

1 ORDR

2 EIGHTH JUDICIAL DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 HONORABLE CATHERINE RAMSEY
5 NORTH LAS VEGAS MUNICIPAL JUDGE,

6 Petitioner/Plaintiff,

7 vs.

8 THE CITY OF NORTH LAS VEGAS AND
9 BARBARA A. ANDOLINA CITY CLERK OF
10 NORTH LAS VEGAS, BETTY HAMILTON,
11 MICHAEL WILLIAM MORENO, AND BOB
12 BORGENSEN, INDIVIDUALLY AND AS
13 MEMBERS OF "REMOVE RAMSEY NOW",

14 Respondents/Defendants.

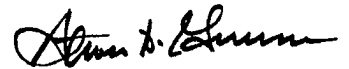
Case No. A-15-719406-P

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Dept. No. XX

Consolidated with:
A-15-719651-C



CLERK OF THE COURT

DECISION & ORDER

13 DECISION & ORDER

14 THIS MATTER came before the Court for oral argument on Petitioner/Plaintiff's
15 Emergency Petition for Injunction, A-15-719406-P, on June 18, 2015. On June 23, 2015, the Court
16 consolidated this action with Petitioner/Plaintiff's Complaint, A-15-719651-C. The Court held a
17 hearing on both matters on June 29, 2015 and July 2, 2015. Appearing on behalf of
18 Petitioner/Plaintiff HONORABLE CATHERINE RAMSEY NORTH LAS VEGAS MUNICIPAL
19 JUDGE was CRAIG A. MUELLER, ESQ., of the law firm of MUELLER, HINDS &
20 ASSOCIATES; appearing on behalf of Respondents/Defendants BETTY HAMILTON, MICHAEL
21 WILLIAM MORENO and BOB BORGENSEN was DOMINIC P. GENTILE, ESQ., ROSS J.
22 MILLER, ESQ. and COLLEEN E. MCCARTY, ESQ., of the law firm of GENTILE, CRISTALLI,
23 MILLER, ARMENI & SAVARESE; and appearing on behalf of Respondents/Defendants the CITY
24 OF NORTH LAS VEGAS and BARBARA ANDOLINA was RICHARD C. GORDON, ESQ.,

1 PATRICK E. BYRNE, ESQ., and DANIEL IVIE, ESQ., of the law firm of SNELL & WILMER.
2 This Court having considered all related pleadings, documents, and the arguments of counsel, makes
3 the following findings of facts and conclusions of law.

4 I. EMERGENCY PETITION FOR INJUNCTION AND FIRST CAUSE OF ACTION

5 A. Resolution of Procedural Issues With Petition for Injunction

6 As the Court noted at the first hearing in this matter on June 18, 2015, Petitioner/Plaintiff
7 [hereinafter Plaintiff] filed her Emergency Petition for Injunction under NRS 295.105(4) and NRS
8 33.010. However, NRS 295.105 does not concern petitions for recall, but rather, those for ballot
9 questions or referendums for municipalities. Consequently, NRS 295.105 does not provide a basis
10 for Plaintiff to seek her requested injunctive relief. The proper statutory provision under which
11 Plaintiff should have sought relief was NRS 306.040 which specifically concerns recall petitions.
12 Additionally, under Nevada Rules of Civil Procedure [NRCP] Rule 3 “[a] civil action is commenced
13 by filing a Complaint with the court.” NRS 33.010, which provides for the Court to grant injunctive
14 relief, states that an injunction may be granted in certain instances after the Plaintiff has filed a
15 Complaint or the parties have otherwise initiated litigation. Indeed, both NRS 306.040, addressing
16 recall petitions, and NRS 295.105, concerning city ballot initiatives, speak in terms of the
17 challenging party filing a complaint to bring the matter before the court. At the hearing, the Court
18 questioned whether Plaintiff had properly proceeded in this matter in that she had not filed a
19 Complaint to initiate litigation, or set out a proper basis for relief under NRS 295.105. She had only
20 filed an Emergency Petition for Injunction, which under NRS 33.010 requires the separate initiation
21 of litigation by Complaint.

22 At the hearing, Plaintiff’s counsel suggested that Judge Ramsey’s filing of the single petition
23 for injunction without filing a separate Complaint asserting a cause of action was intentional as
24 counsel did not see the reason or need to file two documents when one would be sufficient if it

1 provided all the necessary allegations and demands to satisfy the purposes of the NRCP. Plaintiff
2 asked the Court to construe the "Petition for Injunction" as both a Complaint initiating litigation and
3 a separate motion for injunctive relief although not labeled as such. Plaintiff further argued that
4 while the statutory basis for her action may be incorrect, her petition for injunction sets forth a
5 sufficient statement of facts and law to allege a violation of her Nevada Constitutional rights as a
6 judge and state her desired injunctive relief, meeting the requirements of NRCP 8(a). NRCP 8(a)
7 requires, "[a] pleading which sets forth a claim for relief, whether an original claim...shall contain
8 (1) a short and plain statement of the claim showing that the pleader is entitled to relief, and (2) a
9 demand for judgment for the relief the pleader seeks."

10 Although at the hearing held on June 18, 2015, Respondents/Defendants [hereinafter
11 Defendants] in the instant matter also questioned Plaintiff's procedural approach, they expressed
12 they were willing to allow the Court to construe Judge Ramsey's filing in a manner which would
13 allow this Court to rule on the underlying constitutional issue of whether a judge could be recalled
14 under the Nevada Constitution. Defendants, however, expressed concern that Plaintiff had also filed
15 a separate Complaint under NRS Chapter 306. Plaintiff in her first cause of action of the Complaint
16 effectively realleged her contention that the Nevada Constitution does not permit her recall.
17 Defendants expressed concern if the Court did not consolidate the two actions under NRCP 42(a),
18 Plaintiff would possibly seek "two bites of the apple" on the constitutional question before different
19 courts. Plaintiff's counsel would not commit to this Court to treat a decision on the constitutional
20 issue as determinative of the issue in Plaintiff's separate action.

21 Consequently, to effectuate the interests of the parties and expedite the orderly progression of
22 this litigation, the Court will treat Plaintiff's Emergency Petition for Injunction as a Complaint
23 alleging a violation of the Nevada Constitution as its cause of action and demanding declarative
24 relief. The Court will also treat the petition as a motion for injunction under NRS 33.010. Because

1 of the similarity of issues, the Court previously ordered the consolidation of A-15-719406-P and A-
2 15-719651-C. This Court is acting appropriately in this instance in view of the parties' assertions of
3 either no procedural errors or waiver of any procedural errors, and in view of NRCP 8's underlying
4 purpose to ensure that the documents filed to initiate litigation give fair notice of the basis of the
5 claim and relief being sought. The parties all clearly indicated they understood the constitutional
6 basis of Plaintiff's claim and the declarative relief sought.

7 B. Article 2, Section 9 of the Nevada Constitution Allows the Recall of Judges

8 Plaintiff contends as a judge, she is not subject to the recall provisions of Article 2, Section 9
9 of the Nevada Constitution and she may only be removed from the bench pursuant to Article 6,
10 Section 21, providing for the Nevada Commission for Judicial Discipline. To answer this question,
11 the Court must first determine whether at the time the legislature and Nevada voters approved
12 Article 2, Section 9 in 1912, they understood the term "[e]very public officer" as used in the article
13 to include judges. If so, then the Court next must determine whether the legislature and Nevada
14 voters understood their passage of Article 6, Section 21 in 1976, creating the Judicial Disciplinary
15 Commission, as repealing Nevada citizens' right to recall as to judges.

16 The Nevada Constitution Article 2, Section 9, sets out Nevadans' right to recall public officials.
17 It provides in relevant part:

18 Recall of public officers: Procedure and limitations. Every public officer in the State of
19 Nevada is subject, as herein provided, to recall from office by the registered voters of the
20 state, or of the county, district, or municipality which he represents. For this purpose, not
21 less than twenty-five percent (25%) of the number who actually voted in the state or in the
22 county, district, or municipality which he represents, at the election in which he was
elected, shall file their petition, in the manner herein provided, demanding his recall by the
people. They shall set forth in said petition, in not exceeding two hundred (200) words, the
reasons why said recall is demanded.

23 This provision of the Nevada Constitution was added by amendment in 1912, as part of a section of
24 the Constitution entitled "Suffrage." This indicates that at the time of its adoption, the legislature

1 and voting citizens perceived the amendment to further define Nevada citizens' rights as voters
2 generally. The legislature in drafting the amendment did not set out an exclusive list of included
3 offices or descriptions of positions. Instead, the legislature passed and Nevada citizens approved an
4 amendment which broadly provides for "[e]very public officer" to be subject to recall. The term
5 "public officer" is not expressly defined in the Nevada Constitution. In determining whether a judge
6 is a "public officer" within Article 2, Section 9, this Court is mindful of the basic interpretive
7 principal that the Nevada Constitution should be construed in its ordinary sense unless some
8 apparent absurdity or unmistakable interest of its framers forbids such construction. *State ex rel.*
9 *Lewis v. Doron*, 5 Nev. 399, 411 (1870). Consequently, where the language in the Nevada
10 Constitution is plain and not ambiguous, it should be read in those plain and unambiguous terms.
11 *State ex rel. Summerfield v. Clarke*, 21 Nev. 333, 337, 31 P. 545 (1982). These principles were
12 recently reaffirmed by the Supreme Court in the context of interpreting Article 2, Section 9, in
13 *Strickland v. Waymire*, 126 Nev. Adv. Op. 25, 235 P.3d 605, 608 (2010), explaining "we, like the
14 United States Supreme Court, 'are guided by the principle that "[t]he Constitution was written to be
15 understood by the voters; its words and phrases were used in their normal and ordinary as
16 distinguished from technical meaning.'" [quoting *District of Columbia v. Heller*, 554 U.S. 570
17 (2008) (quoting *United States v. Sprague*, 282 U.S. 716, 731 (1931))]. Consequently, the Court must
18 first consider whether "public officer," in the normal and ordinary sense of the term, includes a
19 judge.

20 In this regard, this Court believes an average voter would normally and ordinarily perceive
21 the term "[e]very public officer" to include all officials exercising some level public authority,
22 inclusive of all executive, legislative and judicial officials. The Court finds support for its
23 perception of the normal and ordinary meaning of "every public official" from a variety of sources.
24 For example, Merriam-Webster OnLine, whose hardcover dictionary the Nevada Supreme Court

1 referenced in *Strickland v. Waymire* to assist in determining the ordinary meaning of “number” and
2 “actually,” 126 Nev. Adv. Op. 25, 235 P.3d at 609 (quoting *Webster's New Universal Unabridged*
3 *Dictionary* (2d ed. 1996)), defines “public officer” as “a person who has been legally elected or
4 appointed to office and who exercises governmental functions.” *Merriam-Webster OnLine*, “Public
5 Officer,” (June 28, 2015) www.merriam-webster.com/dictionary/public%20officer. Judges are
6 officials who are elected or appoint to office and exercise certain governmental functions. Another
7 example, the Nevada Supreme Court in its opinion in *Nevada Judges Association v. Lau*, 112 Nev.
8 51, 60, 910 P.2d 898, 904 (1996), indicated that its members generally understood the term “all
9 public officials” to typically include judicial officers. In discussing the original language of the
10 proposed amendment setting term limits for state and local public officials, the high Court
11 referenced how the initiative’s language lumped together “all public officials—whether legislative,
12 executive or judicial.” *Id.* In its advisory opinion last month, the members of the State of Nevada
13 Standing Committee On Judicial Ethics, while not specifically dealing with the definition of “public
14 officer” under Article 2, Section 9, clearly indicated that they read the term’s general meaning to
15 include judges, commenting “under Article 2, Section 9, “sitting judges are subject to recall petition
16 and election just as they are subject to regular elections.” *Advisory Opinion JE15-011* (May 14,
17 2015). Even the legislative history Plaintiff quotes in reference to the Judicial Disciplinary
18 Commission supports the view that ordinary voters or legislators understand the term “every public
19 officer” to include judicial officers. In the Nevada State Legislature Background Paper 81-8
20 JUDICIAL DISCIPLINE, which Plaintiff states was intended to inform members of the legislature
21 as to issues relating to judicial discipline, the writer notes: “Because of the shortcomings of
22 impeachment, recall and legislative address, the judicial discipline commission was develop to
23 handle judicial misconduct.” The reference in the quote to shortcomings with recall demonstrates
24 that the writer for the background paper understood the Article 2, Section 9’s reference to “every

1 public officer” to include judicial officers. Defendants note other sources which also clearly
2 understand the term “every public officer” as used in the Nevada Constitutions recall provisions to
3 include judicial officers. James J. Alfani, Steven Lubet, Jeffrey M. Shaman, Charles G. Geyh,
4 *Judicial Conduct and Ethics* 14.06 (5th ed. 2013); National Center for State Courts, *Removal of*
5 *Judges*, (June 28, 2015)
6 www.judicialselection.us/judicial_selection/methods/removal_of_judges.cfm?state=. While the
7 Nevada Supreme Court, Ethics Committee, and other sources noted above were not being
8 specifically asked to define public officer or officials in their decisions or writings, their use of the
9 term in the manners they did, reinforces this Court’s general view that the normal and ordinary
10 understanding of the term “[e]very public official” in Article 9, Section 2, includes judicial officers.

11 The Nevada Supreme Court has not had the opportunity to consider the question whether a
12 judge is a public officer subject to recall. However, the high Court, just three years after the recall
13 amendment in 1915 had the opportunity to generally consider what government positions should be
14 considered “civil office of profit” as included in Article 4, Section 8 of the Nevada Constitution. In
15 *State ex rel. Kendall v. Cole*, 38 Nev. 215, 148 P. 551 (1915), the Nevada Supreme Court discussed
16 at length the concept of a “public office,” listing and approving a number of prior court cases from
17 different jurisdictions discussing the attributes of a public office as opposed to public employment or
18 private office. These approved factors included:

19 (1) whether the holder of the office is entrusted with some portion of the sovereign
20 authority of the state; (2) whether his duties involve the continuous exercise, as part of
21 the regular and permanent administration of the government, of a public power, trust or
22 duty; (3) whether his compensation, period of employment and the details of his duties
are set forth in statute or in the constitution; (4) whether he must take the oath of public
office pursuant to Nev. Const. art. 15, sec. 2; and (5) whether he must keep a record of
his official acts.

23 1987 Nev. Op. Atty. Gen. No. 7 (March 27, 1987)(citing *Kendall*, 38 Nev. at 231-232).

24 All of these attributes can be found in the position of a judge. Judges take an oath of office, their

1 compensation, terms of office, jurisdiction and general duties are set by law, they exercise some
2 portion of the sovereign authority of the state, exercise a public power and trust, and keep records of
3 their official acts.

4 Plaintiff argues only executive and legislative officers are subject to recall. The fact the
5 constitutional provision for recall lies in Article 2 of the Nevada Constitution, concerning citizens'
6 suffrage rights, and not in Articles 4 and 5 concerning legislative and executive branches appears to
7 belie that suggestion. She also points to NRS 281A.160, a provision of NRS Chapter 281A, which
8 concerns Ethics in Government and contains certain provisions generally applicable to public
9 officers. NRS 281A.160 defines public officers to exclude judicial officers. She argues that through
10 this statute the legislature demonstrated the term "public officer" does not include judicial officers.
11 However, the legislature frequently uses general terms in its statutes and then provides specific
12 definitions of the term applicable to that statute only. Indeed, in NRS 281A.030, the statute
13 expressly states the definitions in NRS 281A.035 through NRS 281A.170 are for the words and
14 terms "[a]s used in this chapter," relating to *Ethics in Government* and not broadly to all statutes and
15 the Constitution. As Defendants point out, the *Ethics in Government* statute logically excludes
16 judges because the ethical requirements for judges are set out in the Nevada Code of Judicial
17 Conduct and discipline is administered through the Nevada Commission on Judicial Discipline and
18 Nevada Supreme Court. Consequently, the legislature simply excluded judicial officers from the
19 public officers whose ethical requirements are defined in NRS Chapter 281A. What is significant,
20 however, is the legislature in excluding judicial officers as "public officials" under NRS Chapter
21 281A, must have believed the general understanding of the term public officer would include
22 judicial officers; otherwise, there would have been no reason to specifically exclude them in the
23 statute.

24 Because it finds the constitutional language is clear on its face and not ambiguous and

1 susceptible to two or more reasonable interpretations, this Court has no need to look and consider
2 anything beyond the language of Article 2, Section 9. *Strickland v. Waymire*, 126 Nev. Adv. Op. 25,
3 235 P.3d at 608. However, this Court also finds persuasive the Attorney General's 1987 opinion's
4 detailed analysis of the historical and legislative background concerning the passage of the recall
5 amendment in 1912. This history strongly indicates the amendment was part of the Progressive
6 movement at that time which involved, in part, an anti-judicial sentiment. 1987 Nev. Op. Atty. Gen.
7 No. 7 (March 27, 1987) (citing *Fossey, Meiners v. Bering Strait School District and the Recall of*
8 *Public Officers: A Proposal for Legislative Reform*, 2 Alaska L. Rev. 41, 42 (1985); Moser,
9 *Populism A Wisconsin Heritage: Its Effect on Judicial Accountability in the State*, 66 Marquette L.
10 Rev. 1, 36 (1982); J. Hurst, *The Growth of American Law*, 360 (1950). Of particular interest to the
11 Court are three other western states at that same approximate time passed recall amendments with
12 very similar language to Nevada's, allowing for the recall of public officers without any limitation.
13 As the Nevada Attorney General pointed out, "[u]nlike Nevada, in Arizona, Colorado, and Oregon,
14 their recall provisions have been subjected to judicial scrutiny. In all three of the states, the courts
15 have held that judges are public officers subject to recall pursuant to their constitution. *Abbey v.*
16 *Green*, 235 P. 150 (Ariz. 1925); *Marians v. People ex rel. Hines*, 169 P. 155 (Colo. 1917); *State ex*
17 *rel. Clark v. Harris*, 144 P. 109 (Ore. 1914)." 1987 Nev. Op. Atty. Gen. No. 7 (March 27, 1987).
18 The Court also notes the authorities the Attorney General cites which discuss how the Nevada Bar
19 Association, following the lead of the American Bar Association, formally opposed the passage of
20 the recall amendment in 1912 because it permitted the recall of judicial officers. *Id.* (citing the
21 *Carson City Appeal*, July 26, 1912, at 4, col. 3). Despite the opposition of the Nevada Bar
22 Association and the American Bar Association, Nevada voters overwhelmingly approved amending
23 the constitution to allow the recall of "[e]very public officer." *Id.* (citing Secretary of State (William
24 D. Swackhamer), *Political History of Nevada*, (Carson City: State Printing Office, 1986) at 262).

1 Considering the plain and unambiguous language of Article 2, Section 9, as well as the relevant
2 history surrounding the passage of the recall amendment in 1912, the Court finds the term “[e]very
3 public officer” used in the article includes judges and the article permits voters to recall a judge.

4 The Court now turns to Plaintiff’s contention that the legislature and voters in approving
5 Article 6, Section 21, in 1976, creating the Nevada Commission on Judicial Discipline, either
6 intended to limit the removal of judges to proceeding brought under the auspices of the Commission,
7 or otherwise enacted a constitutional amendment inconsistent with Article 2, Section 9 and,
8 consequently, superseding it. *Rea v. City of Reno*, 76 Nev. 483, 357 P.2d 585, 587 (1960) (if
9 provisions of the Constitution are inconsistent with each other, the provision adopted later is
10 controlling).

11 Plaintiff initially contends Article 6, Section 21 of the Nevada Constitution, providing for
12 judicial discipline, was intended by the legislature and voters through its drafting and passage to be
13 the sole mechanism for removal of judges. However, neither the language of the amendment nor the
14 ballot explanation provided at the time of its passage in 1976 express that Nevada’s voters are giving
15 up their right to recall their judges by approval of the amendment. The legislature could have easily
16 made such provisions in the amendment’s language to modify Article 2, Section 9, if that was its
17 intent. If the legislature and voters in 1976 intended by the passage of Article 6, Section 21 to
18 eliminate the right to recall judges under Article 2, Section 9, this Court “would expect a direct state
19 and express language to that effect.” *Strickland v. Waymire*, 126 Nev. Adv. Op. 25, 235 P.3d at 611
20 (2010) (citing 3 Norman J. Singer & J.D. Shambie Singer, *Sutherland Statutory Construction* 58:3,
21 at 114-15 (7th ed. 2008). Nowhere in the ballot explanation does it suggest, much less clearly state,
22 that voters in approving the amendment are modifying Article 2, Section 9, and surrendering their
23 right to recall judges. Nevada Secretary of State, *Constitutional Amendments to be Voted Upon in*
24 *State of Nevada at General Election*, November 2, 1976, at 16-17 (1976).

1 The amendment creating the judicial disciplinary commission is not inconsistent with the
2 constitutional provisions providing for recall of public officers. Article 6, Section 21, like
3 impeachment as provided in Article 7, Section 2, provides for discipline of judges for misdemeanor
4 or malfeasance while in office. Article 2, Section 9, in providing voters the right to recall a public
5 officer, does not require any allegation of misfeasance, nonfeasance or malfeasance. All that is
6 demanded is the voters seeking recall of an official state a reason. "The merit of that reason as
7 grounds for removal is for the electorate to determine...." *Batchelor v. Eighth Judicial Dist. Court*,
8 81 Nev. 629, 633, 408 P.2d 239, 632 (1965). Consequently, recall provides a separate basis
9 independent of the disciplinary function of the judicial disciplinary commission to remove a judge.
10 As the Nevada Attorney General in his 1987 advisory opinion pointed out:

11 we are of the opinion that Nev. Const. art. 6, sec. 21 is not applicable to our analysis of
12 whether a district judge is a public officer subject to recall, since the provisions of art.
13 2, sec. 9 and art. 6, sec. 21 are not inconsistent. *See Rea v. City of Reno*, 76 Nev. 483,
14 488, 357 P.2d 585 (1960). In contrast to a disciplinary action, there need not exist a
good reason for recall of a public officer, nor is there a requirement that cause be
shown. The merit of the recall petition is for the people to decide. *Batchelor v. Eighth
Judicial District Court*, 81 Nev. 629, 408 P.2d 239 (1965).

15 1987 Nev. Op. Atty. Gen. No. 7 (March 27, 1987).

16 Plaintiff argues that NRS 1.440(1) clearly demonstrates that the legislature has interpreted
17 the amendment creating the Nevada Commission on Judicial Discipline to eliminate the voters' right
18 to recall judges. This section reads: "The Commission has exclusive jurisdiction over the public
19 censure, removal, involuntary retirement and other discipline of judges which is coextensive with its
20 jurisdiction over justices of the Supreme Court and must be exercised in the same manner and under
21 the same rules." In *Halverson v. Hardcastle*, 123 Nev. 245, 263, 163 P.3d 428, 441 (2007) the
22 Nevada Supreme Court stated "[u]nder the Nevada Constitution, the judicial discipline commission
23 exercises exclusive jurisdiction over the formal discipline of judges which may include censure,
24 removal, and retirement." NRS 1.440 only provides for the Commission to have exclusive

1 jurisdiction over the “discipline” of judges. Likewise, in *Halverson*, the Supreme Court stated only
2 the judicial discipline commission has exclusive jurisdiction over the “formal discipline” of judges,
3 which could amount to removal of the judge from his or her position. The voters’ right to recall
4 extends to virtually any reason a sufficient number of voters believes would justify removal of a
5 public official. Consequently, recall is not definitively a form of “discipline”. Consequently, as
6 noted above, Article 6, Section 21 and NRS 1.440 are not inconsistent with the right to recall in
7 Article 2, Section 9, and neither limits the voters’ right to recall judges. Moreover, the Nevada
8 Supreme Court in *Halverson* seemed to recognize that the Commission does not possess the sole
9 authority or means to remove a judge. In stating “[u]nder the Nevada Constitution, the Judicial
10 Discipline Commission exercises exclusive jurisdiction over the formal discipline of judges,” the
11 Supreme Court provided a lengthy citation to Article 6, Section 21, and court cases discussing the
12 concept of exclusive jurisdiction, but then at the end of the citation added: “*But see Nev. Const. art.*
13 *2, § 9; id. art. 7, § 2; NRS 3.092 (providing for the voluntary retirement of district court judges for*
14 *permanent physical or mental incapacitation from performing the duties of office, regardless of*
15 *age).*” *Id.* at n. 37.

16 Plaintiff argues public policy considerations support finding that judges should not be subject
17 to recall and put at risk of being influenced by public opinion and electoral pressures. Whether
18 judges should be subject to election and, consequently, subject to removal by voters is a debate
19 various states have answered in different ways. Nevada voters have, on more than one occasion,
20 considered and rejected constitutional amendments providing for the initial appointment of judges
21 with subsequent retention votes by the electorate. Nevada citizens plainly want the right to elect
22 their judges and their history also strongly suggests they want be able to recall them. The Court
23 finds no reason to doubt the wisdom of Nevada citizens having the right to recall their judges.
24 Nevada citizens have not abused this privilege and this State’s history demonstrates they appreciate

1 the significance of this responsibility. As Plaintiff notes, in Nevada's 150-year history, voters have
2 never recalled a judge. Rather than demonstrate that judges should not be subject to recall, this fact
3 demonstrates Nevada voters are prudent and considerate in exercising their right to recall and not
4 subject to political whims and frivolous causes. Indeed, the approval of the recall petition in this
5 matter does not mean that Plaintiff will ultimately be recalled. Voters will be asked to consider the
6 reasons for recalling Plaintiff and decide whether the reasons are sufficient to recall her. Voters can
7 reject or accept those reasons as they, in their insight, believe is right. This is their right under the
8 Nevada Constitution and this Court sees no basis to alter that because of fears of frivolous political
9 winds, fears for which there are no factual basis. As the Supreme Court stated in *Batchelor*:

10 'All political power is inherent in the people. Government is instituted for the
11 protection, security and benefit of the people; and they have the right to alter or reform
12 the same whenever the public good may require it.' Nevada Constitution, Art 1, § 2.. In
13 theory, a public officer need not fear recall if the reason given therefor is frivolous. In
14 such case the required number of signatures on the petition to force an election should
15 not be obtained and, if perchance, the required number of signatures is obtained, an
intelligent, informed electorate reading the reason printed on the ballot as required, will
not vote to recall him. Our governmental scheme dignifies the people; a treasured
heritage, indeed. The provision for recall is but one example. We shall not intrude upon
the people's prerogative.

16 The Court denies and dismisses Plaintiff's Petition/Complaint seeking a declaratory
17 judgment that judicial officers are not subject to recall pursuant to Article 2, Section 9 of the Nevada
18 Constitution, and it finds judges are public officers subject to recall under the provision of that
19 section. Consequently, the Court denies Plaintiff's Petition/Motion for injunction to stop the recall
20 petition of Judge Ramsey. Further, the Court dismisses Plaintiff's first cause of action of her
21 Complaint which contends she is not subject to recall under NRS 306.020 because the term "public
22 official" does not include judges. The Court finds NRS 306.020 was passed to aid in implementing
23 the voters' right to recall pursuant to Article 2, Section 9, and the term "[e]very public official" used
24 in NRS 306.020 does include judges as subject to recall.

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1 Department in identifying the person who signed the petition and determining if he or she was a
2 registered voter in the proper district. This purpose is accomplished by a signer providing his or her
3 street address and no need exists for the signer to include a zip code. Plaintiff at the hearing
4 introduced no other evidence or made any other argument concerning the failure of signers to
5 provide their addresses. The Court finds Plaintiff's challenge to the petitions is not substantiated.

6 Likewise, at the hearing, the Court asked Plaintiff's counsel to explain his challenge that 40
7 signatures did not have the words "Recall Petition" in 10 pt bold type immediately above them.
8 Counsel explained Plaintiff had found a number of signatures where the signers had signed in the
9 space designated for "Print Your Name" and then printed their names in the space designated for
10 signature. Counsel argued, because the words "Recall Petition" were printed on the petition form at
11 the top of each space on the form designated for signature and the space for "Print Your Name" was
12 located on the form above the space for signature, when a signer signed in the "Print Your Name"
13 space, the words "Recall Petition" were not immediately above his or her signature.

14 Plaintiff called Mark Preusch, a private investigator she hired to review the petitions in this
15 matter. Mr. Preusch testified he had reviewed the petitions and found 117 instances where the signer
16 had failed to include the date he or she signed the petition and 124 occasions where the signer had
17 dated the petition in the wrong location. Defendants in turn called Monica Eisenman who was a
18 supervisor of the verification of random sample signatures. She testified that in verifying a signature
19 where a date was not included, the Clark County Election Department employees would look at
20 surrounding signatures and the date or dates they were signed to determine the approximate missing
21 date.

22 In *Cleland v. Eighth Judicial District Court*, 92 Nev. 454, 552 P.2d 488, 489-90 (1976), a
23 public official subject to a recall petition challenged the petition, claiming it did not strictly adhere to
24 the requirements of NRS Chapter 306. The Nevada Supreme Court noted it had previously held that

1 “recall statutes should be liberally construed with a view toward promoting the purpose for which
2 they are enacted.” *Id.* The high Court concluded: “We find the rule of substantial compliance best
3 furthers this purpose and is apposite to the determination of sufficiency and validity of petitions here
4 involved.” *Id.* The Nevada Supreme Court has subsequently reaffirmed this standard in *Nevadans*
5 *for Nevada v. Beers*, 122 Nev. 930, 142 P.3d 339 (2006), where the Court stated a substantial
6 compliance standard is generally applied to statutory requirements, and in *Las Vegas Convention*
7 *and Visitor Authority v. Miller*, 124 Nev. 669, 191 P.3d 1138, 1146-47 (2008), where the Court
8 again held it looked for substantial compliance with a statutory requirement in the election context,
9 stating “a substantial compliance standard accords proper deference to the people’s initiative power.”

10 Plaintiff introduced no testimony or other evidence identifying the signatures on the petitions
11 which were above, rather than immediately below, the words “Recall Petition.” Regardless, this
12 Court finds those individuals who signed the petitions and who inadvertently placed their signatures
13 in the box for “Print Your Name,” and, consequently, immediately above the words “Recall
14 Petition” in 10 pt bold print were in substantial compliance with statutory requirements. The
15 purpose of the requirement is to ensure the individual signing the petition understands his or her
16 signature is being placed on a recall petition. The words “Recall Petition” are in large print at the
17 top of every page of the petition and are repeated in every signature box on the page. As noted
18 above, the words are just below the signature of a person who signs in the “Print Your Name” space.
19 Consequently, the Court has little doubt the signers did understand they were signing a recall
20 petition.

21 This Court also finds that Election Department employees acted properly when they used
22 surrounding signatures with dates on the petition to determine the date of signing for a person who
23 signed without including a date. NRS 306.011(3) provides after giving notice of intent to circulate a
24 petition for recall, those leading the recall effort have 90 days to collect the necessary number of

1 signatures. This window of time to obtain signatures “serves to notify elected officials of the
2 relevant time periods involved and discourages frivolous and harassing petitions.” *Citizens for*
3 *Honest & Responsible Government v. Heller*, 116 Nev. 939, 11 P.3d 121, 127 (2000). This statutory
4 provision and its underlying purpose are met when Election Department officials through reasonable
5 and reliable means can determine the approximate date a voter has signed a petition and if the voter
6 signed within the 90 day period for collecting signatures. The Court finds a petition signer who
7 inadvertently fails to date his or her signature substantially complies with the statute and its purpose
8 when it can be reasonably determine the approximate date of signing.

9 B. Sufficiency and Accuracy of Random Sample Verification

10 While Plaintiff did not specifically challenge in her complaint the adequacy of the random
11 sample process to statistically determine the number of valid signatures gathered in the petition, she
12 did make several assertions in her Complaint that the random sample process failed to statistically
13 identify large numbers of invalid signatures. At the hearing, Plaintiff’s counsel directly challenged
14 the adequacy of the random sample process to accurately determine the number of valid signatures
15 and requested a verification of all signatures on the petitions.

16 NRS 306.035(2) and NRS 293.1276-293.1279 allows the Election Department to use a
17 statistical sampling procedure to determine the number of valid signatures on a petition and the
18 Nevada Secretary of State may certify a recall election on the basis of such a sampling. The
19 Election Department is required to pull an entirely random selection of 500 signatures or 5 percent
20 of all signatures, whichever is larger, for verification. Both Ms. Eisenman and Registrar of Voters
21 Joseph Gloria testified this random selection is done through use of a computer program which
22 ensures the consideration of each signature on the petition for selection to the random sample. The
23 Nevada Supreme Court has found the use of the random sample procedure to be accurate and
24 constitutional as it “clearly creates a more efficient, less costly and less time-consuming process....”

1 that “aids in the operation’ of the recall right.” *Citizens for Honest & Responsible Government v.*
2 *Heller*, 116 Nev. 939, 11 P.3d at 128 (quoting Nev. Const. Art. 2, Sec. 9). In *Citizens for Honest &*
3 *Responsible Government*, the high Court commented the process appears to be accurate. The Court
4 noted the case involved the verification of two petitions, the first of which the Secretary of State had
5 ordered be fully verified. In looking at the random sample statistical determination of invalid
6 signatures against the actual full verification of the petition, the Court found the statistical sampling
7 was accurate to within 0.25 percent of the actual number of verified signatures. The Court noted,
8 “[t]his small discrepancy is indicative of the sampling procedure’s reliability and rebuts any
9 insinuation that an individual’s vote might be overlooked by the procedure.” *Id.* In the instant
10 matter, the Clark County Election Department drew 500 signatures for the sample because of the
11 low number of signatures on the petitions. This number represented approximately 18 percent of all
12 signatures, much higher than the 5 percent required for petitions with a larger number of signatures.
13 Consequently, as Mr. Gloria explained in his testimony, the size of the sample insured greater
14 accuracy than in a case with only a 5 percent sampling. This Court, in considering Plaintiff’s
15 challenges to the accuracy of the random sampling in this case finds Judge Ramsey has failed to
16 present evidence showing the sample failed to accurately determine the statistical occurrence of
17 invalid signatures.

18 Plaintiff asserts that a large number of duplicate signatures are on the petitions beyond the
19 statistical number picked up in the random sampling. Plaintiff claims at least 174 people signed the
20 petitions two or more times, resulting in about 184 duplicate signatures being invalid. The only
21 evidence Plaintiff submitted as to the number of duplicate signatures was the testimony of Mr.
22 Preusch, who counsel represented had made no report concerning his review of the petitions and was
23 only going to reference his notes from the review. In response to Plaintiff’s counsel’s question on
24 re-direct “did you find or did you locate somebody—individuals who had signed multiple times, the

1 same signature on the—or different petitions?”, Mr. Preusch answered “Yeah, there were 356
2 names.” On further questioning by the Court concerning his answer about duplicate signature, the
3 witness stated “So 356 people that had signed the petition had also signed one of the other petitions
4 as well.” The Court then asked “Again, you didn’t keep any list or notations as to which ones you
5 found?” The witness responded “No.” Counsel for Defendant City of North Las Vegas asked a
6 follow-up question: “I’m still not clear with respect to the 356. Was it witness’ testimony that then
7 there’s approximately 180 examples where there’s duplicates and that comes up to the 356 number,
8 or are we suggesting that there are actually – how many would you say, of the 356, would actually
9 need to be removed is what I’m....” The witness responded, “Jeez, you know, I couldn’t answer
10 that. We’d really have to go through each one again and come up with that tabulation.”

11 Subsequently after the June 29, 2015 hearing, the Court determined it would like further
12 information from Mr. Preusch as to how he calculated the numbers he gave in his testimony. The
13 Court, on the morning of July 1, 2015, had his staff contact Plaintiff’s counsel to have Mr. Preusch
14 available to participate in the July 2, 2015, hearing, either in person or by telephone and to bring all
15 materials and notes he relied upon in his review of the petitions. On July 2, 2015, at 1:00 p.m.,
16 Plaintiff’s counsel represented his office had been unable to make any contact with Mr. Preusch in
17 the approximate 27 hours since the Court had requested his participation. However, Plaintiff’s
18 counsel produced four sets of tabulations he represented the witness had relied upon in making his
19 determinations of signature challenges for his testimony. Counsel stated that friends of the Plaintiff
20 had actually reviewed the petitions and made the lists and Mr. Preusch had been asked to review the
21 lists against the petitions to ensure they were accurate. Counsel did not disclose the detailed lists
22 Mr. Preusch purportedly used to conduct his investigation prior to witness’ testimony, despite being
23 asked on Monday if the witness had done any report as to how he compiled his tabulations or
24 identified the challenged signatures. Counsel simply stated the witness did not prepare a report, but

1 made no mention of the four tabulation lists. Mr. Preusch in his testimony made no mention of
2 being given the tabulation lists or using them in his review of the petitions, testifying he was
3 "requested to do a comprehensive review of all of the signatures, the petitions. . . ." Despite being
4 asked on at least three occasions if he did any tabulation or had anything which would identify the
5 signatures about which he was challenging, Mr. Preusch at no time mentioned the tabulation lists
6 that according to Plaintiff's counsel had been provided to him to check against the petitions.
7 Plaintiff's counsel provided the Court with copies of the four tabulation lists but never offered them
8 into evidence.

9 In response to Mr. Preusch's testimony concerning duplicate signatures, Defendant
10 Committee Members offered the testimony of Ms. Lauren Paglina. Ms. Paglina testified she was a
11 Summer Law Clerk at Defendants' counsel's law firm and had started reviewing the petition
12 signatures to determine possible duplicates. She explained she did this by entering the names from
13 the petitions into a database alphabetically to identify possible duplicate signatures to compare. She
14 testified she had been able to go through approximately 1,100 signatures before the hearing and had
15 identified 16 duplicate signatures.

16 While neither party's witnesses offered any tabulation identifying the duplicate signatures
17 that they had identified for the Court to consider as part of the evidence on this issue, this Court
18 finds the testimony of Ms. Paglina more credible in terms of evaluating the signatures for duplicates.
19 Ms. Paglina was able to explain the process she used to identify possible duplicate signatures which
20 reasonably included entering the signatures from the petitions in a database alphabetically to identify
21 signatures to compare and determine if they appeared duplicative. This contrasts to Mr. Preusch's
22 testimony in which he had difficulty articulating how he went about making his tabulations. The
23 Court is also troubled by what it finds as Mr. Preusch's questionable candor in failing to mention he
24 was provided with tabulation lists others had compiled for him to use to look and compare specific

1 signatures to challenge. Additionally, Ms. Paglina's statistical tabulation of 16 duplicates in
2 approximately 1,100 signatures, 1.4 percent, is consistent with the statistical occurrence of
3 duplicates in the random sample of 1.4 percent.

4 Finally, even accepting Plaintiff's contention that the random sample resulted in a significant
5 statistically deviation from the actual number of duplicates in all the petitions, the removal of the
6 signatures Plaintiff challenges would not bring the petition below the number needed for recall.
7 Plaintiff challenges 184 signatures as duplicate of other signatures in the petitions. Removing from
8 this number, 38 signatures that the random sample already identified and subtracted from the total
9 number of signatures (1.4% of 2717 is 38), and removing the remaining 146 challenged signature
10 from the 2,282 signatures the random sample validated results in 2,136 remaining. Consequently,
11 the Court finds that Plaintiff's challenge to the accuracy of the random sample based on her
12 contention of additional duplicate signatures does not undermine the use of the random sample in
13 this case.

14 Plaintiff in her Complaint contends the petitions contain 295 signatures signed by other
15 members of a household and should not be counted. However, Mr. Preusch testified that while he
16 observed occasions where he saw signatures which he believed were possibly signed by only one
17 member of a household, he did not "recall" how many time he saw such occurrences. He admitted
18 he did not document that number and just remembered seeing that "at least one or a couple times."
19 Plaintiff's counsel did provide as one of the four tabulations given to the Court on July 2, 2015, a
20 compilation represented to identify signatures signed by other members of a household. However,
21 Plaintiff did not seek to authenticate or admit the tabulation. Left with Mr. Preusch's testimony that
22 he noticed this occurring one or two times in the petitions, the Court finds no evidentiary basis for
23 Plaintiff's contention the random sample in this matter failed to accurately determine the statistical
24 occurrence of signatures signed by other members of a household.

1 Plaintiff did not raise in her Complaint the issue whether the random sample failed to
2 accurately determine the statistical occurrence of signatures by people who were not registered to
3 vote. At the hearing, Mr. Preusch testified 292 people who had signed the petition were not on the
4 list of registered voters for the 2011 General Election. On cross-examination, Mr. Preusch when
5 asked if he made any tabulation of the names of signers who were not registered to vote, stated, "No,
6 I did not." And when asked if he had anything with him right now to "show the Court where the
7 names came from," Mr. Preusch answered, "I do not." Plaintiff's counsel on July 2, 2015, gave the
8 Court a tabulation he identified as having been made by Plaintiff's friends which indicated 295
9 signatures were from "Persons Not on Voter List -From June 7, 2011 NLV General Election."
10 Neither Mr. Preusch, nor Plaintiff's counsel expressed or defined what they meant by "not registered
11 voters" or "Persons Not on Voter List - From June 7, 2011 NLV General Election." Significantly,
12 the Clark County Election Department in its review of the random sample excluded 57 signatures for
13 having not voted in the 2011 General Election, having an address change, being in the wrong district
14 or district invalid and not being registered. These categories would seem to be encompassed in the
15 general scope of "Persons Not on Voter List." The number of 295 names Plaintiff challenges
16 constitutes 10.9 percent of the total signatures. The 57 names the Election Department invalidated
17 from the random sample due to registration problems constitute 11.4 percent of the random sample
18 of 500. Plaintiff fails to establish any basis to believe the random sample failed to accurately
19 determine the statistical occurrence of signatures that should be excluded for registration and voting
20 problems.

21 During the hearing, Plaintiff's counsel questioned Mr. Gloria, Ms. Eisenman and Ms. Paglina
22 about specific instances of what counsel perceived as possible duplicate signatures as well as other
23 possible invalid signatures which were not part of the random sample and several instances where
24 counsel believed certain signatures should not have included in the sample. The Court finds these

1 limited number of instances as unpersuasive in that such incidents should statistically be picked up
2 and excluded through the statistical determination of valid signatures in the random sample.
3 Plaintiff's counsel also questioned Mr. Gloria about why certain information on the Election
4 Department's random sample detail list did not match certain information on the petitions. Mr.
5 Gloria explained the detail list was essentially an internal document used to assist Election
6 Department officials in the validation of the signatures in the sample. Mr. Gloria gave a number of
7 explanations for these variations which the Court finds reasonable and does not undermine the
8 integrity of the verification process.

9 C. Plaintiff's Representatives Allowed to Witness Verification

10 Although not raised as a cause of action in her Complaint, Plaintiff at the hearing on June 29,
11 2015, elicited testimony suggesting the Election Department may have provided incorrect
12 information as to when the verification of signatures was going to occur, and, consequently,
13 effectively precluded Plaintiff or her representative from watching the verification process. NRS
14 293.1277(8) provides the public official who is the subject of the recall must be allowed to witness
15 the verification process. On June 29, 2015, Johnny Jackson testified for the Plaintiff. He stated he
16 was a supporter of the Plaintiff and was present on Thursday, May 28, 2015, when the Committee
17 seeking the judge's recall presented their petitions at the City of North Las Vegas Clerk's Office.
18 He spoke to a woman in the City Clerk's Office that day and was told the petitions were going to be
19 transported to the Clark County Registrar of Voters that afternoon or the next day. On cross-
20 examination, Mr. Jackson stated he knew the petitions were being taken to the Registrar for
21 verification and that it was an expedited process. Mr. Jackson stated that on Friday, May 29, 2015,
22 after discussing the situation with the Plaintiff, he went to the Election Department at approximately
23 2:00 p.m. and eventually spoke to Mr. Gloria. Mr. Jackson alleged he asked about the verification
24 process and Mr. Gloria told him that the Election Department followed the NRS. According to Mr.

1 Jackson, he asked for a copy of the petition and to witness the verification. Mr. Gloria told him to
2 put his request in writing and stated the verification would start in one or two days. Mr. Jackson
3 said he subsequently sent an email to Mr. Gloria requesting a copy and to witness the verification.
4 He also testified he sent an email to the Plaintiff documenting what happened on May 29, 2015,
5 including that he had been told by Mr. Gloria the verification process would start in one or two days.
6 Mr. Jackson testified that on Monday, June 1, 2015, Plaintiff forwarded him an email she had
7 received from the City of North Las Vegas Clerk stating the verification process would begin at 9:30
8 a.m. Mr. Jackson said he arrived about 9:20 a.m. On arriving, he perceived the process had actually
9 started before he arrived. He said he was allowed to witness the process, but felt the Election
10 Department employees were not randomly selecting signatures but were looking for certain
11 signatures which he alleged as coming from areas of North Las Vegas which favored her opponent
12 in the last election. He explained he had expected the employees would be given instructions such
13 as verify signature 7 on every fourth petition and then go through the stack of petitions again and
14 look at the one above or below that. After the June 29, 2015 hearing, the Court requested Mr.
15 Jackson appear at the continuation of the hearing on July 2, 2015, and to bring the emails he had
16 referenced in his testimony. On July 2, 2015, Mr. Jackson produced the emails showing he had
17 forwarded an email to Mr. Gloria at approximately 3:13 p.m. on May 29, 2015, requesting the
18 petition copy and to witness the verification process. He also sent an email at approximately 3:58
19 p.m. to Plaintiff indicating he went to the County Offices at 1:15 p.m. and was told the verification
20 process had started. Mr. Jackson in his email indicated he complained why the Plaintiff was not told
21 the verification process would start that day and he was put in telephone contact with Mr. Gloria.
22 Mr. Gloria told him they had started the verification of signatures and Mr. Jackson asked Mr. Gloria
23 for a petition copy. He also asked if they were going to verify every signature on the petitions to
24 which Mr. Gloria said that the Department follows the NRS. According to Mr. Jackson in his email,

1 Mr. Gloria said he did not do anything over the phone and requested an email as to what Mr.
2 Jackson wanted. Mr. Gloria also told Mr. Jackson the verification process would be done by
3 Monday. Significantly, Mr. Jackson made no mention in his email that Mr. Gloria had told him the
4 verification process would begin in "one or two days."

5 Mr. Gloria testified he did speak with Mr. Jackson by telephone on May 29, 2015. Mr.
6 Gloria indicated that he remembered telling Mr. Jackson to put in writing his requests for a petition
7 copy and to view the verification process. Mr. Gloria expressed he would not have denied a
8 representative from viewing the verification. Mr. Gloria stated the first part of the verification
9 process started at 8:50 a.m. on May 29, 2015 and ended by approximately 1:50 p.m. that day.

10 Ms. Andolina testified by phone on July 2, 2015, explaining that on Thursday, May 28, 2015,
11 she sent a letter by express mail and by email to Plaintiff, stating the recall petition had been
12 presented and was being sent to the Election Department to start the raw count which needed to be
13 completed within four business days. She received no response back from the Plaintiff. Ms.
14 Andolina testified on June 29, 2015 that, on Monday, June 1, 2015, at 5:55 a.m., she sent the
15 Plaintiff another email, stating the verification process would start at 9:30 a.m. that morning.

16 Ms. Eisenman testified on June 29, 2015 that she believed the second half of the verification
17 process started Monday at 9:30 a.m., but possibly 9:00 a.m. She remembered Mr. Jackson showing
18 up five to ten minutes after the process started.

19 Plaintiff also called Dan Burdish as a witness on July 2, 2015. Mr. Burdish said he was
20 assisting Plaintiff and her counsel on Friday, May 29, 2015, and overheard Plaintiff state her
21 representatives had been denied the opportunity to view the verification. Mr. Burdish said he called
22 Mr. Gloria about 4:30 p.m. and said he understood Plaintiff's representatives had been denied the
23 opportunity to review the verification. He testified Mr. Gloria said he was unaware of anyone being
24 denied the chance to view the verification. Mr. Burdish offered to come down that day to view the

1 process, but Mr. Gloria said that it had concluded for the day. On Monday, Mr. Burdish received a
2 call that the verification process was going to begin about 9:00 or 9:30 a.m. He stated he went to the
3 Election Department, arriving five or ten minutes late. He said the Election Department employees
4 cooperated with him viewing the process and he testified to no irregularities.

5 Mr. Gloria and Ms. Andolina testified they never sent specific notice to Plaintiff as to when
6 the verification process was going to start on Friday, May 29, 2015. Ms. Andolina did send Plaintiff
7 notice by email of the starting time for the verification process on Monday, June 1, 2015.

8 NRS 293.1277(8), which provides that the public office subject to recall must be allowed to
9 witness the verification process, does not provide for any prior specific notice to the public official
10 giving a date and time when the process will occur. Nevada Administrative Code 306.023 does
11 require the "filing officer with whom a public officer to be recalled filed his or her declaration of
12 candidacy shall notify that public officer, in writing, within 2 days after a petition to recall a public
13 officer is filed" Ms. Barbara Andolina, City of North Las Vegas Clerk, testified she followed
14 the Code the day the petition was filed on Thursday, May 28, 2015, both by express mail and by
15 email. Going beyond what is required by the Code, Ms. Andolina also noted in her letter the petition
16 was being forwarded to the Registrar of Voters to begin the raw count process which needed to be
17 done in four working days. She testified that she did not hear further from Plaintiff.

18 Plaintiff was aware of the petition filing on Thursday, May 28, 2015, as Mr. Jackson, one of
19 her representatives, was present at the City of North Las Vegas Clerk's office when it was filed. Ms.
20 Andolina also sent an email to Plaintiff with the notice required by NAC 306.023 later that same
21 day. Plaintiff obviously was receiving Ms. Andolina's emails as she forwarded Ms. Andolina's June
22 1, 2015 email with the start of the Monday verification time to Mr. Jackson. Plaintiff presented no
23 evidence she in any way inquired directly or through a representative about the verification process
24 until approximately 1:15 p.m. the next day, Friday, May 29, 2015, when Mr. Jackson went to the

1 County offices. By then, the raw count and the verification had been ongoing since 8:50 a.m. Mr.
2 Jackson subsequently spoke by telephone with Mr. Gloria. This would have been approximately the
3 time according to Mr. Gloria when the Election Department was completing the first part of the
4 verification process at about 1:50 p.m.

5 The Court will not read into NRS 293.1277 a specific notice provision. The statute only
6 provides that the public official subject to recall be allowed to view the verification process and
7 makes no provision for notice or working with the public official to arrange a date and time for the
8 official or his or her representative to be present. In this instance, Plaintiff was aware on Thursday,
9 May 28, 2015, that the petition was filed and the process for verifying the Petition would commence
10 quickly. Plaintiff and her representatives took no step to reach out and determine how the Registrar
11 would specifically move forward on the process until 1:15 p.m. on Friday, May 29, 2015. Plaintiff's
12 representatives were allowed to view the process on Monday. There is some issue as to whether the
13 Election Department started on the verification before the 9:30 a.m. start time provided in Ms.
14 Andolina's email to Plaintiff as Mr. Jackson contends that he got there about 9:20 a.m. and the
15 process had started. However, the Court does not find any evidence to suggest the Election
16 Department sought to mislead Plaintiff as to the start time of verification. The Court also finds the
17 Election Department starting five to ten minutes before Mr. Jackson got there and possibly before
18 the scheduled start time, did not materially hamper Mr. Jackson's or Mr. Burdish's abilities to
19 meaningfully observe the verification process. Plaintiff does not suggest any specific prejudice
20 resulting from these missed few minutes. Both Mr. Gloria and Ms. Eisenman testified that the
21 verification process on Monday was essentially a repeat of the verification process on Friday as an
22 audit to insure the accuracy of the process. Mr. Burdish testified that the Department employees
23 were cooperative in allowing Plaintiff's representatives to view the verification. The Court finds
24 that to the extent Plaintiff was prejudiced by her lack of due diligence in learning the Election

1 Department's verification plans and by the speed the Election Department started the verification on
2 May 29, 2015, this prejudice was largely eliminated by the Election Department's essentially
3 repeating the process from May 29, 2015 on June 1, 2015 as an audit to ensure accuracy.

4 However, this Court notes, with the time and speed the City Clerk's office and Registrar of
5 Voters can now move through the verification process, presumably with new computer and other
6 technology, a procedure or policy at the Election Department to email or telephone a public official
7 or recall committee members prior to initiating the verification process and informing the official
8 and members when the process will start would potentially avoid this issue in the future. The Court
9 can foresee a situation where the process could be completed so quickly an official might not get any
10 notice of its specific occurrence until it was over. *See* NRS 293.1277(5) (discussing verification if a
11 county clerk sets up a process allowing citizens to vote by computer). If an official has the right to
12 observe, but the process begins and ends so quickly that the official, even while exercising some
13 level of diligence, has insufficient notice of the process to actually observe, the Court questions
14 whether the official truly is allowed to observe as required under the statute. In this instance,
15 however, the Court does not believe the facts present such a circumstance requiring the
16 consideration of the issue.

17 III. FOURTH CAUSE OF ACTION

18 Plaintiff in her fourth cause of action alleges the petitions are insufficient as they are not in
19 identical form and are not sequentially numbered as required by NRS 306.030(1). Plaintiff never
20 stated or presented evidence at the hearing as to what she meant by the petitions not being in
21 identical form. NRS 306.030(1) provides in pertinent part: "The petition may consist of any number
22 of copies which are identical in form with the original, except for the name of the county and the
23 signatures and addresses of the residences of the signers. The pages of the petition with the
24 signatures and of any copy must be consecutively numbered." The Court finds the petitions

1 submitted were in identical form except for the signatures and addresses of the residences of the
2 signers.

3 Plaintiff contends the petitions fail to meet the statute's numbering requirement as the
4 petitions as presented to the City Clerk were not sequentially numbered as a whole. Defendant
5 Committee Members argue the statute only requires that the pages of each petition circulated by an
6 individual for signatures need to be sequentially numbered. They point out that the pages of each
7 circulated petition which was submitted with the other petitions together as a group to the clerk were
8 numbered 1 to 4.

9 Mr. Gloria stated that the Election Department considered the numbering system of the
10 petitions submitted in this case to meet the terms of the statute. Mr. Gloria explained that it would
11 be impossible in many instances, such as recalls of state officials or state ballot initiatives, to
12 circulate a single petition with consecutively numbered pages and obtain the necessary number of
13 signatures. The statute allows for separate petitions to be circulated and to be then presented as a
14 group. If each separate petition is sequentially numbered, then it meets the requirement of the
15 statute.

16 The Court finds the Registrar of Voter's interpretation of NRS 306.030(1) to be a fair reading
17 of the statute. NRS 306.030(1) plainly allows a petition to consist of multiple copies of the petition
18 if they are all in identical form. The statute requires the "pages of the petition with the signatures
19 and of any copy must be consecutively numbered." The Court reads this as requiring the pages of
20 each copy of the petition to be consecutively numbered. The Court finds this reading to meet the
21 objectives of the statute to ensure someone does not add additional pages to a petition copy
22 disseminated and verified by a specific circulator.

23 IV. FIFTH CAUSE OF ACTION

24 Plaintiff challenges six petitions (30, 50, 87, 117, 123 and 147) which she contends have

1 irregularities in the verifications done by circulators before notaries. On one petition, the notary
2 printed her name and signed as notarizing, but failed to include her notary stamp, on one the notary
3 failed to print her name on the line where she was to print her name and just placed her notary stamp
4 and signed as notarizing, and on four petitions the circulator or notary had failed to write "Clark" in
5 the space for county name above the notarization. Mr. Gloria testified that the Election Department
6 would consider the petitions where the notary forgot to print his or her name and the name of
7 "Clark" county as being in substantial compliance with the statute requirement that the circulator
8 verify the petitions before a notary. He explained the Election Department had enough information
9 to conclude that the notarizations were authentic. As to the petition missing a notary stamp, Mr.
10 Gloria testified the Election Department would undertake research to determine if the person
11 identified as the notary was an actual notary at the time the petition was notarized. On examination
12 by Defendant Committee Members' counsel, Mr. Gloria identified another petition signed by the
13 same notary which included a notary stamp. The Court finds these six petitions were in substantial
14 compliance with the statute and should be counted.

15 The cases Plaintiff cites in support of her cause of action, *Fiannaca v. Gill*, 78 Nev. 337, 372
16 P.2d 683 (1962) and *Lundberg v. Koonts*, 82 Nev. 360, 365, 418 P.2d 808 (1966), are inapplicable to
17 the facts presented here. These cases applied an earlier version of NRS 306.030 which provided that
18 every copy of a petition "shall be verified by at least one of the signers thereof." The Court in those
19 cases was asked to determine the sufficiency of petitions if the circulators who verified the petition
20 were not also one of the signers. NRS 306.030 has been amended to eliminate the requirement a
21 circulator verifying a petition also be a signer on the petition verified.

22 V. SIXTH CAUSE OF ACTION

23 In her Sixth Cause of Action, Plaintiff asserts under NRS 293.1278, the recall petition should
24 have failed to qualify because the percentage of verified signatures from the random sample of 500

1 signatures was only 84 percent. Plaintiff contends NRS 293.1278 provides for a petition to be valid
2 the percentage of valid signatures from the random sample must be 90 percent or greater. Plaintiff
3 thoroughly misreads the statute as to what the 90 percent figure in the statute references and what
4 the statute requires.

5 NRS 293.1278(1) provides in pertinent part: "If the certificates received by the Secretary of
6 State from all the county clerks establish that the number of valid signatures is less than 90 percent
7 of the required number of registered voters, the petition shall be deemed to have failed to qualify,
8 and the Secretary of State shall immediately so notify the petitioners and the county clerks." This
9 statute is referring to the number of valid signatures after the random sample has been reviewed, the
10 statistical number of valid signatures determined and that percentage of valid signatures applied to
11 the total number of signatures obtained. In this case, the random sample determined that 84 percent
12 of the signatures were valid. This percentage was then applied to the total of 2,717 signatures
13 submitted to determine the petition contained 2,282, 115 percent of the number needed.

14 VI. SEVENTH CAUSE OF ACTION

15 Plaintiff in her seventh cause of action challenges the receipt the City of North Las Vegas
16 Clerk gave to the Committee members submitting the petition. NRS 293.12758(1) provides:

17 1. The county clerk shall issue a receipt to any person who submits a petition for
18 the verification of signatures or a petition, declaration of or acceptance of candidacy.

19 The receipt must state:

20 (a) The number of documents submitted;

21 (b) The number of pages of each document; and

22 (c) The number of signatures which the person declares are on the petition.

23 Plaintiff argues that the receipt provided to the committee members only said "Approximately
24 2,700" and did not give the exact number which Plaintiff contends the clerk "must" do. However,

1 the statute clearly states that the clerk is to include on the receipt the number of signatures that the
2 person submitting the petition declares are on the petition. Ms. Andolina testified the Committee
3 members presenting the petition told her there was approximately 2,700 signatures on the petition.
4 Consequently, the Court finds this complies with the statute and the use by committee members of
5 an approximate number did not undermine any purpose of the statute to ensure the integrity of the
6 recall process.

7 VII. EIGHTH CAUSE OF ACTION

8 Plaintiff in her last cause of action contends that the "Remove Ramsey Now" Committee has
9 accepted contributions above the amount it is allowed to accept pursuant to Article 2, Section 10 of
10 the Nevada Constitution and NRS 294A.100. Article 2, Section 10 limits contributions by any
11 "artificial or natural person" to "the campaign of any person for election to any office . . . to \$5,000
12 for the primary and \$5,000 for the general election. NRS 294A.100 provides that a person shall not
13 make or commit to make a contribution to a candidate for any office . . . in an amount which exceeds
14 \$5,000 for the primary election . . . and \$5,000 for the general election" NRS 294A.005 defines
15 a candidate as a person who "files a declaration of candidacy," "files an acceptance of candidacy,"
16 "whose name appears on an official ballot at any election" or "received contributions in excess of
17 \$100."

18 Neither side raised or argued this issue at the hearing. The Court finds a committee for recall
19 is not a person for election to an office under Article 2, Section 10, or an candidate for office under
20 NRS 294A.100. The Court agrees with Defendant Committee Members' contention that a
21 committee for recall, pursuant to NRS 294A.006, is "an organization that (1) receives any
22 contributions, makes any contributions to candidates or persons or makes any expenditures that are
23 designed to affect the recall of a public officer; or (2) files a notice of intent to circulate the petition
24 for recall. Consequently, the Remove Ramsey Now Committee is not limited in the contributions it

1 receives by either Article 2, Section 10 or NRS 294A.006.

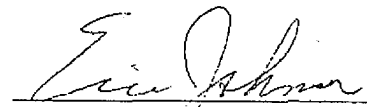
2 **ORDER**

3 Accordingly, based upon the above findings and good cause appearing, IT IS HEREBY
4 ORDERED:

- 5 1. Petitioner/Plaintiff's Complaint seeking declaratory relief declaring that judges may not
6 be recalled under Article 2, Section 9 of the Nevada Constitution is DENIED;
7 2. Petitioner/Plaintiff's Emergency Motion for Injunction is DENIED;
8 3. Petitioner/Plaintiff separate Complaint challenging the Recall Petition is DENIED.

9 IT IS FURTHER ORDERED that not sooner than 10 days, nor more than 20 days after the
10 date of this order, the City of North Las Vegas Clerk shall issue a call for a special election in the
11 jurisdiction in which Petitioner/Plaintiff was elected to determine whether the people will recall
12 Petitioner/Plaintiff as a Municipal Court Judge.

13 DATED this 6 day of July, 2015.

14 
15 ERIC JOHNSON
16 DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing via E-Service as follows:

CRAIG A. MUELLER, ESQ.

cmueller@muellerhinds.com

Attorney for Petitioner/Plaintiff

HONORABLE CATHERINE RAMSEY

NORTH LAS VEGAS MUNICIPAL JUDGE

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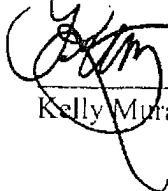
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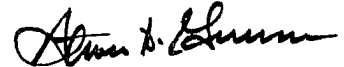
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Attorneys for Respondents/Defendants

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Kelly Muranaka, Judicial Executive Assistant



CLERK OF THE COURT

SUPP

MUELLER, HINDS & ASSOCIATES
CRAIG A. MUELLER, ESQ.
Nevada Bar No. 4703
600 S. Eighth Street
Las Vegas, Nevada 89101
Attorney for Petitioners

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

HONORABLE CATHERINE RAMSEY
NORTH LAS VEGAS MUNICIPAL JUDGE
Petitioner,

vs.

THE CITY OF NORTH LAS VEGAS AND
BARBARA A. ANDOLINA City Clerk of
NORTH LAS VEGAS, BETTY HAMILTON,
MICHAEL WILLIAM MORENO, and BOB
BORGENSEN, individually and as Members
of "REMOVE RAMSEY NOW,"

Respondents

Case No.: A-15-719406-P

Dept No.: XX

Consolidated with:

A-15-719651-C

**PETITIONER CATHERINE RAMSEY'S SUPPLEMENT TO ARGUMENTS MADE IN
SUPPORT OF THE EMERGENCY PETITION FOR INJUNCTION**

COMES NOW Petitioner HONORABLE CATHERINE RAMSEY MUNICIPAL COURT
JUDGE for the CITY OF NORTH LAS VEGAS, individually and in her professional capacity , by
and through her attorney of record CRAIG A. MUELLER, ESQ., of MUELLER, HINDS &
ASSOCIATES and hereby submits this Supplement in support of her Emergency Petition for
Injunction.

///

///

///

1 This Supplement is made and based upon the Points and Authorities which follow, the
2 arguments of counsel at the hearing on the Petition which was held on June 18, 2015, and all of the
3 pleadings and papers on file in this action.

4
5 DATED this 26 day of June, 2015

6
7 MUELLER, HINDS & ASSOCIATES

8 By: 
9 CRAIG A MUELLER, ESQ.

10 Nevada Bar No.: 4703
11 600 S. Eighth Street
12 Las Vegas, NV 89101
13 Attorney for Petitioner

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POINTS AND AUTHORITIES

I.

ADDITIONAL ARGUMENT

17 Petitioner was given a limited time to argue her position at the hearing on June 18, 2015.
18 Since this court now has consolidated this matter with the *Case No. A-15-719651-C*, and a new
19 hearing has been scheduled on June 29, 2015, Petitioner felt compelled to supplement her arguments
20 for the Emergency Petition for Injunction as follows.

21
22 The precise question presented by this emergency petition for injunction is whether the
23 Commission on Judicial Discipline as created by Article 6, Section 21 of the Nevada Constitution in
24 1976 as the constitutional body with exclusive jurisdiction to discipline judges including removal
25 from judicial office supercedes or negates the recall provisions of Article 2, Section 9, approved in
26 1912, as to elected or appointed judges only.

27
28 Petitioner asserts that the answer is "yes." This assertion is based upon the language of Article

1 6, Section 21, its legislative history, the enabling legislation passed by the 1977 Nevada Legislature,
2 its legislative history, well established principles of statutory and constitutional interpretation and
3 decisions from appellate courts in other states. The two sections of the Nevada Constitution
4 materially conflict with each other and the conflicts cannot be harmonized. As a matter of law, the
5 older general provision must yield to the authority of the newer, more specific provision.
6

7 This precise question has never been presented to this court until now.

8 This is a critical case for the Nevada judiciary. So critical in fact that the board of directors of
9 the Nevada Judges of Limited Jurisdiction (NJLJ), representing justice court and municipal court
10 judges in the State of Nevada, has already voted to file an amicus curiae brief in support of the
11 petitioner if this court accepts the case. Lower court judges tend to come from smaller electoral
12 districts and could face recall elections pushed by relatively few voters in their jurisdictions. District
13 Court judges could face recall elections in the rural counties with small populations. The risk of recall
14 impairs judicial independence.
15

16 It is possible that the Nevada District Judges Association, the State Bar of Nevada and other
17 organizations may also file amicus briefs if requested or permitted by this court.
18

19
20 **THE NEVADA SUPREME COURT HAS PLENARY WRIT AUTHORITY AND**
21 **INHERENT POWERSTO GOVERN THE JUDICIAL BRANCH OF GOVERNMENT**

22 The State of Nevada was created by an Act of Congress in 1864 during the Civil War. Nevada
23 residents approved the first Nevada Constitution that year. Article 6 governs the judicial branch of
24 government. Section 1 specified that the judicial system consisted of the supreme court, district courts,
25 justice courts and municipal courts in incorporated cities only and if established by the legislature.
26 Thus, municipal courts were deemed a part of the judicial system from the inception of this state.
27
28

1 An early expression of the Supreme Court's considerable power is found in Gibson v. Mason,
2 5 Nev. 283, 291-2 (1869):

3 But another government, that of the state, is formed, which is usually clothed with all
4 the sovereign authority reserved by the people from the grant of powers in the federal
5 constitution. This is accomplished in this as in all the states but one, by means of the
6 constitution adopted by themselves, whereby all political power is conferred upon three great
7 departments, each being endowed with and confined to the execution of powers peculiar to
8 itself.

9 The legislative is vested in two bodies, the senate and assembly; the judicial is
10 conferred upon certain designated courts; and the executive upon the governor. By the law so
11 creating the government, certain rights are generally reserved by the people, and so placed
12 beyond the control of, or infringement by, any of the departments of the state organizations.

13 The government so organized is the repository of all the power reserved by the people
14 from the general government, except such as may be expressly denied to it by the law of its
15 creation, each department being supreme within its respective sphere, the legislature
16 possessing legislative power unlimited except by the federal constitution, and such restrictions
17 as are expressly placed upon it by the fundamental law of the state--the governor having the
18 sole and supreme power of executing the laws, and the courts that of interpreting them.

19 (Emphasis supplied)

20 Lest this be seen as an ancient expression of constitutional power, this court has consistently
21 maintained and asserted its supervisory authority over the judicial branch. Consider this sweeping
22 language from Halverson v. Hardcastle, 123 Nev. 245, 260-262 (2007):

23 Under the Nevada Constitution's "separation of powers" clause, "[t]he powers of the
24 Government of the State of Nevada" are divided into three separate departments-legislative,
25 executive, and judicial. Essentially, the legislative power, which is vested in the state
26 Legislature, refers to the broad authority to enact, amend, and repeal laws; the executive
27 power, vested in the Governor, encompasses the responsibility to carry out and enforce those
28 laws (i.e., to administrate); and, under Article 6, the judicial power is vested in the state court
system, comprised of the supreme court, district courts, and justices of the peace, carrying
with it "the capability or potential capacity to exercise a judicial function . . . to hear and
determine justiciable controversies."

These governmental powers are coequal, and no person charged with the exercise of
one department's powers may exercise "any functions" of the other departments, except when
"expressly directed or permitted" under the Constitution. Accordingly, to ensure that each

1 power remains independent from influences by other branches of government, each
2 department possesses inherent power to "administer its own affairs" and "perform its duties,"
3 so as not to "become a subordinate branch of government."

4
5 Inherent power by virtue of the judiciary's sheer existence

6 To ensure that the executive, legislative, and judicial powers are meaningful, the
7 governmental department in which each respective power is vested also has-by virtue of its
8 mere constitutional existence-inherent authority "to accomplish or put into effect," i.e., to carry
9 out, the department's basic functions. The power derived from the departments' "sheer
10 existence is broader and more fundamental than the inherent power conferred by separation of
11 powers," and it exists even when one department, in carrying out its functions, exercises roles
12 more commonly seen in the scope of another department's powers.

13 As has long been recognized, these sources provide the judiciary with inherent
14 authority to administrate its own procedures and to manage its own affairs, meaning that the
15 judiciary may make rules and carry out other incidental powers when "reasonable and
16 necessary" for the administration of justice. For instance, a court has inherent power to protect
17 the dignity and decency of its proceedings and to enforce its decrees, and thus it may issue
18 contempt orders and sanction or dismiss an action for litigation abuses. Further, courts have
19 inherent power to prevent injustice and to preserve the integrity of the judicial process, which
20 power generally has been recognized as encompassing the authority, placed in the highest
21 court in the system, to discipline judges.

22 Subsequent to Halverson, supra, this court continued to exert its supervisory authority over the
23 judicial branch of government. See Lueck v. Teuton, 125 Nev. 674, 686 (2009) (removing an
24 appointed District Judge who served past the time permitted by Nevada Constitution Article 6, Section
25 20(2)) and Jones v. Nevada Commission on Judicial Discipline, 130 Nev. Adv. Op. 11, 318 P.2d 1078
26 (2014) (exercising supervisory power over Commission via extraordinary writs).

27 This petition concerns an issue of vital importance to Nevada's judiciary and to the integrity of
28 the judicial branch of government. In this regard, this petition raises important issues of constitutional
law which need clarification. Considerations of sound judicial economy and administration strongly
suggest that this court accept and consider this petition on the merits of the constitutional claims. See
Int'l Game Tech. Inc. v. Second Judicial District Court, 124 Nev. 193, 197-98 (2008).

A LITANY OF LEGAL PRINCIPLES SUPPORT THIS PETITION

Judge Ramsey is filing this petition for a writ staying all proceedings and ultimately forbidding a recall election because she should not be forced to go through the time and expense of a recall election that is probably unconstitutional. This is a question of first impression in Nevada. Judge Ramsey wants to make it a strong impression. First, a historical perspective:

THE EARLY NEVADA HISTORY

For the first several decades in the state's existence, it appears that the only way to remove judges from office was by impeachment by the Legislature or in regularly scheduled elections. The impeachment power was limited to supreme court justices and district court judges. See generally Article 7 of the Nevada Constitution.

In 1912, the voters approved Article 2, Section 9 which reads as follows:

Sec. 9. Recall of public officers: Procedure and limitations. Every public officer in the State of Nevada is subject, as herein provided, to recall from office by the registered voters of the state, or of the county, district, or municipality which he represents. For this purpose, not less than twenty-five percent (25%) of the number who actually voted in the state or in the county, district, or municipality which he represents, at the election in which he was elected, shall file their petition, in the manner herein provided, demanding his recall by the people. They shall set forth in said petition, in not exceeding two hundred (200) words, the reasons why said recall is demanded. If he shall offer his resignation, it shall be accepted and take effect on the day it is offered, and the vacancy thereby caused shall be filled in the manner provided by law. If he shall not resign within five (5) days after the petition is filed, a special election shall be ordered to be held within thirty (30) days after the issuance of the call therefor, in the state, or county, district, or municipality electing said officer, to determine whether the people will recall said officer. On the ballot at said election shall be printed verbatim as set forth in the recall petition, the reasons for demanding the recall of said officer, and in not more than two hundred (200) words, the officer's justification of his course in office. He shall continue to perform the duties of his office until the result of said election shall be finally declared. Other candidates for the office may be nominated to be voted for at said special election. The candidate who shall receive highest number of votes at said special election shall be deemed elected for the remainder of the term, whether it be the person against whom the recall petition was filed, or another. The recall petition shall be filed with the officer with whom the petition for nomination to such office shall be filed, and the same officer shall order the special election when it is required. No such petition shall be circulated or filed

1 against any officer until he has actually held his office six (6) months, save and except that it
2 may be filed against a senator or assemblyman in the legislature at any time after ten (10) days
3 from the beginning of the first session after his election. After one such petition and special
4 election, no further recall petition shall be filed against the same officer during the term for
5 which he was elected, unless such further petitioners shall pay into the public treasury from
6 which the expenses of said special election have been paid, the whole amount paid out of said
7 public treasury as expenses for the preceding special election. Such additional legislation as
8 may aid the operation of this section shall be provided by law.

9 The recall empowerment was part of the progressive era legal reforms. These recall provisions
10 were passed in about eleven states and most included judges as officers who could be recalled from
11 office.

12 Despite that authorization, it does not appear in Nevada history that any judge was ever
13 removed from office by this process. It proved to be a cumbersome and largely useless process for
14 removing public officials from office.

15 In 1924, the American Bar Association created its first Code of Judicial Ethics. The next major
16 revision was in 1972 when the ABA created the Model Code of Judicial Conduct. It has been revised
17 a few times since then, most recently in 2010. Nevada created a Code of Judicial Conduct in the 1970s
18 but research history is sparse as to when a code was first adopted here.

19 The first specific commission for judicial discipline was created in California in 1960. Over
20 the next thirty years, all 50 states created some form of judicial conduct system and approved a Code
21 of Judicial Conduct.

22 In 1976, Nevada voters approved Article 6, Section 21 which created the Commission on
23 Judicial Discipline. Only some provisions of this section are relevant:

24 Sec. 21. Commission on Judicial Discipline; Code of Judicial Conduct.

25 1. A justice of the Supreme Court, a judge of the court of appeals, a district judge,
26 a justice of the peace or a municipal judge may, in addition to the provision of Article 7 for
27 impeachment, be censured, retired, removed or otherwise disciplined by the Commission on
28

1 Judicial Discipline. Pursuant to rules governing appeals adopted by the Supreme Court, a
2 justice or judge may appeal from the action of the Commission to the Supreme Court, which
3 may reverse such action or take any alternative action provided in this subsection.

4

5 5. The Legislature shall establish:

6 (a) In addition to censure, retirement and removal, the other forms of disciplinary
7 action that the Commission may impose;

8 (b) The grounds for censure and other disciplinary action that the Commission may
9 impose, including, but not limited to, violations of the provisions of the Code of Judicial
10 Conduct;

11 (c) The standards for the investigation of matters relating to the fitness of a justice
12 or judge; and

13 (d) The confidentiality or nonconfidentiality, as appropriate, of proceedings before
14 the Commission, except that, in any event, a decision to censure, retire or remove a justice or
15 judge must be made public.

16

17 6. The Supreme Court shall adopt a Code of Judicial Conduct.

18

19 8. No justice or judge may by virtue of this Section be:

20 (a) Removed except for willful misconduct, willful or persistent failure to perform
21 the duties of his office or habitual intemperance; or

22 (b) Retired except for advanced age which interferes with the proper performance
23 of his judicial duties, or for mental or physical disability which prevents the proper
24 performance of his judicial duties and which is likely to be permanent in nature.

25 (Emphasis supplied in paragraph 1)

26 The Nevada Constitution is amended only after the Legislature approves the amendment in
27 two sessions and is then approved by the voters in the next general election. Section 21 was approved
28 by the 1973 and 1975 Nevada Legislatures and approved by the voters in 1976.

The primary legislative history originated in the 1973 session but the legislative history from
those days is sparse. The legislative proceedings back then were not well documented.

More illumination comes from the 1977 Nevada Legislature. Since the voters had approved the
constitutional amendment in November, 1976, the legislature had to enact enabling legislation. That
came in the form of S.B. 453. Again, the documented legislative history is sparse. However, we are
fortunate that former Chief Justice E.M. Gunderson submitted a three page memorandum dated April

1 12, 1977 to the Governor detailing his thoughts on SB 453 and the creation of a code of judicial
2 conduct for Nevada. At the Senate Judiciary Committee hearing on April 13, 1977, Justice
3 Gunderson's memorandum was included as Exhibit B to the committee minutes.

4
5 His commentary is attached as **Exhibit A**. The most important paragraph is found on page 3:

6 The primary purpose of S.B. 453 is to establish that justice and municipal court judges
7 are not subject to redundant disciplinary measures, but instead are governed by the Code of
8 Judicial Conduct prescribed by the Supreme Court, and are to be disciplined or removed from
9 office in accordance with procedures applicable to other judges. In summary, then, it is
10 believed that S.B. 453 represents a sound and practical response to handling the problem posed
11 by Question 6, which imposes on this court the obligation of central control of the entire court
12 system, considered in light of the inadequacies of Question 8.

13 SB 453 was approved by the State Senate and sent to the Assembly. It was next on the
14 Assembly Judiciary Committee hearing agenda on April 20, 1977. The only legislative history item of
15 note is the testimony of then Judge Richard Minor from Reno. It is attached as **Exhibit B** and states in
16 full as follows.

17 SB 453: Judge Richard Minor, president of the Nevada Judges Association and judge
18 in Reno, was first to speak on this bill. He stated that for the last two years there has been a
19 committee working on a code of judicial conduct, based on the American Bar Association
20 standards as modified to meet the problems of Nevada. He stated that this was approved by the
21 electorate in 1976. He stated that presently the committee has been applying the rules and does
22 have jurisdiction over the district court and the supreme court. He stated that this bill was
23 prepared at the request of the Nevada Judges Association and would bring courts of limited
24 jurisdiction under this code and under the jurisdiction of the committee on judicial discipline.
25 He stated that they are still working toward a uniform court system and this bill is a step in that
26 direction. He also pointed out that he felt the justice and the municipal courts should be under
27 the code.

28 Mrs. Wagner asked Judge Minor if the same procedures were used in both the justice and
municipal courts so far as discipline was concerned. Judge Minor stated that it was the same

This bill passed and was signed into law. The critical part of that bill for our purposes is NRS
1.440(1):

1. The Commission has exclusive jurisdiction over the public censure, removal, involuntary retirement and other discipline of judges which is coextensive with its jurisdiction over justices of the Supreme Court and must be exercised in the same manner and under the same rules.

(Emphasis supplied)

Thus, it was established in 1976 and 1977 that the Commission on Judicial Discipline was to be the exclusive means by which a judge could be removed from the bench with the sole exception of impeachment. That conclusion is buttressed by various principles of legal interpretation.

INTERPRETATION PRINCIPLE 1

A SPECIFIC PROVISION WILL PREVAIL OVER A GENERAL PROVISION

In Miller v. Superior Court, 986 P.2d 170, 177 (CA 1999), the California Supreme Court was confronted with a conflict where one provision of the California Constitution conflicted with another section. The court ruled that the specific provision prevailed over the general provision:

To state the matter in other terms, " It is well settled . . . that a general provision is controlled by one that is special, the latter being treated as an exception to the former. A specific provision relating to a particular subject will govern in respect to that subject, as against a general provision, although the latter, standing alone, would be broad enough to include the subject to which the more particular provision relates.' " (San Francisco Taxpayers Assn. v. Board of Supervisors (1992) 2 Cal. 4th 571, 577 [7 Cal. Rptr. 2d 245, 828 P.2d 147]; see also Salazar v. Eastin (1995) 9 Cal. 4th 836, 857 [39 Cal. Rptr. 2d 21, 890 P.2d 43].) This principle applies whether the specific provision was passed before or after the general enactment. (Warne v. Harkness (1963) 60 Cal. 2d 579, 588 [35 Cal. Rptr. 601, 387 P.2d 377].) CA(3d)(3d)

In the present case, even if we were to assume that the people's right to due process of law encompasses a right to obtain and admit evidence, the precise content of that right, and the particular exemptions that apply to it, would be presumably congruent with the specific truth-in-evidence provision found in article I, section 28(d). It is doubtful indeed that the generally worded section 29 impliedly permits what section 28(d) explicitly precludes, i.e., using the prosecutorial need for

1 relevant evidence as a justification for overriding existing evidentiary privileges and rights of the
2 press.

3 Moreover, the rule that the general law is governed by the specific also applies to the
4 relationship between the shield law itself, article I, section 2(b), and the people's right to due process.
5 The former specifically provides an absolute immunity from contempt for journalists who refuse to
6 furnish unpublished information. We presume that this specific provision was not altered or partially
7 repealed by the general recognition of the people's right to due process later added to the Constitution.
8

9
10 Article 2, Section 9 applies to all public officers whereas Article 6, Section 21 is exclusively
11 directed towards judges. Applying this principle of interpretation necessarily excludes the recall
12 election process.

13 INTERPRETATION PRINCIPLE 2

14 A LATER PROVISION WILL PREVAIL OVER AN EARLIER PROVISION

15
16 This principle appears in two published opinions. First, we look at Wren v Dixon, 40 Nev.
17 170, 187-88 (1916):

18
19 Our position here is based upon the doctrine which we find eminently supported by
20 authority, to the effect that in the absence of a saving clause the adoption of a new constitution
21 or the amendment of an old constitution operates to supersede and revoke all previous
22 inconsistent, and irreconcilable constitutional and statutory provisions and rights exercised
23 thereunder, at least so far as their future operation is concerned. (6 R. C. L.)

24 The Supreme Court of the United States, in dealing with the question of the effect of
25 federal constitutional amendments on the existing constitutions and statutes of the several
26 states, speaking through Mr. Justice Harlan, in the case of Neal v. State of Delaware, 103 U.S.
27 370, 26 L. Ed. 567, held, in substance, that the legal effect of the adoption of amendments to
28 the federal constitution and the laws passed for their enforcement was to annul so much of the
state constitution as was inconsistent therewith.

Second, we look to Rea v. Mayor, 76 Nev. 483, 488 (1960):

1 In the Caton case the court said that in view of the fact that the petition was insufficient
2 to justify the issuance of the writ as prayed for it would be unnecessary to decide the other
3 points raised. For the same reason it was unnecessary for the court to decide whether the
4 statute was unconstitutional under Art. 8, sec. 8. However, Art. 8, sec. 8, in our opinion is not
5 inconsistent with Art. 19, sec. 3. Even if it were, Art. 19, sec. 3, with a later date of adoption is
6 controlling. Farrar v. Board of Trustees, 150 Tex. 572, 243 S.W.2d 688; Plessey v. Industrial
7 Commission, 73 Ariz. 22, 236 P.2d 1011; Opinion to the Governor, 78 R.I. 144, 80 A.2d 165.

(Emphasis supplied)

8 In direct terms, the 1976 provision trumps the 1912 provision.

9 INTERPRETATION PRINCIPLE 3

10 EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS

11 Look carefully at the language of Section 21. The commission has exclusive jurisdiction over
12 judicial discipline including removal. The sole alternative method of removal is impeachment by the
13 legislature. Constitutional provisions are the most parsed, critiqued and nitpicked legal documents
14 created by drafting experts and legal scholars in the Legislative Counsel Bureau and multiple outside
15 parties and lawyers. Every word and phrase is discussed and haggled over before a final draft is
16 finally agreed upon for submission to the Nevada Legislature.

17 Furthermore, constitutional drafters must consider all existing constitutional provisions when
18 proposing to amend the constitution. The drafters of Section 21 were undoubtedly aware of the
19 Article 7 provisions relating to impeachment since it was specifically included in the language of
20 Section 21(1). The recall provisions of Article 2 Section 9 were NOT mentioned and thus we can
21 conclude that those provisions were not to be included as the methods for discipline of a judge.

22 This principle of construction applies equally to constitutional provisions. See State ex rel.
23 Josephs v. Douglass, 33 Nev. 82, 95 (1910):

24 Again adverting to the provisions of section 32 of article 4 of the constitution as amended, we

1 find it specially enumerates certain offices which may be consolidated or abolished, increased
2 or diminished, and that all of the offices so named are county offices. We think the maxim
3 "Expressio unius est exclusio alterius," clearly applicable, and that the constitution by
4 specifically designating certain particular offices of a particular class which may be
5 consolidated, etc., intended to exclude from such provisions all other constitutional offices.
6 Broom, in his Legal Maxims, says that no maxim of the law is of more general and uniform
7 application and is never more applicable than in the construction and interpretation of statutes.
8 (19 Cyc. 23.) This maxim is alike applicable to the construction of constitutional provisions. (8
9 Cyc. 729; Spier v. Baker, 120 Cal. 370, 52 P. 659, 41 L. R. A. 196; State v. Clark, 21 Nev.
10 333, 31 P. 545.)

11 The legislature had to be aware of the other constitutional alternatives. By intentionally
12 including only impeachment, they intentionally excluded the recall process.

13 JUDGES HAVE DIFFERENT ELECTION RULES AND REGULATIONS

14 Nevada has long elected its judges and Nevada's voters have shown no appetite for change by
15 refusing to approve a constitutional change to an appointment system. While Nevada will still elect
16 judges, judicial elections are subject to a wide variety of standards and processes different from
17 elections for legislative and executive branch candidates.

18 Judicial offices are deemed non-partisan by law, NRS 293.195, and judges are provided with a
19 special two week filing period in early January in election years. NRS 293.177(1)(a). Canon 4 and
20 various rules thereunder of the Nevada Code of Judicial Conduct carefully proscribe what a judicial
21 candidate can or cannot do in campaigning for judicial office. Rule 4.2(C) prohibits a judicial
22 candidate from seeking or accepting any campaign contributions if he or she is unopposed. Other
23 rules limit what a judicial candidate may or may not say during a campaign.

24 The overarching purpose of such rules is to maintain the dignity and appearance of impartiality
25 of judges who must participate in elections. While certain restrictive campaign rules are subject to
26 constitutional free speech limitations, see Republican Party of Minnesota v. White, 536 U.S. 788
27
28

1 (2002), a very recent decision of the U.S. Supreme Court upheld a specific limitation on campaign
2 fund raising by the candidate in the Florida Code of Judicial Conduct in Williams-Yulee v. State Bar
3 of Florida, ___ U.S. ___, 135 S. Ct. 1656, 191 L.Ed.2d 570 (2015). The compelling state interest in
4 judicial impartiality and integrity was enough to withstand a free speech constitutional challenge.
5

6 Judges are subject to the Canons of Judicial Conduct and are excluded from the more general
7 code of ethics. See NRS 281A.160. While in office, judges are expected to conduct themselves at all
8 times in a manner consistent with the canons and to maintain the dignity and impartiality of the
9 judiciary.
10

11 **A RECALL ELECTION IS AN ATTACK ON JUDICIAL IMPARTIALITY**

12 Judges have to make difficult decisions all the time in cases and may have to make decisions
13 that may be politically unpopular. In nearly every case, some litigant will be unhappy. Some litigants
14 or interest groups may take out their anger by threatening the judge with political retribution.
15 Sometimes, a judge is attacked for other reasons.
16

17 We have that exact situation here. Judge Ramsey strives to maintain the integrity and
18 independence of the North Las Vegas Municipal Court. She refuses to cave in to a headstrong,
19 domineering mayor and has opposed the City's taking of the administrative assessment fees
20 specifically designated for a new computer system for the Municipal Court. It is well known publicly
21 that the City of North Las Vegas has suffered from major fiscal mismanagement and problems for
22 years.
23

24 This recall petition is nothing more than an effort to remove the petitioner because she refuses
25 to "play ball" with other political interest groups and cliques in North Las Vegas. Petitioner is doing
26 her job and doing it well, too well for her opponents. The recall petition is nothing more than a
27
28

1 shameful crass attack on judicial independence.

2 Associate Justice Robert Brown of the Arkansas Supreme Court wrote that a recall election is
3 one of those procedures used to intimidate judges. See Brown, *Perspectives on Judicial*
4 *Independence: In Honor of Judge Richard Sheppard Arnold: From Earl Warren to Wendell Griffen: A*
5 *Study of Judicial Intimidation and Judicial Self-Restraint*, 28 U. Ark. Little Rock L. Rev. 1, 5-6 (2005):
6

7 A variation of the danger inspired by the special retention election is the recall election.
8 A judge issues an unpopular opinion, and recall petitions are then circulated with regard to that
9 judge requiring X number of signatures and calling for a recall election. The judge must then
10 campaign against his or her recall. That is a perfidious system. Why would any judge worth his
11 or her salt want to serve and make the hard decisions that the job requires with the threat of
12 recall constantly hanging over that judge's head? That is precisely what the recall mechanism
13 is designed to do--intimidate judges.

14 We have seen appellate court judges lose retention elections in California and Tennessee in
15 past years because of unpopular decisions. Three former justices of the Iowa Supreme Court lost re-
16 election bids because of their votes for same sex marriage in Iowa years ago. Ironically, their views
17 and legal positions have been vindicated by several other courts since then and resoundingly
18 vindicated by a majority decision of the United States Supreme Court on June 26, 2015 legalizing
19 same sex marriages.

20 The members of this court know all too well the potential of hostile public reactions to
21 unpopular legal decisions. We need no reminders of the anger and backlash from Guinn v. Legis. of
22 Nevada, 119 Nev.460 (2003). It was extensive, persistent, vitriolic, and cut short the judicial careers
23 of two former justices of this court.
24

25 JUDICIAL DISCIPLINARY COMMISSIONS ARE A BULWARK

26 FOR JUDICIAL INDEPENDENCE AND AGAINST POLITICAL ATTACKS

27 Recall elections are rare, cumbersome, inefficient and often erratic. Impeachment by state
28

1 legislatures are also rare and ineffective in policing misconduct in the judiciary. The creation of
2 judicial disciplinary commissions in nearly every state when combined with the development of codes
3 of judicial conduct have been far more effective in competently policing the judiciary. Moreover, it is
4 a regulatory and policing mechanism within the judicial branch itself, a mechanism which keeps
5 judicial matters exclusively within the judicial branch of government.
6

7 Petitioner contends that the 1976 creation of the Commission on Judicial Discipline abrogates
8 the application of the recall provisions of Article 2 Section 9 to judges. Cases and articles from other
9 jurisdictions support this exclusivity contention.
10

11 Delaware created its own Court on the Judiciary by constitutional amendment in 1969. See
12 Article IV, Section 37 of the Delaware Constitution. A Justice of the Delaware Supreme Court
13 concluded that the amendment resulted in a constitutional transfer of power to the judicial branch to
14 discipline itself. Joseph Walsh, *Judicial Independence: A Delaware Perspective*, 2 Del. L. Rev. 1, 15-
15 16 (1999). See also Holland and Gray, *Judicial Discipline: Independent with Accountability*, 5 Wid.
16 L. Symp. J. 117, 132 (2000):
17

18 While some theoretical overlapping remains between the impeachment power of a state's
19 legislature and the removal authority of a state judicial conduct organization, the establishment
20 of state judicial conduct organizations represents a shift in branch authority under state
21 constitutions. This constitutional transfer of power within the structure of state constitutions
22 from the legislative branch to self-regulation by the judicial branch has contributed to judicial
23 independence. By simultaneously providing a mechanism for accountability through the
24 receipt and processing of complaints about judicial conduct, state judicial conduct
25 organizations have also enhanced the public trust and confidence in the judiciary.
26

27 Actual case law on the inter-relationship between recall elections and exclusive jurisdiction of
28 judicial disciplinary bodies appears non-existent. A number of state supreme courts have declared that
under their respective state constitutions, they had exclusive original jurisdiction over judicial
discipline. See In re Benge, 24 S.3d 822 (LA 2009); and In re Bruno, 101 A.3d 635 (Pa. 2014). Every

1 state and the District of Columbia now has a judicial conduct commission. Alfini, et al *Dealing with*
2 *Judicial Misconduct in the States: Judicial Independence, Accountability, and Reform*, 48 S. Tex. L.
3 Rev. 889 (2007).

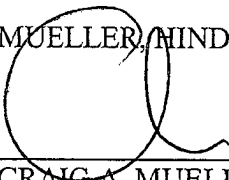
4 Recalling a judge from public office in mid-term is a form of judicial discipline and NRS
5 1.440(1) vests that authority exclusively in the Commission on Judicial Discipline. See In re Davis,
6 113 Nev. 1204, 1211 (1997); Halverson v. Hardcastle, 123 Nev. 245, 263 (2007); and Jones v. Nev.
7 Comm. On Judicial Discipline, 130 Nev. Adv. Op. 11, 318 P.3d 1078, 1080 (2014).
8

9 10 CONCLUSION

11 WHEREFORE, Plaintiff humbly prays that this court grant this petition to enjoin the
12 effort to remove her from her position, or for any other relief that this court will entertain.
13

14 DATED this 26 day of June, 2015.
15

16
17 MUELLER, MINDS & ASSOCIATES, CHTD.

18
19 By 
20 CRAIG A. MUELLER, ESQ.
21 Nevada Bar No. 4703
22 600 S. Eighth Street
23 Las Vegas, NV 89101
24 (702) 940-1234
25 Attorney for Petitioner
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of June 2015, I service via facsimile and/or email a true and correct copy of this PETITIONER CATHERINE RAMSEY'S SUPPLEMENT TO ARGUMENTS MADE IN SUPPORT OF THE EMERGENCY PETITION FOR INJUNCTION via facsimile and/or email addressed to the following:

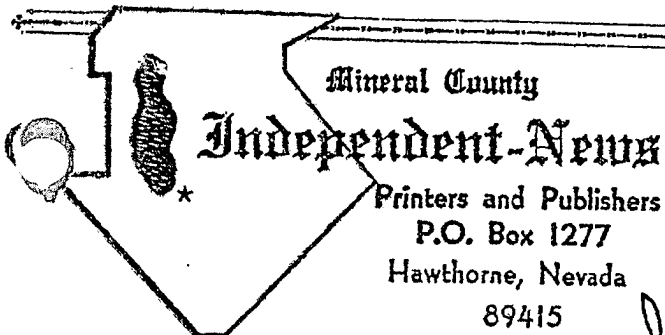
Dominic Gentile, Esq.
GENTILE, CRISTALLI, MILLER,
ARMENI & SAVARESE
410 South Rampart Boulevard, Suite 420
Las Vegas, Nevada 89145
dgentile@gentilecristalli.com
Attorney for Respondents:
Bob Borgerson, Betty Hamilton and
Michael William Moreno

Richard C. Gordon, Esq.
SNELL & WILLMER
3883 Howard Hughes Pkwy, #600
Las Vegas, Nevada 89169
702-784-5252
Email: rgordon@swlaw.com
Attorney for Respondents:
City Clerk of North Las Vegas and
Barbara A. Andolina, City Clerk

/s/ Steven M. Goldstein
An employee of
MUELLER, HINDS & ASSOCIATES

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Exhibit (A)



Mineral County

Independent News

Printers and Publishers

P.O. Box 1277

Hawthorne, Nevada

89415

J. R. McCLOSKEY
OWNER AND PUBLISHER

(702) 945-2414

*I believe there
are some thoughtful
promoting comments
contained herein*

April 8, 1977

Hon. D.N. O'Callaghan
Governor of the once
Great State of Nevada
Unsafe Capitol Building
Carson Street
Carson City, Nevada

Your Excellency:

Re: SB 453

When Question No. 8 on the November, 1976, General Election was, unfortunately, approved by majority of voters (largely in the more heavily populated counties where there are multiple departments of district court) the proposed amendment to the constitution pertained to justices of the supreme court and district judges, and provided for creation of a Commission on Judicial Discipline with authority to "censure, remove or retire" Justices of the Supreme Court and District Judges.

Comes now SB 453 which would extend the authority (and responsibility) of the Commission on Judicial Discipline to meddle in the affairs of "inferior" courts including justices of the peace and municipal judges. This has to be a complete copout on the part of either or both our legislative and judicial branches because there already is ample provision for disciplinary action against, or removal from office of, the 58 justices of the peace and 16 municipal judges.

1. Court action based upon a grand jury accusation. 2. Complaint of a citizen seeking removal for malfeasance or nonfeasance. 3. Recall.

The Commission on Discipline will have enough to do, hearing and acting upon complaints against supreme court justices and district judges, even though no disciplinary action may result. There also is the "economic" factor involving legal fees and expenses that would confront a JP or Muni judge if called to defend himself away from his home ground. Some of those "inferior" judges work for \$150, \$200 and \$250 a month.

The legislature would do well to allow the Commission on Discipline to get organized and develop, or flounder, on the assignment spelled out in the constitutional amendment -- spanking or praising the big boys -- during the next two years. To hand the Commission the justice court and municipal court package at this time is premature and preposterous.

Respectfully, without opinion,

John R. McCloskey

John R. McCloskey, junior member
Commission on Judicial Discipline

Exhibit A

MEMORANDUM

From chambers of

R. M. GUNDERSON, Justice
Supreme Court of Nevada,
Carson City

April 12, 1977

TO: THE HONORABLE MIKE O'CALLAGHAN

RE: S.B. 453

My dear Governor--

S.B. 453 must be considered in the context of events motivating the introduction thereof.

The questions on the ballot last election sought to create in Nevada a unified court system, with the chief justice as its administrative head.

Concerning central administration perhaps the two most important questions (both derived from a comprehensive ballot question defeated in 1972) were Question 6 and Question 8. Question 6 vested the Supreme Court with authority over all courts, including the justice and municipal courts, and Question 8 endeavored to provide a mechanism for judicial discipline.

During the 1975 legislative session, an attempt was made to explain to certain legislators that Question 8 was poorly drafted, for various reasons. In the first place, we tried to point out that a Judicial Council such as that in Idaho (with disciplinary powers but primarily concerned with positive approaches to improving the judicial system) would be more in keeping with the needs of a small state like Nevada than the commission proposed by Question 8 would be. (We questioned whether judicial misconduct was so prevalent in Nevada that it warranted creating a separate commission with no other concerns.) In the second place, we tried to point out that Question 8, relating to judicial discipline, failed to provide a comprehensive mechanism to enforce the central authority of the Supreme Court over the unified court system which Question 6 was expected to create.

During the last legislative session, many legislators were in the throes of an exceptional desire to show concern for "ethics." Thus, rather than taking a more reflective look at Question 8, the committee considering it passed it out, without addressing the matters just referred to.

Central administration is recognized as essential to meeting the problems of a modern court system. Basically, the Nevada Bar Association felt that the total effect of all the proposed

Exhibit B1

The Honorable Mike O'Callaghan
April 12, 1977
Page Two.

amendments would be good, and, although some, including Question 8, might be imperfect, the Bar determined that all judicial reform questions should be supported. I agreed with this view, and worked with the Bar and the American Judicature Society to support all amendments, including Question 8, although I was quite aware that Question 8 unfortunately was poorly drafted.

As I am sure you know, on Law Day of 1975, the vast majority of the judiciary of Nevada (including most of the justice and municipal court judges) met at the National College of the State Judiciary, listened to nationally recognized experts on judicial ethics, and voted to work toward formulation of an enforceable Code of Judicial Conduct. The expectation was that the new Code would be enforced by the Supreme Court, with the assistance of the Commission on Judicial Discipline, if that body should come into being, but enforced in any event. A representative committee of judges (including four district judges, four justice and municipal court judges, and one Supreme Court justice) spent hundreds of hours researching and preparing a Code designed to govern all levels of the Nevada judiciary; hearings have been held; and the Supreme Court is about to adopt the Code, with some revisions.

As you also know, I told you last Fall, when Question 8 had just been approved, that although the judges in the courts of limited jurisdiction expected to be governed by the Code, a feeling prevailed that they should have some representation on the body that would judge their conduct. You felt it would be inappropriate to provide such representation by naming a lay judge to the Commission on Judicial Discipline, as one of your non-lawyer members, so other means of providing representation had to be considered.

S.B. 453 is the device ultimately conceived to provide a means for enforcing the Code of Judicial Conduct, which has been drafted to apply to all judges in the Nevada "court system" as defined by Question 6. It has the support of the Nevada Judges Association (which consists of Nevada's justice and municipal court judges) and, indeed, this morning, at about the same time you were calling to tell me someone believed S.B. 453 to represent an imposition on the lower court judges, the president of that organization was appearing at the Legislature to support its passage.

The primary purpose of S.B. 453 is not to provide for restructuring the Commission on Judicial Discipline, when a justice or municipal court judge is charged with a violation of the Code of Judicial Conduct. By virtue of the administrative

882

The Honorable Mike O'Callaghan
April 12, 1977
Page Three.

control which Question 6 vests in this court, we unquestionably could take care of that problem ourselves, although we might have to set up a totally separate disciplinary commission if lay members appointed by you to the constitutionally mandated commission were unwilling to serve in matters relating to lower court judges. (That, surely, would be unfortunate, since the development of expertise by commission members should be desirable.)

The primary purpose of S.B. 453 is to establish that justice and municipal court judges are not subject to redundant disciplinary measures, but instead are governed by the Code of Judicial Conduct prescribed by the Supreme Court, and are to be disciplined or removed from office in accordance with procedures applicable to other judges. In summary, then, it is believed that S.B. 453 represents a sound and practical response to handling the problem posed by Question 6, which imposes on this court the obligation of central control of the entire court system, considered in light of the inadequacies of Question 8.

There is absolutely no question but what the judiciary of Nevada, as a whole, fully expects the Supreme Court to adopt and to enforce an appropriate Code of Judicial Conduct, not just with regard to district judges and Supreme Court justices, but with regard to justice and municipal court judges as well.

E.G.

EMG:jb

cc: All Justices
John De Graff, Judicial Planner

Attachment: S.B. 453

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Exhibit (B)

MINUTES

ASSEMBLY JUDICIARY COMMITTEE
April 20, 1977

Members Present: Chairman Barengo
Assemblyman Hayes
Assemblyman Banner
Assemblyman Coulter
Assemblyman Polish
Assemblyman Price
Assemblyman Sena
Assemblyman Ross
Assemblyman Wagner

The meeting was called to order at 7:20 a.m. by Chairman Barengo. All witnesses wishing to testify were sworn in as they testified.

AB 491: Mr. Bud Hicks, stated that this provides for a mini-declaratory relief act which commences on page 3, line 29. He said that it differs from the existing law by broadening the relief to other people than are now covered to include persons found suitable, holding companies, intermediary companies, publicly traded companies, and registered corporations to seek this kind of relief. He stated that the portion of the bill which covers the staying of writs by the district court is already current law and also the portions on extraordinary relief is already law, too. He stated that this simply puts this existing case law into specific statute form and is a result of the Rosenthal case which pointed out this loophole in the statutes. He stated that they felt that the current declaratory relief statute is outmoded and outdated and should be changed in this manner.

The next point Mr. Hicks addressed was that of the use of board investigative reports in the decision making process at the commission level. He stated that they would not object to a qualifying statement which would state "unless used as evidence" may be confidential and subject to privilege. He stated that anything currently used as evidence for the commission is made known to the applicant, etc., and they would not object to that or some similar qualifying language. He noted that what they were primarily concerned about was that those reports which were in the board's files should not be made public if not directly related to the decision making of the commission.

Chairman Barengo and Mrs. Wagner stated that they felt there should be some other way to handle this and that it was too broad. Mr. Hicks stated that if this section would hold up passage of the entire bill that he would suggest that that section be eliminated from this bill and be redrafted for a later time. He did state that the bill itself was very important from legislative intent stand and he felt it was necessary because of some of the other sections of the bill.

Mrs. Wagner asked Mr. Hicks if he felt he would rather have no law

AB 684: Assemblyman Dean Rhoads introduced Mr. Ira Kent, past president of the Nevada Cattlemen's Association and member of the Nevada Tax Commission. Assemblyman Rhoads explained that this bill would add three sentences to the current law and help to clear up some problems which exist in the handling of estates in the rural communities. He stated that it would provide that the fees paid to the lawyer handling the estate would be set by the judge of the estate based on time and involvement of the specific case.

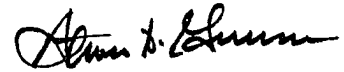
Mr. Kent stated that he felt there had been abuses in the area of the size of the fees charged in settling estates in their part of the state. He stated that he felt this bill would clarify what was to be done and would put the client and the lawyers on a better footing.

In answer to a question from Mrs. Wagner, Mr. Kent stated that there have been cases of exorbitant fees being charged. He gave an example of a cash estate worth approximately \$80,000 and the fee to the attorney was 5% and he felt that for the work involved that was too much. He also stated that there have been other cases where the judge had asked that the attorney set their fee based on the time element involved in the case. Mr. Rhoads stated that Judge Manukian had adopted a procedure much like what is proposed in this bill. Mr. Kent stated that he did not feel that all attorneys abused this, but he did feel that it was a problem in some areas.

SB 453: Judge Richard Minor, president of the Nevada Judges Association and judge in Reno, was first to speak on this bill. He stated that for the last two years there has been a committee working on a code of judicial conduct, based on the American Bar Association standards as modified to meet the problems of Nevada. He stated that this was approved by the electorate in 1976. He stated that presently the committee has been applying the rules and does have jurisdiction over the district court and the supreme court. He stated that this bill was prepared at the request of the Nevada Judges Association and would bring courts of limited jurisdiction under this code and under the jurisdiction of the committee on judicial discipline. He stated that they are still working toward a uniform court system and this bill is a step in that direction. He also pointed out that he felt the justice and the municipal courts should be under the code.

Mrs. Wagner asked Judge Minor if the same procedures were used in both the justice and municipal courts so far as discipline was concerned. Judge Minor stated that it was the same.

AB 693: Mr. L. J. McGee, Chairman of the trust committee of the NBA and Vice President of Pioneer Citizens Bank of Reno, testified on this bill. He stated that he was not in opposition to the bill generally; however, he felt that there should be some provision in the bill which would take into consideration the rights of those people who had already set up trusts which were to mature on the twenty-first birthday of the beneficiary. He stated that he did



CLERK OF THE COURT

COM
CRAIG A. MUELLER, ESQ.
Nevada Bar No. 4703
MUELLER, HINDS & ASSOCIATES
600 S. Eighth Street
Las Vegas, Nevada 89101
Attorney for Petitioner

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

HONORABLE CATHERINE RAMSEY
NORTH LAS VEGAS MUNICIPAL JUDGE

Case No.: A-15-719651-C

Petitioner,

Dept No.: VII

vs.

THE CITY OF NORTH LAS VEGAS AND
BARBARA A. ANDOLINA City Clerk of
NORTH LAS VEGAS, BETTY HAMILTON,
MICHAEL WILLIAM MORENO, and BOB
BORGENSEN, individually and as Members
of "REMOVE RAMSEY NOW,"

Respondents

**COMPLAINT PURSUANT TO NRS
306.040 CHALLENGING THE LEGAL
SUFFICIENCY OF THE PETITION TO
RECALL JUDGE CATHERINE RAMSEY**

COMES NOW Petitioner HONORABLE CATHERINE RAMSEY MUNICIPAL COURT
JUDGE for the CITY of NORTH LAS VEGAS, individually and in her professional capacity, by and
through her attorney of record CRAIG A. MUELLER, ESQ., of MUELLER, HINDS &
ASSOCIATES and hereby submits this Complaint pursuant to NRS 306.040 challenging the legal
sufficiency of the petition of signatures submitted to the City Clerk of North Las Vegas in the "Recall

1 Ramsey Now” effort to recall Judge Ramsey from her position as Municipal Court Judge of North Las
2 Vegas.

3 Catherine Ramsey, by and through counsel Craig A Mueller of Mueller, Hinds & Associates
4 complains and alleges as follows:

5
6 1) Plaintiff, CATHERINE RAMSEY (“Judge Ramsey”) is and was at all times relevant
7 herein mentioned a resident of Clark County, Nevada.

8 2) Defendant, BARBARA A. ANDOLINA (“Barbara”) is and was at all times relevant herein
9 mentioned a resident of Clark County, Nevada, and at all times relevant herein mentioned an employee
10 of the CITY OF NORTH LAS VEGAS, holding the position of CITY CLERK OF NORTH LAS
11 VEGAS.
12

13 3) Defendant, BARBARA, A. ANDOLINA (“Barbara”) is and was at all times relevant herein
14 mentioned the City Clerk of North Las Vegas, Nevada.
15

16 4) Defendant, BETTY HAMILTON (“Betty”) is and was at all times relevant herein
17 mentioned a resident of Clark County Nevada.
18

19 5) Defendant, MICHAEL WILLAIM MORENO (“Michael”) is and was at all times relevant
20 herein mentioned a resident of Clark County, Nevada.

21 6) Defendant, BOB BORGERSEN (“Bob”) is and was at all times relevant herein mentioned a
22 resident of Clark County, Nevada.
23

24 7) Defendant, CITY OF NORTH LAS VEGAS (“City”) is and was at all times relevant herein
25 mentioned a municipal corporation that is a political subdivision of the State of Nevada.

26 8) The true names and capacities of Defendants DOES I through X, and ROES I through V
27 whether individual, company, associate, or otherwise, are unknown to Plaintiff at the time of filing of
28

1 this Complaint, and Plaintiff therefore sues said Defendants by such fictitious names. Plaintiff is
2 informed, believes and therefore alleges that each Defendant, designated as DOES I through X and/or
3 ROES I through X are or may be, legally responsible for the events referred to in this action, and
4 caused damages to the Plaintiff, as herein alleged, and Plaintiff will ask leave of this Court to amend
5 the Complaint to insert the true names and capacities of such Defendants, when the same have been
6 ascertained, and to join them in this action, together with the proper charges and allegations.
7

8 9) At all times relevant herein mentioned, defendants DOES I through X and ROES I through
9 V were the agents, servants, employees, consultants, and contractors of the other defendants named
10 herein, and each of them was acting within the course and scope of their agency, employment, or
11 contract.
12

13 10) The events giving rise to the claims alleges in this Complaint arose within Clark County,
14 Nevada.
15

16 11) This Court has jurisdiction over this action because the parties are residents of Clark
17 County and the events that occurred giving rise to this Complaint occurred within Clark County.
18

19 12) "Recall Ramsey Now" is a politically motivated campaign to ruin a Judge and her
20 reputation.
21

22 13) Newly elected Mayor John Lee and his political associates are motivating this effort to
23 remove Judge Ramsey.
24

25 14) Mayor John Lee wants to remove Judge Ramsey because he wants to control the judiciary
26 in North Las Vegas.
27

28 15) Judge Hoeffgen is a friend and attendee of the same church as Mayor John Lee, and is the
only other Judge in the North Las Vegas Municipal Court.

1 16) The role of Chief Judge in North Las Vegas is held by one judge at a time and rotates
2 between Judges every two years.

3 17) When Mayor John Lee was elected, he insisted that his friend Judge Hoeffgen keep the
4 position even though it was Judge Ramsey's turn to hold it.

5 18) Judge Hoeffgen told Judge Ramsey that his friend John Lee just got elected Mayor, that
6 they share the same church, and John Lee wanted Judge Hoeffgen to stay Chief Judge.
7

8 19) Judge Ramsey refused to permit Judge Hoeffgen from not allowing her the tenure of the
9 position.
10

11 20) Neither Judge holds the position of Chief Judge now.

12 21) Mayor John Lee wants Judge Ramsey removed from the bench because he wants to
13 control the judiciary.
14

15 22) Mayor John Lee views the Court as a division of the City and wants to put his own people
16 in charge.

17 23) Mayor Lee took office on 7/1/13.

18 24) A short time later a lawsuit was filed against the City and Judge Ramsey by the previous
19 Judge Vandlandschoot's judicial assistant: Susan Forti.
20

21 25) In October 2013, the City settled the lawsuit with Ms Forti for \$25,000 but left Judge
22 Ramsey as a defendant when she would not allow Judge Hoeffgen to be Chief Judge.
23

24 26) The city then failed to indemnify Judge Ramsey's defense in the lawsuit.

25 27) After being made aware that the city settled out and left Ramsey in the lawsuit, Judge
26 Hoeffgen agreed the Court should defend the case and seek recovery from the City under their duty to
27 defend.
28

1 28) The Court hired a law firm to defend the case (the law firm of Keith Lyons).

2 29) After the retainer was paid with a purchase card issued to Judge Ramsey by the Court,
3 Judge Hoeffgen recanted his position that Judge Ramsey should be indemnified.

4 30) This charge on the card is the charge referred to in the "Remove Ramsey Now" campaign
5 citing Judge Ramsey's unethical spending.
6

7 31) The judicial ethics committee has not charged Judge Ramsey with any violation to date.

8 32) NRS 176 provides for the distribution of administrative assessments.
9

10 33) Subsection 7 delineates how these financial assessments are to be spent by the court and
11 5(a) permits the monies remaining after 2 years to be deposited into the general fund if it has not been
12 committed for expenditure.

13 34) The court and the city entered into an agreement that the accumulated funds would be used
14 for a new computer system for the court.
15

16 35) The city agreed not to sweep the fund for 5 years to allow the funds to accumulate.

17 36) Four months after the new mayor took office the fund had \$937,278.83 in it and the City
18 acknowledged the project that the court was going to complete.
19

20 37) Judge Hoeffgen recanted on this agreement to allow the Court to retain the funds for a
21 computer system and told Judge Ramsey that the City needed the money more than the court.

22 38) Judge Hoeffgen claimed that Judge Ramsey would not be able to evidence the previous
23 agreement made with the city because he was the only person still working in the court who knew of
24 the agreement.
25

26 39) Judge Vandlandschoot confirmed there was an agreement in writing and attached the
27 Court Administrator's emails to the City in an e-mail.
28

1 40) When Judge Ramsey notified the city that she intended to follow through with the
2 purchase of the computer system, and that she had the e-mails to prove the agreement, the City limited
3 access to the e-mails by the Court.

4 41) The City swept the fund on June 2, 2014 taking the money from the court.

5 42) The City attorney Jeff Barr resigned 8-13-13 after Mayor John Lee was elected because
6 Lee wanted to replace him with an attorney of his own choosing.

7 43) The office of the City Attorney continued to use Jeff Barr's signature stamp on Failure to
8 Appear charges. Despite his resignation.

9 44) In September and then again in October 2013, Judge Ramsey advised the new City
10 Attorney to change the stamp.

11 45) At this time many citizens were being arrested on invalid warrants and more were being
12 issued every day.

13 46) The defendant's arrested on these faulty warrants could potentially charge the city with
14 wrongful imprisonment and the liability to the City of North Las Vegas could be \$50,000 for each
15 charge.

16 47) Judge Ramsey notified the City of this situation and an agreement was made that Judge
17 Ramsey would only issue bench warrants to avoid the liability.

18 48) The City continued to use the stamp even after the agreement was made, issuing warrants
19 on invalid failure to appear occurrences.

20 49) Section 5.065(2) of the Court rules do not permit warrants to be issued in this fashion.

21 50) In an effort not to expose the city to liability, Judge Ramsey allowed the city to dismiss
22 the charges of failure to appear events with the right to refile them if they choose to do so.
23
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1 51) "Remove Ramsey Now" is distorting this matter to appear negatively on Judge Ramsey:
2 identifying her effort to preclude the City from experiencing claims exposing it to liability as her
3 permitting criminals to go free.

4 52) On 9/10/14 Judge Hoeffgen told Judge Ramsey that Mayor Lee said he put a "no spending
5 limit" on the lawsuits against her.

6 53) On 1-5-15 the Mayor's campaign manager, now the City of North Las Vegas' chief of
7 staff, Ryyan Juden, threatened Judge Ramsey.

8 54) Ryyan Juden said very specifically: 'you are not aware of the political tsunami forming
9 around you.'

10 55) He also said that he "will, as I have done in the past," put a mailer of half-truths out about
11 Judge Ramsey and the "low information voters" are not going to know the difference.

12 56) Ryyan Juden also told her that if she resigned he would get the lawsuits settled.

13 57) The act of promising to get the lawsuit dismissed if she resigned is, by definition,
14 blackmail.

15 FIRST CAUSE OF ACTION

16 (Insufficiency of the petition for lack of jurisdiction and failure to comply with NRS 306.020:
17 NRS 306.020 does not apply to Plaintiff)

18 58) Plaintiff alleged all of the general allegations above in addition to:

19 59) NRS 306.020 calls for the recall of a public officer. By definition NRS 281A.160(2)(a), "Public
20 officer" does not include: any justice, judge or other officer of the court system.

21 60) Judge Ramsey is a judge, therefore, NRS 306.020(1) does not apply to her

1 61) As a consequence of the submittal of this insufficient petition Plaintiff has been forced to hire
2 counsel incurring legal fees and damages.

3 62) As a consequence of the submittal of this insufficient petition Plaintiff has suffered consequential
4 damages in excess of \$10,000.
5

6 SECOND CAUSE OF ACTION

7 (Insufficiency of the petition for failure to comply with NRS 306.020(2)(a))

8 NRS 306.020 is as follows:

9 NRS 306.020 Public officers subject to recall from office; contents of petition for recall.

10 3. The petition must, in addition to setting forth the reason why the recall is demanded:

11 (a) Contain the residence addresses of the signers and the date that the petition was signed;

12 (b) Contain a statement of the minimum number of signatures necessary to the validity of
the petition;

13 (c) Contain at the top of each page and immediately above the signature line, in at least
10-point bold type, the words "Recall Petition";

14 (d) Include the date that a notice of intent was filed; and

15 (e) Have the designation: "Signatures of registered voters seeking the recall of
(name of public officer for whom recall is sought)" on each page if the petition contains more
than one page.
16

17 63) Plaintiff restates and realleges the general allegations above, and paragraphs 1-5 in addition to the
18 following:

19 64).The petition is insufficient because it fails to meet the requirements of NRS 306.020(3)(a) because
20 about 2,549 of the signatures do not contain the residence address
21

22 65) The petition is insufficient because it fails to meet the requirements of NRS 306.020(3)(d) because
23 about 102 of the signatures do not contain the date.

24 66) The petition is insufficient because it fails to meet the requirements of NRS 306.020(3)(a) because
25 over 295 of the signatures are duplicative.
26

27 67) The petition is insufficient because it fails to meet the requirements of NRS 306.020(3)(a) because
28 there are more than 295 instances wherein one person signed for multiple persons in the household

1 68) As a consequence of the submittal of this insufficient petition Plaintiff has been forced to hire
2 counsel incurring legal fees and damages.

3 69) As a consequence of the submittal of this insufficient petition Plaintiff has suffered consequential
4 damages in excess of \$10,000
5

6 **THIRD CAUSE OF ACTION**

7 (Insufficiency of the petition for failure to comply with NRS 306.020(3)(c))

8 70) Plaintiff restates and realleges the general allegations above, and paragraphs 1-12 in addition to
9 the following:
10

11 71) The petition is insufficient for failure to comply with NRS 306(3)© because the words "Recall
12 Petition" are not immediately above the signature line in at least 40 of the signatures

13 72) The petition is insufficient for failure to comply with NRS 306(3)© because the words "Recall
14 Petition" is not in 10 pt bold type in all of the signatures
15

16 73) As a consequence of the submittal of this insufficient petition Plaintiff has been forced to hire
17 counsel incurring legal fees and damages.

18 74) As a consequence of the submittal of this insufficient petition Plaintiff has suffered consequential
19 damages in excess of \$10,000
20

21 **FOURTH CAUSE OF ACTION**

22 (Insufficiency of the petition for failure to comply with NRS 306.030(1))
23

24 NRS 306.030(1) is as follows:

25 NRS 306.030 Petition for recall may consist of number of copies; verification.

26 1. The petition may consist of any number of copies which are identical in form with the
27 original, except for the name of the county and the signatures and addresses of the residences of the
28 signers. The pages of the petition with the signatures and of any copy must be consecutively
numbered. Each page must bear the name of a county, and only registered voters of that county may
sign the page.

1 75) Plaintiff restates and realleges the general allegations above, and paragraphs 1-12 in addition to
2 the following:
3

4 76) The petition is insufficient for failure to comply with NRS 306.030(1) because the petitions
5 submitted are not identical in form.

6 77) The petition is insufficient for failure to comply with NRS 306.030(1) because the petitions are
7 not sequentially numbered.
8

9 78) As a consequence of the submittal of this insufficient petition Plaintiff has been forced to hire
10 counsel incurring legal fees and damages.

11 79) As a consequence of the submittal of this insufficient petition Plaintiff has suffered consequential
12 damages in excess of \$10,000
13

14 **FIFTH CAUSE OF ACTION**

15 (Insufficiency of the petition for failure to comply with NRS 306.030(2)
16 NRS 306.030 is as follows:
17 NRS 306.030 Petition for recall may consist of number of copies; verification.

18 2. Every copy must be verified by the circulator thereof, who shall swear or affirm, before a
19 person authorized by law to administer oaths, that the statements and signatures contained in the
20 petition are true to the best of the circulator's knowledge and belief. The verification must also contain
a statement of the number of signatures being verified by the circulator.

21 80) Plaintiff restates and realleges the general allegations above, and paragraphs 1-12 in addition to
22 the following:
23

24 81) The petition is insufficient for failure to comply with NRS 306.030(2) because some of the
25 petitions are not properly verified.
26
27
28

1 82) A petition is invalid where some copies are not verified by the person signing the particular copy
2 Fiannaca v. Gill, 78 Nev. 337, 372 P. 2d 683 (1962) Lundberg v Koonts, 82 Nev. 360, at 365, 418 P.
3 2d 808 (1966)

4 83) As a consequence of the submittal of this insufficient petition Plaintiff has been forced to hire
5 counsel incurring legal fees and damages.

6 84) As a consequence of the submittal of this insufficient petition Plaintiff has suffered consequential
7 damages in excess of \$10,000
8

9 10 **SIXTH CAUSE OF ACTION**

11 (Insufficiency of petition pursuant to lack of compliance with NRS 293.1277 and NRS
12 293.1279)
13 NRS 293.1277 is as follows:

14 NRS 293.1277 Verification of signatures by county clerks; regulations.

15 2. Except as otherwise provided in subsection 3, if more than 500 names have been signed on the
16 documents submitted to a county clerk, the county clerk shall examine the signatures by sampling them
17 at random for verification. The random sample of signatures to be verified must be drawn in such a
18 manner that every signature which has been submitted to the county clerk is given an equal opportunity
19 to be included in the sample. The sample must include an examination of at least 500 or 5 percent of
20 the signatures, whichever is greater. If documents were submitted to the county clerk for more than one
petition district wholly contained within that county, a separate random sample must be performed for
each petition district.

21 NRS 293.1278 is as follows:

22
23 NRS 293.1278 Qualification or disqualification of petition upon receipt of certificates or amended
24 certificates by Secretary of State.

25 1. If the certificates received by the Secretary of State from all the county clerks establish that the
26 number of valid signatures is less than 90 percent of the required number of registered voters, the
27 petition shall be deemed to have failed to qualify, and the Secretary of State shall immediately so notify
the petitioners and the county clerks.

1 85. Plaintiff restates and realleges the general allegations above, and paragraphs 1-12 in addition to
2 the following:

3 86). 2740 signatures were submitted to the City Clerk of North Las Vegas on the petition to "Remove
4 Ramsey Now"

5
6 87). 500 random names were sampled pursuant to NRS 293.1277

7 88). 81 names from the 500 sampled were invalid

8 89). 81 is 83.3% of 500

9
10 90). The petition is invalid because it fell below the 90% needed to be valid

11 91). Because the petition was not sufficient it should be dismissed

12 92). As a consequence of the submittal of this insufficient petition Plaintiff has been forced to hire
13 counsel incurring legal fees and damages.

14
15 93). As a consequence of the submittal of this insufficient petition Plaintiff has suffered consequential
16 damages in excess of \$10,000

17 **SEVENTH CAUSE OF ACTION**

18 (Insufficiency of petition pursuant to lack of compliance with NRS 293.12758©)

19 NRS 293.12758© is as follows:

20 NRS 293.12758 Receipt issued by county clerk; requirements for petition.

21 1. The county clerk shall issue a receipt to any person who submits a petition for the
22 verification of signatures or a petition, declaration of or acceptance of candidacy. The receipt must
state:

23 (a) The number of documents submitted;

24 (b) The number of pages of each document; and

(c) The number of signatures which the person declares are on the petition.

25 94). Plaintiff restates and realleges the general allegations above, and paragraphs 1-12 in addition to
26 the following:
27
28

1 95). NRS 293.12758 requires that the clerk “**shall** issue a receipt to any person who submits a petition
2 and the receipt **must** state the number of signatures which the person declares are on the petition.

3 96). The clerk identified “approximately 2700” signatures.

4 97). The clerk did not specifically identify the number of signatures on the petition which the clerk
5 “must” do.

7 98). The petition is insufficient based on the non compliance of the clerk with this requirement.

8 99). As a consequence of the submittal of this insufficient petition Plaintiff has been forced to hire
9 counsel incurring legal fees and damages.

10 100). As a consequence of the submittal of this insufficient petition Plaintiff has suffered
11 consequential damages in excess of \$10,000.

14 EIGHTH CAUSE OF ACTION

15 (the petition should be dismissed because it was funded illegally)

16 Article2 section 10 of the Nevada Constitution is as follows:

17
18 Sec. 10. Limitation on contributions to campaign.

19 1. As used in this Section, “contribution” includes the value of services provided in kind for
20 which money would otherwise be paid, such as paid polling and resulting data, paid direct mail, paid
21 solicitation by telephone, any paid campaign paraphernalia printed or otherwise produced, and the use
22 of paid personnel to assist in a campaign.

23 2. The Legislature shall provide by law for the limitation of the total contribution by any natural
24 or artificial person to the campaign of any person for election to any office, except a federal office, to
25 \$5,000 for the primary and \$5,000 for the general election, and to the approval or rejection of any
26 question by the registered voters to \$5,000, whether the office sought or the question submitted is local
or for the State as a whole. The Legislature shall further provide for the punishment of the contributor,
the candidate, and any other knowing party to a violation of the limit, as a felony.

27 101). The police union behind Remove Ramsey Now has admitted in publications that they have spent
28 in excess of \$10,000 on the recall effort

1 102). Article 2 Section 10(2) clearly prohibits the investment of more than \$5,000 in efforts such as
2 this

3 103). Contributing more than \$5,000 is a felony

4 104). The finding of the "Remove Ramsey Now" campaign is in derogation of the Nevada State
5 Constitution and is the result of a criminal act on the part of onr of the entities behind the effort

6 105). Consequently, the petition should be dismissed because it is founded upon a criminal act and in
7 derogation of Nevada's founding document.
8

9 106). As a consequence of the submittal of this insufficient petition Plaintiff has been forced to hire
10 counsel incurring legal fees and damages

11 107). As a consequence of the submittal of this insufficient petition Plaintiff has suffered
12 consequential damages in excess of \$10,000.
13
14

15 CONCLUSION

16 1) A judge can declare a petition not sufficient for any number of reasons.

17 2) First, it must meet the technical standards imposed by statute: the petition to remove
18 Judge Ramsey does not
19

20 4) Second, it must meet the procedural requirements: the petition to remove Judge
21 Ramsey does not.
22

23 5) Third, it must meet the statutory requirements: the petition to remove Judge Ramsey
24 does not.

25 6) Fourth it must meet the sufficiency requirements: the petition to remove Judge Ramsey
26 does not.
27

28 7) Fifth the signatures were not verified as they were supposed to have been.

1 8) Based on the verification process outlined by statute, the petition did not have
2 sufficient signatures.

3 **WHEREFORE:** Plaintiff humbly requests that this Court dismiss the "Recall Ramsey Now"
4 petition for insufficiency and because it is in derogation of rights of Judge Ramsey guaranteed by the
5 United States Constitution, the Nevada Constitution, Nevada statutory law, and Nevada case law.
6 Plaintiff also seeks damages in excess of \$10,000; and for attorney fees and costs incurred in the
7 defense of this unconstitutional effort to remove her from her position as Judge of North Las Vegas, or
8 for any other relief that this Court deems appropriate.
9

10
11 **DATED** this 9th day of June 2015.

12
13 MUELLER, HINDS & ASSOCIATES

14
15 By: 

16 CRAIG A MUELLER, ESQ.

17 Nevada Bar No.: 4703

18 600 S. Eighth Street

19 Las Vegas, NV 89101

20 Attorney for Petitioner
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28



CLERK OF THE COURT

1 INJ
2 MUELLER, HINDS & ASSOCIATES
3 CRAIG A. MUELLER, ESQ.
4 Nevada Bar No. 4703
5 600 S. Eighth Street
6 Las Vegas, Nevada 89101
7 Attorney for Petitioners

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IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK

HONORABLE CATHERINE RAMSEY
NORTH LAS VEGAS MUNICIPAL JUDGE
Petitioner,

vs.

THE CITY OF NORTH LAS VEGAS AND
BARBARA A. ANDOLINA City Clerk of
NORTH LAS VEGAS, BETTY HAMILTON,
MICHAEL WILLIAM MORENO, and BOB
BORGENSEN, individually and as Members
of "REMOVE RAMSEY NOW,"

Respondents

Case No.: A-15-719406-P

Dept No.: XIII

**EMERGENCY PETITION FOR
INJUNCTION**

"EMERGENCY MOTION UNDER NRS 295.105(4)"

REQUEST FOR HEARING WITHIN 3 DAYS

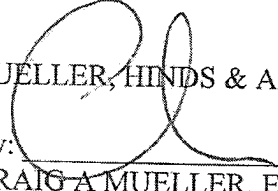
COMES NOW Petitioner HONORABLE CATHERINE RAMSEY MUNICIPAL COURT
JUDGE for the CITY OF NORTH LAS VEGAS, individually and in her professional capacity, by
and through her attorney of record CRAIG A. MUELLER, ESQ., of MUELLER, HINDS &
ASSOCIATES and hereby submits this Emergency Petition For Injunctive Relief pursuant to NRS
295.105(4) and NRS 33.010.

///

1 This Petition is made and based upon the Points and Authorities which follow, the arguments
2 of counsel at the hearing on the motion, and all of the pleadings and papers on file in this action.

3
4 DATED this 22 day of June, 2015

5
6 MUELLER, HINDS & ASSOCIATES

7 By: 
8 CRAIG A MUELLER, ESQ.
9 Nevada Bar No.: 4703
10 600 S. Eighth Street
11 Las Vegas, NV 89101
12 Attorney for Petitioner

13 **I. STATEMENT OF CASE**

14 This is a petition for an injunction requesting that this court enjoin the City Clerk of North Las
15 Vegas, Clark County, Nevada and Betty Hamilton, Michael William Moreno, and Bob Borgersen,
16 individually and as Members of "REMOVE RAMSEY NOW," from permitting the unconstitutional
17 effort to remove North Las Vegas Municipal Court Judge Catherine Ramsey from her position as
18 judge through a recall process articulated in Article 2 of the Nevada State Constitution. This effort to
19 remove Judge Ramsey through this recall process is unconstitutional because Article 2 is not the
20 article under which judges can be removed from their positions. Article 6 of the Nevada State
21 Constitution is the Article that identifies the proper procedures for removing a judge in Nevada from
22 their position as judge in this state. Judge Ramsey can only be removed from her position using the
23 procedures identified in Article 6. Because the current effort to remove her is being attempted using
24 the procedures identified in Article 2, and because Judge Ramsey can only be removed with the
25 procedures authorized in Article 6, this effort to recall Judge Ramsey is unconstitutional, and must be
26 enjoined by this court.

27 ///

1 **II. FACTUAL BACKGROUND**

2 Judge Catherine Ramsey was elected to serve as Municipal Court Judge for the City of North
3 Las Vegas in the election of 2011. Judge Ramsey experienced no problems in the first 3 years of her
4 6 year term. Subsequent to the election of a new mayor for the City of North Las Vegas, an effort to
5 remove Judge Ramsey was initiated. On March 3, 2011 a notice of intent to recall Judge Ramsey was
6 filed with the City Clerk. Following the filing of that notice a petition was circulated amongst the
7 voters that voted in the election in which Judge Ramsey was elected. The signatures on that petition
8 were submitted to the City Clerk on March 28, 2011 and the signatures are currently being counted.
9 This recall effort is in derogation of the Nevada State Constitution, Nevada State Statutes, and
10 precedential Nevada case law and must be halted because it is unconstitutional and allowing it to
11 proceed will bring irreparable injury upon Judge Ramsey. Furthermore, if it is allowed to continue
12 without being enjoined, it will progress to a point where a judgment will be ineffectual. Because of
13 the impending irreparable injury, and the inevitability of rendering judgments ineffectual if this matter
14 is permitted to proceed, this petition for an injunction should be granted.

15
16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **A. STANDARD OF REVIEW**

18 NRS 295.105(4) states the following:

19 4. A final determination as to the sufficiency of a petition is subject to judicial
20 review. If the final determination is challenged by filing a complaint in district court,
21 the court shall set the matter for hearing not later than 3 days after the complaint is
22 filed and shall give priority to such a complaint over all other matters pending with the
23 court, except for criminal proceedings. A final determination of insufficiency, even if
24 sustained upon judicial review, does not prejudice the filing of a new petition for the
25 same purpose.

26 This statute is clear and precise. Plaintiff is entitled to a hearing within three (3) days of the filing of
27 this petition.

28 ///

 ///

1 NRS 33.010 states as follows:

2
3 NRS 33.010 Cases in which injunction may be granted. An injunction may be
4 granted in the following cases:

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

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

11 3. When it shall appear, during the litigation, that the defendant is doing or
12 threatens, or is about to do, or is procuring or suffering to be done, some act in
13 violation of the plaintiff's rights respecting the subject of the action, and tending to
14 render the judgment ineffectual.

15 Plaintiff seeks an injunction because all three of the criteria above apply in this situation.

16 **B. LEGAL ARGUMENT**

17 Judge Ramsey is entitled to the relief demanded, and such relief consists of restraining the
18 commission of the act of seeking a recall of Judge Ramsey from the position of Judge of North Las
19 Vegas. Judge Ramsey is seeking an order from this court to stop the recall effort initiated by Judge
20 Ramsey's political adversaries. These adversaries are attempting to provoke a recall election to
21 remove Judge Ramsey from her position as Judge of North Las Vegas.

22
23 Judge Ramsey's political adversaries are attempting to remove her from the bench using a
24 procedure that is meant to remove article II officials: meaning officials of the legislature and executive
25 branches. Judge Ramsey is a judicial official. Judicial officials are Article 6 officials as defined by the
26 Nevada State Constitution and can only be removed by a process outlined and established in Article 6
27
28

1 of the Nevada State Constitution. Judge Ramsey's political adversaries cannot remove her from the
2 bench relying on a procedure meant to apply to legislative and executive officials.

3
4 Article 2 section 9 of the Nevada State Constitution states:

5
6 Sec. 9. Recall of public officers: Procedure and limitations. Every
7 public officer in the State of Nevada is subject, as herein provided, to recall
8 from office by the registered voters of the state, or of the county, district, or
9 municipality which he represents. For this purpose, not less than twenty-five
10 percent (25%) of the number who actually voted in the state or in the county,
11 district, or municipality which he represents, at the election in which he was
12 elected, shall file their petition, in the manner herein provided, demanding his
13 recall by the people.

14 Judge Ramsey's political adversaries are attempting to remove her from the bench relying on the
15 procedure outlined above. They have allegedly collected 25% of the signature of the voters that voted
16 in the election in which Judge Ramsey was elected to her position as Judge of North Las Vegas
17 Municipal Court. Those signatures were submitted to the City Clerk and are being tabulated currently.

18 The fact that those signatures are being counted and the fact that her adversaries have gotten
19 this far with this inappropriate and unconstitutional procedure evidences the immediate need for the
20 order to enjoin this process, e.g. this process is in violation of Judge Ramsey's rights; allowing this
21 process to continue will result in irreparable injury to Judge Ramsey; and if Judge Ramsey's
22 adversaries are permitted to continue with this inappropriate and illegal process, a judgment will be
23 rendered ineffectual. All of these are pursuant to NRS 30.010.

24
25 The appropriate procedure for removing Judge Ramsey from the bench is outlined in the
26 following from Article 6 Section 21 of the Nevada State Constitution. The following provision
27 identifies whom may be removed from judicial office and by whom that judge may be removed:
28

1 Sec. 21. Commission on Judicial Discipline; Code of Judicial Conduct.

2 1. A justice of the Supreme Court, a judge of the court of appeals, a district judge, a
3 justice of the peace or a municipal judge may, in addition to the provision of Article 7
4 for impeachment, be censured, retired, removed or otherwise disciplined by the
5 Commission on Judicial Discipline. Pursuant to rules governing appeals adopted by the
6 Supreme Court, a justice or judge may appeal from the action of the Commission to the
7 Supreme Court, which may reverse such action or take any alternative action provided
8 in this subsection.

9 Later in that same section the following provision identifies that the Nevada State Legislature outlined
10 the procedure for removing Judges from office, granting the authority to do so to the Commission of
11 Judicial Discipline:

12 5. The Legislature shall establish:

13 (a) In addition to censure, retirement and removal, the other forms of
14 disciplinary action that the Commission may impose;

15 (b) The grounds for censure and other disciplinary action that the
16 Commission may impose, including, but not limited to, violations of the provisions of
17 the Code of Judicial Conduct;

18 (c) The standards for the investigation of matters relating to the fitness of a
19 justice or judge; and

20 (d) The confidentiality or nonconfidentiality, as appropriate, of proceedings
21 before the Commission, except that, in any event, a decision to censure, retire or
22 remove a justice or judge must be made public.

23 Lastly, the circumstances under which a judge may be removed are identified in the following:

24 8. No justice or judge may by virtue of this Section be:

25 (a) Removed except for willful misconduct, willful or persistent failure to
26 perform the duties of his office or habitual intemperance; or

27 (b) Retired except for advanced age which interferes with the proper
28 performance of his judicial duties, or for mental or physical disability which prevents
the proper performance of his judicial duties and which is likely to be permanent in
nature.

 9. Any matter relating to the fitness of a justice or judge may be brought
to the attention of the Commission by any person or on the motion of the Commission.
The Commission shall, after preliminary investigation, dismiss the matter or order a
hearing to be held before it. If a hearing is ordered, a statement of the matter must be
served upon the justice or judge against whom the proceeding is brought. The
Commission in its discretion may suspend a justice or judge from the exercise of his

1 office pending the determination of the proceedings before the Commission. Any
2 justice or judge whose removal is sought is liable to indictment and punishment
3 according to law. A justice or judge retired for disability in accordance with this
4 Section is entitled thereafter to receive such compensation as the Legislature may
5 provide.

6 Article 6 Section 21 is the textual foundation for the procedure for removing a judge from
7 office in the State of Nevada. As is clearly shown by the combined reading of the provisions cited
8 above, it is Article 6 Section 21 that explains the "who, what, when, where, why and how" a judge can
9 be removed from office.

10 Again, Judge Ramsey's political adversaries are seeking to remove her from office relying on
11 the wrong procedure from Article 2. They have made a critical error in relying on a procedure that is
12 intended for officials from the legislative and executive departments of the Nevada State government.
13 In deciding to rely on a flawed process, they have demonstrated a fundamental misunderstanding of
14 the distinctions between the three branches of our government and the protections that are in place to
15 keep those distinctions pronounced and in tact.
16

17 **Other Nevada statutes support the position that the procedure for removal from office of legislative
18 and executive officers is identified in Article 2, while the one for judicial officials is identified in
19 Article 6.**

20 In "TITLE 23 PUBLIC OFFICERS AND EMPLOYEES of Nevada Revised Statutes, Chapter
21 281 General provisions", there are numerous sections that further emphasize that the processes for
22 removal of public officials from office and removal of judges from office were intended to be separate
23 and distinct processes. Three provisions from this one section of NRS reveal that public officials and
24 judges are defined differently: the intent of the Nevada State Legislature was for these different
25 officials to be treated differently. The following defines a public officer:
26
27
28

1 NRS 281.005 "Public officer" and "special use vehicle" defined. As used in this
2 chapter:

3 1. "Public officer" means a person elected or appointed to a position
4 which:

5 (a) Is established by the Constitution or a statute of this State, or by a
6 charter or ordinance of a political subdivision of this State; and

7 (b) Involves the continuous exercise, as part of the regular and permanent
8 administration of the government, of a public power, trust or duty.

9 2. "Special use vehicle" means any vehicle designed or used for the
10 transportation of persons or property off paved highways.

11 Again in NRS281A.160 it is clearly stated that "public officer" does not include judges.

12 NRS 281A.160 "Public officer" defined.

13 1. "Public officer" means a person who is:

14 (a) Elected or appointed to a position which:

15 (1) Is established by the Constitution of the State of Nevada, a statute
16 of this State or a charter or ordinance of any county, city or other political subdivision;
17 and

18 (2) Involves the exercise of a public power, trust or duty; or

19 (b) Designated as a public officer for the purposes of this chapter pursuant
20 to NRS 281A.182.

21 2. As used in this section, "the exercise of a public power, trust or duty"
22 means:

23 (a) Actions taken in an official capacity which involve a substantial and
24 material exercise of administrative discretion in the formulation of public policy;

25 (b) The expenditure of public money; and

26 (c) The administration of laws and rules of the State or any county, city or
27 other political subdivision.

28 3. "Public officer" does not include:

(a) Any justice, judge or other officer of the court system;

4. "Public office" does not include an office held by:

(a) Any justice, judge or other officer of the court system;

(bold added for emphasis)

NRS 281.559 makes the distinction as follows:

1 NRS 281.559 Electronic filing by certain appointed public officers; exceptions; date
2 on which statement deemed filed; access through secure website; regulations.

3 (a) A public officer appointed to fill the unexpired term of an elected or
4 appointed public officer shall file a statement of financial disclosure within 30 days
5 after the public officer's appointment.

6 3. A judicial officer who is appointed to fill the unexpired term of a
7 predecessor or to fill a newly created judgeship shall file a statement of financial
8 disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial
9 Conduct. Such a statement of financial disclosure must include, without limitation, all
10 information required to be included in a statement of financial disclosure pursuant to
11 NRS 281.571.

12 Section (a) above identifies the procedure for filing by a public officer and section 3 identifies the
13 procedure for a judge. If a judge and a public officer referred to the same thing, the distinction would
14 not be made. Different references identify different entities.

15 Lastly, NRS 281.561 again makes the distinction in another context:

16 NRS 281.561 Electronic filing by certain candidates for public office and certain
17 elected public officers; exceptions; date on which statement deemed filed; access
18 through secure website; regulations.

19 (b) Each public officer shall file a statement of financial disclosure on or before
20 January 15 of:...

21 4. A candidate for judicial office or a judicial officer shall file a statement of financial
22 disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial
23 Conduct. Such a statement of financial disclosure must include, without limitation, all
24 information required to be included in a statement of financial disclosure pursuant to
25 NRS 281.571.

26 The different references in section (b) and section 4 above make it exhaustively clear that the
27 distinction between public officers and judicial officers is both deliberate and pervasive in Nevada
28 law.

29 Nevada case law also supports the fact that the distinction between public officers and judicial
30 officers is deliberate. In Nevada Judges Association v. Lau, 910 P.2d 898, 112 Nev. 51 (1996) the

1 Nevada Supreme Court addressed the issue of term limits for elected officials. A ballot measure
2 proposing term limits was placed on the ballot for Nevada voters to decide in the general election of
3 1994. The Question 9 on the ballot was originally "Shall the Nevada Constitution be amended to
4 establish term limits for state and local public officials?"
5

6 The Nevada Judges Association and other entities challenged this question claiming that it
7 violated equal protection and due process guarantees of the Nevada and United States Constitution
8 and because its impact on the judicial offices in the state was inadequately explained. The Nevada
9 Supreme Court determined that: "The initiative's wording regarding judicial term limits does not
10 make it clear that a judge may be limited to serving less than three years under certain circumstances."
11

12 Id., page 903. The court then elucidates the distinction between public officers and judges in the
13 following:
14

15 In this case, all public officials--whether legislative, executive, or judicial--are lumped
16 into one initiative. The impact on these elected officials and the branches in which they
17 serve is different. Voters, while favoring term limits in general, may fail to distinguish
18 between the varying impacts on different branches of government. We conclude that
19 the form of the initiative and the wording of the explanation could have been
20 unnecessarily misleading. **Therefore, we direct that the next time the initiative appears**
21 **on the ballot, it be severed and presented in the form of two questions, enabling voters**
22 **to vote yes or no in regard to term limits for non-judicial public officers and yes or no**
23 **in regard to term limits for judges and justices.** Each question shall have its own
24 respective explanation and arguments, and the explanation in regard to term limits for
25 judges shall make clear that in the case of appointed judges, proposed term limits may
26 preclude an incumbent from seeking re-election after serving less than three years on
27 the bench. This will ensure that the voters are well informed in regard to the specific
28 impact that the proposed term limits will have on the separate branches of government
and the elected officers serving in each. The two questions will present the same basic
term limit proposals that were presented in 1994, and the voters will have the
opportunity to enact them. However, the separate questions should focus the voters'
attention on the fact that judicial officers are included in the proposed term limits, and a
detailed explanation of the impact on the judiciary will be contained.

Id., page 904. (bold added for emphasis)

1 Judge Ramsey's political opponents are either not aware of the critical distinction made above or
2 they are deliberately being dismissive of it. The fact that they are trying to remove Judge Ramsey
3 based on the procedure outlined for the removal of public officials from Article II reflects their
4 ignorance. Whether deliberate or not, the effect is the same: the unconstitutional exercise and
5 misapplication of the law.
6

7 **The legislative history of Article 6 section 21, also makes it clear that this Article was intended as the**
8 **exclusive procedure for removing judges in the State of Nevada**

9 On February 5, 1975, the Assembly Judiciary Committee at the 58th Nevada Assembly Session
10 discussed (what was then) A.J.R. 16 which would ultimately be Section 6 Article 21 of the Nevada
11 State Constitution. Judge Torvinen was at that Session and had this to say about that bill: "This
12 legislation is basically patterned after the California law regarding judges. Basically, this legislation
13 would provide that judges do their job, and those who do not would be removed." (See exhibit1)
14 Clearly, the legislature intended for this bill (that became Article 6 Section 21) to be the method for
15 removing judges in the State of Nevada.
16
17

18 Furthermore, in the published pamphlet that accompanied all of the voting booths a small
19 explanation was included with each proposed amendment. The amendment representing Article 6
20 Section 21 was articulated as "Question 9" on the November 2, 1976 ballot:
21

22 A majority vote of "yes" would amend article 6 by adding a new section to the article.
23 The new section would provide for the establishment of a Commission on Judicial
24 Discipline which would be empowered to censure, retire, or remove justices or
25 judges. Grounds for censuring justices or judges would be determined by Rules of
26 the Supreme Court. Justices and judges could not be removed except for willful
misconduct, willful or persistent failure to perform the duties of their offices or
habitual intemperance.

27 Once again, it is very clear from the legislative history of Nevada State Constitution
28 Article 6 Section 21 that judges are intended to be removed from office relying on the vehicle

1 provided in that article. The removal of a judge from office in Nevada was never intended to
2 be accomplished by the reliance on the vehicle provided for legislative and executive
3 officials via Article 2. Once again there is another reason why this court must permit this
4 petition for an injunction preventing Judge Ramsey's political adversaries from
5 accomplishing their purposes with the unconstitutional abuse of process stemming from their
6 fundamental misunderstanding of Nevada State law and history.
7

8 Further proof from the legislature that the removal of judges in the State of Nevada is
9 intended to be accomplished relying on the procedure identified in Article 6 of the Nevada
10 State Constitution is revealed in "Background Paper 81-8 JUDICIAL DISCIPLINE"
11 published by the Nevada State Legislature. In this paper intended for distribution to
12 members of the legislature as a summary and highlights of the issue of judicial discipline the
13 following statement is made effectively summarizing the position of the legislature on
14 judicial removal: "Because of the shortcomings of impeachment, recall and legislative
15 address, the judicial discipline commission was developed to handle judicial misconduct."
16 (See exhibit 2) Pursuing the removal of a judge in the state of Nevada relying on the
17 procedure intended for the removal of legislative and executive officials from Article 2; and
18 ignoring or dismissing the procedure intended for the removal of judges from Article 6, is in
19 derogation of the law of Nevada and in violation of Judge Ramsey's rights.
20
21
22
23

24 ///

25 ///

26 ///

27
28 **Not once in Nevada history has a judge been removed from office using the recall procedure outlined in Article 2. However, judges have been removed relying on Article 6.**

1 Nevada entered the Union and became a State on October 1, 1864. Nevada has been a state for
2 151 years. Never in the 151 years has a judge been removed from office relying on voter recall: the
3 procedure outlined in Article 2 and intended for public officials except for judges.
4

5 However, there have been judges removed from office in Nevada since it became a state. One
6 recent example of just such a removal occurred in 1997 when Gary J. Davis was removed from the
7 position of Municipal Court Judge in North Las Vegas; the same position that Judge Ramsey currently
8 holds. This removal was challenged in the Nevada Supreme Court and discussed in the following
9 case: In the Matter of the Honorable Gary J. Davis, Municipal Court Judge, for the City of North Las
10 Vegas, County of Clark, State of Nevada 113 Nev. 1204, 946 P. 2d 1033. In this matter the Nevada
11 Commission on Judicial Discipline (the same one established in Article 6, Section 21 when it was
12 made part of the Nevada State Constitution in 1976) investigated Judge Davis and determined that he
13 should be removed. The Nevada Commission on Judicial Discipline removed him from his position
14 and he appealed to the Nevada Supreme Court.
15
16

17 The Nevada Supreme Court stated the following, solidifying the authority of the Commission
18 to remove judges from office.
19

20 We initially address the threshold issue of the Commission's jurisdiction to
21 discipline a municipal court judge. The constitutional provision approved by the voters
22 in 1976 created the Commission and provided that "[a] justice of the supreme court or a
23 district judge may ... be censured, retired or removed by the Commission on judicial
24 discipline." Nev. Const. art. 6, § 21(1) (emphasis added). In 1977 the legislature
25 enacted NRS 1.440(1), which provides:

26 The Commission on judicial discipline has exclusive jurisdiction over the censure,
27 removal and involuntary retirement of justices of the peace and judges of municipal
28 courts which is coextensive with its jurisdiction over justices of the supreme court and
judges of the district courts and must be exercised in the same manner and under the
same rules.

1 Furthermore, in this case the Supreme Court further established the jurisdiction of the
2 Commission as the sole organ of government with the authority granted to remove judges from
3 office when they discussed the more recent addition to the Nevada Revised Statutes, section
4 1.440. This section was originally added in 1977 and is articulated as follows:
5

6 NRS 1.440 Jurisdiction over judges; appointment of justices of the peace and
7 municipal judges to Commission.
8

9 1. The Commission has exclusive jurisdiction over the public censure, removal,
10 involuntary retirement and other discipline of judges which is coextensive with its
11 jurisdiction over justices of the Supreme Court and must be exercised in the same
12 manner and under the same rules.

13 2. The Supreme Court shall appoint two justices of the peace or two municipal
14 judges to sit on the Commission for formal, public proceedings against a justice of the
15 peace or a municipal judge, respectively. Justices of the peace and municipal judges so
16 appointed must be designated by an order of the Supreme Court to sit for such
17 proceedings in place of and to serve for the same terms as the regular members of the
18 Commission appointed by the Supreme Court.

19 There are two important points about this section 1) it was added after Article 6 section 21 and
20 articulates once more the legislature's intent that the Commission is the authority that removes judges
21 in Nevada, and 2) the Supreme Court ruled: "Thus, the promulgation of NRS 1.440(1) by the 1977
22 Nevada legislature was within its constitutional prerogatives." Id., page 1039. More importantly,
23 however, the decision firmly establishes that the Commission, and consequently Article 6, provides the
24 authority and mechanism for removal of judges. The following excerpt makes this fact unmistakably
25 clear and surgically precise:

26 While article 6, section 21, in its original form, clearly and unambiguously vested the
27 Commission with authority to discipline supreme court justices and district court
28 judges, article 7, section 4 of the constitution gave the legislature the mandate to
provide for the removal from office any civil officer other than those in "this article
previously specified" for malfeasance or nonfeasance in the performance of official

1 duties. This court has interpreted article 7, section 4 as authorizing the legislature to
2 provide by statute for the removal of district, county and township officers. Robison v.
3 District Court, 73 Nev. 169, 172, 313 P.2d 436, 438 (1957). In Gay v. District Court,
4 41 Nev. 330, 336, 171 P. 156, 157 (1918), this court relied upon section 4 of article 7 in
5 upholding a statute giving district courts authority to remove certain public officers.
6 Further, under this authority, the legislature had the option of setting removal
7 guidelines. Thus, when article 6, section 21(9)(b) and article 7, section 4 are read
8 together, it is apparent that the legislature was free to utilize the Commission as a
9 medium for that purpose. Because the power of removal in this particular context also
10 implies authority in the Commission to impose lesser sanctions, we hold that the
11 Commission did have jurisdiction to either remove or impose any measure of
12 discipline, including removal, in this matter.

13 Obviously, the Nevada Supreme Court has sanctioned and confirmed the removal of
14 judges from office relying on the sole vehicle intended for that purpose: the Nevada
15 Commission on Judicial Discipline and the procedure outlined in Article 6 section 21 of the
16 Nevada State Constitution.

17 C. CONCLUSION

18 The arguments above firmly and uncontroversially establish that the efforts to remove
19 Judge Ramsey from her position as North Las Vegas Judge are unconstitutional based on
20 established law and procedure in Nevada. These efforts stem from an effort to blur the
21 distinctions between the three branches of government and are based on a fundamental
22 misunderstanding of those distinctions. This court should not permit these efforts to succeed
23 simply because they rely on these misunderstandings and abuses of process.

24 More importantly, it is these efforts that must be enjoined pursuant to NRS 33.010. The
25 reality is that allowing this unconstitutional use of the recall procedure to remove Judge
26 Ramsey subjects her to all three of the criteria enabling this court to grant this petition for
27
28

1 injunction. 1) Judge Ramsey is entitled to the relief of restraining her political adversaries from
2 prevailing with the flawed and unconstitutional use of the wrong procedure for her removal; 2)
3 allowing her political adversaries to prevail with pursuing this flawed approach will subject
4 her to irreparable injury because if she is removed she will not be able to assume the bench
5 again; and 3) allowing this procedure to continue is in violation of her constitutional rights and
6 if any judgment made after her possible removal this way will be ineffectual. Consequently,
7 this petition to put a stop to this illegal procedure by way of an injunction must be granted.
8
9

10 Additionally, Petitioner seeks attorney fees and costs because it was necessary to hire
11 legal counsel in defense of this action that is unconstitutional and inappropriate.
12

13 WHEREFORE, Plaintiff humbly prays that this court grant this petition to enjoin the
14 effort to remove her from her position, or for any other relief that this court will entertain.
15

16 DATED this ____ day of June, 2015.
17
18

19 MUELLER, HINDS & ASSOCIATES, CHTD.
20

21 By

22 CRAIG A. MUELLER, ESQ.

23 Nevada Bar No. 4703

24 600 S. Eighth Street

25 Las Vegas, NV 89101

26 (702) 940-1234

27 Attorney for Petitioner
28

Exhibit 1

ASSEMBLY JUDICIARY COMMITTEE
58th NEVADA ASSEMBLY SESSION

MINUTES

February 5, 1975

Chairman Robert R. Barengo called to order the meeting of the Assembly Judiciary Committee at the hour of 9:32 a.m. on Wednesday, February 5, 1975.

MEMBERS PRESENT: Messrs. BARENGO, BANNER, HEANEY
HICKEY, POLISH, SENA, Mrs. HAYES
and Mrs. WAGNER.

MEMBERS ABSENT: NONE.

Mr. Barengo opened the meeting and passed out copies of a letter dated October 3, 1974 from William P. Thompson, Stated Clerk of the United Presbyterian Church, relative to the Equal Rights Amendment. This letter is attached.

Guests of the Committee at this meeting were Judge Roy Torvinen, Washoe County District Judge, Dennis Baughman, Las Vegas Review-Journal, Frank Fahrenkopf, a Reno attorney and newly-elected Chairman of the State of Nevada Republican Central Committee, Keith Ashworth, Speaker of the Assembly, and Brenda Baxter, from the State of Nevada Planning Coordinator. The Guest Register from this meeting is attached.

Mr. Barengo introduced Judge Torvinen to the Committee, and he proceeded to testify as follows:

Judge Torvinen basically explained the history of the bills which were being considered at this meeting to the Committee. The bills were A.J.R.10, A.J.R.14, A.J.R.15, A.J.R.16, A.J.R.17 and A.J.R.18. They were introduced in the 57th Session, and they were originally presented in one "package".

At this point, Mr. Hickey entered the meeting.

Judge Torvinen commented that the two committees proposed by A.J.R.14 and A.J.R.17 would be, in fact, the same committee. Judge Torvinen explained the Missouri plan, which is where a judge runs against his own record and not in a contested race. If there are a lot of negative votes, the governor would then appoint a new judge to replace the incumbent judge.

Minutes

Page 2.

February 5, 1975

Judge Torvinen stated that he is definitely in favor of court reform, but most of the people thought the "package" as presented was too complicated, or maybe they just didn't understand it. He pointed out that some judges are not too happy with the measures.

As regards A.J.R.14, Judge Torvinen explained that the selection committee proposed would consist of a justice of the Supreme Court, 3 members from the State Bar, and three people from the general public appointed by the Governor. He also suggested that if there occurred a vacancy and a district judge needed to be appointed--that one be appointed from a general area or district--not statewide.

As regards, A.J.R.15, the one main issue, which is non-controversial, is the matter of paying the Justices of the Peace a small sum of money while he is attending the Trial Judges College. In a small or medium sized community, Justices of the Peace have taken hold and tried to improve the quality of justice in the legal field. Often there is no availability of an attorney, or very seldom.

Judge Torvinen stated that if the compensation for Justices of the Peace was raised, they could take the place of at least one district judge.

Mrs. Wagner questioned the merit of the Missouri plan. Judge Torvinen explained that only the Supreme Court would run on the Missouri plan. Mrs. Wagner then questioned how many judges have been turned out under this plan. It was Judge Torvinen's comment that he has heard of very few.

Judge Torvinen then testified regarding A.J.R.16, which relates to the discipline of judges. The district judges felt this was unfair because it gave the Supreme Court the Missouri plan and took away from them. However, it increases their terms from four to six years. This commission for the discipline of judges would be made up of lawyers and non-lawyers. This legislation is basically patterned after the California law regarding judges. Basically, this legislation would provide that judges do their job, and those who do not would be removed.

As to A.J.R.17, which pertains to the Missouri plan for the Supreme Court, Judge Torvinen thinks maybe there is some merit in having judges run for election. He notes that there were two incumbent judges turned out in Las Vegas. The Judge then noted that running a statewide campaign for a judge is extremely difficult, and it might be an answer to have judges run in just a particular section or area.

Exhibit 2

Background Paper 81-8

JUDICIAL DISCIPLINE

Judicial Discipline

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JUDICIAL DISCIPLINE

I

INTRODUCTION

During the past decade interest in political reform, including judicial reform, significantly increased. Citizens came to feel that public officials, including judges, were not being held accountable for many of their actions. Judges, many felt, were not applying the law uniformly. This concern led to mechanisms for judicial discipline. A New Jersey judge, for example, was suspended for 6 months for fixing his son's speeding ticket while applying the sanctions for speeding to others. People expect a judge to be impartial and to apply the law uniformly. Other public officials were expected to meet certain standards, so why not judges?

But impeachment and recall are cumbersome, expensive and ineffective methods of removing or disciplining a judge. In addition, both of these methods are reserved for flagrant abuses of power and were designed to be difficult to prevent undeserved harrassment of public officers. Removal from office is a severe sanction and is not applicable in most instances of judicial misconduct. Removal from office would probably not be the appropriate sanction for the New Jersey judge who fixed his son's speeding ticket.

Consequently, states began developing alternatives to impeachment and recall. In 1960, California established the first judicial discipline commission¹ to discipline judges who committed less than an impeachable offense. By 1980, all 50 states and the District of Columbia had established a discipline commissions.

¹California Commission on Judicial Qualifications (now Commission on Judicial Performance).

II

BACKGROUND

The oldest method of removing judges is executive action. In England, prior to the Eighteenth Century, judges held their offices at the king's pleasure. Those judges who tried to assert judicial independence did so at their own peril. This power, as one can imagine, was often used quite arbitrarily by the king. Today, this method of judicial removal has virtually disappeared in the United States.²

Impeachment, as mentioned earlier, is a cumbersome, lengthy and ineffective method of removing a judge. It requires both houses of the legislature to impeach and convict a judge and is usually reserved for flagrant abuses of power. In Nevada, a majority vote of the elected members of the assembly is required for impeachment and a vote of two-thirds of the elected senators is necessary for conviction.³ No judge in Nevada has ever been impeached. In fact, only 12 times has a federal officer been impeached and only four times has impeachment resulted in conviction.

Besides being ineffective, recall of a judge is also expensive because of the cost of obtaining the required number of signatures. In 1970, the voters of Nevada made it more difficult to recall a supreme court justice by increasing the number of signatures required for a recall petition to 25 percent of all those voting in the preceding general election.⁴ Before 1970, the requirement was 25 percent of those voting for the particular office. As with impeachment, a Nevada judge has never been recalled.

²The governors of Maine and Delaware can remove a judge by not reappointing him to a new term.

³Nevada constitution, article 7, § 1.

⁴Nevada constitution, article 2, § 9.

In some states, including Nevada, judges can also be removed by legislative address. In Nevada, supreme court justices and district judges can be removed "for any reasonable cause" by a vote of two-thirds of the elected members in each house of the legislature.⁵ Again, no judge in Nevada has ever been removed by legislative address.

Because of the shortcomings of impeachment, recall and legislative address, the judicial discipline commission was developed to handle judicial misconduct.

III

THE ISSUES

The establishment of judicial discipline commissions was not easy. The concept of a discipline commission for judges was highly controversial when first proposed. The issues surrounding the development of the commissions continues to affect their proceedings. This is especially true concerning the issue of confidentiality.

Proponents of discipline commissions argued that some judges were arrogant, abused the public trust and applied power arbitrarily. They recognized the need to correct judicial misconduct and felt that impeachment and recall no longer acted as a deterrent to misconduct. They also recognized the independence of the judicial branch but not the complete independence of judges from public control. They pointed out that the judicial branch is not completely independent of the other branches. In many states judges are appointed and their salaries are set by the legislature.

They also argued that election of judges was not the best method to hold judges accountable. Elections frequently resulted in expensive campaigns for judicial office.⁶ The

⁵Nevada constitution, article 7, § 3.

⁶During the 1973 campaign for chief judge of the New York Court of Appeals, for example, the candidates spent a total of \$1 million.

money required to finance an expensive campaign often comes from attorneys who then appear before that judge. Also, many voters are unfamiliar with the issues and the candidates in a judicial campaign.

Opponents argued that an independent judiciary was more important than the removal of a few misbehaving judges. Because the judges are unaccountable, they are able to check the irresponsibility of others in power. Easier removal processes would mean the loss of independence. The proceedings of the discipline commissions, some argued, would simply become witch hunts, aimed at independent judges who are not ideologically in step with their colleagues.

Opponents also argued that self-policing of the profession would make removal and discipline of judges easier because it would be done without public embarrassment of the judge. The American Bar Association adopted a Code of Judicial Conduct in 1972 and Standards Relating to Judicial Discipline and Disability Retirement in 1978. Using these tools, the profession could regulate judicial misconduct.

IV

NEVADA'S COMMISSION ON JUDICIAL DISCIPLINE

The Nevada commission on judicial discipline was established in 1976.⁷ It too was a product of the era of political reform and the California commission served as the model.

The commission investigates and, if necessary, adjudicates complaints made against a supreme court justice or district judge. Anyone can file a complaint with the commission.

⁷Assembly joint resolution 16 was passed by the 1973 and 1975 legislatures and then ratified by the voters at the 1976 general election. (Nevada constitution, article 6, § 21)

The commission investigates the complaint and then holds a preliminary hearing to determine the validity of the complaint. The complaint is either dismissed or a formal hearing is ordered. Following the hearing, the commission can impose a disciplinary sanction against the justice or judge.⁸ The commission's action can be appealed to the state supreme court.

The membership of the commission includes: (a) two justices or judges appointed by the supreme court; (b) two members of the state bar, appointed by the bar; (c) three persons who are not members of the legal profession, appointed by the governor. Members serve a 4-year term and cannot be a concurrent member of the commission on judicial selection.

A judge can be removed or retired for five reasons: (a) willful misconduct; (b) willful or persistent failure to perform the duties of his office; (c) habitual intemperance; (d) advanced age which interferes with the performance of his judicial duties; and (e) a mental or physical disability which prevents the proper performance of his judicial duties and which is likely to be permanent in nature.

The state supreme court is responsible for establishing the rules of conduct for the commission. The court is to establish rules concerning: (a) the confidentiality of the proceedings before the commission, except a decision to censure, retire or remove a justice or judge; (b) grounds for censure; and (c) conduct of investigation and hearings.

The commission has received a total of 69 complaints. The most recent case before the commission involved three supreme court justices. Following a formal hearing in Reno, the commission dismissed the charges against them.

⁸ Nevada, New York, Kentucky and the District of Columbia are the only jurisdictions that allow the commission to impose a disciplinary sanction.

V

APPROACHES USED BY OTHER STATES:
VARIATIONS ON THE SAME THEME

A majority of states have established discipline commissions similar to the one in California. These are known as unitary commissions which means that one body investigates and adjudicates each complaint.

There are eight⁹ states which have a "two-tier" system. This means that one body receives and investigates complaints and a separate body adjudicates each case when probable cause for disciplinary action or removal exists.

VI

CONFIDENTIALITY OF THE PROCEEDINGS

The issue of confidentiality proceedings of the discipline commission is an extension of the argument for an independent judiciary. In Nevada, the issue of confidentiality became even more relevant during the recent case mentioned earlier concerning the supreme court. The charges against the three justices were dismissed by the commission. Presumably the commission had valid reasons for dismissing the charges but the public does not know that.

Proponents of open proceedings argue that judges hold a public trust and should be held accountable for their actions. If a judge violates that trust, the public has the right to know what disciplinary actions were taken and the reasons for them. The real purpose of the judicial discipline commission is to maintain public confidence in

⁹ Alabama, Delaware, Hawaii, Illinois, New Jersey, Oklahoma, West Virginia and Wisconsin.

the judiciary. The most stringent set of ethical standards is of little value unless the public is convinced that the standards are uniformly and vigorously enforced.

Proponents of confidentiality argue that a judge's reputation needs to be protected from frivolous accusations. They also argue that confidentiality protects the anonymity of a complainant, especially an attorney.

A majority of states require the proceedings of the discipline commissions to be confidential. Increasingly, however, states which have adopted the California plan have begun to open the formal disciplinary proceedings to the public. Kansas and North Dakota recently did so. Most proponents of open proceedings recognize the importance of confidentiality during the investigatory process, but when the formal proceedings begin they do not recognize the need for conducting confidential hearings.

Without open proceedings, there is really no way to evaluate whether or not the commission is performing its job. In addition, other public officers are subject to considerable public scrutiny and accountability. The proponents of open proceedings have often quoted Edmund Burke: "Where mystery begins, justice ends."

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

Honorable Catherine Ramsey, Appellant,
v.
City of North Las Vegas, City Clerk Barbara
Andolina, Betty Hamilton, Michael William
Moreno, Bob Borgerson and Remove Ramsey
Now, Respondents.

No. 68450

Electronically Filed
Jul 31 2015 08:38 a.m.

DOCKETING STATEMENT
CIVIL APPEALS

Tracie K. Lindeman
Clerk of Supreme Court

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See KDI Sylvan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department 20
County Clark Judge Eric Johnson
District Ct. Case No. A-15-719406-P and A-15-719651-C

2. Attorney filing this docketing statement:

Attorney Craig A. Mueller Telephone 702-382-1200
Firm Mueller Hinds and Associates
Address 600 South Eighth Street
Las Vegas, NV 89101

Client(s) Honorable Catherine Ramsey

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Richard Gordon Telephone 702-784-5200
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Client(s) City of North Las Vegas and Barbara Andolina

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Address 410 South Rampart Boulevard, Suite 420
Las Vegas, NV 89145

Client(s) Betty Hamilton, Michael William Moreno, Bob Borgerson and Remove Ramsey Now

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Judgment after bench trial | <input checked="" type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): <u>Challenge to Sufficiency</u> |
| <input checked="" type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify): _____ |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Prior case with same parties. Petition for Writ Docket No. 68394 This was Consolidated with the present action. The Writ was denied.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

none

8. Nature of the action. Briefly describe the nature of the action and the result below:

This Appeal is based upon interpretation of the Nevada State Constitution of significant first impression, the denial of due process in the recall petition signature verification process and the sufficiency of the petition itself. There was also substantial due process violations committed by the lower court when it limited the size and scope of the evidentiary hearing and allowed only two days business notice to prepare. The district court's denied both the Emergency Petition for Injunction and the Challenge to Sufficiency of Petition to Recall Judge Ramsey

9. Issues on appeal. State specifically all issues in this appeal (attach separate sheets as necessary):

See other sheet for response.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

none

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☒ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☒ An issue of public policy

☒ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☒ A ballot question

If so, explain:

At the heart of this appeal is the Petition to Recall Judge Ramsey in North Las Vegas. Appellant maintains that she is not subject to a recall as she is not an Art. 2 officer. Rather, she is a judicial officer that can only be removed by Articles 6 and 7 procedures.

13. Trial. If this action proceeded to trial, how many days did the trial last? N/A

Was it a bench or jury trial? _____

14. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

no

TIMELINESS OF NOTICE OF APPEAL

15. Date of entry of written judgment or order appealed from July 6, 2015

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. Date written notice of entry of judgment or order was served July 7, 2015

Was service by:

☐ Delivery

☒ Mail/electronic/fax

17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ___, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

18. Date notice of appeal filed July 16, 2015

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

19. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☒ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Other (specify) _____

(b) Explain how each authority provides a basis for appeal from the judgment or order:

NRAP 3A(b)(1) provides that one can appeal a final judgment or order. The court denied the challenge to sufficiency of the recall petition on July 6, 2015. NRAP 3A(b)(3) applies because the Emergency Petition for Injunction was denied as well on July 6, 2015.

21. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Honorable Catherine Ramsey: Plaintiff/Petitioner; City of North Las Vegas, City
Clerk Barbara Andolina: Defendants/Respondents; Betty Hamilton, Michael
William Moreno, Bob Borgerson and Remove Ramsey Now:
Defendants/Respondents

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Appellant Ramsey: Due Process Violations and Constitutionality of Recall Petition

23. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

24. If you answered "No" to question 23, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

25. If you answered "No" to any part of question 24, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

26. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Honorable Catherine Ramsey
Name of appellant

July 30th, 2015
Date

Nevada, Clark County
State and county where signed

Craig A. Mueller
Name of counsel of record


Signature of counsel of record

CERTIFICATE OF SERVICE

I certify that on the 30th day of July, 2015, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

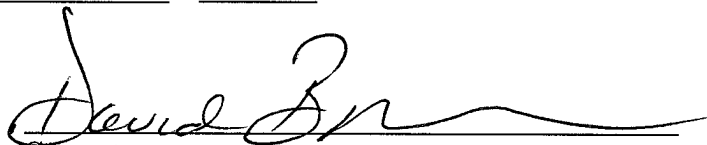
Respondants:

Bob Borgerson, Betty Hamilton
and Michael William Moreno

Respondants:

City Clerk of North Las Vegas
Barbara A. Andolina,
City Clerk

Dated this 30th day of July, 2015


Signature

SERVICE LIST

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Email: rgordon@swlaw.com
Attorney for Respondents:
City Clerk of North Las Vegas and
Barbara A. Andolina, City Clerk