

Wayne Klomp, Esq.  
Nevada Bar No. 10109  
GREAT BASIN LAW  
1783 Trek Trail  
Reno, Nevada 89521  
Phone: (775) 770-0386  
[wayne@greatbasinlawyer.com](mailto:wayne@greatbasinlawyer.com)

*Attorney for Respondent*  
*Barbara Cegavske in her official capacity as*  
*Nevada Secretary of State*

**FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

**IN AND FOR CARSON CITY**

ROBERT HOLLOWOOD, an individual;  
KENNETH BELKNAP, an individual;  
NEVADANS FOR FAIR GAMING TAXES  
PAC, a Nevada committee for political action;  
FUND OUR SCHOOLS PAC, a Nevada  
committee for political action,

Petitioners,

NEVADA RESORT ASSOCIATION, a  
Nevada non-profit corporation; GREATER  
LAS VEGAS CHAMBER OF COMMERCE,  
d/b/a VEGAS CHAMBER, a Nevada non-  
profit corporation,

Intervenors-Petitioners,

vs.

BARBARA CEGAVSKE, in her official  
capacity as NEVADA SECRETARY OF  
STATE,

Respondent.

Case No.: 21 OC 00182 1B

Dept. No.: 2

REC'D & FILED

2022 MAR 18 PM 3:03

Electronically Filed  
Mar 22 2022 03:20 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

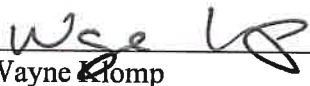
**NOTICE OF APPEAL**

Notice is hereby given that Barbara Cegavske, in her official capacity as Nevada Secretary of State, Respondent named above, hereby appeals to the Supreme Court of Nevada

1 from the final judgment in this case including the Order That Writs of Mandamus and  
2 Prohibition Issue issued on March 9, 2022, the Writ of Mandamus issued and served on March  
3 14, 2022, and the Writ of Prohibition issued and served on March 14, 2022.

4  
5  
6 Dated: March 16, 2022.

GREAT BASIN LAW

7  
8   
9 Wayne K. Kromp  
10 Nevada Bar No. 10109  
11 1783 Trek Trail  
12 Reno, Nevada 89521

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
*Attorney for Respondent/Appellant*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this date, I served the foregoing **NOTICE OF APPEAL** on the  
3 following individual(s) by email service pursuant to NRCP 5(b)(2)(F), NRAP 3(d)(1), and  
4 consent by the Parties at the email addresses listed below:  
5

6 **WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP**

7 Bradley S. Schrager, Esq.  
bschrager@wrslawyers.com

8 Daniel Bravo, Esq.  
dbravo@wrslawyers.com

9 John Samberg, Esq.  
jsamberg@wrslawyers.com

10 **MCLETCHIE LAW**  
11 Margaret A. McLetchie  
12 maggie@nvlitigation.com  
13

14 *Attorneys for Petitioners*

15 **LEWIS ROCA ROTHGERBER CHRISTIE LLP**

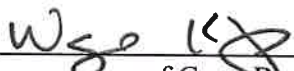
16 Joel D. Henriod, Esq.  
JHenriod@LewisRoca.com

17 Daniel F. Polsenberg, Esq.  
DPolsenberg@LewisRoca.com

18 Kory J. Koerperich  
KKoerperich@LewisRoca.com

19 *Attorneys for Nevada Resort Association and Vegas Chamber*  
20  
21  
22

23 Dated: March 16, 2022

24   
25 An employee of Great Basin Law  
26  
27  
28

Wayne Klomp, Esq.  
Nevada Bar No. 10109  
GREAT BASIN LAW  
1783 Trek Trail  
Reno, Nevada 89521  
Phone: (775) 770-0386  
[wayne@greatbasinlawyer.com](mailto:wayne@greatbasinlawyer.com)

*Attorney for Respondent  
Barbara Cegavske in her official capacity as  
Nevada Secretary of State*

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

ROBERT HOLLOWOOD, an individual;  
KENNETH BELKNAP, an individual;  
NEVADANS FOR FAIR GAMING TAXES  
PAC, a Nevada committee for political action;  
FUND OUR SCHOOLS PAC, a Nevada  
committee for political action,

Petitioners,

NEVADA RESORT ASSOCIATION, a  
Nevada non-profit corporation; GREATER  
LAS VEGAS CHAMBER OF COMMERCE,  
d/b/a VEGAS CHAMBER, a Nevada non-  
profit corporation,

Intervenors-Petitioners,

vs.

BARBARA CEGAVSKE, in her official  
capacity as NEVADA SECRETARY OF  
STATE,

Respondent.

Case No.: 21 OC 00182 1B

Dept. No.: 2

**CASE APPEAL STATEMENT**

Barbara Cegavske, in her official capacity as Nevada Secretary of State, Respondent  
named above, submits this Case Appeal Statement pursuant to NRAP 3, and states as follows:

REC'D & FILED

2022 MAR 18 PM 3:04

AUBREY ROWLATZ  
CLERK

BY

DEPUTY

1           **1. CASE APPEAL STATEMENT.** Filed by Barbara Cegavske in her official  
2 capacity as Nevada Secretary of State.

3           **2. JUDGE ISSUING DECISION.** Honorable James E. Wilson Jr., District Judge,  
4 First Judicial District Court, Carson City, Nevada.

5           **3. APPELLANTS AND HER COUNSEL.**

6           Appellant: Barbara Cegavske in her official capacity as Secretary of State

7           Counsel: Great Basin Law  
8 Wayne Klomp, Esq.  
9 1783 Trek Trail  
Reno, Nevada 89521

10          **4. RESPONDENTS AND THEIR COUNSEL.**

11          Respondents – District Court Original Petitioners:

12 Robert Hollowood  
13 Kenneth Belknap  
14 Nevadans For Fair Gaming Taxes PAC  
Fund Our Schools PAC

15          Counsel: Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP  
16 Bradley Schrager, Esq.  
17 Daniel Bravo, Esq.  
18 John Samberg, Esq.  
Eric Levinrad, Esq. (*pro hac vice* requested)  
3773 Howard Hughes Pkwy., Ste. 590 South  
Las Vegas, Nevada 89169

19 McLetchie Law  
20 Margaret A. McLetchie, Esq.  
21 602 South Tenth St.  
Las Vegas, Nevada 89101

22          Respondents – District Court Intervenors-Petitioners:

23 Nevada Resort Association  
24 Greater Las Vegas Chamber of Commerce dba Vegas Chamber

25          Counsel: Lewis Roca Rothgerber Christie LLP  
26 Joel D. Henriod, Esq.  
27 Daniel F. Polsenberg, Esq.  
Kory J. Koerperich, Esq.  
3993 Howard Hughes Pkwy., Ste. 600  
28 Las Vegas, Nevada 89169-5996

1           **5.     LICENSURE TO PRACTICE IN NEVADA.** One attorney, Eric Levinrad, is  
2 not licensed to practice in Nevada. Petitioners filed a Motion to Associate Counsel Pursuant to  
3 Nevada Supreme Court Rule 42, but it does not appear that the Court ruled on the motion prior  
4 to this appeal.

5           **6.     REPRESENTATION IN DISTRICT COURT.** Appellant was represented by  
6 retained counsel, Great Basin Law, in the District Court.

7           **7.     REPRESENTATION IN APPEAL.** Appellant is represented by retained  
8 counsel, Great Basin Law, in this appeal.

9           **8.     IN FORMA PAUPERIS.** Appellant did not seek to proceed in forma pauperis  
10 in the District Court.

11           **9.     DATE DISTRICT COURT ACTION COMMENCED.** Petitioners  
12 commenced the action in the District Court on December 28, 2021, by filing their Petition for  
13 Writs of Mandamus and Prohibition.

14           **10.    NATURE OF THE ACTION AND RESULT.**

15           The action in the District Court was a proceeding upon a Petition for Writs of  
16 Mandamus and Prohibition. The original Petitioners are sponsors of two separate initiative  
17 petitions, S-01-2020 and S-02-2020 (“Initiative Petitions”) which were circulated pursuant to  
18 Article 19, Section 2 of the Nevada Constitution. The Initiative Petitions sponsors collected  
19 signatures and submitted the signed Petitions for verification prior to the 2021 Legislative  
20 Session. Once the County Clerks and the Secretary of State verified the signatures, the  
21 Secretary of State submitted the Initiative Petitions to the Nevada Legislature at the beginning  
22 of the 2021 Legislative Session.

23           While in session, the Legislature took no action on the Initiative Petitions which sought  
24 to increase the sales tax and gaming tax in order to raise revenue for education in Nevada.  
25 Instead, the Legislature raised taxes on the mining industry, and, as part of the Legislative  
26 bargain, the sponsors agreed to withdraw the Initiative Petitions under NRS 295.026. The  
27 Constitution, however, states that the people reserve to themselves the power to “enact or  
28

1 reject” initiative petitions, and unless the Legislature enacts the Initiative Petitions, “the  
2 Secretary of State shall submit the question of approval or disapproval of such statute or  
3 amendment to a statute to a vote of the voters at the next succeeding general election.” Nev.  
4 Const. art. 19, §§ 2(1) & 2(3). Based on the language in the Constitution, the Secretary of State  
5 refused to recognize the withdrawal of the verified Initiative Petitions and intended to place  
6 those questions on the ballot for the electorate “to enact or reject them at the polls.” See Nev.  
7 Const. art. 19, § 2(1).

8 Petitioners brought a petition for writ of mandamus and writ of prohibition in the First  
9 Judicial District Court to prevent the Secretary of State from placing the Initiative Petitions on  
10 the ballot in the general election scheduled for November 2022. The Vegas Chamber and  
11 Nevada Resort Association moved for and were granted status as intervenors. The District  
12 Court then issued an Order on March 9, 2022, finding that the writs should issue and concluding  
13 that the duty of the Secretary of State was to recognize the withdrawal of the Initiative Petitions  
14 and not place the questions on the November 2022 ballot. This appeal challenges the legal  
15 conclusions in the Order and seeks to vacate the writs of mandamus and prohibition issued by  
16 the District Court and served on the Secretary of State on March 14, 2022.


17 **11. PRIOR APPEALS.** This case has not previously been the subject of an appeal  
18 or to original writ proceedings in the Supreme Court.

19 **12. CHILD CUSTODY OR VISITATION.** This case does not involve child  
20 custody or visitation.

21 **13. SETTLEMENT.** Although this is a civil case, it does not involve the possibility  
22 of settlement.

23 Dated: March 16, 2022.

GREAT BASIN LAW

  
Wayne Klomp

Nevada Bar No. 10109

1783 Trek Trail

Reno, Nevada 89521

*Attorney for Appellant Cegavske*



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this date, I served the foregoing **CASE APPEAL**  
3 **STATEMENT** on the following individual(s) by email service pursuant to NRCP 5(b)(2)(F),  
4 NRAP 25, and consent by the Parties at the email addresses listed below:

5 **WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP**

6 Bradley S. Schrager, Esq.  
7 [bschrager@wrslawyers.com](mailto:bschrager@wrslawyers.com)

8 Daniel Bravo, Esq.  
9 [dbravo@wrslawyers.com](mailto:dbravo@wrslawyers.com)

10 John Samberg, Esq.  
11 [jsamberg@wrslawyers.com](mailto:jsamberg@wrslawyers.com)

12 **MCLETCHIE LAW**  
13 Margaret A. McLetchie  
14 [maggie@nvlitigation.com](mailto:maggie@nvlitigation.com)

*Attorneys for Petitioners Robert Hollowood et al.*

15 **LEWIS ROCA ROTHGERBER CHRISTIE LLP**

16 Joel D. Henriod, Esq.  
17 [JHenriod@LewisRoca.com](mailto:JHenriod@LewisRoca.com)

18 Daniel F. Polsenberg, Esq.  
19 [DPolsenberg@LewisRoca.com](mailto:DPolsenberg@LewisRoca.com)

20 Kory J. Koerperich  
21 [KKoerperich@LewisRoca.com](mailto:KKoerperich@LewisRoca.com)

*Attorneys for Intervenor-Petitioners Nevada Resort Association and Vegas Chamber*

22  
23 Dated: March 16, 2022.

24   
25 An employee of Great Basin Law  
26  
27  
28



Judge: WILSON JR, JAMES E

Case No. 21 OC 00182 1B  
Ticket No.  
CTN:

HOLLOWOOD, ROBERT et al

By:

CEGAVSKE, BARBARA

DRSPND

-vs-

By: KLOMP, WAYNE O  
100 W. LIBERTY STREET  
12TH FLOOR  
P.O. BOX 281  
RENO, NV 89504

Dob: Sex:  
Lic: Sid:  
NEVADA SECRETARY OF STATE DRSPND

By: KLOMP, WAYNE O  
100 W. LIBERTY STREET  
12TH FLOOR  
P.O. BOX 281  
RENO, NV 89504

Dob: Sex:  
Lic: Sid:

Plate#: Make: Year: Accident: Type: Venue: Location:

BELKNAP, KENNETH PLNTPET Bond: Set:  
FUND OUR SCHOOLS PLNTPET Type: Posted:  
HOLLOWOOD, ROBERT PLNTPET  
NEVADA FOR FAIR GAMING PLNTPET  
TAXES PAC

Charges:

Ct. Offense Dt: Cvr:  
Arrest Dt:  
Comments:

Ct. Offense Dt: Cvr:  
Arrest Dt:  
Comments:

Sentencing:

No.	Filed	Action	Operator	Fine/Cost	Due
1	03/18/22	CASE APPEAL STATEMENT	1BSBARAJAS	0.00	0.00
2	03/18/22	NOTICE OF APPEAL	1BSBARAJAS	24.00	0.00
3	03/10/22	NOTICE OF ENTRY OF ORDER	1BCCOOPER	0.00	0.00
4	03/09/22	ISSUANCE OF WRIT OF PROHIBITION	1BPETERSON	10.00	0.00
5	03/09/22	ISSUANCE OF WRIT OF MANDATE	1BPETERSON	10.00	0.00
6	03/09/22	ORDER THAT WRITS OF MANDAMUS AND PROHIBITION ISSUE	1BPETERSON	0.00	0.00
7	03/08/22	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCCOOPER	0.00	0.00
8	03/08/22	PETITIONERS ORDER ADMITTING TO PRACTICE	1BCCOOPER	0.00	0.00
9	03/08/22	REQUEST FOR SUBMISSION OF MOTION TO DISMISS	1BCCOOPER	0.00	0.00
10	03/08/22	DEFENDANT SUNABE CORPORATIONS REPLY IN SUPPORT OF MOTION TO DISMISS	1BCCOOPER	0.00	0.00
11	03/07/22	INTERVENTORS PETITIONERS REPLY IN SUPPORT OF PETITIONS FOR MANDAMUS AND PROHIBITION	1BCCOOPER	0.00	0.00
12	03/07/22	REQUEST FOR SUBMISSION	1BCCOOPER	0.00	0.00
13	03/07/22	PETITIONERS REPLY IN SUPPORT OF PETITIONS FOR WRIT OF MANDAMUS AND WRIT OF PROHIBITION	1BCCOOPER	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
14	02/23/22	RESPONDENTS ANSWERING BRIEF	1BCCOOPER	0.00	0.00
15	02/15/22	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITIONS FOR WRIT OF MANDAMUS AND PROHIBITION	1BJULIEH	0.00	0.00
16	02/11/22	STIPULATION PROPOSED BRIEFING SCHEDULE AND ORDER	1BCCOOPER	0.00	0.00
17	02/07/22	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCCOOPER	0.00	0.00
18	02/07/22	ORDER GRANTING NEVADA RESORT ASSOCIATION AND THE VEGAS CHAMBERS MOTION TO INTERVENE	1BCCOOPER	0.00	0.00
19	01/31/22	RESPONDENT'S LIMITED OPPOSITION TO NEVADA RESORT ASSOCIATION AND THE VEGAS CHAMBER'S MOTION TO INTERVENE OR ALTERNATIVELEY FOR LEAVE TO APPEAR AS AMICI	1BPETERSON	0.00	0.00
20	01/28/22	NEVADA RESORT ASSOCIATION AND THE VEGAS CHAMBER'S UNOPPOSED EMERGENCY MOTION FOR ORDER SHORTENING TIME	1BSBARAJAS	0.00	0.00
21	01/28/22	BRIEF OF THE AMICI CURIAE NEVADA RESORT ASSOCIATION AND THE VEGAS CHAMBER	1BSBARAJAS	0.00	0.00
22	01/28/22	NEVADA RESORT ASSOCIATION AND THE VEGAS CHAMBER'S MOTION TO INTERVENE OR ALTERNATIVELY FOR LEAVE TO APPEAR AS AMICI	1BSBARAJAS	0.00	0.00
23	01/27/22	PETITIONERS' SUPPLEMENTAL APPENDIX OF EXHIBITS	1BSBARAJAS	0.00	0.00
24	01/27/22	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITIONS FOR WRIT OF MANDAMUS AND WRIT OF PROHIBITION	1BPETERSON	0.00	0.00
25	01/24/22	STIPULATION, PROPOSED BRIEFING SCHEDULE, AND ORDER	1BSBARAJAS	0.00	0.00
26	01/20/22	PETITIONER'S MOPTION TO ASSOCIATE COUNSEL PURSUANT TO NEVADA SUPREME COURT RULE 42	1BSBARAJAS	0.00	0.00
27	01/19/22	ANSWER TO PETITION FOR WRITS OF MANDAMUS AND PROHIBITION	1BJHIGGINS	218.00	0.00
28	01/05/22	SUMMONS	1BVANESSA	0.00	0.00
29	01/05/22	DECLARATION OF SERVICE	1BVANESSA	0.00	0.00
30	12/29/21	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BSBARAJAS	0.00	0.00
31	12/29/21	ORDER FOR RESPONSE	1BSBARAJAS	0.00	0.00
32	12/28/21	PETITIONERS APPENDIX OF EXHIBITS	1BCCOOPER	0.00	0.00
33	12/28/21	AFFIRMATION PURSUANT TO NRS 239.030	1BCCOOPER	0.00	0.00
34	12/28/21	PLAINTIFF'S/PETITIONER'S INITIAL APPEARANCE AFFIRMATION PURSUANT TO NRS 239.030	1BCCOOPER	0.00	0.00
35	12/28/21	ADDITIONAL PLAINTIFF (FUND OUR SCHOOLS PAC) Receipt: 72579 Date: 12/28/2021	1BCCOOPER	30.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
36	12/28/21	ADDITIONAL PLAINTIFF (NEVADANS FOR FAIR GAMING TAXES PAC) Receipt: 72579 Date: 12/28/2021	1BCCOOPER	30.00	0.00
37	12/28/21	ADDITIONAL PLAINTIFF (KENNETH BELKNAP) Receipt: 72579 Date: 12/28/2021	1BCCOOPER	30.00	0.00
38	12/28/21	PETITION FOR WRITS OF MANDAMUS AND PROHIBITION Receipt: 72579 Date: 12/28/2021	1BCCOOPER	265.00	0.00
Total:				617.00	0.00
Totals By: COST				617.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

REC'D & FILED

2022 MAR -9 AM 11:20

AUBREY ROWATT  
CLERK

BY  DEPUTY

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

ROBERT HOLLOWOOD, an individual;  
KENNETH BELKNAP, an individual;  
NEVADANS FOR FAIR GAMING  
TAXES PAC, a Nevada committee for  
political action; FUND OUR SCHOOLS  
PAC, a Nevada committee for political  
action,

Petitioners,

vs.

BARBARA CEGAVSKE, in her official  
capacity as NEVADA SECRETARY OF  
STATE,

Respondent.

Case No.: 21 OC 00182 1B

Dept. No.: 2

ORDER THAT WRITS OF MANDAMUS

AND PROHIBITION ISSUE

This matter having come before this Court pursuant to Petitioners Robert Hollowood, Kenneth Belknap, Nevadans for Fair Gaming Taxes PAC, and Fund Our Schools PAC (collectively, "Petitioners") Petition For Writ Of Mandamus and Writ Of Prohibition ("Petition") to be issued against Nevada Secretary of State Barbara Cegavske ("Secretary Cegavske"), in her official capacity, and Petitioners' Memorandum of Points and Authorities in Support of the Petition, and having

1 considered Secretary Cegavske's Memorandum of Points and Authorities in Response  
2 to Petitioners' Petition, Petitioners' Reply in Support of the Petition, as well as the  
3 Nevada Resort Association and the Vegas Chamber's (collectively, "Petitioners in  
4 Intervention") Memorandum of Points and Authorities in Support of the Petition, and  
5 the Court having determined that oral argument will not assist the Court (See  
6 FJDCR 3.12), the Court finds and orders as follows:

7 **STATEMENT OF FACTS**

8 On January 14, 2020, and amended on March 30, 2020, Petitioner Robert  
9 Hollowood, on behalf of Petitioner Nevadans for Fair Gaming Taxes PAC, submitted  
10 and filed with the Nevada Secretary of State's office Statutory Initiative Petition  
11 S-01-2020.

12 On January 15, 2020, and amended on March 24, 2020, amended again on  
13 March 30, 2020, and amended a third time on June 19, 2020, Petitioner Kenneth  
14 Belknap, on behalf of Petitioners Fund Our Schools PAC, submitted and filed with  
15 the Nevada Secretary of State's office Statutory Initiative Petition S-02-2020.

16 On June 2, 2021, Petitioner Robert Hollowood, as the individual charged with  
17 the authority to do so under NRS 295.015(1)(b)(3), submitted to the Nevada Secretary  
18 of State's office a fully-executed Petition Withdrawal Form, pursuant to NRS 295.026,  
19 withdrawing Statutory Initiative Petition S-01-2020 and directing no further action  
20 be taken on it as provided in NRS 295.026(1)(a).

21 On July 20, 2021, the Office of Governor Sisolak requested a legal opinion from  
22 the Nevada Attorney General on the question of whether there was a conflict between  
23 Article 19, Section 2 of the Nevada Constitution and NRS 295.026 with respect to the  
24 withdrawal of ballot initiative petitions by their proponents. On July 28, 2021, the  
25 Nevada Attorney General responded with Attorney General Opinion ("AGO") 2021-  
26 04, answering that, in the opinion of the Attorney General's Office, there was no such  
27 conflict preventing withdrawal of initiative petitions by proponents.  
28

1 On September 7, 2021, Secretary Cegavske issued a letter addressed to the  
2 Nevada Attorney General, indicating that her office would decline to permit  
3 Petitioners to withdraw their statutory initiative petitions and would place them on  
4 the 2022 General Election ballot for adoption or rejection by the voters.

5 On October 6, 2021, Petitioner Kenneth Belknap, as the individual charged  
6 with the authority to do so under NRS 295.015(1)(b)(3), submitted to the Nevada  
7 Secretary of State's office a fully-executed Petition Withdrawal Form, pursuant to  
8 NRS 295.026, withdrawing Statutory Initiative Petition S-02-2020 and directing no  
9 further action be taken on it.

### 10 STANDARD OF LAW

11 A writ of mandamus is proper "to compel the performance of an act which the  
12 law especially enjoins as a duty resulting from office, trust or station." NRS 34.160.  
13 The writ "shall be issued in all cases where there is not a plain, speedy and adequate  
14 remedy in the ordinary course of law." NRS 34.170. *See also Shoen v. State Bar of*  
15 *Nevada*, 136 Nev. 258, 259, 464 P.3d 402, 404 (2020). The "counterpart of the writ of  
16 mandate" is a writ of prohibition. NRS 34.320. A writ of prohibition may be issued to  
17 compel a person or body exercising judicial functions to cease performing beyond its  
18 legal authority. NRS 34.320. *See also Halverson v. Sec'y of State*, 124 Nev. 484, 487,  
19 186 P.3d 893, 896 (2008). The issuance of a writ of mandamus or prohibition is purely  
20 discretionary with this Court. *Smith v. Eighth Jud. Dist. Ct. In & For Cty. of Clark*,  
21 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

22 This matter requires an interpretation and determination of the  
23 constitutionality of NRS 295.026. In Nevada, the language of a statute should be  
24 given its plain meaning. *We the People Nevada v. Secretary of State*, 124 Nev. 874,  
25 881, 192 P.3d 1166, 1170-71 (2008). When facially clear, a court should not go beyond  
26 the language of the statute in determining its meaning. *McKay v. Bd. of Supervisors*,  
27 102 Nev. 644, 648, 730 P.2d 438, 441 (1986); *see also Las Vegas Taxpayer Comm. v.*  
28

1 *City Council*, 125 Nev. 17, 208 P.3d 429, 437 (2009) (explaining that a statute's  
2 meaning is plain when it is "facially clear"). A statute is ambiguous if it "is capable of  
3 being understood in two or more senses by reasonably informed persons." *McKay*, 102  
4 Nev. at 649, 730 P.2d at 442. If a statute is ambiguous or lacks plain meaning, "a  
5 court should consult other sources such as legislative history, legislative intent and  
6 analogous statutory provisions." *State, Div. of Insurance v. State Farm*, 116 Nev. 290,  
7 294, 995 P.2d 482, 485 (2000).

8 "Legislation is presumed constitutional absent a clear showing to the  
9 contrary," and "[a] party attacking a statute's validity is faced with a formidable  
10 task." *Universal Elec., Inc. v. State, ex rel. Office of the Labor Comm.*, 109 Nev. 127,  
11 129, 847 P.2d 1372, 1373-1374 (1993) (internal quotations omitted). In case of doubt,  
12 every possible presumption will be made in favor of the constitutionality of a statute,  
13 and courts will interfere only when the Constitution is clearly violated. Further, the  
14 presumption of constitutional validity places upon those attacking a statute the  
15 burden of making a clear showing that the statute is unconstitutional. *List v.*  
16 *Whisler*, 99 Nev. 133, 137, 660 P.2d 104, 106 (1983).

## 17 ANALYSIS AND CONCLUSIONS OF LAW

18 Article 19 Section 2 of the Nevada Constitution reserves the right of the people  
19 to enact a statute through initiative petition. Nev. Const. art. 19, § 2 ("[T]he people  
20 reserve to themselves the power to propose, by initiative petition, statutes and  
21 amendments to statutes and amendments to this constitution, to enact or reject them  
22 at the polls."). Per Article 19, Section 5, "the legislature may provide by law for  
23 procedures to facilitate the operation" of the constitution's provisions establishing  
24 Nevada's initiative and referendum processes. Nev. Const. art. 19, § 5. *See also*  
25 *Nevadans for the Prot. Of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d  
26 1235, 1240 (2006) ("[T]he Nevada Constitution explicitly authorizes the Legislature  
27 to enact laws regulating the initiative process, so long as those laws facilitate the  
28



1 provision of Article 19.”).

2       A statute facilitates the operation of initiative petitions if the statute’s purpose  
3 is to safeguard the process of initiative petitions. *Cf. Fiannaca v. Gill*, 78 Nev. 337,  
4 345, 372 P.2d 683, 687 (1962) (“[A]ny statutory provision intended to safeguard the  
5 operation of recall procedures aids in the operation thereof.”). In addition to the  
6 purpose of the statute, a court may also consider the actual effect it has on the  
7 operation of the initiative petition process when determining if it facilitates the  
8 operation thereof. *Cf. Citizens for Honest & Responsible Government v. Secretary of*  
9 *State*, 116 Nev. 939, 947-48, 11 P.3d 121, 126-27 (2000) (considering “the actual effect  
10 of the statutory provisions” in the similar context of the self-executing constitutional  
11 right to recall). A restrictive effect on the number of petitions that reach the ballot,  
12 however, is not dispositive of whether a statute facilitates the operation of the  
13 initiative process. *See, e.g., Nevadans for the Prot. Of Prop. Rights, Inc.*, 122 Nev. at  
14 903, 141 P.3d at 1241 (recognizing the Legislature’s right to enact the single-subject  
15 rule under Article 19, Section 5, which can result in petitions not being placed on the  
16 ballot). Ultimately, “[a]ny legislation which tends to ensure a fair, intelligent and  
17 impartial accomplishment may be said to aid or facilitate the purpose intended by  
18 the constitution.” *State ex rel. McPherson v. Snell*, 121 P.2d 930, 934 (Or. 1942). The  
19 statute must not, however, “curtail[ ] the right or plac[e] any undue burdens upon  
20 [the] exercise” of the constitutional right. *Id.*, 121 P.2d at 934.

21       In promulgating NRS 295.026, the Legislature is presumed to have acted  
22 constitutionally. *See Schwartz v. Lopez*, 132 Nev. 732, 745, 382 886 (2016). When a  
23 statute is susceptible to both a constitutional and an unconstitutional interpretation,  
24 courts are obliged to construe the statute so that it does not violate the constitution.  
25 *Sheriff v. Wu*, 101 Nev. 687, 708 P.2d 305 (1985). NRS 295.026 allows the proponent  
26 of an initiative petition to withdraw the petition by submitting a notice of withdrawal  
27 to the Secretary of State no later than 90 days before the election in which the  
28

1 initiative will appear on the ballot. NRS 295.026(1)(a). NRS 295.026(1) itself provides  
2 the only requirement to withdraw a petition, which is to “submit[ ] a notice of  
3 withdrawal to the Secretary of State on a form prescribed by the Secretary of State.”  
4 Once a proponent submits a notice of withdrawal on the form prescribed by the  
5 Secretary of State, “no further action may be taken on that petition.” NRS 295.026(2).

6       The language of NRS 295.026 is clear and express, and NRS 295.026 can and  
7 must be read in harmony with Article 19 of the Nevada Constitution. Article 19,  
8 Section 5 authorizes the Legislature to set procedural requirements for initiative  
9 petitions that are not found directly in the constitution. *See, e.g., Nevadans for*  
10 *Nevada v. Beers*, 122 Nev. 930, 938-39, 142 P.3d 339, 344-45 (2006) (holding  
11 additional legislative requirements for description of effect of initiative was  
12 constitutional even though the constitution’s requirement was less burdensome).  
13 Statutory examples include the single-subject rule and the description of effect  
14 requirement. *See* NRS 295.009. Nothing in Article 19 appears to contravene the  
15 Legislature’s ability to enact a provision permitting proponents such as Petitioners  
16 from deciding to withdraw their initiative measures.

17       Here, unlike the single-subject rule or the description of effect requirement,  
18 NRS 295.026 expands the rights of initiative proponents such as Petitioners. With  
19 enactment of NRS 295.026, proponents like Petitioners know throughout the  
20 process—from formulation through to election season—that they have a clear  
21 deadline and process for withdrawal of a petition. The ability to withdraw a petition  
22 can also save valuable time and resources for Nevadans, including proponents,  
23 opponents, the courts, the Secretary of State, and the Legislature.

24       The Court is not convinced by Secretary Cegavske’s interpretation that “shall,”  
25 as used in Article 19, Section 2, requires Secretary Cegavske to submit these  
26 initiative petitions to the voters at the 2022 General Election. Under Secretary  
27 Cegavske’s interpretation of “shall,” requirements like the single-subject and  
28

1 description of effect rules (NRS 295.009) or the need to gather voter signatures from  
2 petition districts across the state (NRS 295.012) would be unenforceable because they  
3 are not enumerated considerations for the Secretary of State under Article 19,  
4 Section 2(3).

5 Accordingly, the Secretary Cegavske's ministerial duty to submit a petition to  
6 the voters at a general election assumes the existence of a valid petition that has  
7 complied with procedural requirements enacted by the Legislature. But the  
8 Legislature, through NRS 295.026, has provided that a petition withdrawn by its  
9 proponent is void and cannot be acted upon. Petitioners here submitted a notice of  
10 withdrawal for each initiative petition in question to the Secretary of State, on the  
11 form prescribed by the Secretary of State, earlier than 90 days before the next general  
12 election. Reading the relevant constitutional and statutory provisions in harmony,  
13 the Secretary of State's ministerial duty in this instance becomes clear: take no  
14 further action on these initiative petitions.

15 Accordingly, under NRS 295.026(2), Statutory Initiative Petitions S-01-2020  
16 and S-02-2020 have been withdrawn and no further action may be taken on these  
17 initiative petitions.

#### 18 19 **THE COURT ORDERS:**

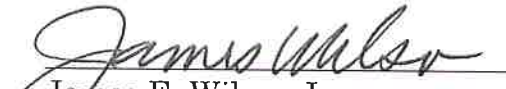
20 A Writ of Mandate issue herein, directing Nevada Secretary of State Barbara  
21 Cegavske, in her official capacity, to withdraw Statutory Initiative Petitions S-01-  
22 2020 and S-02-2020, per the terms of NRS 295.026 and her non-discretionary duty  
23 under law, and that no further action be taken with respect to these initiative  
24 petitions.

25 A Writ of Prohibition issue herein, and Nevada Secretary of State Barbara  
26 Cegavske, in her official capacity, is ordered to halt from placing Statutory Initiative  
27 Petitions S-01-2020 and S-02-2020 on the 2022 General Election ballot in Nevada.  
28

1 Petitioner immediately provide a proposed Writ of Mandate and Writ of  
2 Prohibition.

3 The oral argument set for Friday, March 11, 2022 is VACATED.  
4

5 Dated this 9 day of March, 2022.  
6

7   
8 James E. Wilson Jr.  
9 District Judge

10 **CERTIFICATE OF SERVICE**

11 I certify that I am an employee of the First Judicial District Court of Nevada; that  
12 on the 9 day of March 2022, I served a copy of this document by placing a true copy  
13 in an envelope addressed to:  
14


15 Bradley S. Schrager, Esq.  
16 3773 Howard Hughes Pkwy.,  
17 Ste. 590 South  
18 Las Vegas, NV 89169

Margaret A. McLetchie, Esq.  
602 South Tenth St.  
Las Vegas, NV 89101

Wayne Klomp, Esq.  
1783 Trek Trail  
Reno, NV 89521

Joel D. Henroid, Esq.  
3993 Howard Hughes Pkwy.,  
Ste. 600  
Las Vegas, NV 89169-5996

19 the envelope sealed and then deposited in the Court's central mailing basket in the court  
20 clerk's office for delivery to the USPS at 1111 South Roop Street, Carson City, Nevada, for  
21 mailing.  
22

23   
24 Billie Shadron  
25 Judicial Assistant  
26  
27  
28

ORIGINAL

REC'D & FILED

2022 MAR 10 PM 2:55

AUBREY ROWLATT  
CLERK

BY  DEPUTY

1 BRADLEY S. SCHRAGER, ESQ.  
Nevada Bar No. 10217

2 DANIEL BRAVO, ESQ.  
Nevada Bar No. 13078

3 JOHN SAMBERG, ESQ.  
Nevada Bar No. 10828

4 ERIC LEVINRAD, ESQ.  
California Bar No. 169025

5 *(Pro hac vice forthcoming)*

6 WOLF, RIFKIN, SHAPIRO,  
SCHULMAN & RABKIN, LLP

3773 Howard Hughes Parkway, Suite 590 South  
Las Vegas, Nevada 89169  
(702) 341-5200/Fax: (702) 341-5300

bschrager@wrslawyers.com

9 MARGARET A MCLETCHIE  
Nevada Bar No. 10931

10 MCLETCHIE LAW  
602 South Tenth Street

Las Vegas, NV 89101

(702) 728-5300

Fax: (702) 425-8220

maggie@nvlitigation.com

*Attorneys for Petitioners*

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

17 ROBERT HOLLOWOOD, an individual;  
KENNETH BELKNAP, an individual;  
18 NEVADANS FOR FAIR GAMING  
TAXES PAC, a Nevada committee for  
19 political action; and FUND OUR  
SCHOOLS PAC, a Nevada committee  
20 for political action,

Petitioners,

vs.

23 BARBARA CEGAVSKE, in her official  
capacity as NEVADA SECRETARY OF  
24 STATE,

Respondent.

Case No.: 21 OC 00182 1B  
Dept.: II

NOTICE OF ENTRY OF ORDER

///

1 NOTICE IS HEREBY GIVEN that an ORDER THAT WRITS OF  
2 MANDAMUS AND PROHIBITION ISSUE was entered in the above-captioned  
3 matter on the 9th day of March, 2022. A true and correct copy of the order is  
4 attached hereto as Exhibit 1.

5 **AFFIRMATION**

6 The undersigned hereby affirm that the foregoing document does not contain  
7 the social security number of any person.

8 DATED this 10 day of March, 2022

9  
10 **WOLF, RIFKIN, SHAPIRO,  
SCHULMAN & RABKIN, LLP**

11 By: 

12 **BRADLEY S. SCHRAGER, ESQ.**

13 Nevada Bar No. 10217

14 **DANIEL BRAVO, ESQ.**

15 Nevada Bar No. 13078

16 **JOHN SAMBERG, ESQ.**

17 Nevada Bar No. 10828

18 **ERIC LEVINRAD, ESQ.**

19 California Bar No. 169025

20 *(Pro hac vice forthcoming)*

21 3773 Howard Hughes Parkway, Suite 590 South  
22 Las Vegas, Nevada 89169

23 **MARGARET A MCLETCHIE**

24 Nevada Bar No. 10931

25 **MCLETCHIE LAW**

26 602 South Tenth Street

27 Las Vegas, NV 89101

28 *Attorneys for Petitioners*



**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of March 2022, a true and correct copy of the **NOTICE OF ENTRY OF ORDER** was served upon all parties via electronic mailing to the following:

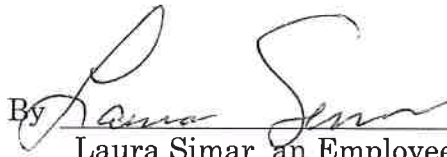
Wayne Klomp, Esq.  
1783 Trek Trail  
Reno, Nevada 89521  
[wayne@greatbasinlawyer.com](mailto:wayne@greatbasinlawyer.com)  
*Attorney for Barbara Cegavske*

Joel D. Henriod, Esq.  
Daniel F. Polsenberg, Esq.  
Kory J. Koerperich, Esq.  
Lewis, Roca, Rothgerber, Christie, LLP  
3993 Howard Hughes Parkway, Suite 600  
Las Vegas, Nevada 89169  
[JHenriod@LewisRoca.com](mailto:JHenriod@LewisRoca.com)  
[DPolsenberg@LewisRoca.com](mailto:DPolsenberg@LewisRoca.com)  
[KKoerperich@LewisRoca.com](mailto:KKoerperich@LewisRoca.com)

*Attorneys for the Nevada Resort  
Association and the Vegas Chamber*

Billie Shadron  
Judicial Assistant, Dept. 2  
First Judicial District Court  
Honorable James E. Wilson Jr.  
[BShadron@carson.org](mailto:BShadron@carson.org)

By

  
Laura Simar, an Employee of  
WOLF, RIFKIN, SHAPIRO, SCHULMAN  
& RABKIN, LLP

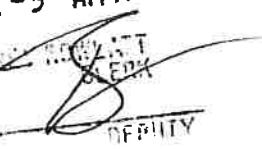
**INDEX OF EXHIBITS**

Exhibit No.	Documents	Pages
1	Order That Writs of Mandamus and Prohibition Issue	9





REC'D & FILED  
2022 MAR -9 AM 11:20

AUBREY ROBERT  
BY  DEPUTY

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

ROBERT HOLLOWOOD, an individual;  
KENNETH BELKNAP, an individual;  
NEVADANS FOR FAIR GAMING  
TAXES PAC, a Nevada committee for  
political action; FUND OUR SCHOOLS  
PAC, a Nevada committee for political  
action,

Petitioners,

vs.

BARBARA CEGAVSKE, in her official  
capacity as NEVADA SECRETARY OF  
STATE,

Respondent.

Case No.: 21 OC 00182 1B

Dept. No.: 2

ORDER THAT WRITS OF MANDAMUS

AND PROHIBITION ISSUE

This matter having come before this Court pursuant to Petitioners Robert Hollowood, Kenneth Belknap, Nevadans for Fair Gaming Taxes PAC, and Fund Our Schools PAC (collectively, "Petitioners") Petition For Writ Of Mandamus and Writ Of Prohibition ("Petition") to be issued against Nevada Secretary of State Barbara Cegavske ("Secretary Cegavske"), in her official capacity, and Petitioners' Memorandum of Points and Authorities in Support of the Petition, and having

1 considered Secretary Cegavske's Memorandum of Points and Authorities in Response  
2 to Petitioners' Petition, Petitioners' Reply in Support of the Petition, as well as the  
3 Nevada Resort Association and the Vegas Chamber's (collectively, "Petitioners in  
4 Intervention") Memorandum of Points and Authorities in Support of the Petition, and  
5 the Court having determined that oral argument will not assist the Court (See  
6 FJDCR 3.12), the Court finds and orders as follows:

7 **STATEMENT OF FACTS**

8 On January 14, 2020, and amended on March 30, 2020, Petitioner Robert  
9 Hollowood, on behalf of Petitioner Nevadans for Fair Gaming Taxes PAC, submitted  
10 and filed with the Nevada Secretary of State's office Statutory Initiative Petition  
11 S-01-2020.

12 On January 15, 2020, and amended on March 24, 2020, amended again on  
13 March 30, 2020, and amended a third time on June 19, 2020, Petitioner Kenneth  
14 Belknap, on behalf of Petitioners Fund Our Schools PAC, submitted and filed with  
15 the Nevada Secretary of State's office Statutory Initiative Petition S-02-2020.

16 On June 2, 2021, Petitioner Robert Hollowood, as the individual charged with  
17 the authority to do so under NRS 295.015(1)(b)(3), submitted to the Nevada Secretary  
18 of State's office a fully-executed Petition Withdrawal Form, pursuant to NRS 295.026,  
19 withdrawing Statutory Initiative Petition S-01-2020 and directing no further action  
20 be taken on it as provided in NRS 295.026(1)(a).

21 On July 20, 2021, the Office of Governor Sisolak requested a legal opinion from  
22 the Nevada Attorney General on the question of whether there was a conflict between  
23 Article 19, Section 2 of the Nevada Constitution and NRS 295.026 with respect to the  
24 withdrawal of ballot initiative petitions by their proponents. On July 28, 2021, the  
25 Nevada Attorney General responded with Attorney General Opinion ("AGO") 2021-  
26 04, answering that, in the opinion of the Attorney General's Office, there was no such  
27 conflict preventing withdrawal of initiative petitions by proponents.  
28

1 On September 7, 2021, Secretary Cegavske issued a letter addressed to the  
2 Nevada Attorney General, indicating that her office would decline to permit  
3 Petitioners to withdraw their statutory initiative petitions and would place them on  
4 the 2022 General Election ballot for adoption or rejection by the voters.

5 On October 6, 2021, Petitioner Kenneth Belknap, as the individual charged  
6 with the authority to do so under NRS 295.015(1)(b)(3), submitted to the Nevada  
7 Secretary of State's office a fully-executed Petition Withdrawal Form, pursuant to  
8 NRS 295.026, withdrawing Statutory Initiative Petition S-02-2020 and directing no  
9 further action be taken on it.

### 10 STANDARD OF LAW

11 A writ of mandamus is proper "to compel the performance of an act which the  
12 law especially enjoins as a duty resulting from office, trust or station." NRS 34.160.  
13 The writ "shall be issued in all cases where there is not a plain, speedy and adequate  
14 remedy in the ordinary course of law." NRS 34.170. *See also Shoen v. State Bar of*  
15 *Nevada*, 136 Nev. 258, 259, 464 P.3d 402, 404 (2020). The "counterpart of the writ of  
16 mandate" is a writ of prohibition. NRS 34.320. A writ of prohibition may be issued to  
17 compel a person or body exercising judicial functions to cease performing beyond its  
18 legal authority. NRS 34.320. *See also Halverson v. Sec'y of State*, 124 Nev. 484, 487,  
19 186 P.3d 893, 896 (2008). The issuance of a writ of mandamus or prohibition is purely  
20 discretionary with this Court. *Smith v. Eighth Jud. Dist. Ct. In & For Cty. of Clark*,  
21 107 Nev. 674, 677, 818 P.2d 849, 851 (1991).

22 This matter requires an interpretation and determination of the  
23 constitutionality of NRS 295.026. In Nevada, the language of a statute should be  
24 given its plain meaning. *We the People Nevada v. Secretary of State*, 124 Nev. 874,  
25 881, 192 P.3d 1166, 1170-71 (2008). When facially clear, a court should not go beyond  
26 the language of the statute in determining its meaning. *McKay v. Bd. of Supervisors*,  
27 102 Nev. 644, 648, 730 P.2d 438, 441 (1986); *see also Las Vegas Taxpayer Comm. v.*  
28

1 *City Council*, 125 Nev. 17, 208 P.3d 429, 437 (2009) (explaining that a statute's  
2 meaning is plain when it is "facially clear"). A statute is ambiguous if it "is capable of  
3 being understood in two or more senses by reasonably informed persons." *McKay*, 102  
4 Nev. at 649, 730 P.2d at 442. If a statute is ambiguous or lacks plain meaning, "a  
5 court should consult other sources such as legislative history, legislative intent and  
6 analogous statutory provisions." *State, Div. of Insurance v. State Farm*, 116 Nev. 290,  
7 294, 995 P.2d 482, 485 (2000).

8 "Legislation is presumed constitutional absent a clear showing to the  
9 contrary," and "[a] party attacking a statute's validity is faced with a formidable  
10 task." *Universal Elec., Inc. v. State, ex rel. Office of the Labor Comm.*, 109 Nev. 127,  
11 129, 847 P.2d 1372, 1373-1374 (1993) (internal quotations omitted). In case of doubt,  
12 every possible presumption will be made in favor of the constitutionality of a statute,  
13 and courts will interfere only when the Constitution is clearly violated. Further, the  
14 presumption of constitutional validity places upon those attacking a statute the  
15 burden of making a clear showing that the statute is unconstitutional. *List v.*  
16 *Whisler*, 99 Nev. 133, 137, 660 P.2d 104, 106 (1983).

#### 17 ANALYSIS AND CONCLUSIONS OF LAW

18 Article 19 Section 2 of the Nevada Constitution reserves the right of the people  
19 to enact a statute through initiative petition. Nev. Const. art. 19, § 2 ("[T]he people  
20 reserve to themselves the power to propose, by initiative petition, statutes and  
21 amendments to statutes and amendments to this constitution, to enact or reject them  
22 at the polls."). Per Article 19, Section 5, "the legislature may provide by law for  
23 procedures to facilitate the operation" of the constitution's provisions establishing  
24 Nevada's initiative and referendum processes. Nev. Const. art. 19, § 5. *See also*  
25 *Nevadans for the Prot. Of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d  
26 1235, 1240 (2006) ("[T]he Nevada Constitution explicitly authorizes the Legislature  
27 to enact laws regulating the initiative process, so long as those laws facilitate the  
28

1 provision of Article 19.”).

2 A statute facilitates the operation of initiative petitions if the statute’s purpose  
3 is to safeguard the process of initiative petitions. *Cf. Fiannaca v. Gill*, 78 Nev. 337,  
4 345, 372 P.2d 683, 687 (1962) (“[A]ny statutory provision intended to safeguard the  
5 operation of recall procedures aids in the operation thereof.”). In addition to the  
6 purpose of the statute, a court may also consider the actual effect it has on the  
7 operation of the initiative petition process when determining if it facilitates the  
8 operation thereof. *Cf. Citizens for Honest & Responsible Government v. Secretary of*  
9 *State*, 116 Nev. 939, 947-48, 11 P.3d 121, 126-27 (2000) (considering “the actual effect  
10 of the statutory provisions” in the similar context of the self-executing constitutional  
11 right to recall). A restrictive effect on the number of petitions that reach the ballot,  
12 however, is not dispositive of whether a statute facilitates the operation of the  
13 initiative process. *See, e.g., Nevadans for the Prot. Of Prop. Rights, Inc.*, 122 Nev. at  
14 903, 141 P.3d at 1241 (recognizing the Legislature’s right to enact the single-subject  
15 rule under Article 19, Section 5, which can result in petitions not being placed on the  
16 ballot). Ultimately, “[a]ny legislation which tends to ensure a fair, intelligent and  
17 impartial accomplishment may be said to aid or facilitate the purpose intended by  
18 the constitution.” *State ex rel. McPherson v. Snell*, 121 P.2d 930, 934 (Or. 1942). The  
19 statute must not, however, “curtail[ ] the right or plac[e] any undue burdens upon  
20 [the] exercise” of the constitutional right. *Id.*, 121 P.2d at 934.

21 In promulgating NRS 295.026, the Legislature is presumed to have acted  
22 constitutionally. *See Schwartz v. Lopez*, 132 Nev. 732, 745, 382 886 (2016). When a  
23 statute is susceptible to both a constitutional and an unconstitutional interpretation,  
24 courts are obliged to construe the statute so that it does not violate the constitution.  
25 *Sheriff v. Wu*, 101 Nev. 687, 708 P.2d 305 (1985). NRS 295.026 allows the proponent  
26 of an initiative petition to withdraw the petition by submitting a notice of withdrawal  
27 to the Secretary of State no later than 90 days before the election in which the  
28

1 initiative will appear on the ballot. NRS 295.026(1)(a). NRS 295.026(1) itself provides  
2 the only requirement to withdraw a petition, which is to “submit[ ] a notice of  
3 withdrawal to the Secretary of State on a form prescribed by the Secretary of State.”  
4 Once a proponent submits a notice of withdrawal on the form prescribed by the  
5 Secretary of State, “no further action may be taken on that petition.” NRS 295.026(2).

6       The language of NRS 295.026 is clear and express, and NRS 295.026 can and  
7 must be read in harmony with Article 19 of the Nevada Constitution. Article 19,  
8 Section 5 authorizes the Legislature to set procedural requirements for initiative  
9 petitions that are not found directly in the constitution. *See, e.g., Nevadans for*  
10 *Nevada v. Beers*, 122 Nev. 930, 938-39, 142 P.3d 339, 344-45 (2006) (holding  
11 additional legislative requirements for description of effect of initiative was  
12 constitutional even though the constitution’s requirement was less burdensome).  
13 Statutory examples include the single-subject rule and the description of effect  
14 requirement. *See* NRS 295.009. Nothing in Article 19 appears to contravene the  
15 Legislature’s ability to enact a provision permitting proponents such as Petitioners  
16 from deciding to withdraw their initiative measures.

17       Here, unlike the single-subject rule or the description of effect requirement,  
18 NRS 295.026 expands the rights of initiative proponents such as Petitioners. With  
19 enactment of NRS 295.026, proponents like Petitioners know throughout the  
20 process—from formulation through to election season—that they have a clear  
21 deadline and process for withdrawal of a petition. The ability to withdraw a petition  
22 can also save valuable time and resources for Nevadans, including proponents,  
23 opponents, the courts, the Secretary of State, and the Legislature.

24       The Court is not convinced by Secretary Cegavske’s interpretation that “shall,”  
25 as used in Article 19, Section 2, requires Secretary Cegavske to submit these  
26 initiative petitions to the voters at the 2022 General Election. Under Secretary  
27 Cegavske’s interpretation of “shall,” requirements like the single-subject and  
28



1 description of effect rules (NRS 295.009) or the need to gather voter signatures from  
2 petition districts across the state (NRS 295.012) would be unenforceable because they  
3 are not enumerated considerations for the Secretary of State under Article 19,  
4 Section 2(3).

5 Accordingly, the Secretary Cegavske's ministerial duty to submit a petition to  
6 the voters at a general election assumes the existence of a valid petition that has  
7 complied with procedural requirements enacted by the Legislature. But the  
8 Legislature, through NRS 295.026, has provided that a petition withdrawn by its  
9 proponent is void and cannot be acted upon. Petitioners here submitted a notice of  
10 withdrawal for each initiative petition in question to the Secretary of State, on the  
11 form prescribed by the Secretary of State, earlier than 90 days before the next general  
12 election. Reading the relevant constitutional and statutory provisions in harmony,  
13 the Secretary of State's ministerial duty in this instance becomes clear: take no  
14 further action on these initiative petitions.

15 Accordingly, under NRS 295.026(2), Statutory Initiative Petitions S-01-2020  
16 and S-02-2020 have been withdrawn and no further action may be taken on these  
17 initiative petitions.

18  
19 **THE COURT ORDERS:**

20 A Writ of Mandate issue herein, directing Nevada Secretary of State Barbara  
21 Cegavske, in her official capacity, to withdraw Statutory Initiative Petitions S-01-  
22 2020 and S-02-2020, per the terms of NRS 295.026 and her non-discretionary duty  
23 under law, and that no further action be taken with respect to these initiative  
24 petitions.

25 A Writ of Prohibition issue herein, and Nevada Secretary of State Barbara  
26 Cegavske, in her official capacity, is ordered to halt from placing Statutory Initiative  
27 Petitions S-01-2020 and S-02-2020 on the 2022 General Election ballot in Nevada.



## DISTRICT COURT CIVIL COVER SHEET

Carson City

County, Nevada

Case No.

21 DC 0000210-1  
(Assigned by Clerk's Office)

15

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

Plaintiff(s) (name/address/phone):

Defendant(s) (name/address/phone):

ROBERT HOLLOWOOD, an individual; KENNETH BELKNAP, an individual;  
NEVADANS FOR FAIR GAMING TAXES PAC, a Nevada committee for political action;  
FUND OUR SCHOOLS PAC, a Nevada committee for political action,

BARBARA CEGAVSKE, in her official  
capacity as NEVADA SECRETARY OF STATE

Attorney (name/address/phone):

Attorney (name/address/phone):

BRADLEY S. SCHRAGER, ESQ. and DANIEL BRAVO, ESQ.

Unknown

3773 Howard Hughes Parkway, Suite 590 South

Las Vegas, Nevada 89169 / Phone: (702) 341-5200

**II. Nature of Controversy** (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property	Torts
<b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Foreclosure Mediation Assistance <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice <b>Other Torts</b> <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
Probate	Judicial Review/Appeal
<b>Probate</b> (select case type and estate value) <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 <b>Estate Value</b> <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	<b>Judicial Review</b> <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ	Other Civil Filing
<b>Civil Writ</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters

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

12-27-21

Date

Signature of initiating party or representative

See other side for family-related case filings.