

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

BARBARA CEGAVSKE, IN HER OFFICIAL
CAPACITY AS NEVADA SECRETARY OF
STATE,
Appellant,
vs.
ROBERT HOLLOWOODE, et al.
Respondents.

No. 84420

Electronically Filed
Mar 28 2022 12:50 p.m.

DOCKETING Elizabeth N. Brown
CIVIL APPEALS Clerk of Supreme Court

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

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

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

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

1. Judicial District First Department 2
County Carson City Judge James E. Wilson, Jr.
District Ct. Case No. 21 OC 00182 1B

2. Attorney filing this docketing statement:

Attorney Wayne Klomp Telephone (775) 770-0386
Firm Great Basin Law
Address 1783 Trek Trail
Reno, Nevada 89521

Client(s) Barbara Cegavske, in her official capacity as Nevada Secretary of State

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

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

Attorney Bradley Schrager Telephone (702) 341-5200
Firm Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP
Address 3773 Howard Hughes Pkwy., Ste. 590 South
Las Vegas, Nevada 89169

Client(s) SEE ATTACHMENT 1 FOR FULL LIST - Robert Hollowood, Kenneth Belknap, etc.

Attorney Joel D. Henriod Telephone (702) 949-8200
Firm Lewis Roca Rothgerber Christie LLP
Address 3993 Howard Hughes Pkwy., Ste. 600
Las Vegas, Nevada 89169-5996

Client(s) Nevada Resort Association, Vegas Chamber

(List additional counsel on separate sheet if necessary)

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

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

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

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

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

Not applicable.

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

Not applicable.

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

Petitioners are sponsors of two initiative petitions for which signatures were collected and verified. Following verification, the Secretary of State submitted the verified petitions to the Nevada Legislature at the beginning of the 2021 Session. The Legislature failed to act on the petitions, but made a bargain including an agreement by the petition sponsors to withdraw the initiative petitions pursuant to NRS 295.026. However, the Secretary did not recognize the withdrawal because Nev. Const. art. 19, sec. 2(3) states that the Secretary shall place the verified petitions on the ballot in the next general election. Petitioners filed a Petition for Writs of Mandamus and Prohibition to prevent the Secretary from placing the two initiative petitions on the November 2022 general election ballot and to compel the Secretary of State to recognize the withdrawal submitted by the petitions' sponsors. The District Court issued the requested writs, and this appeal followed.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

This appeal will determine the scope of the power "the people reserve to themselves . . . to enact or reject" initiative petitions at the polls. Nev. Const. art. 19, sec. 2(1). Specifically, this appeal will determine: (1) the scope of the Legislature's authority to "facilitate" the initiative process, and whether that authority extends to permit the Legislature to enact a statute (NRS 295.026) allowing a petition sponsor to withdraw an initiative petition which has been verified and submitted to the Legislature; and (2) whether the Constitutional mandate that "the secretary of State shall submit the question of approval or disapproval of such [initiative petitions] to a vote of the voters at the next succeeding general election" is mandatory or permissive. Nev. Const. art. 19, sec 2(3). Ultimately, this appeal will determine whether two initiative petitions will be placed on the November 2022 ballot.

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

Undersigned counsel is unaware of any current proceedings which raise the same or similar issues raised in this appeal.

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☐ A substantial issue of first impression

☐ An issue of public policy

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

☒ A ballot question

If so, explain: This appeal will determine whether questions presented in two initiative petitions that were submitted to the Nevada Legislature in the 2021 Legislative Session will be placed on the ballot for the November 2022 general election.

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

Pursuant to NRAP 17(a)(2), this matter is presumptively retained by the Supreme Court because it involves a ballot question. Additionally, this appeal involves matters of first impression pursuant to NRAP 17(a)(11) concerning the constitutionality of NRS 295.026, the scope of the powers reserved to the people under the Nevada Constitution, article 19, section 2(1), the mandatory obligations of the Secretary of State under article 19, sec. 2(3) of the Constitution, and the scope of the Nevada Legislature's power to "facilitate" the initiative petition process under article 19, section 5 of the Constitution.

14. Trial. If this action proceeded to trial, how many days did the trial last? Not applicable.

Was it a bench or jury trial? _____

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

Not applicable.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from March 9, 2022.

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

17. Date written notice of entry of judgment or order was served March 10, 2022.

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

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

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

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

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed March 18, 2022.

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

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

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

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

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input checked="" type="checkbox"/> Other (specify) <u>NRS 34.310</u> | |
-

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

NRAP 3A(b)(1) provides that an appeal may be taken from "final judgment entered in an action or proceeding commenced in the court in which the judgment is rendered." In the District Court, the Order determining that a writ of mandamus and writ of prohibition should issue, together with the writs themselves, resolve all issues and constitute final judgment in that Court.

Further, NRS 34.310 provides that an appeal from the district court's decision on a writ of mandamus is governed by the Nevada Rules of Appellate Procedure and the Nevada Rules of Civil Procedure.

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

(a) Parties:

Robert Hollowood, Kenneth Belknap, Nevadans for Fair Gaming Taxes PAC,
Fund Our Schools PAC - Original Petitioners.

Nevada Resort Association, Vegas Chamber - Intervenors-Petitioners.

Barbara Cegavske, in her official capacity, Nevada Secretary of State, Respondent

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

All parties below are parties to this appeal.

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

Original Petitioners' and the Intervenor-Petitioners' Claims --

(1) Issuance of writ of mandamus - Writ of Madate Issued March 9, 2022.

(2) Issuance of writ of prohibition - Writ of Prohibition Issued March 9, 2022.

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

☒ Yes

☐ No

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

(a) Specify the claims remaining pending below:

Not applicable.

(b) Specify the parties remaining below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

Not applicable.

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

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

VERIFICATION

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

Barbara Cegavske, Secretary of State
Name of appellant

Wayne Klomp
Name of counsel of record

28 March 2022
Date

/s/ Wayne Klomp
Signature of counsel of record

Nevada, Washoe County
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 28th day of March, 2022, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

By email upon the parties identified in the attached Certificate of Service.

Dated this 28th day of March, 2022

/s/ Wayne Klomp
Signature

CERTIFICATE OF SERVICE

I hereby certify that on this date, the foregoing Docketing Statement was served on the individuals registered to receive service pursuant to the Court's electronic filing system. For users not registered with the Court's electronic filing system, service was completed via electronic mail pursuant to a stipulation of the parties, and completed on the following individuals at the email addresses shown:

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Attorneys Respondents Nevada Resort Association and Vegas Chamber

Dated: March 28th, 2022.

/s/ Wayne Klomp
Wayne Klomp

Attachment 1

Attorneys Representing Respondents

RESPONDENTS AND THEIR COUNSEL

Respondents:

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

Counsel: Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP
 Bradley Schrager, Esq.
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Respondents:

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

Counsel: Lewis Roca Rothgerber Christie LLP
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Attachment 2

Petition for Writs of Mandamus and Prohibition

Order that Writs of Mandamus and Prohibition Issue

Notice of Entry of Order

Writ of Mandate

Writ of Prohibition

Notice of Service of Writ of Mandate and Writ of Prohibition¹

¹ At the time of the filing of this Docketing Statement, a file-stamped copy of the Notice of Service had not yet been returned by the Clerk's Office for the First Judicial District Court.

REC'D & FILED
2021 DEC 28 PM 4:38
AUDREY ROWLATT
CLERK
BY C. COOPER
DEPUTY

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3 JOHN SAMBERG, ESQ.
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13 *Attorneys for Petitioners*

14
15 IN THE FIRST JUDICIAL DISTRICT COURT
16 OF THE STATE OF NEVADA IN AND FOR CARSON CITY

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

21 Petitioners,

22 vs.

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

25 Respondent.
26
27
28

Case No.: 2021-00182-0

Dept.: #

PETITION FOR WRITS OF
MANDAMUS AND PROHIBITION

1 Petitioners Robert Hollowood, Kenneth Belknap, Nevadans for Fair Gaming
2 Taxes PAC, and Fund Our Schools PAC petition this Court to issue writs of
3 mandamus and prohibition against the Nevada Secretary of State, Barbara
4 Cegavske, and allege as follows:

5 1. On or about January 14, 2020, and amended on or about March 30, 2020,
6 Petitioner Hollowood, on behalf of Petitioner Nevadans for Fair Gaming Taxes PAC,
7 submitted and filed with the Nevada Secretary of State Statutory Initiative Petition
8 S-01-2020. *See Exhibits 1 and 2* to Petitioners' Appendix ("P.App."), filed
9 concurrently herewith, true and accurate copies of the submitted initiative petition
10 and its subsequent amendment. *See also Exhibit 3* to P.App., a true and accurate
11 copy of the Notice of Intent to Circulate, in Petitioner Hollowood's name, for Statutory
12 Initiative Petition S-01-2020.

13 2. On or about January 15, 2020, and amended on or about March 24, 2020,
14 amended again on March 30, 2020, and amended a third time on June 19, 2020,
15 Petitioner Belknap, on behalf of Petitioners Fund Our Schools PAC, submitted and
16 filed with the Nevada Secretary of State the Statutory Initiative Petition S-02-2020.
17 *See Exhibits 4, 5, 6, and 7* to P.App., true and accurate copies of the submitted
18 initiative petition and its subsequent amendments. *See also Exhibit 8* to P.App., a
19 true and accurate copy of the Notice of Intent to Circulate, in Petitioner Belknap's
20 name, for Statutory Initiative Petition S-02-2020.

21 3. On or about June 2, 2021, Petitioner Hollowood, as the individual
22 charged with the authority to do so under NRS 295.015(1)(b)(3), submitted to the
23 Nevada Secretary of State a fully-executed Petition Withdrawal Form, withdrawing
24 Statutory Initiative Petition S-01-2020 and directing no further action be taken on it,
25
26
27
28

1 pursuant to NRS 295.026.¹ See Exhibit 9 to P.App., a true and accurate copy of the
2 Petition Withdrawal Form associated with S-01-2020. See Exhibit 3 to P.App.

3 4. On or about July 20, 2021, the Nevada Secretary of State issued a
4 request for legal opinion from the Nevada Attorney General on the question of
5 whether there was a conflict between Article 19, Section 2 of the Nevada Constitution
6 and NRS 295.026 on the question of the withdrawal of ballot initiative petitions by
7 their proponents. On or about July 28, 2021, the Nevada Attorney General responded
8 with Attorney General Opinion ("AGO") 2021-04, answering that, in the opinion of
9 the Attorney General's Office, there was no such conflict preventing withdrawal of
10 initiative petitions by proponents. See Exhibit 10 to P.App., a true and accurate copy
11 of AGO 2021-04.

12 5. On or about October 6, 2021, Petitioner Belknap, as the individual
13 charged with the authority to do so under NRS 295.015(1)(b)(3), submitted to the
14 Nevada Secretary of State a fully-executed Petition Withdrawal Form, withdrawing
15 Statutory Initiative Petition S-02-2020 and directing no further action be taken on it,
16 pursuant to NRS 295.026. See Exhibit 11 to P.App., a true and accurate copy of the
17 Petition Withdrawal Form associated with S-02-2020. See Exhibit 8 to P.App.

18 6. On or about September 7, 2021, Nevada Secretary of State Barbara
19 Cegavske issued a letter addressed to the Nevada Attorney General, indicating that
20 her office would decline to permit Petitioners to withdraw their statutory initiative
21 petitions and would place Statutory Initiative Petition S-01-2020 and, presumably,

22

23

24 ¹ **NRS 295.026 Withdrawal of petition.**

25 1. A petition for initiative or referendum may be withdrawn if a person
26 authorized pursuant to NRS 295.015 to withdraw the petition submits a notice of
27 withdrawal to the Secretary of State on a form prescribed by the Secretary of State.

28 2. Once a petition for initiative or referendum is withdrawn pursuant to
subsection 1, no further action may be taken on that petition.

1 Statutory Initiative Petition S-02-2020, on the 2022 General Election ballot. See
2 Exhibit 12 to P.App., a true and accurate copy of the Secretary's correspondence
3 indicating her intentions.

4 7. The Secretary of State has no discretion under law to refuse to permit
5 Petitioners to withdraw their respective initiative petitions, and therefore Petitioners
6 are entitled to writs of mandamus directing her to do so.

7 8. Under pertinent law, the Secretary of State must be prohibited from
8 placing the subject initiative petitions on the 2022 General Election ballot.

9 **WHEREFORE**, Petitioners ask for the following relief:

10 A. That the Court issue a writ of mandamus directing the Secretary of
11 State to permit Petitioners to withdraw Statutory Initiative Petitions S-01-2020 and
12 S-02-2020, per the terms of NRS 295.026 and her non-discretionary duty under law,
13 and that no further action be taken with respect to those petitions;

14 B. That the Court issue a writ of prohibition directing the Secretary of
15 State to desist from placing Statutory Initiative Petitions S-01-2020 and S-02-2020
16 on the 2022 General Election ballot in Nevada;

17 ///

18 ///

19 ///

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28

1 C. That the Court grant such other and further relief as may be just,
2 equitable, and proper, to effect the necessary result required in this action.

3 **AFFIRMATION**

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

6 DATED this 27 day of December, 2021

7 **WOLF, RIFKIN, SHAPIRO,
8 SCHULMAN & RABKIN, LLP**

9 By: 

10 **BRADLEY S. SCHRAGER, ESQ.**

Nevada Bar No. 10217

11 **DANIEL BRAVO, ESQ.**

Nevada Bar No. 13078

12 **JOHN SAMBERG, ESQ.**

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13 **ERIC LEVINRAD, ESQ.**

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14 *(Pro hac vice forthcoming)*

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18 Las Vegas, NV 89101

19 *Attorneys for Petitioners*

REC'D & FILED

2022 MAR -9 AM 11:20

AUBREY ROBERTS
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
8 **STATEMENT OF FACTS**

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

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

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

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

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
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21 In promulgating NRS 295.026, the Legislature is presumed to have acted
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26 of an initiative petition to withdraw the petition by submitting a notice of withdrawal
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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
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4 Once a proponent submits a notice of withdrawal on the form prescribed by the
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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,
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13 Statutory examples include the single-subject rule and the description of effect
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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
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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:**

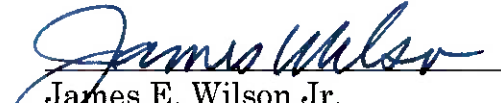
20 A Writ of Mandate issue herein, directing Nevada Secretary of State Barbara
21 Cegavske, in her official capacity, to withdraw Statutory Initiative Petitions S-01-
22 2020 and S-02-2020, per the terms of NRS 295.026 and her non-discretionary duty
23 under law, and that no further action be taken with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

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.
District Judge

9
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.
3773 Howard Hughes Pkwy.,
16 Ste. 590 South
Las Vegas, NV 89169

17 Margaret A. McLetchie, Esq.
18 602 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 
25 Billie Shadron
26 Judicial Assistant
27
28

REC'D & FILED
2022 MAR 10 PM 2:55
AUBREY ROWLATT
CLERK
BY
C. COOPER DEPUTY

BRADLEY S. SCHRAGER, ESQ.
Nevada Bar No. 10217
DANIEL BRAVO, ESQ.
Nevada Bar No. 13078
JOHN SAMBERG, ESQ.
Nevada Bar No. 10828
ERIC LEVINRAD, ESQ.
California Bar No. 169025
(Pro hac vice forthcoming)
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Attorneys for Petitioners

**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; and 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.: 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.**

Nevada Bar No. 10217

13 **DANIEL BRAVO, ESQ.**

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3773 Howard Hughes Parkway, Suite 590 South

17 Las Vegas, Nevada 89169

18 **MARGARET A MCLETCHIE**

Nevada Bar No. 10931

19 **MCLETCHIE LAW**

602 South Tenth Street

20 Las Vegas, NV 89101

21 *Attorneys for Petitioners*

CERTIFICATE OF SERVICE

I hereby certify that on this 10th 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:

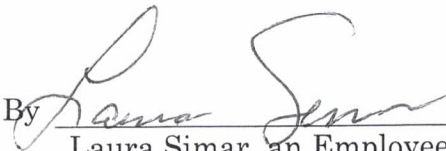
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Reno, Nevada 89521
wayne@greatbasinlawyer.com

Attorney for Barbara Cegavske

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Daniel F. Polsenberg, Esq.
Kory J. Koerperich, Esq.
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*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

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

EXHIBIT 1

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REC'D & FILED
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AUBREY ROBERTS
CLERK

BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT
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KENNETH BELKNAP, an individual;
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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.

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
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15 Accordingly, under NRS 295.026(2), Statutory Initiative Petitions S-01-2020
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Petitioner immediately provide a proposed Writ of Mandate and Writ of Prohibition.

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

Dated this 9 day of March, 2022.


James E. Wilson Jr.
District Judge

CERTIFICATE OF SERVICE

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


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Billie Shadron
Judicial Assistant

1
2 **IN THE FIRST JUDICIAL DISTRICT COURT**
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Case No.: 21 OC 00182 TB

Dept. No.: II

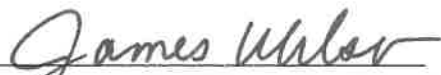
WRIT OF MANDATE

17 **TO: BARBARA CEGAVSKE, in her official capacity as NEVADA**
18 **SECRETARY OF STATE**


19 **WHEREAS**, on March 9, 2022, this Court having made and filed its written
20 decision and order that a writ of mandate should issue and that Petitioners have no
21 other plain, speedy or adequate remedy in the ordinary court of law;

22 **YOU ARE HEREBY COMMANDED** to withdraw Statutory Initiative
23 Petitions S-01-2020 and S-02-2020, and that no further action be taken with respect
24 to these initiative petitions.

25 **WITNESS**, the Honorable James E. Wilson Jr., of the First Judicial District
26 Court of the State of Nevada, and attested by my hand and seal this 9 day
27 of March, 2022.

28 
Hon. James E. Wilson Jr., District Judge


District Court Clerk

BY: 
Deputy Clerk

1
2 **IN THE FIRST JUDICIAL DISTRICT COURT**
3 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

4 ROBERT HOLLOWOOD, an individual;
5 KENNETH BELKNAP, an individual;
6 NEVADANS FOR FAIR GAMING
7 TAXES PAC, a Nevada committee for
8 political action; FUND OUR SCHOOLS
9 PAC, a Nevada committee for political
10 action,

11 Petitioners,

12 vs.

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

16 Respondent.

Case No.: 21 OC 00182^{FB}

Dept. No.: II

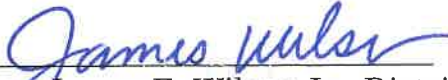
WRIT OF PROHIBITION

17 **TO: BARBARA CEGAVSKE, in her official capacity as NEVADA**
18 **SECRETARY OF STATE**

19 **WHEREAS**, on March 9, 2022, this Court having made and filed its written
20 decision and order that a writ of prohibition should issue and that Petitioners have
21 no other plain, speedy or adequate remedy in the ordinary court of law;

22 **NOW, THEREFORE**, you are ordered to halt from placing Statutory
23 Initiative Petitions S-01-2020 and S-02-2020 on the 2022 General Election ballot in
24 Nevada.

25 **WITNESS**, the Honorable James E. Wilson Jr., of the First Judicial District
26 Court of the State of Nevada, and attested by my hand and seal this 9 day
27 of March, 2022.

28 
Hon. James E. Wilson Jr., District Judge


District Court Clerk

By: 
Deputy Clerk

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)*
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13 *Attorneys for Petitioners*
14

15 **IN THE FIRST JUDICIAL DISTRICT COURT**
16 **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,

21 Petitioners,

22 vs.

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

25 Respondent.

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

**NOTICE OF SERVICE OF
WRIT OF MANDATE AND WRIT OF
PROHIBITION**

26 ///

27 ///

28

1 I hereby certify that on this 14th day of March 2022, a true and correct copy
2 of the **WRIT OF MANDATE and WRIT OF PROHIBITION** was received by our
3 office via U.S. Mail and on the 15th day of March, 2022, was served upon all parties
4 by an employee of Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP via electronic
5 mailing pursuant to NRCP 5(b)(2)(F) and the January 24, 2022, Stipulation.

6 **AFFIRMATION**

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

9 DATED this 16th day of March, 2022

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

12 By: 

BRADLEY S. SCHRAGER, ESQ.

Nevada Bar No. 10217

DANIEL BRAVO, ESQ.

Nevada Bar No. 13078

JOHN SAMBERG, ESQ.

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MARGARET A MCLETCHIE

Nevada Bar No. 10931

MCLETCHIE LAW

602 South Tenth Street

Las Vegas, NV 89101

Attorneys for Petitioners

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 16th day of March 2022, a true and correct copy
3 of the **NOTICE OF SERVICE OF WRIT OF MANDATE AND WRIT OF**
4 **PROHIBITION** was served upon all parties via electronic mailing to the following:

5 Wayne Klomp, Esq.
6 1783 Trek Trail
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*Attorneys for the Nevada Resort
Association and the Vegas Chamber*

12 Billie Shadron
13 Judicial Assistant, Dept. 2
14 First Judicial District Court
15 Honorable James E. Wilson Jr.
BShadron@carson.org

16 By


17 Jacklyn Wellman, an Employee of
18 WOLF, RIFKIN, SHAPIRO, SCHULMAN
19 & RABKIN, LLP
20
21
22
23
24
25
26
27
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