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15 **IN THE FIRST JUDICIAL DISTRICT COURT**
16 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

17 Fred Kraus, an individual registered to vote in Clark
County, Nevada, DONALD J. TRUMP FOR
18 PRESIDENT, INC.; the NEVADA REPUBLICAN
PARTY,

19 Petitioners,

20 v.

21 BARBARA CEGAVSKE, in her official capacity as
Nevada Secretary of State, JOSEPH P. GLORIA, in
22 his official capacity as Registrar of Voters for Clark
County, Nevada,

23 Respondents

24 and

25 Intervenor Respondents DEMOCRATIC
NATIONAL COMMITTEE and NEVADA STATE
26 DEMOCRATIC PARTY,

27 Intervenor-Respondents.
28

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2020 NOV -2 PM 2:40

AUBREY ROWLATT
CLERK
BY: [Signature]

Electronically Filed
Nov 03 2020 10:17 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOTICE OF APPEAL

Case No.: 20 OC 00142 1B
Dept. No.: 2

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Petitioners, Fred Kraus, Donald J. Trump for President, Inc. and the Nevada Republican Party (herein "Petitioners"), by and through their attorneys of record, Marquis Aurbach Coffing, hereby appeal to the Supreme Court of Nevada from the Order Denying Emergency Petition for Writ of Mandamus, or in the Alternative, Writ of Prohibition, which was filed on October 29, 2020, attached hereto as **Exhibit A**.

Dated this 2nd day of November, 2020.

MARQUIS AURBACH COFFING

By 

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AFFIRMATION

The undersigned does hereby affirm that the preceding document, does not contain the Social Security number of any person.

Dated this 29th day of October, 2020.

MARQUIS AURBACH COFFING

By 

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF APPEAL** was submitted for filing and/or service with the First Judicial District Court on the 2nd day of November, 2020. Service of the foregoing document was made by E-mailing a true and correct copy thereof, to:

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Party*

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Attorney for Joseph Gloria



an employee of Marquis Aurbach Coffing
DHB O'Mara Law Firm

EXHIBIT A

EXHIBIT A

REC'D & FILED

2020 OCT 29 PM 5:44

ALBERT HENNING

BY

[Handwritten signature]

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

-oOo-

FRED KRAUS, an individual registered
to vote in Clark County, Nevada,
DONALD J. TRUMP FOR PRESIDENT,
INC., and the NEVADA REPUBLICAN
PARTY,

Petitioners,

vs.

BARBARA CEGAVSKE, in her official
capacity as Nevada Secretary of State,
JOSEPH P. GLORIA, in his official
capacity as Registrar of Voters for Clark
County, Nevada,

Respondents.

CASE NO. 20 OC ⁰⁰¹⁴² ~~00004~~ 1B

DEPT. 2

ORDER DENING EMERGENCY PETITION FOR WRIT OF MANDAMUS, OR
IN THE ALTERNATIVE, WRIT OF PROHIBITION

PROCEDURAL BACKGROUND

Before the Court is the Emergency Petition for Writ of Mandamus, or in the
Alternative, Writ of Prohibition. The Court held an evidentiary hearing on October 28,
2020.

1 **ISSUES**

2 Do Petitioners have standing to bring these claims?

3 Has Registrar Joseph P. Gloria failed to meet his statutory duty under NRS
4 293B.353(1) to allow members of the general public to observe the counting of ballots?

5 Has Registrar Gloria unlawfully precluded Petitioners from the use and
6 enjoyment of a right to which Petitioners are entitled?

7 Has Registrar Gloria exercised discretion arbitrarily or through mere caprice?

8 Has Registrar Gloria acted without or in excess of authorized powers?

9 Has Secretary of State Barbara Cegavske failed to meet any statutory duty under
10 NRS 293B.353(1) to allow members of the general public to observe the counting of
11 ballots?

12 Has Secretary of State Barbara Cegavske unlawfully precluded Petitioners from
13 the use and enjoyment of a right to which Petitioners are entitled?

14 Has Secretary Cegavske exercised discretion arbitrarily or through mere caprice?

15 Has Secretary Cegavske acted without or in excess of authorized powers?

16 Has Secretary of State Cegavske unlawfully precluded Petitioners the use and/or
17 enjoyment of a right to which Petitioners are entitled?

18 Have Petitioners proved they are entitled to a writ of mandamus on their equal
19 protection claims?

20
21 **FACTS**

22 It is important to note the factual context in which this case arose. All of the
23 states in the United States are attempting to hold elections under the health, political,
24 social, and economic consequences of the COVID-19 pandemic. Nevada's state and
25 county election officials had relatively little time to assess, plan, modify, and implement
26 procedures that are quite different from the established election procedures in an effort

1 to provide safe, open elections that would not result in long waiting lines. The
2 modification of procedures includes fewer polling places, a very large increase in mail-in
3 voting, and long lines as a result of social distancing.

4 A second important context is that this lawsuit was filed October 23, 2020—11
5 days before the general election.

6 Every Nevada county is required to submit to the Secretary of State, by April 15,
7 2020, the county's plan for accommodation of members of the general public who
8 observe the processing of ballots. NRS 293B.354(1). Registrar Gloria did not submit a
9 plan by April 15, 2020.

10 Registrar Gloria submitted a plan to the Secretary of State on October 20, 2020.
11 A copy of the plan is attached as Exhibit 1.

12 Historically, the Secretary of State has not sent letters or other notification to the
13 counties approving the counties' plans.

14 The Secretary of State's office reviewed Registrar Gloria's plan, concluded it
15 complied with the law, and Secretary Cegavske issued a letter to Registrar Gloria on
16 October 22, 2020. The letter is attached as Exhibit 2. The Secretary did not write that
17 Registrar Gloria's plan was "approved," but it is clear from the letter that the plan was
18 approved with a suggestion to that the Registrar consider providing additional seating in
19 public viewing areas for observers to view the signature verification process to the extent
20 feasible while ensuring that no personally identifiable information is observable by the
21 public.

22 A copy of all 17 county plans were admitted as exhibits. Clark County's plan is not
23 substantially different from the plan of any of the other 16 counties, and none of the
24 plans is substantially different from the plans of previous years.

25 Clark County uses an electronic ballot sorting system, Agilis. No other Nevada
26 county uses Agilis. Some major metropolitan areas including Cook County, Illinois, Salt
27

1 Lake City, Utah, and Houston, Texas use Agilis. Some Nevada counties use other brands
2 of ballot sorting systems.

3 Registrar Gloria decided to purchase Agilis because of the pandemic and the need
4 to more efficiently process ballot signatures.

5 One of Petitioners' attorneys questioned Registrar Gloria about Agilis in earlier
6 case, Corona v. Cegavske, but never asked Registrar Gloria to stop using Agilis.

7 Clark County election staff tested Agilis by manually matching signatures. Clark
8 County election staff receives yearly training on signature matching from the Federal
9 Bureau of Investigation. The last training was in August of this year.

10 For this general election Clark County is using the same they used for the June
11 primary election. No evidence was presented that the setting used by Clark County
12 causes or has resulted in any fraudulent ballot being validated or any valid ballot
13 invalidated.

14 No evidence was presented of any Agilis errors or inaccuracies. No evidence was
15 presented that there is any indication of any error in Clark County's Agilis signature
16 match rate.

17 Registrar Gloria opined that if Clark County could not continue using Agilis the
18 county could not meet the canvass deadline which is November 15, 2020. The Court
19 finds that if Clark County is not allowed to continue using Agilis the county will not meet
20 the canvass deadline.

21 When the envelope containing mail-in ballots are opened the ballot and envelope
22 are separated and not kept in sequential order. Because they are not kept in sequential
23 order it would be difficult to identify a voter by matching a ballot with its envelope.

24 This is the first election in Registrar Gloria's 28 years of election experience in
25 Clark County that there are large numbers of persons wanting to observe the ballot
26 process.

1 Persons that observe the ballot process sign an acknowledgment and a memo
2 containing instructions to the observer. A copy of an acknowledgment and memo are
3 attached as Exhibit 3.

4 People hired by the Registrar to manage the people wanting to observe the ballot
5 process are called ambassadors. The observer acknowledgment states observers are
6 prohibited from talking to staff. The memo explains the role of ambassadors and invites
7 observers to inform their ambassador they have a question for election officials or the
8 observer may pose a question directly to an election official.

9 Registrar Gloria is not aware of any observer complaints.

10 Several witnesses supporting Petitioners and called by Petitioners testified: they
11 saw ballots that had been removed from the envelope left alone; runners handle ballots
12 in different ways, including taking the ballots into an office, taking ballots into "the
13 vault" and/or otherwise failing to follow procedure, but no procedure was identified;
14 inability to see some tables from the observation area; inability to see into some rooms;
15 inability to see all election staff monitors; inability to see names on monitors; saw a
16 signatures she thought did not match but admitted she had no signature comparison
17 training; and/or trouble getting to where they were supposed to go to observe and
18 trouble being admitted to act as observer at the scheduled time.

19 No evidence was presented that any party or witness wanted to challenge a vote
20 or voter, or had his or her vote challenged.

21 No evidence was presented that there was an error in matching a ballot signature,
22 that any election staff did anything that adversely affected a valid ballot or failed to take
23 appropriate action on an invalid ballot.

24 No evidence was presented that any election staff were biased or prejudiced for or
25 against any party or candidate.
26
27

1 One Petitioner witness did not raise issues regarding things she observed with an
2 ambassador but instead went to the Trump Campaign. No issue was ever raised as a
3 result of her observations or report to the Trump Campaign.

4 Washoe County is using cameras to photograph or videotape the ballot process.
5 No Nevada county hand-counts ballots.

7 LEGAL PRINCIPLES

9 Standing

10 Nevada law requires an actual justiciable controversy as a predicate to judicial
11 relief. *Doe v. Bryan*, 102 Nev. 523, 525, 728 P.2d 443, 444 (1986). For a controversy to
12 exist the petitioner must have suffered a personal injury and not merely a general
13 interest that is common to all members of the public. *Schwarz v. Lopez*, 132 Nev. 732,
14 743, 382 P.3d 886, 894 (2016).

16 Mandamus and Prohibition

17 A court may issue a writ of mandamus “to compel the performance of an act
18 which the law especially enjoins as a duty resulting from an office . . . ; or to compel the
19 admission of a party to the use and enjoyment of a right or office to which the party is
20 entitled and from which the party is unlawfully precluded by such . . . person.” NRS
21 34.160. A court may issue a writ of mandamus “when the respondent has a clear,
22 present legal duty to act.” *Round Hill Gen. Imp. Dist. v. Newman*, 97 Nev. 601, 603, 637
23 P.2d 534 (1981). The flip side of that proposition is that a court cannot mandate a
24 person take action if the person has no clear, present legal duty to act. Generally,
25 mandamus will lie to enforce ministerial acts or duties and to require the exercise of
26 discretion, but it will not serve to control the discretion.” *Gragson v. Toco*, 90 Nev. 131,

1 133 (1974). There is an exception to the general rule: when discretion “is exercised
2 arbitrarily or through mere caprice.” *Id.*

3 “Petitioners carry the burden of demonstrating that extraordinary relief is
4 warranted.” *Pan v. Dist. Ct.*, 120 Nev. 222, 228 (2004).

5 The writ of prohibition is the counterpart of the writ of mandate. It arrests the
6 proceedings of any tribunal . . . or person exercising judicial functions, when such
7 proceedings are without or in excess of the jurisdiction of such tribunal . . . or person.
8 NRS 34.320.

9 A writ of prohibition “may be issued . . . to a person, in all cases where there is
10 not a plain, speedy and adequate remedy in the ordinary course of law.” NRS 34.330.

11 12 **Voting Statutes**

13 NRS 293B.353 provides in relevant part:

14 1. The county . . . shall allow members of the general public to observe the
15 counting of the ballots at the central counting place if those members do not
interfere with the counting of the ballots.

16 2. The county . . . may photograph or record or cause to be photographed
17 or recorded on audiotape or any other means of sound or video reproduction the
counting of the ballots at the central counting place.

18 3. A registered voter may submit a written request to the county . . . clerk
19 for any photograph or recording of the counting of the ballots prepared pursuant
20 to subsection 2. The county . . . clerk shall, upon receipt of the request, provide
the photograph or recording to the registered voter at no charge.

21 NRS 293B.354 provides in relevant part:

22 1. The county clerk shall, not later than April 15 of each year in which a
23 general election is held, submit to the Secretary of State for approval a written
24 plan for the accommodation of members of the general public who observe the
25 delivery, counting, handling and processing of ballots at a polling place, receiving
center or central counting place.

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3. Each plan must include:

- (a) The location of the central counting place and of each polling place and receiving center;
- (b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;
- (c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and
- (d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county . . . considers appropriate.

AB 4 section 22 provides in relevant part:

1. For any affected election, the county . . . clerk, shall establish procedures for the processing and counting of mail ballots.

2. The procedures established pursuant to subsection 1:

- (a) May authorize mail ballots to be processed and counted by electronic means; and
- (b) Must not conflict with the provisions of sections 2 to 27, inclusive, of this act.

AB 4 section 23 provides in relevant part:

1. . . . for any affected election, when a mail ballot is returned by or on behalf of a voter to the county . . . clerk . . . and a record of its return is made in the mail ballot record for the election, the clerk or an employee in the office of the clerk shall check the signature used for the mail ballot in accordance with the following procedure:

- a. The clerk or employee shall check the signature used for the mail ballot against all signatures of the voter available in the records of the clerk.

1 AB 4 section 25 provides in relevant part:

- 2 1. The counting procedures must be public.
- 3

4 **ANALYSIS**

5

6 **Petitioners failed to prove they have standing to bring their Agilis,**
7 **observation, ballot handling or secrecy claims.**

8 As set forth above for a justiciable controversy to exist the petitioner must have
9 suffered a personal injury and not merely a general interest that is common to all
10 members of the public. Petitioners provided no evidence of any injury, direct or indirect,
11 to themselves or any other person or organization. The evidence produced by Petitioners
12 shows concern over certain things these observers observed. There is no evidence that
13 any vote that should lawfully be counted has or will not be counted. There is no evidence
14 that any vote that should lawfully not be counted has been or will be counted. There is
15 no evidence that any election worker did anything outside of the law, policy, or
16 procedures. Petitioners do not have standing to maintain their mandamus claims.

17 Likewise, Petitioners provided no evidence of a personal injury and not merely a
18 general interest that is common to all members of the public regarding the differences
19 between the in-person and mail-in procedures. Petitioners provided no evidence of any
20 injury, direct or indirect, to themselves or any other person or organization as a result of
21 the different procedures. All Nevada voters have the right to choose to vote in-person or
22 by mail-in. Voting in person and voting by mailing in the ballot are different and so the
23 procedures differ. There is no evidence that anything the State or Clark County have
24 done or not done creates two different classes of voters. There is no evidence that
25 anything the State or Clark County has done values one voter's vote over another's.

26

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1 There is no evidence of any debasement or dilution of any citizen's vote. Petitioners do
2 not have standing to bring their equal protection claims.

3
4 **Petitioners failed to prove Registrar Gloria failed to meet his**
5 **statutory duty under NRS 293B.353(1) to allow members of the general**
6 **public to observe the counting of ballots?**

7
8 Petitioners argued they have a right to observers having meaningful observation
9 under NRS 293B.353(1) and AB 4 sec. 25. NRS 293B.353(1) provides in relevant part,
10 "[t]he county . . . shall allow members of the general public to observe the counting of
11 the ballots" AB 4 sec. 25 provides in relevant part "[t]he counting procedure must
12 be public." The statutes do not use the modifier "meaningful."

13 The Nevada Legislature codified the right of the public to observe the ballot
14 counting procedure in NRS 293B.353 and 293B.354, and AB 4 section 25(1). NRS
15 293B.354(1) requires each county to annually submit a plan to the Secretary of State.
16 NRS 293B. 354(3) states the requirements of the plan. The statutory requirements of
17 the plan are very general. The legislature left to the election professionals, the Secretary
18 of State and the county elections officials, wide discretion in establishing the specifics of
19 the plan. Petitioners failed to prove either Secretary Cegavske or Registrar Gloria
20 exercised their discretion arbitrarily or through mere caprice.

21
22 The fact that Registrar failed to timely submit a plan was remedied by submitting
23 the plan late and the Secretary of State approving the plan.

24 Petitioners seem to request unlimited access to all areas of the ballot counting
25 area and observation of all information involved in the ballot counting process so they
26

1 can verify the validity of the ballot, creating in effect a second tier of ballot counters
2 and/or concurrent auditors of the ballot counting election workers. Petitioners failed to
3 cite any constitutional provision, statute, rule, or case that supports such a request. The
4 above-cited statutes created observers not counters, validators, or auditors. Allowing
5 such access creates a host of problems. Ballots and verification tools contain confidential
6 voter information that observers have not right to know. Creating a second tier of
7 counters, validators, or auditors would slow a process the Petitioners failed to prove is
8 flawed. The request if granted would result in an increase in the number of persons in
9 the ballot processing areas at a time when social distancing is so important because of
10 the COVID-19 pandemic.

12 Petitioners have failed to prove Registrar Gloria has interfered with any right they
13 or anyone else has as an observer.

14 Petitioners claim a right to have mail-in ballots and the envelopes the ballots are
15 mailed in to be kept in sequential order. Petitioners failed to cite Constitutional
16 provision, statute, rule, or case that creates a duty for Nevada registrars to keep ballots
17 and envelopes in sequential order. Because they failed to show a duty they cannot
18 prevail on a mandamus claim that requires proof a duty resulting from office. Because
19 there is no duty or right to sequential stacking the Court cannot mandate Registrar
20 Gloria to stack ballots and envelopes sequentially.

22 Because there is not right to sequential stacking the Court cannot mandate the use and
23 enjoyment of that "right."

24 Plaintiffs want the Court to mandate Registrar Gloria allow Petitioners to
25 photograph of videotape the ballot counting process. The legislature provided in NRS
26

1 293B.353(2) the procedure for photographing or videotaping the counting of ballots.

2 The county may photograph or videotape the counting and upon request provide a copy
3 of the photographs or videotapes.

4 Petitioners failed to cite any constitutional provision, statute, rule, or case that
5 gives the public the right to photograph or videotape ballot counting.

6 Petitioners failed to prove Secretary Cegavske or Registrar Gloria exercised her or
7 his discretion arbitrarily or through mere caprice in any manner. Therefore, the Court
8 cannot mandate Registrar Gloria to require sequential stacking of ballots and envelopes.
9

10 Petitioners requested the Court mandate Registrar Gloria provide additional
11 precautions to ensure the secrecy of ballots. Petitioners failed to prove that the secrecy
12 of any ballot was violated by anyone at any time. Petitioners failed to prove that the
13 procedures in place are inadequate to protect the secrecy of every ballot.

14 Petitioners also request the Court mandate Registrar Gloria stop using the Agilis
15 system. Petitioners failed to show any error or flaw in the Agilis results or any other
16 reason for such a mandate. Petitioners failed to show the use of Agilis caused or resulted
17 in any harm to any party, any voter, or any other person or organization. Petitioners
18 failed Registrar Gloria has a duty to stop using Agilis.
19

20 AB 4 passed by the legislature in August 2020 specifically authorized county
21 officials to process and count ballots by electronic means. AB 4, Sec. 22(2)(a).
22 Petitioners' argument that AB 4, Sec. 23(a) requires a clerk or employee check the
23 signature on a returned ballot means the check can only be done manually is meritless.
24 The ballot must certainly be checked but the statute does not prohibit the use of
25 electronic means to check the signature.
26

1
2 **Equal Protection**

3 There is no evidence that in-person voters are treated differently than mail-in
4 voters. All Nevada voters have the right to choose to vote in-person or by mail-in. Voting
5 in person and voting by mailing in the ballot are different and so the procedures differ.
6 Nothing the State or Clark County have done creates two different classes of voters.
7 Nothing the State or Clark County has done values one voter's vote over another's. There
8 is no evidence of debasement or dilution of a citizen's vote.
9

10
11
12 **CONCLUSIONS OF LAW**

13 Petitioners do not have standing to bring these claims.

14 Registrar Joseph P. Gloria has not failed to meet his statutory duty under NRS
15 293B.353(1) to allow members of the general public to observe the counting of ballots.

16 Registrar Gloria has not precluded Petitioners from the use and enjoyment of a
17 right to which Petitioners are entitled.

18 Registrar Gloria has not exercised discretion arbitrarily or through mere caprice.

19 Registrar Gloria has not acted without or in excess of authorized powers.

20 Secretary of State Barbara Cegavske has not failed to meet any statutory duty
21 under NRS 293B.353(1) to allow members of the general public to observe the counting
22 of ballots.

23 Secretary of State Barbara Cegavske has not unlawfully precluded Petitioners
24 from the use and enjoyment of a right to which Petitioners are entitled.

25 Secretary Cegavske has not exercised discretion arbitrarily or through mere
26 caprice.
27

1 Secretary Cegavske has not acted without or in excess of authorized powers.

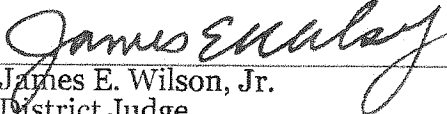
2 Secretary of State Cegavske has not precluded Petitioners the use and/or
3 enjoyment of a right to which Petitioners are entitled.

4 Petitioners failed to prove they are entitled to a writ of mandamus on any of their
5 claims.

6
7 **ORDER**

8 The Petition for Writ of Mandamus or in the Alternative for Writ of Prohibition is
9 denied.
10

11 October 29, 2020.


12
13 
14 _____
James E. Wilson, Jr.
District Judge

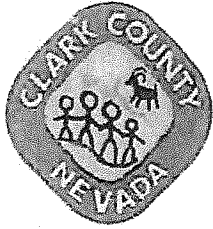
1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the First Judicial District Court of Nevada; that
3 on the 2 day of November 2020, I served a copy of this document by placing a true
4 copy in an envelope addressed to:

5 Brian R. Hardy, Esq. 6 10001 Park Run Drive 7 Las Vegas, NV 89145 <u>bhardy@maclaw.com</u>	David O'Mara, Esq. 311 E. Liberty Street Reno, NV 89501 <u>david@omaralaw.net</u>
8 MaryAnn Miller 9 Office of the District Attorney 10 Civil Division 11 500 S. Grand Central Parkway 12 Las Vegas, NV 89106 <u>Mary-Anne.Miller@clarkcountyda.com</u>	Bradley Schragger, Esq. 3556 E. Russell Road Second Floor Las Vegas, NV 89120 <u>Bschrager@wrs.awyers.com</u>
13 Daniel Bravo, Esq. 14 3556 E. Russell Road 15 Second Floor 16 Las Vegas, NV 89120 <u>dblavo@wrslawyers.com</u>	Gregory L. Zunino, Esq. Office of the Attorney General 100 North Carson Street Carson City, NV 89701 <u>Gzunino@ag.nv.gov</u>

16 the envelope sealed and then deposited in the Court's central mailing basket in the court
17 clerk's office for delivery to the USPS at 1111 South Roop Street, Carson City, Nevada, for
18 mailing.

19
20 
21 Billie Shadron
22 Judicial Assistant
23
24
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26
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Election Department

965 Trade Dr • Ste A • North Las Vegas NV 89030
Voter Registration (702) 455-8683 • Fax (702) 455-2793

Joseph Paul Gloria, Registrar of Voters
Lorena Portillo, Assistant Registrar of Voters

October 20, 2020

The Honorable Barbara K. Cegavske
Secretary of State
State of Nevada
101 N. Carson St., Suite 3
Carson City, Nevada 89701-4786

Attention: Wayne Thorley
Deputy Secretary of State for Elections

RE: Accommodation of Members of the General Public at Polling Places, Mail Ballot Processing, and at the Central Counting Place

Dear Secretary Cegavske:

In accordance with NRS 293B.354, I am forwarding to you the following guidelines which are provided to our polling place team leaders and our election staff to ensure we accommodate members of the general public who wish to observe activities within a polling place and/or at the central counting facilities.

Polling Places (Early Voting and Election Day)

Designated public viewing areas are established in each polling place, both early voting and Election Day vote centers, where individuals may quietly sit or stand and observe the activities within the polling place.

Observation guidelines:

- Observers may not wear or display political campaign items
- Observers may not photograph, or record by any other means, any activity at any early voting or Election Day polling place
- Use of cell phones is prohibited in the polling place
- Observers may not disrupt the voting process
- If observers have questions, they must direct them to the polling place team leader

Mail Ballot Processing (Warehouse & Flamingo-Greystone Facility)

The general public is allowed, according to the NRS, to observe the counting of mail ballots. In addition, as a courtesy, members of the general public are also being allowed to observe our mail ballot processing procedures, which occur prior to tabulation.

Due to space limitations we are processing our mail ballots in two different facilities:

- 965 Trade Dr., North Las Vegas, NV 89030
 - AGILIS mail ballot processing
 - Signature audit team
 - Tabulation
 - Ballot duplication
- 2030 E. Flamingo Road, Las Vegas, NV 89119
 - Counting Board
 - Ballot duplication

Observation guidelines:

- Observers may not wear or display political campaign items
- Observers may not photograph, or record by any other means, any activity at any early voting or Election Day polling place
- Use of cell phones is prohibited in the polling place
- Observers may not disrupt the voting process
- If observers have questions, they must direct them to the polling place team leader

Election Night (Warehouse Tabulating)

In front of our tabulation area an area is provided for any observer who wishes to observe our counting activity. Reports are provided after each update to the general public and are also available on our website for review. The general public may access the website through our free county wi-fi access on their personal devices should they choose to do so.

The public viewing area allows the general public to view the tabulation room, where the processing of election night results may be observed through windows that provide full view of all counting activity. Observers are not allowed inside the room because of congestion and COVID restrictions.

The Registrar is available to answer questions, although it should be noted that very few

Page 3

Secretary of State Barbara K. Cegavske

March 14, 2018

individuals from the public have been at the Election Center Warehouse on election night since 2000. This will probably be different this year due to increased interest in observing our activities.

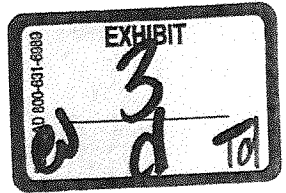
In accordance with NRS 293B.354, at link provided here is a link to the vote center polling places that will be used in the General Election on November 3, 2020 in Clark County. <https://cms8.revize.com/revize/clarknv/Election%20Department/VC-Web-20G.pdf?t=1602940110601&t=1602940110601>. An electronic copy is also attached to the e-mail.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph P. Gloria". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Joseph P. Gloria
Registrar of Voters

Enclosures



**OBSERVATION OF POLLING PLACE OR CLARK COUNTY
ELECTION DEPARTMENT LOCATIONS
ACKNOWLEDGEMENT**

In accordance with NAC 293.245 (full text included in page 2):

I, VIRGINIA STEWART, by signing this form, hereby acknowledge that during the time I observe the conduct of voting or of any election related process, I am prohibited from the following activities:

1. Talking to voters or staff within the polling place or Election Department location;
2. Using any technical devices within the polling place or Election Department location;
3. Advocating for or against a candidate, political party or ballot question;
4. Arguing for or against or challenging any decisions of the county or city election personnel and;
5. Interfering with the conduct of voting or any election related process.

I further acknowledge that I may be removed from the polling place by the county or city clerk for violating any provisions of Title 24 of the Nevada Revised Statutes or any of the restrictions described herein.

Representing Group/Organization:

Republican Party

Contact Information:

6194568405

Signature:

[Handwritten Signature]

Print Name:

VIRGINIA STEWART

Date:

10/27/20

Polling Place or Election Department Location:

TRAF

BARBARA K. CEGAVSKE
Secretary of State

STATE OF NEVADA

SCOTT W. ANDERSON
Chief Deputy Secretary of State

MARK A. WLASCHIN
Deputy Secretary for Elections



**OFFICE OF THE
SECRETARY OF STATE**

October 22, 2020

Mr. Joe Gloria, Registrar of Voters
965 Trade Drive, Suite A
North Las Vegas, NV 89030-7802
jpg@ClarkCountyNV.gov
via Email

Re: Revision of Observation Plan

Mr. Gloria,

Over the last few days, a potential opportunity for improvement to your elections process observation plan have come to light that the Secretary of State believes to be worth considering. We have received Clark County's plan for accommodating election observers. In addition to the items detailed in your plan, we would request that you consider implementing the following:

Provide additional seating in the public viewing area for observing the signature verification process to the extent feasible while ensuring that no Personally Identifiable Information (PII) is observable to the public. This increase in seating should ensure meaningful observation.

If you have any questions regarding this letter and my determination in this matter, please contact me at (775) 684-5709.

Respectfully,

A handwritten signature in cursive script that reads "Barbara K. Cegavske".

Barbara K. Cegavske
Secretary of State

1 **Marquis Aurbach Coffing**
Brian R. Hardy, Esq.
2 Nevada Bar No. 10068
Susan E. Gillespie, Esq.
3 Nevada Bar No. 15227
10001 Park Run Drive
4 Las Vegas, Nevada 89145
Telephone: (702) 382-0711
5 Facsimile: (702) 382-5816
bhardy@maclaw.com
6 sgillespie@maclaw.com

7 **The O'Mara Law Firm, P.C.**
David O'Mara, Esq.
8 Nevada Bar No. 8599
311 E. Liberty Street
9 Reno, Nevada 89501

10 **Harvey & Binnall, PLLC**
11 Jesse R. Binnall, Esq. (*admitted pro hac vice*)
717 King Street, Suite 300
12 Alexandria, Virginia 22314
Telephone: (703) 888-1943
13 jbinnall@harveybinnall.com
14 *Attorneys for Petitioners*

15 **IN THE FIRST JUDICIAL DISTRICT COURT**
16 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

17 Fred Kraus, an individual registered to vote in Clark
County, Nevada, DONALD J. TRUMP FOR
18 PRESIDENT, INC.; the NEVADA REPUBLICAN
PARTY,

19 Petitioners,

20 v.

21 BARBARA CEGAVSKE, in her official capacity as
Nevada Secretary of State, JOSEPH P. GLORIA, in
22 his official capacity as Registrar of Voters for Clark
County, Nevada,

23 Respondents

24 and

25 Intervenor Respondents DEMOCRATIC
NATIONAL COMMITTEE and NEVADA STATE
26 DEMOCRATIC PARTY,

27 Intervenor-Respondents.

REC'D & FILED ✓
2020 NOV -2 PM 2:40
AUBREY BOWLATT
CLERK
BY *[Signature]*
DEPUTY

1 Petitioners, Fred Kraus, Donald J. Trump for President, Inc. and the Nevada Republican
2 Party (herein "Petitioners"), by and through their attorneys of record, Marquis Aurbach Coffing,
3 hereby files this Case Appeal Statement.

4 1. Name of appellants filing this Case Appeal Statement:

5 Fred Kraus, Donald J. Trump for President, Inc. and the Nevada Republican
6 Party.

7 2. Identify the Judge issuing the decision, judgment, or order appealed from:

8 The Honorable Judge James E Wilson. Dept 2 of the First Judicial District Court.

9 3. Identify each appellant and the name and address of counsel for each appellant:

10 **Appellants:**

Fred Kraus, Donald J. Trump for President, Inc. and the Nevada Republican Party

11 **Counsel for Appellants:**

12 Brian R. Hardy, Esq.
13 Susan E. Gillespie, Esq.
14 Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, NV 89145

15 David O'Mara, Esq.
16 The O'Mara Law Firm, P.C.
311 E. Liberty Street
Reno, NV 89501

17 Jesse R. Binnall, Esq. (*admitted pro hac vice*)
18 Harvey & Binnall, PLLC
717 King Street, Suite 300
19 Alexandria, Virginia 22314

20 4. Identify each respondent and the name and address of appellate counsel, if known,
21 for each respondent (if the name of a respondent's appellate counsel is unknown, indicated as
22 much and provide the name and address of that respondent's trial counsel):

23 **Respondent:**

24 Barbara Cegavske, in her official capacity as Nevada Secretary of State; Joseph P.
Gloria, in his official capacity as Registrar of Voters for Clark County, Nevada;
Democratic National Committee, and Nevada State Democratic Party

25 **Counsel for Respondent:**

26 Gregory L. Zunino, Esq.
27 Office of the Attorney General
100 North Carson St.
Carson City, NV 89701

28 Mary Anne Millers, Esq.

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Clark County District Attorney
500 S. Grand Central Pkwy, 5th Floor
Las Vegas, NV 89155

Bradley S. Schrage, Esq.
Daniel Bravo, Esq.
3556 E. Russell Rd. 2nd Floor
Las Vegas, NV 89120

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

Jesse R. Binnall, Esq. was granted permission to appear under SCR 42. A copy of that order is attached hereto at **Exhibit A**.

6. Indicate whether appellants were represented by appointed or retained counsel in the district court:

Appellants were represented by retained counsel in the district court.

7. Indicate whether appellants are represented by appointed or retained counsel on appeal:

Appellants are represented by retained counsel on appeal.

8. Indicate whether appellants were granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave: N/A.

9. Indicate the date the proceedings commenced in the district court (e.g., date complaint indictment, information, or petition was filed):

Plaintiff filed the emergency petition on October 23, 2020.

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

Petitioners filed an Emergency Petition for Writ or Mandamus, or in the Alternative, Writ of Prohibition on October 23, 2020. Petitioners also filed an Application for Temporary Restraining Order Pending a Determination on Applicants Petition for Writ of Mandamus, or in the alternative, Writ of Petition on October 23, 2020. After a hearing on October 23, 2020, the district court denied Petitioner's

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Application for Temporary Retaining Order and set a hearing for Petitioner's Emergency Petition on Wednesday October 28, 2020. After the one-day hearing, the district court filed its Order Denying Emergency Petition for Writ of Mandamus, or in the Alternative, Writ of Prohibition.

Petitioners contend that Nevada voting laws are being violated by (1) officials prohibiting observers from observing the totality of the ballot processing process; (2) officials prohibiting observers from engaging in meaningful observation; and (3) officials failing to ensure ballot secrecy. Additionally, Petitioners contend that Nevada's challenging statute violates the Equal Protection Clause as well as Clark County's improper use of a machine to authenticate voters violates the Equal protection Clause.

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding: N/A

12. Indicate whether this appeal involves child custody or visitation: N/A.

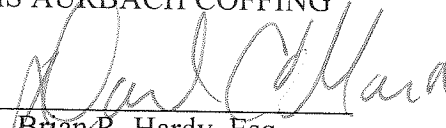
13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

This case does not involve the possibility of settlement.

Dated this 2nd day of November, 2020.

MARQUIS AURBACH COFFING

By


Brian R. Hardy, Esq.
Nevada Bar No. 10068
Susan E. Gillespie, Esq.
Nevada Bar No. 15227
10001 Park Run Drive
Las Vegas, Nevada 89145

The O'Mara Law Firm, P.C.
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jbinnall@harveybinnall.com
Admitted Pro Hac Vice
Attorneys for Petitioners


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AFFIRMATION

The undersigned does hereby affirm that the preceding document, does not contain the Social Security number of any person.

Dated this 2nd day of November, 2020.

MARQUIS AURBACH COFFING

By 

Brian R. Hardy, Esq.
Nevada Bar No. 10068
Susan E. Gillespie, Esq.
Nevada Bar No. 15227
10001 Park Run Drive
Las Vegas, Nevada 89145

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CERTIFICATE OF SERVICE


I hereby certify that the foregoing **CASE APPEAL STATEMENT** was submitted for filing and/or service with the First Judicial District Court on the 2nd day of November, 2020.

Service of the foregoing document was made by E-mailing a true and correct copy thereof, to:

Gregory L. Zunino, Esq.
Office of the Attorney General
100 North Carson St.
Carson City, NV 89701-4717
gzunino@ag.nv.gov
Attorney for Defendant Barbara Cegavske

Bradley S. Schrager, Esq.
Daniel Bravo, Esq.
3556 E. Russell Rd. 2nd Floor
Las Vegas, NV 89120
bschrager@wrslawyers.com
*Attorneys for Intervenor-Respondents, DNC
Services Corporation/Democratic National
Committee and Nevada State Democratic
Party*

Mary Anne Miller, Esq.
Clark County District Attorney
500 S. Grand Central Pkwy, 5th Floor
Las Vegas, NV 89155
Mary-anne.miller@clarkcountynvda.com
Attorney for Joseph Gloria


an employee of The O'Mara Law Firm

Judge: WILSON JR, JAMES E

Case No. 20 OC 00142 1B
Ticket No.
CTN:

KRAUS, FRED et al

By:

-vs-

CEGAVSKE, BARBARA

DRSPND

By: ATTORNEY GENERAL OFFICE
HEROE'S MEMORIAL BLDG.
CAPITOL COMPLEX
CARSON CITY, NV 89710

Dob:

Sex:

Lic:

Sid:

GLORIA, JOSEPH P

DRSPND

By: MILLER, MARY ANNE
500 SOUTH GRAND CENTRAL
PKWY
LAS VEGAS, NV 89155

Dob:

Sex:

Lic:

Sid:

CLARK COUNTY DISTRICT
ATTORNEY
500 S. GRAND CENTRAL
PARKWAY
LAS VEGAS, NV 89106

Plate#:

Make:

Year:

Type:

Venue:

Location:

Accident:

DONALD J. TRUMP FOR
PRESIDENT, INC

PLNTPET

Bond:
Type:

Set:
Posted:

KRAUS, FRED
NEVADA REPUBLICAN PARTY

PLNTPET
PLNTPET

DEMOCRATIC NATIONAL
COMMITTEE

IVNR

NEVADA STATE DEMOCRATIC
PARTY

IVNR

Charges:

Ct.

Offense Dt:

Cvr:

Arrest Dt:

Comments:

Ct.

Offense Dt:

Cvr:

Arrest Dt:

Comments:

Sentencing:

No.	Filed	Action	Operator	Fine/Cost	Due
1	11/02/20	CASE APPEAL STATEMENT	1BPETERSON	0.00	0.00
2	11/02/20	APPEAL BOND DEPOSIT Receipt: 67385 Date: 11/02/2020	1BPETERSON	500.00	0.00
3	11/02/20	NOTICE OF APPEAL FILED Receipt: 67384 Date: 11/02/2020	1BPETERSON	24.00	0.00
4	11/02/20	ORDER DENYING PETITIONERS' APPLICATION FOR TEMPORARY RESTRAINING ORDER	1BJULIEH	0.00	0.00
5	10/29/20	APPLICATION FOR COURT TO TAKE JUDICIAL NOTICE	1BPETERSON	0.00	0.00
6	10/29/20	ORDER DENYING EMERGENCY PETITION FOR WRIT OF MANDAMUS, OR IN THE ALTERNATIVE, WRIT OF PROHIBITION	1BJULIEH	0.00	0.00
7	10/28/20	HEARING HELD: The following event: WRIT HEARING scheduled for 10/28/2020 at 9:00 am has been resulted as follows: Result: HEARING HELD Judge: WILSON JR, JAMES E Location: DEPT II	1BJULIEH	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
8	10/28/20	ADDITIONAL DEFENDANT Receipt: 67345 Date: 10/28/2020	1BSBARAJAS	30.00	0.00
9	10/28/20	INITIAL APPEAREANCE FEE DISCLOSURE	1BSBARAJAS	0.00	0.00
10	10/28/20	INTERVENOR - RESPONDENTS' ANSWER TO EMERGENCY PETITION FOR WRIT OF MANDAMUS, OR IN THE ALTERNATIVE, WRIT OF PROHIBITION Receipt: 67345 Date: 10/28/2020	1BSBARAJAS	218.00	0.00
11	10/28/20	ORDER GRANTING INTERVENOR-RESPONDENTS' MOTION TO EXCEED PAGE LIMIT	1BJULIEH	0.00	0.00
12	10/28/20	INTERVENOR-RESPONDENTS' MOTION TO EXCEED PAGE LIMIT	1BSBARAJAS	0.00	0.00
13	10/28/20	NOTICE OF ENTRY OFSTIPULATION	1BSBARAJAS	0.00	0.00
14	10/28/20	ORDER GRANTING NEWS REPORTERS ACCESS (3)	1BJULIEH	0.00	0.00
15	10/28/20	NOTICE OF ENTRY OF ORDER	1BJULIEH	0.00	0.00
16	10/28/20	ORDER GRANTING MOTION TO ASSOCIATE COUNSEL (JESSE BINNALL, ESQ.)	1BJULIEH	0.00	0.00
17	10/28/20	INTERVENOR-RESPONDENTS' ORDER ADMITTING TO PRACTICE (JOHN MICHAEL DEVANEY, ESQ.)	1BJULIEH	0.00	0.00
18	10/28/20	INTERVENOR-RESPONDENTS' MOTION TO ASSOCIATE COUNSEL PURSUANT TO NEVADA SUPREME COURT RULE 42	1BSBARAJAS	0.00	0.00
19	10/27/20	REPLY IN SUPPORT OF EMERGENCY PETITION FOR WRIT OF MANDAMUS, OR IN THE ALTERNATIVE, WRIT OF PROHIBITION	1BSBARAJAS	0.00	0.00
20	10/27/20	ORDER GRANTING NEWS REPORTERS ACCESS (3)	1BCCOOPER	0.00	0.00
21	10/27/20	FRED KRAUS. DONALD J. TRUMP FOR PRESIDENT, INC. AND THE NEVADA REPUBLICAN PARTY'S MOTION TO ASSOCIATE COUNSEL	1BSBARAJAS	0.00	0.00
22	10/26/20	STIPULATION FOR INTERVETION AND ORDER	1BCCOOPER	0.00	0.00
23	10/26/20	ORDER GRANTING NEWS REPORTER ACCESS (6)	1BSBARAJAS	0.00	0.00
24	10/26/20	RESPONSE OF RESPONDENT JOSEPH P. GLORIA TO PETITION FOR EXTRAORDINARY AND INJUCTIVE RELIEF (2)	1BPETERSON	0.00	0.00
25	10/26/20	SECRETARY OF STATE'S ANSWER TO PETITION FOR EMERGENCY MANDAMUS RELIEF	1BPETERSON	218.00	0.00
26	10/23/20	HEARING HELD: The following event: MOTION HEARING - CIVIL scheduled for 10/23/2020 at 2:00 pm has been resulted as follows: Result: HEARING HELD Judge: WILSON JR, JAMES E Location: DEPT II	1BJHIGGINS	0.00	0.00
27	10/23/20	ERRATA TO EMERGENCY PETITION FOR WRIT OF MANDAMUS, OR IN THE ALTERNATIVE, WRIT OF PROHIBITION	1BCFRANZ	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
28	10/23/20	CREDIT CARD PROCESSING FEE Receipt: 67277 Date: 10/23/2020	1BSBARAJAS	2.50	0.00
29	10/23/20	ISSUING SUMMONS	1BSBARAJAS	0.00	0.00
30	10/23/20	APPLICATION FOR TEMPORARY RESTRAINING ORDER PENDING A DETERMINATION ON APPLICATS PETITION FOR WRIT OF MANDAMUS, OR IN THE ALTERNATIVE, WRIT OF PROHIBITION	1BSBARAJAS	0.00	0.00
31	10/23/20	DECLARATION OF DAVID O'MARA, ESQ., IN SUPPORT OF APPLICATION FOR TEMPORARY RESTRAINING ORDER PENDING A DETERMINATION ON APPLICATS PETITION FOR WRIT OF MANDAMUS, OR IN THE ALTERNATIVE, WRIT OF PROHIBITION	1BSBARAJAS	0.00	0.00
32	10/23/20	ADDITIONAL PLAINTIFF Receipt: 67277 Date: 10/23/2020	1BSBARAJAS	30.00	0.00
33	10/23/20	EMERGENCY PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE, WRIT OF PROHIBITION Receipt: 67277 Date: 10/23/2020	1BSBARAJAS	265.00	0.00
Total:				1,287.50	0.00
Totals By: COST				787.50	0.00
HOLDING				500.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

REC'D & FILED

2020 OCT 29 PM 5:44

AUDREY HOWLATT

BY

DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

-oOo-

FRED KRAUS, an individual registered
to vote in Clark County, Nevada,
DONALD J. TRUMP FOR PRESIDENT,
INC., and the NEVADA REPUBLICAN
PARTY,

Petitioners,

vs.

BARBARA CEGAVSKE, in her official
capacity as Nevada Secretary of State,
JOSEPH P. GLORIA, in his official
capacity as Registrar of Voters for Clark
County, Nevada,

Respondents.

CASE NO. 20 OC ⁰⁰¹⁴² ~~00064~~ 1B

DEPT. 2

ORDER DENING EMERGENCY PETITION FOR WRIT OF MANDAMUS, OR
IN THE ALTERNATIVE, WRIT OF PROHIBITION

PROCEDURAL BACKGROUND

Before the Court is the Emergency Petition for Writ of Mandamus, or in the
Alternative, Writ of Prohibition. The Court held an evidentiary hearing on October 28,
2020.

1 **ISSUES**

2 Do Petitioners have standing to bring these claims?

3 Has Registrar Joseph P. Gloria failed to meet his statutory duty under NRS
4 293B.353(1) to allow members of the general public to observe the counting of ballots?

5 Has Registrar Gloria unlawfully precluded Petitioners from the use and
6 enjoyment of a right to which Petitioners are entitled?

7 Has Registrar Gloria exercised discretion arbitrarily or through mere caprice?

8 Has Registrar Gloria acted without or in excess of authorized powers?

9 Has Secretary of State Barbara Cegavske failed to meet any statutory duty under
10 NRS 293B.353(1) to allow members of the general public to observe the counting of
11 ballots?

12 Has Secretary of State Barbara Cegavske unlawfully precluded Petitioners from
13 the use and enjoyment of a right to which Petitioners are entitled?

14 Has Secretary Cegavske exercised discretion arbitrarily or through mere caprice?

15 Has Secretary Cegavske acted without or in excess of authorized powers?

16 Has Secretary of State Cegavske unlawfully precluded Petitioners the use and/or
17 enjoyment of a right to which Petitioners are entitled?

18 Have Petitioners proved they are entitled to a writ of mandamus on their equal
19 protection claims?

20 **FACTS**

21
22 It is important to note the factual context in which this case arose. All of the
23 states in the United States are attempting to hold elections under the health, political,
24 social, and economic consequences of the COVID-19 pandemic. Nevada's state and
25 county election officials had relatively little time to assess, plan, modify, and implement
26 procedures that are quite different from the established election procedures in an effort

1 to provide safe, open elections that would not result in long waiting lines. The
2 modification of procedures includes fewer polling places, a very large increase in mail-in
3 voting, and long lines as a result of social distancing.

4 A second important context is that this lawsuit was filed October 23, 2020—11
5 days before the general election.

6 Every Nevada county is required to submit to the Secretary of State, by April 15,
7 2020, the county's plan for accommodation of members of the general public who
8 observe the processing of ballots. NRS 293B.354(1). Registrar Gloria did not submit a
9 plan by April 15, 2020.

10 Registrar Gloria submitted a plan to the Secretary of State on October 20, 2020.
11 A copy of the plan is attached as Exhibit 1.

12 Historically, the Secretary of State has not sent letters or other notification to the
13 counties approving the counties' plans.

14 The Secretary of State's office reviewed Registrar Gloria's plan, concluded it
15 complied with the law, and Secretary Cegavske issued a letter to Registrar Gloria on
16 October 22, 2020. The letter is attached as Exhibit 2. The Secretary did not write that
17 Registrar Gloria's plan was "approved," but it is clear from the letter that the plan was
18 approved with a suggestion to that the Registrar consider providing additional seating in
19 public viewing areas for observers to view the signature verification process to the extent
20 feasible while ensuring that no personally identifiable information is observable by the
21 public.

22 A copy of all 17 county plans were admitted as exhibits. Clark County's plan is not
23 substantially different from the plan of any of the other 16 counties, and none of the
24 plans is substantially different from the plans of previous years.

25 Clark County uses an electronic ballot sorting system, Agilis. No other Nevada
26 county uses Agilis. Some major metropolitan areas including Cook County, Illinois, Salt
27

1 Lake City, Utah, and Houston, Texas use Agilis. Some Nevada counties use other brands
2 of ballot sorting systems.

3 Registrar Gloria decided to purchase Agilis because of the pandemic and the need
4 to more efficiently process ballot signatures.

5 One of Petitioners' attorneys questioned Registrar Gloria about Agilis in earlier
6 case, Corona v. Cegavske, but never asked Registrar Gloria to stop using Agilis.

7 Clark County election staff tested Agilis by manually matching signatures. Clark
8 County election staff receives yearly training on signature matching from the Federal
9 Bureau of Investigation. The last training was in August of this year.

10 For this general election Clark County is using the same they used for the June
11 primary election. No evidence was presented that the setting used by Clark County
12 causes or has resulted in any fraudulent ballot being validated or any valid ballot
13 invalidated.

14 No evidence was presented of any Agilis errors or inaccuracies. No evidence was
15 presented that there is any indication of any error in Clark County's Agilis signature
16 match rate.

17 Registrar Gloria opined that if Clark County could not continue using Agilis the
18 county could not meet the canvass deadline which is November 15, 2020. The Court
19 finds that if Clark County is not allowed to continue using Agilis the county will not meet
20 the canvass deadline.

21 When the envelope containing mail-in ballots are opened the ballot and envelope
22 are separated and not kept in sequential order. Because they are not kept in sequential
23 order it would be difficult to identify a voter by matching a ballot with its envelope.

24 This is the first election in Registrar Gloria's 28 years of election experience in
25 Clark County that there are large numbers of persons wanting to observe the ballot
26 process.

1 Persons that observe the ballot process sign an acknowledgment and a memo
2 containing instructions to the observer. A copy of an acknowledgment and memo are
3 attached as Exhibit 3.

4 People hired by the Registrar to manage the people wanting to observe the ballot
5 process are called ambassadors. The observer acknowledgment states observers are
6 prohibited from talking to staff. The memo explains the role of ambassadors and invites
7 observers to inform their ambassador they have a question for election officials or the
8 observer may pose a question directly to an election official.

9 Registrar Gloria is not aware of any observer complaints.

10 Several witnesses supporting Petitioners and called by Petitioners testified: they
11 saw ballots that had been removed from the envelope left alone; runners handle ballots
12 in different ways, including taking the ballots into an office, taking ballots into “the
13 vault” and/or otherwise failing to follow procedure, but no procedure was identified;
14 inability to see some tables from the observation area; inability to see into some rooms;
15 inability to see all election staff monitors; inability to see names on monitors; saw a
16 signatures she thought did not match but admitted she had no signature comparison
17 training; and/or trouble getting to where they were supposed to go to observe and
18 trouble being admitted to act as observer at the scheduled time.

19 No evidence was presented that any party or witness wanted to challenge a vote
20 or voter, or had his or her vote challenged.

21 No evidence was presented that there was an error in matching a ballot signature,
22 that any election staff did anything that adversely affected a valid ballot or failed to take
23 appropriate action on an invalid ballot.

24 No evidence was presented that any election staff were biased or prejudiced for or
25 against any party or candidate.

1 One Petitioner witness did not raise issues regarding things she observed with an
2 ambassador but instead went to the Trump Campaign. No issue was ever raised as a
3 result of her observations or report to the Trump Campaign.

4 Washoe County is using cameras to photograph or videotape the ballot process.
5 No Nevada county hand-counts ballots.

7 LEGAL PRINCIPLES

9 **Standing**

10 Nevada law requires an actual justiciable controversy as a predicate to judicial
11 relief. *Doe v. Bryan*, 102 Nev. 523, 525, 728 P.2d 443, 444 (1986). For a controversy to
12 exist the petitioner must have suffered a personal injury and not merely a general
13 interest that is common to all members of the public. *Schwarz v. Lopez*, 132 Nev. 732,
14 743, 382 P.3d 886, 894 (2016).

16 **Mandamus and Prohibition**

17 A court may issue a writ of mandamus “to compel the performance of an act
18 which the law especially enjoins as a duty resulting from an office . . . ; or to compel the
19 admission of a party to the use and enjoyment of a right or office to which the party is
20 entitled and from which the party is unlawfully precluded by such . . . person.” NRS
21 34.160. A court may issue a writ of mandamus “when the respondent has a clear,
22 present legal duty to act.” *Round Hill Gen. Imp. Dist. v. Newman*, 97 Nev. 601, 603, 637
23 P.2d 534 (1981). The flip side of that proposition is that a court cannot mandate a
24 person take action if the person has no clear, present legal duty to act. Generally,
25 mandamus will lie to enforce ministerial acts or duties and to require the exercise of
26 discretion, but it will not serve to control the discretion.” *Gragson v. Toco*, 90 Nev. 131,

1 133 (1974). There is an exception to the general rule: when discretion “is exercised
2 arbitrarily or through mere caprice.” *Id.*

3 “Petitioners carry the burden of demonstrating that extraordinary relief is
4 warranted.” *Pan v. Dist. Ct.*, 120 Nev. 222, 228 (2004).

5 The writ of prohibition is the counterpart of the writ of mandate. It arrests the
6 proceedings of any tribunal . . . or person exercising judicial functions, when such
7 proceedings are without or in excess of the jurisdiction of such tribunal . . . or person.
8 NRS 34.320.

9 A writ of prohibition “may be issued . . . to a person, in all cases where there is
10 not a plain, speedy and adequate remedy in the ordinary course of law.” NRS 34.330.

11 **Voting Statutes**

12 NRS 293B.353 provides in relevant part:

13 1. The county . . . shall allow members of the general public to observe the
14 counting of the ballots at the central counting place if those members do not
15 interfere with the counting of the ballots.

16 2. The county . . . may photograph or record or cause to be photographed
17 or recorded on audiotape or any other means of sound or video reproduction the
18 counting of the ballots at the central counting place.

19 3. A registered voter may submit a written request to the county . . . clerk
20 for any photograph or recording of the counting of the ballots prepared pursuant
21 to subsection 2. The county . . . clerk shall, upon receipt of the request, provide
22 the photograph or recording to the registered voter at no charge.

23 NRS 293B.354 provides in relevant part:

24 1. The county clerk shall, not later than April 15 of each year in which a
25 general election is held, submit to the Secretary of State for approval a written
26 plan for the accommodation of members of the general public who observe the
27 delivery, counting, handling and processing of ballots at a polling place, receiving
center or central counting place.

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3. Each plan must include:

- (a) The location of the central counting place and of each polling place and receiving center;
- (b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;
- (c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and
- (d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county . . . considers appropriate.

AB 4 section 22 provides in relevant part:

1. For any affected election, the county . . . clerk, shall establish procedures for the processing and counting of mail ballots.

2. The procedures established pursuant to subsection 1:

- (a) May authorize mail ballots to be processed and counted by electronic means; and
- (b) Must not conflict with the provisions of sections 2 to 27, inclusive, of this act.

AB 4 section 23 provides in relevant part:

1. . . . for any affected election, when a mail ballot is returned by or on behalf of a voter to the county . . . clerk . . . and a record of its return is made in the mail ballot record for the election, the clerk or an employee in the office of the clerk shall check the signature used for the mail ballot in accordance with the following procedure:

- a. The clerk or employee shall check the signature used for the mail ballot against all signatures of the voter available in the records of the clerk.

1 AB 4 section 25 provides in relevant part:

- 2 1. The counting procedures must be public.
- 3

4 **ANALYSIS**

5

6 **Petitioners failed to prove they have standing to bring their Agilis,**
7 **observation, ballot handling or secrecy claims.**

8 As set forth above for a justiciable controversy to exist the petitioner must have
9 suffered a personal injury and not merely a general interest that is common to all
10 members of the public. Petitioners provided no evidence of any injury, direct or indirect,
11 to themselves or any other person or organization. The evidence produced by Petitioners
12 shows concern over certain things these observers observed. There is no evidence that
13 any vote that should lawfully be counted has or will not be counted. There is no evidence
14 that any vote that should lawfully not be counted has been or will be counted. There is
15 no evidence that any election worker did anything outside of the law, policy, or
16 procedures. Petitioners do not have standing to maintain their mandamus claims.

17 Likewise, Petitioners provided no evidence of a personal injury and not merely a
18 general interest that is common to all members of the public regarding the differences
19 between the in-person and mail-in procedures. Petitioners provided no evidence of any
20 injury, direct or indirect, to themselves or any other person or organization as a result of
21 the different procedures. All Nevada voters have the right to choose to vote in-person or
22 by mail-in. Voting in person and voting by mailing in the ballot are different and so the
23 procedures differ. There is no evidence that anything the State or Clark County have
24 done or not done creates two different classes of voters. There is no evidence that
25 anything the State or Clark County has done values one voter's vote over another's.

26

1 There is no evidence of any debasement or dilution of any citizen’s vote. Petitioners do
2 not have standing to bring their equal protection claims.

3
4 **Petitioners failed to prove Registrar Gloria failed to meet his**
5 **statutory duty under NRS 293B.353(1) to allow members of the general**
6 **public to observe the counting of ballots?**

7
8 Petitioners argued they have a right to observers having meaningful observation
9 under NRS 293B.353(1) and AB 4 sec. 25. NRS 293B.353(1) provides in relevant part,
10 “[t]he county . . . shall allow members of the general public to observe the counting of
11 the ballots” AB 4 sec. 25 provides in relevant part “[t]he counting procedure must
12 be public.” The statutes do not use the modifier “meaningful.”

13 The Nevada Legislature codified the right of the public to observe the ballot
14 counting procedure in NRS 293B.353 and 293B.354, and AB 4 section 25(1). NRS
15 293B.354(1) requires each county to annually submit a plan to the Secretary of State.
16 NRS 293B. 354(3) states the requirements of the plan. The statutory requirements of
17 the plan are very general. The legislature left to the election professionals, the Secretary
18 of State and the county elections officials, wide discretion in establishing the specifics of
19 the plan. Petitioners failed to prove either Secretary Cegavske or Registrar Gloria
20 exercised their discretion arbitrarily or through mere caprice.

21
22 The fact that Registrar failed to timely submit a plan was remedied by submitting
23 the plan late and the Secretary of State approving the plan.

24 Petitioners seem to request unlimited access to all areas of the ballot counting
25 area and observation of all information involved in the ballot counting process so they
26

1 can verify the validity of the ballot, creating in effect a second tier of ballot counters
2 and/or concurrent auditors of the ballot counting election workers. Petitioners failed to
3 cite any constitutional provision, statute, rule, or case that supports such a request. The
4 above-cited statutes created observers not counters, validators, or auditors. Allowing
5 such access creates a host of problems. Ballots and verification tools contain confidential
6 voter information that observers have not right to know. Creating a second tier of
7 counters, validators, or auditors would slow a process the Petitioners failed to prove is
8 flawed. The request if granted would result in an increase in the number of persons in
9 the ballot processing areas at a time when social distancing is so important because of
10 the COVID-19 pandemic.
11

12 Petitioners have failed to prove Registrar Gloria has interfered with any right they
13 or anyone else has as an observer.

14 Petitioners claim a right to have mail-in ballots and the envelopes the ballots are
15 mailed in to be kept in sequential order. Petitioners failed to cite Constitutional
16 provision, statute, rule, or case that creates a duty for Nevada registrars to keep ballots
17 and envelopes in sequential order. Because they failed to show a duty they cannot
18 prevail on a mandamus claim that requires proof a duty resulting from office. Because
19 there is no duty or right to sequential stacking the Court cannot mandate Registrar
20 Gloria to stack ballots and envelopes sequentially.
21
22 Because there is not right to sequential stacking the Court cannot mandate the use and
23 enjoyment of that “right.”
24

25 Plaintiffs want the Court to mandate Registrar Gloria allow Petitioners to
26 photograph of videotape the ballot counting process. The legislature provided in NRS
27

1 293B.353(2) the procedure for photographing or videotaping the counting of ballots.

2 The county may photograph or videotape the counting and upon request provide a copy
3 of the photographs or videotapes.

4 Petitioners failed to cite any constitutional provision, statute, rule, or case that
5 gives the public the right to photograph or videotape ballot counting.

6 Petitioners failed to prove Secretary Cegavske or Registrar Gloria exercised her or
7 his discretion arbitrarily or through mere caprice in any manner. Therefore, the Court
8 cannot mandate Registrar Gloria to require sequential stacking of ballots and envelopes.
9

10 Petitioners requested the Court mandate Registrar Gloria provide additional
11 precautions to ensure the secrecy of ballots. Petitioners failed to prove that the secrecy
12 of any ballot was violated by anyone at any time. Petitioners failed to prove that the
13 procedures in place are inadequate to protect the secrecy of every ballot.

14 Petitioners also request the Court mandate Registrar Gloria stop using the Agilis
15 system. Petitioners failed to show any error or flaw in the Agilis results or any other
16 reason for such a mandate. Petitioners failed to show the use of Agilis caused or resulted
17 in any harm to any party, any voter, or any other person or organization. Petitioners
18 failed Registrar Gloria has a duty to stop using Agilis.
19

20 AB 4 passed by the legislature in August 2020 specifically authorized county
21 officials to process and count ballots by electronic means. AB 4, Sec. 22(2)(a).

22 Petitioners' argument that AB 4, Sec. 23(a) requires a clerk or employee check the
23 signature on a returned ballot means the check can only be done manually is meritless.

24 The ballot must certainly be checked but the statute does not prohibit the use of
25 electronic means to check the signature.
26

1
2 **Equal Protection**

3 There is no evidence that in-person voters are treated differently than mail-in
4 voters. All Nevada voters have the right to choose to vote in-person or by mail-in. Voting
5 in person and voting by mailing in the ballot are different and so the procedures differ.
6 Nothing the State or Clark County have done creates two different classes of voters.
7 Nothing the State or Clark County has done values one voter's vote over another's. There
8 is no evidence of debasement or dilution of a citizen's vote.
9

10
11
12 **CONCLUSIONS OF LAW**

13 Petitioners do not have standing to bring these claims.

14 Registrar Joseph P. Gloria has not failed to meet his statutory duty under NRS
15 293B.353(1) to allow members of the general public to observe the counting of ballots.

16 Registrar Gloria has not precluded Petitioners from the use and enjoyment of a
17 right to which Petitioners are entitled.

18 Registrar Gloria has not exercised discretion arbitrarily or through mere caprice.

19 Registrar Gloria has not acted without or in excess of authorized powers.

20 Secretary of State Barbara Cegavske has not failed to meet any statutory duty
21 under NRS 293B.353(1) to allow members of the general public to observe the counting
22 of ballots.

23 Secretary of State Barbara Cegavske has not unlawfully precluded Petitioners
24 from the use and enjoyment of a right to which Petitioners are entitled.

25 Secretary Cegavske has not exercised discretion arbitrarily or through mere
26 caprice.
27

1 Secretary Cegavske has not acted without or in excess of authorized powers.

2 Secretary of State Cegavske has not precluded Petitioners the use and/or
3 enjoyment of a right to which Petitioners are entitled.

4 Petitioners failed to prove they are entitled to a writ of mandamus on any of their
5 claims.

6
7 **ORDER**

8 The Petition for Writ of Mandamus or in the Alternative for Writ of Prohibition is
9 denied.
10

11 October 29, 2020.

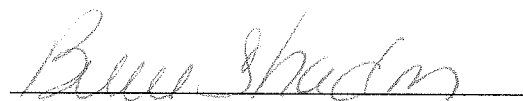
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14 _____
15 James E. Wilson, Jr.
16 District Judge
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1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the First Judicial District Court of Nevada; that
3 on the 2 day of November 2020, I served a copy of this document by placing a true
4 copy in an envelope addressed to:

5 Brian R. Hardy, Esq. 6 10001 Park Run Drive 7 Las Vegas, NV 89145 bhardy@maclaw.com	David O'Mara, Esq. 311 E. Liberty Street Reno, NV 89501 david@omaralaw.net
8 MaryAnn Miller 9 Office of the District Attorney 10 Civil Division 11 500 S. Grand Central Parkway Las Vegas, NV 89106 Mary-Anne.Miller@clarkcountyda.com	Bradley Schragger, Esq. 3556 E. Russell Road Second Floor Las Vegas, NV 89120 Bschrager@wrs.awyers.com
12 Daniel Bravo, Esq. 13 3556 E. Russell Road 14 Second Floor Las Vegas, NV 89120 dbravo@wrslawyers.com	Gregory L. Zunino, Esq. Office of the Attorney General 100 North Carson Street Carson City, NV 89701 Gzunino@ag.nv.gov

15
16 the envelope sealed and then deposited in the Court's central mailing basket in the court
17 clerk's office for delivery to the USPS at 1111 South Roop Street, Carson City, Nevada, for
18 mailing.

19
20
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22 Billie Shadron
23 Judicial Assistant
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27



Election Department

965 Trade Dr • Ste A • North Las Vegas NV 89030
Voter Registration (702) 455-8683 • Fax (702) 455-2793

Joseph Paul Gloria, Registrar of Voters
Lorena Portillo, Assistant Registrar of Voters

October 20, 2020

The Honorable Barbara K. Cegavske
Secretary of State
State of Nevada
101 N. Carson St., Suite 3
Carson City, Nevada 89701-4786

Attention: Wayne Thorley
Deputy Secretary of State for Elections

RE: Accommodation of Members of the General Public at Polling Places, Mail Ballot Processing, and at the Central Counting Place

Dear Secretary Cegavske:

In accordance with NRS 293B.354, I am forwarding to you the following guidelines which are provided to our polling place team leaders and our election staff to ensure we accommodate members of the general public who wish to observe activities within a polling place and/or at the central counting facilities.

Polling Places (Early Voting and Election Day)

Designated public viewing areas are established in each polling place, both early voting and Election Day vote centers, where individuals may quietly sit or stand and observe the activities within the polling place.

Observation guidelines:

- Observers may not wear or display political campaign items
- Observers may not photograph, or record by any other means, any activity at any early voting or Election Day polling place
- Use of cell phones is prohibited in the polling place
- Observers may not disrupt the voting process
- If observers have questions, they must direct them to the polling place team leader

Mail Ballot Processing (Warehouse & Flamingo-Greystone Facility)

The general public is allowed, according to the NRS, to observe the counting of mail ballots. In addition, as a courtesy, members of the general public are also being allowed to observe our mail ballot processing procedures, which occur prior to tabulation.

Due to space limitations we are processing our mail ballots in two different facilities:

- 965 Trade Dr., North Las Vegas, NV 89030
 - AGILIS mail ballot processing
 - Signature audit team
 - Tabulation
 - Ballot duplication
- 2030 E. Flamingo Road, Las Vegas, NV 89119
 - Counting Board
 - Ballot duplication

Observation guidelines:

- Observers may not wear or display political campaign items
- Observers may not photograph, or record by any other means, any activity at any early voting or Election Day polling place
- Use of cell phones is prohibited in the polling place
- Observers may not disrupt the voting process
- If observers have questions, they must direct them to the polling place team leader

Election Night (Warehouse Tabulating)

In front of our tabulation area an area is provided for any observer who wishes to observe our counting activity. Reports are provided after each update to the general public and are also available on our website for review. The general public may access the website through our free county wi-fi access on their personal devices should they choose to do so.

The public viewing area allows the general public to view the tabulation room, where the processing of election night results may be observed through windows that provide full view of all counting activity. Observers are not allowed inside the room because of congestion and COVID restrictions.

The Registrar is available to answer questions, although it should be noted that very few

Page 3
Secretary of State Barbara K. Cegavske
March 14, 2018

individuals from the public have been at the Election Center Warehouse on election night since 2000. This will probably be different this year due to increased interest in observing our activities.

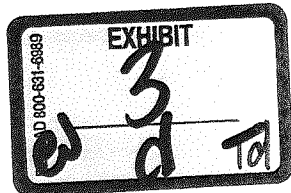
In accordance with NRS 293B.354, at link provided here is a link to the vote center polling places that will be used in the General Election on November 3, 2020 in Clark County. <https://cms8.revize.com/revize/clarknv/Election%20Department/VC-Web-20G.pdf?t=1602940110601&t=1602940110601>. An electronic copy is also attached to the e-mail.

Sincerely,

A handwritten signature in black ink that reads "Joseph P. Gloria". The signature is written in a cursive style with a prominent initial "J" and a trailing flourish.

Joseph P. Gloria
Registrar of Voters

Enclosures



OBSERVATION OF POLLING PLACE OR CLARK COUNTY ELECTION DEPARTMENT LOCATIONS ACKNOWLEDGEMENT

In accordance with NAC 293.245 (full text included in page 2):

I, VIRGINIA STEWART, by signing this form, hereby acknowledge that during the time I observe the conduct of voting or of any election related process, I am prohibited from the following activities:

1. Talking to voters or staff within the polling place or Election Department location;
2. Using any technical devices within the polling place or Election Department location;
3. Advocating for or against a candidate, political party or ballot question;
4. Arguing for or against or challenging any decisions of the county or city election personnel and;
5. Interfering with the conduct of voting or any election related process.

I further acknowledge that I may be removed from the polling place by the county or city clerk for violating any provisions of Title 24 of the Nevada Revised Statutes or any of the restrictions described herein.

Representing Group/Organization:

Republican Party

Contact Information:

6196568405

Signature:

[Handwritten Signature]

Print Name:

VIRGINIA STEWART

Date:

10/27/20

Polling Place or Election Department Location:

TRAD

October 21, 2020

Memo to Election Observers in the Greystone or County Election Department buildings:

Thank you for choosing to observe our voting process.

The department brought in additional staff to provide adequate supervision and security for observation areas. These staff, whom we call ambassadors, will accompany you while you are in our facilities.

Our ambassadors are not permanent Election Department employees and receive no training in our election processes, and so they are not able to accurately answer your questions about elections.

If you have any questions about the processes you are observing or other election-related questions, please inform the ambassador that you have a question for County Election Department officials. (The ambassador will create a list of questions from observers to relay to Election officials.) Or, you may choose to wait and pose their question to the Election official directly.

At this time, we plan to make Election Department officials available to observers around 9 a.m. and 3 p.m. daily to respond to any questions or concerns. These meetings will occur at both the Greystone and Election Department buildings

Thank you for our understanding.

Sincerely,

Joe Gloria

Clark County Registrar of Voters

BARBARA K. CEGAVSKE
Secretary of State

STATE OF NEVADA

SCOTT W. ANDERSON
Chief Deputy Secretary of State

MARK A. WLASCHIN
Deputy Secretary for Elections



**OFFICE OF THE
SECRETARY OF STATE**

October 22, 2020

Mr. Joe Gloria, Registrar of Voters
965 Trade Drive, Suite A
North Las Vegas, NV 89030-7802
jpg@ClarkCountyNV.gov
via Email

Re: Revision of Observation Plan

Mr. Gloria,

Over the last few days, a potential opportunity for improvement to your elections process observation plan have come to light that the Secretary of State believes to be worth considering. We have received Clark County's plan for accommodating election observers. In addition to the items detailed in your plan, we would request that you consider implementing the following:

Provide additional seating in the public viewing area for observing the signature verification process to the extent feasible while ensuring that no Personally Identifiable Information (PII) is observable to the public. This increase in seating should ensure meaningful observation.

If you have any questions regarding this letter and my determination in this matter, please contact me at (775) 684-5709.

Respectfully,

A handwritten signature in cursive script that reads "Barbara K. Cegavske".

Barbara K. Cegavske
Secretary of State

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 20 OC 00142 1B

TITLE: FRED KRAUS, an individual registered to vote in Clark County, Nevada; DONALD J. TRUMP FOR PRESIDENT, INC.; the NEVADA REPUBLICAN PARTY VS BARBARA CEGAVSKE, in her official capacity as Nevada Secretary of State, JOSEPH P. GLORIA, in his official capacity as Registrar of Voters for Clark County, Nevada

10/23/20 – DEPT. II – HONORABLE JAMES E. WILSON, JR.
J. Higgins, Clerk – Not Reported

APPLICATION FOR TEMPORARY RESTRAINING ORDER

Present via telephone: David O'Mara and Brian Hardy, counsel for Petitioners; Jesse Binnall, representative of Trump Campaign; Barbara Cegavski and Aaron Ford with counsel Gregory Zunino and Craig Newby, Deputies Solicitor General; Joseph Gloria with counsel Mary-Anne Miller, Clark County D.A.; Daniel Bravo and Bradley Schrager, counsel for Nevada Democratic Party and Democratic National Committee; Wayne Thorley, Deputy of Elections for Secretary of State; Mark Wlaschin, Deputy Secretary of State.

Statements were made by Court. Bravo indicated all parties on the call have accented to intervention and indicated they would be preparing and a stipulation and proposed order shortly and requested to submit the stipulation and proposed order with electronic signatures and then promptly submitting them with wet signatures.

COURT ORDERED: Yes.

Statements were made by Court, Zunino, Hardy, O'Mara, Miller and Bravo regarding receipt of documents.

Zunino, Miller, Bravo, and Hardy presented arguments.

Zunino read the letter from the Secretary of State to Mr. Gloria on the record.

Court inquired if the parties want an evidentiary hearing on the temporary restraining order;

Hardy declined and Zunino, Miller and Bravo affirmed.

COURT ORDERED: It is going to deny the Defendants request for an evidentiary hearing.

Zunino to prepare Order.

Court stated its findings of fact and conclusions of law.

COURT ORDERED: The Motion for Temporary Restraining Order is denied.

Statements were made by Court, Zunino and Hardy.

10/23/20 – Cont.'d

COURT ORDERED: Zunino to include in the Order that this does not preclude the Petitioners from proceeding with either a preliminary injunction or a final.

Statements were made by Court, Zunino, Miller and Bravo regarding hearing on the preliminary injunction. Bravo requested it grant their intervention. Statements were made by Court.

COURT ORDERED: If the parties have stipulated, Zunino to include that in the order.

Further discussion regarding video or in-person appearance at the hearing and Hardy, Zunino, Miller and Bravo preferred video conference.

COURT ORDERED: It sets the hearing for Wednesday, October 28, 2020 at 9:00 a.m.

Bravo requested permission to electronically serve their opposition on Monday and file with e-signatures. Upon inquiry by Court, parties had no objection.

COURT ORDERED: All of it will be served electronically so that everybody will have everything as soon as possible.

CONTINUED TO: 10/28/20 – 9:00 A.M. – Writ of Mandamus

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 20 OC 00142 1B

TITLE: FRED KRAUS, an individual registered to vote in Clark County, Nevada; DONALD J. TRUMP FOR PRESIDENT, INC.; the NEVADA REPUBLICAN PARTY VS BARBARA CEGAVSKE, in her official capacity as Nevada Secretary of State, JOSEPH P. GLORIA, in his official capacity as Registrar of Voters for Clark County, Nevada

10/28/20 – DEPT. II – HONORABLE JAMES E. WILSON, JR.
J. Harkleroad, Clerk – Not Reported

APPLICATION FOR TEMPORARY RESTRAINING ORDER

Present via telephone: David O'Mara, Brian Hardy, Jesse Binnall, counsel for Petitioners; Barbara Cegavski with counsel Gregory Zunino and Craig Newby, Deputies Solicitor General; Joseph Gloria with counsel Mary-Anne Miller, Clark County D.A.; Bradley Schrage and John Devaney, counsel for Nevada Democratic Party and Democratic National Committee

Statements were made by counsel and Court regarding housekeeping matters.

Binnall, Zunino, Miller and Devaney made opening statements.

Evidence was marked and admitted in accordance with the Exhibit Sheet.

The following witnesses were sworn and testified on behalf of petitioners:

1. Joseph Gloria

Binnall requested permission to treat Joseph Gloria as an adverse witness.

COURT ORDERED: Granted.

2. Katharyne Taylor
3. Virginia Stewart

Lunch recess was taken.

Outside the presence of counsel, Court addressed Mr. Snyder as to observing the proceeding telephonically.

COURT ORDERED: Request is approved.

Matter resumed.

Record will reflect counsel.

4. Maria Theresa Diaz
5. Anastasia Ganatsios Laurance
6. Edward Suarez
7. Fred Kraus
8. Robert Thomas

Pltf. rested.

CASE NO. 20 OC 00142 1B

TITLE: FRED KRAUS, an individual registered to vote in Clark County, Nevada; DONALD J. TRUMP FOR PRESIDENT, INC.; the NEVADA REPUBLICAN PARTY VS BARBARA CEGAVSKE, in her official capacity as Nevada Secretary of State, JOSEPH P. GLORIA, in his official capacity as Registrar of Voters for Clark County, Nevada

10/28/2020 – Cont'd.

The following witnesses were sworn and testified on behalf of Barbara Cegavski

1. Wayne Thorley

Defense rested.

Binnall, Zunino, Miller, and Devaney made closing arguments.

COURT ORDERED: Matter will be submitted. It will have a decision out to counsel as soon as possible.

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

DISTRICT COURT CIVIL COVER SHEET

Carson City County, Nevada

Case No. 20 DC 001421B
(Assigned by Clerk's Office) 11

REC'D & FILED

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
Fred Kraus, an individual registered to vote in Clark County, Nevada, Donald J. Trump for President, Inc.; the Nevada Republican Party	Barbara Cegavske, in her official capacity as Nevada Secretary of State; Joseph P. Gloria, in his official capacity as Registrar of Voters for Clark County, Nevada
Attorney (name/address/phone):	Attorney (name/address/phone):
David C. O'Mara, Esq., The O'Mara Law Firm, P.C. 311 E. Liberty Street, Reno, NV 89501 775.323.1321	

2020 OCT 23 AM 9:24
AUBREY DEWITT
DEPUTY

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types

<p align="center">Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Foreclosure Mediation Assistance <input type="checkbox"/> Other Title to Property <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<p align="center">Negligence</p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p align="center">Malpractice</p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<p align="center">Torts</p> <p>Other Torts</p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<p align="center">Probate</p> <p>Probate (select case type and estate value)</p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Surviving Spouse <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p>Estate Value</p> <input type="checkbox"/> Greater than \$300,000 <input type="checkbox"/> \$200,000-\$300,000 <input type="checkbox"/> \$100,001-\$199,999 <input type="checkbox"/> \$25,001-\$100,000 <input type="checkbox"/> \$20,001-\$25,000 <input type="checkbox"/> \$2,501-20,000 <input type="checkbox"/> \$2,500 or less	<p align="center">Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p>Contract Case</p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<p align="center">Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p>Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p>Appeal Other</p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ		Other Civil Filing
<p>Civil Writ</p> <input type="checkbox"/> Writ of Habeas Corpus <input checked="" type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant	<input checked="" type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<p>Other Civil Filing</p> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

October 23, 2020

Date

David O'Mara
Signature of initiating party or representative

See other side for family-related case filings.