facts and Conclusions of Law in *Persaud-Zamora v. Cegavske* (22 OC 00022),

which was about the related Initiative Petition C-03-0022. *JA 0100-0108* The Court amended the description of effect and concluded that the language of the proposed constitutional amendment does not create an appropriate or unfunded expenditure, and therefore does not violate Article 19, Section 6. *Id*.

In this case, the district court concluded that it "is public policy for the Court to render a decision on [the] merits of the parties' claims and defenses, and thus the Court concludes that the two initiatives before the Court are not the same, and thus, Res Judicata or Collateral Estoppel applies." JA 0198

Interestingly, while the Appellant only addresses the issue of privy between Appellant and *Persuad-Zamora*, the district court did not reject Repair the Vote's claim because of privy, but instead found that the two Initiatives were not the same.

Contrary to the district court's decision, the two Initiatives are the same. In fact, the language of the amendments to the Nevada Constitution is the exact same language for both Initiatives. *Compare* JA 0093 with JA 0015. The only difference in the Initiative documents is that the *Persuad-Zamora* description of effect was amended by the district court to become the exact same language to the current petition. As such, the district court erred in concluding that the two Initiatives are different and thus, issue and claim preclusion did not apply.

In regard to Appellant's argument that Ms. Fleishmann was not in privity[2], Appellant and *Presuad-Zamora* are "sufficiently close" to, such that their interests were adequately represented by the *Presuad-Zamora* petitioners. As Repair the Vote argued before the district court, *Persuad-Zamora* and Appellant have an identity of interests. JA 0082-0086. As residents and voters of the State of Nevada, they have a common interest in bringing a challenge to an Initiative under the requirements of becoming a properly registered voter, and the relevant statutes give them standing to bring challenges to enforce that interest. *See e.g*. *In the Matter of Election Contest Filed by Coday*, 156 Wash.2d 485, 130 P.3d 809(IV) (2006) (holding that a voter in an election contest challenging the results of the governor's election was in privity with a voter who had earlier filed the same challenge). When "nominally different parties" pursue causes of action as voters, on behalf of the body politic generally, such parties have been found to "have sufficiently identical interests to satisfy the 'identity of parties' inquiry'" because they possess "the same legal interests as all citizens of the state." *In re Recall of Pearsall–Stipek*, 136 Wash.2d 255, 261, 961 P.2d 343 (1998); accord *Snyder v. Munro*, 106 Wash.2d 380, 384, 721 P.2d 962 (1986) (holding that "all citizens of

[2] A privy is generally defined as 'one who is represented at trial and who is in law so connected with a party to the judgment as to have such an identity of interest that the party to the judgment represented the same legal right." *See Brown & Williamson Tobacco Corp. v. Gault*, 280 Ga. 420, 421(1), 627 S.E.2d 549 (2006) (citation omitted).

Washington state were well represented in" a prior suit brought by the leaders of the state Democratic and Republican organizations and state government officials, and that therefore res judicata barred registered voters from raising the same claim in a subsequent action).

Appellant's claim, by citing to *Mendenhall v. Tassinari*, 133 Nev. 614, 618, 403 P.3d 364, 369, that the Nevada Supreme Court has ***"never"*** adopted findings similar to the State of Washington and have consistently "demanded an actual 'relationship.'" However, in *Law v. Whitmer*, 136 Nev. 840, 477 P.3d 1123 (unpublished), the Nevada Supreme Court concluded that the plaintiffs in the election contest litigation were in privy to the plaintiffs in the previously filed lawsuits that asserted the same challenges, and the same facts underline the Law and Krause litigation.[3]

As such, even though Appellant did not participate in the *Persaud-Zamora* case, the two plaintiffs were acting in the same capacity, a registered voter, with the same legal interest as each other in challenging an initiative process. Like *Persaud-Zamora,* Appellant is a Nevada registered voter that is pursuing a challenge to an initiative. Appellant's interests are identical to that of *Persaud-*

[3] In concluding that there was privity between the Law contestants and Kraus petitioners, the Nevada Supreme Court cited to its sister state Washington to support its findings.

Zamora and of all citizens of the state: ensuring that an initiative is properly placed before Nevada voters.

Thus, while the Nevada Supreme Court can affirm the district court's findings on the merits, it should take this opportunity to find that issue and claim preclusion in this case provides alternative grounds to dispose of these issues so to avoid the unnecessary use of judicial resources and unnecessary expense to the parties. Precluding a party from bringing the same issue or claim in a different action supersedes the public policy that a decision should be made on the merits, especially since one of the major factors the Court considers is whether the issue or claim was previously litigated. Id.

IX. CONCLUSION

The district court's decision must be AFFIRMED.

DATED: April 19, 2024

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ATTORNEY'S CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), and 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 monospaced typeface using Microsoft Word from the Office 2016 Suite with Times New Roman type style size 14.

I further certify that this brief complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it does not exceed 30 pages.

Finally, I hereby certify that I have read this Respondent Repair the Vote's Answering 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)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found.

I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED: April 19, 2024.

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court and electronic service of the foregoing document shall be made in accordance with the Master Service List :

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DATED: April 19, 2024

/s/ Bryan Snyder
BRYAN SNYDER