

IN THE SUPREME COURT OF THE STATE OF NEVADA

SIGAL CHATTAH

Petitioners,

vs.

THE FIRST JUDICIAL DISTRICT
COURT, COUNTY OF CARSON
CITY, STATE OF NEVADA; AND
THE HONORABLE JAMES E.
WILSON, DISTRICT JUDGE,

Respondents,

and

BARBARA CEGAVSKE, in her
capacity as Nevada SECRETARY OF
STATE, JOHN T. KENNEDY, an
individual

Real Party in Interest.

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Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court Case No.: 22OC00991B
District Court Case No.: 22OC00991B

EMERGENCY PETITION FOR
WRIT OF MANDAMUS OR
PROHIBITION ACTION REQUIRED
BY SEPTEMBER 15, 2022 UNDER
NRAP 27(E)

Petitioner SIGAL CHATTAH, by and through her Counsel, JOSEPH S.
GILBERT, ESQ, requests this Court to issue a writ of mandamus or in the
alternative a writ of prohibition to the First Judicial District Court, Department
II, directing that Court promptly enjoin the Nevada Secretary of State from
printing ballots for the November, 2022 General Election with a disqualified
candidate on them; to wit: John T. Kennedy, or in the alternative, to exercise

this Court's original jurisdiction and decide the question.

This Petition is brought pursuant to NRAP 21 and NRAP 27(E) and is based on the attached Memorandum of Points and Authorities, the attached Appendix and the following grounds:

APPELLANT'S NRAP 27(E) CERTIFICATION

<u>Party</u>	<u>Counsel of Record on Appeal and at District Court</u>
SIGAL CHATTAH	Joey Gilbert Law JOEY GILBERT LAW 405 Marsh Ave Reno, Nevada 89509 Tel: (775) 284-7000
BARBARA CEGAVSKE	Office of Nevada Attorney General Craig Newby, Senior Deputy Attorney General Office of the Attorney General 3014 West Charleston Boulevard, Suite 150 Las Vegas, Nevada 89102 (702) 486-3420
JOHN T. KENNEDY	Nathan Lawrence, Esq. 2355 Red Rock St, Las Vegas, NV 89146 702) 564-1200

1. The Court has jurisdiction of original petitions for extraordinary writs, pursuant to Nev. Cons. Art. 6 §4 and NRS 34.150. This Petition seeks a

- mandate that the respondent District Court perform its constitutional duty to decide questions of law.
2. The case known as *Chattah v Cegavske Et Al* No. 22OC00991B, is currently pending in the First Judicial District Court, Department II, the Honorable James E. Wilson presiding. The plaintiff in that action brought suit to have a disqualified candidate removed from the 2022 General Election ballot.
 3. The District Court in an order dated September 7, 2022, indicated that it would not enjoin the Nevada Secretary of State from printing General Election ballots with the name of the disqualified candidate on it, despite requests by said disqualified candidate to be removed from ballot and withdrawn from the race.
 4. The circumstances of this matter are urgent because delay caused by having to correct printed ballots would be prohibitive and ballots have not been printed yet. Further, having a disqualified candidate on the ballot would assure an election contest in November should the candidate receive any quantifiable votes.
 5. Counsel will immediately receive notification of this Emergency Petition at filing with the Nevada Supreme Court.

WHEREFORE, Petitioner requests this Court issue a Writ of Mandamus or Writ of Prohibition directing the district court enjoin the Secretary of State from printing ballots with the disqualified candidate, John T. Kennedy on them.

DATED this 9th day of September, 2022.

/s/ Joey Gilbert
JOSEPH S. GILBERT
Nevada Bar No.: 9033
JOEY GILBERT LAW
405 Marsh Ave.
Reno, Nevada 89509
Tel: (775) 284-7000
Fax: (775) 284-3809
Joey@joeygilbertlaw.com
Attorneys for Petitioner

APPELLANTS' NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

<u>Party</u>	<u>Counsel of Record on Appeal and at District Court</u>
SIGAL CHATTAH, (Real Person)	Joey Gilbert Law
BARBARA CEGAVSKE (Real Person)	Office of Nevada Attorney General
JOHN T. KENNEDY (Real Person)	Nathan Lawrence, Esq.

DATED this 8th day of September, 2022.

/s/ Joey Gilbert
JOSEPH S. GILBERT
Nevada Bar No.: 9033
JOEY GILBERT LAW
405 Marsh Ave.
Reno, Nevada 89509
Tel: (775) 284-7000
Fax: (775) 284-3809
Joey@joeygilbertlaw.com
Attorneys for Petitioner

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STATUTES

NRS 34.170;

NRS 34.320

NRS 34.330

NRS 228.010

NRS 293.124

NRS 293.2045

RULES

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NRAP 21(3)(A)

This case is presumptively retained by the Supreme Court under NRAP 17(a)(11), because the principal issues herein raise questions of statewide public importance. The principal issue in this appeal is a determination of whether a disqualified candidate under NRS 228.010 may remain on the ballot, following AB 321, codified, allowing universal mail-in ballots, precluding NRS 293.2045 from granting proper relief. This case does not fall within any of the categories of the cases listed in NRAP 17(b) as presumptively assigned to the Court of Appeals.

RELIEF SOUGHT

Petitioner SIGAL CHATTAH, hereby petitions this court for a writ of mandamus or prohibition, compelling the First Judicial district court to vacate its September 7th, 2022 Order, denying Plaintiff's Application for Temporary Restraining Order and Motion for Preliminary Injunction enjoining Defendant Cegavske from including Defendant John T. Kennedy's name on the November, 2022 General Election Ballot.

This Petition is based upon the ground that the Orders denying the Application for Temporary Restraining Order and Motion for Preliminary Injunction was without any legal or factual basis, thereby constituting a manifest abuse of discretion. This Petition is also based upon the ground that the Chattah does not have a plain, speedy and adequate remedy in the ordinary course of law.

STATEMENT OF THE ISSUES PRESENTED

(1) Did the district court err in concluding that NRS 293.182 precluded Chattah from obtaining an injunction against the Nevada Secretary of State to remove a disqualified candidate from the November ballot;

(2) Did the district court err in concluding that Defendant Cegavske is not responsible for the enforcement of election laws, specifically NRS 228.010 under NRS 293.124;

(3) Did the district court err that having a disqualified candidate on the November ballot would not result in irreparable harm to Chattah and that Chattah did not have a likelihood of success on the merits;

(4) Did the district court err in accepting hearsay evidence that despite the fact that ballots were not printed, the public was to assume financial obligation of ballot correction;

STATEMENT OF FACTS

On November 6, 2018, current Attorney General Aaron D. Ford was elected as Nevada's Attorney General by a margin of half a percentage point and currently remains the Nevada Attorney General. On or about March 17, 2022, Plaintiff, Chattah, filed with the Secretary of State her Declaration of Candidacy for the Office of Attorney General, to run against incumbent Aaron Ford.

On June 16, 2022, Plaintiff prevailed in the Nevada Republican primary as the victor in the Attorney General race to proceed to the General Election against incumbent Ford.

Defendant Kennedy, filed his Declaration of Candidacy, on behalf of the Libertarian Party of Nevada, on March 10, 2022, with the Nevada Secretary of State.

To qualify for the office of Attorney General, the qualifications are found in NRS 228.010 *entitled* Qualifications which provides:

No person shall be eligible to the Office of Attorney General unless the person:

1. Has attained the age of 30 years at the time of such election;
2. Is a qualified elector and has been a citizen resident of this State for 3 years next preceding the election; and
3. Is a member of the State Bar of Nevada in good standing.

Plaintiff is a member in good standing with the State Bar of Nevada since 2002. Defendant Kennedy is not licensed nor has even been licensed as an attorney in the State of Nevada, nor is he a member of the State Bar in Nevada in good standing. This fact is stipulated and conclusive.

On July 26, 2022, Plaintiff notified Defendant Cegavske's office that Kennedy is not a member of the State Bar of Nevada by filing an Election Integrity Complaint.¹ On same day, Plaintiff also notified Nevada Attorney General's office

¹ See EX. 6 Appx SC00071-00079

and provided the office of the Nevada Attorney General the Election Integrity Complaint. [Ex 5 Appx SC00056-00066]

After almost 3 weeks of inaction, following written inquiry by Chattah, on August 17, 2022, Defendant, Secretary of State issued a correspondence that Plaintiff's time to object to a candidate qualification had expired on April 5, 2022 under NRS 193.182 and refused to take further action.² Defendant Secretary of State failed under NRS 193.124 to enforce NRS 228.010, specifically to verify that Defendant Kennedy had in fact met the qualifications of NRS 228.010 to run for office, placing an onerous burden on Chattah to engage in such verification.

Having a disqualified candidate on the ballot poses a threat to the integrity of the election for the Office of Attorney General, and can compromise the margin of victory for qualified candidates in November, 2022.

NRS 293.2045 *entitled* Remedies in preelection actions challenging candidates who fail to meet qualifications for office; disqualification from taking office; removal from ballot or notification to voters at polling places; applicability provides as follows:

1. In addition to any other remedy or penalty provided by law, but except as otherwise provided in NRS 293.1265, if a court of competent jurisdiction finds in any preelection action that a person who is a candidate for any office fails to meet any qualification required for the office pursuant to the Constitution or laws of this State:

² See EX 5 Appx SC 00068-00069

(a) **The name of the person must not appear on any ballot for the election for which the person filed a declaration of candidacy**, except that if the statutory deadline for making changes to the ballot has passed, the provisions of subsection 2 apply; and

(b) The person is disqualified from entering upon the duties of the office for which the person filed a declaration of candidacy.

2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election because the statutory deadline for making changes to the ballot has passed, **the appropriate election officers shall post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of the office.**

3. The provisions of this section apply to any preelection action brought to challenge a person who is a candidate for any office on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or laws of this State, including, without limitation, any action brought pursuant to NRS 281.050, 293.182 or 293C.186 or any action brought for:

- (a) Declaratory or injunctive relief pursuant to chapter 30 or 33 of NRS;
- (b) Writ relief pursuant to chapter 34 of NRS; or
- (c) Any other legal or equitable relief.

NRS 293.2045 does not contemplate the changes to Nevada's elections brought by AB 321, in 2021 allowing for Universal Mail In Ballots. In 2022, Nevada's Primary Election Results demonstrate that 266,057 (56.7%) percent of total voters voted by Mail In Ballots.³ Therefore, the recourse allowable under NRS 293.2045 in posting signs at all polling locations would have no effect on a

³ Voter Turnout - Nevada Secretary of State 2022 Primary Election Results (nv.gov)

disqualified candidate appearing on mail in ballots, which would conclusively prejudice Chattah in the Attorney General race.⁴

Furthermore, Defendants, after given the opportunity by the District Court, failed to provide any evidence that mail in ballots have been printed. They also failed to provide any evidentiary basis as to what an arbitrary \$179,520.00 costs include to Runbeck Election Services involved and most important failed to provide an explanation as to why Runbeck Election Services was not advised before August 22, 2022, despite being placed on notice on July 26, 2022, that a disqualified candidate should be removed from the ballot. In its determination, the Court relied on hearsay testimony from a deputy of the Secretary of State and no admissible-non-hearsay evidence from Runbeck Election Services to support any finding what \$179,520.00 would include.

Allowing a disqualified candidate remain on the ballot severely prejudices Plaintiff and the integrity of the election for the office of Nevada Attorney General. Most significant though is that the District Court failed to even allocate the remedy allowed in NRS 203.2045, placing signs and polling locations does nothing to

⁴ It is significant to note that with the posting of signs in the precincts under NRS 293.2045, Stewart Mackie the disqualified candidate for Nevada Attorney General in the Democrat primary, still received 9,000 votes in the 2022 Democrat primary election.

preclude voters regardless of mail in ballots. The District Court denied any relief to Chattah.

ARGUMENT

A. Legal Standards For Granting The Requested Writ Relief

Writs of mandamus and prohibition are extraordinary remedies, and it is within the complete discretion of this Court to determine if a writ petition will be considered. *Scrimmer v. Eighth Judicial Dist. Court*, 116 Nev. 507, 512, 998 P.2d 1190, 1193 (2000).

This Court has previously utilized its discretion to consider writ petitions in cases with circumstances similar to the instant matter. *State v. Eighth Judicial Dist. Court of Nev.*, 351 P.3d 736, 131 Nev. Adv. Rep. 41 (2015) (granting the requested writ due to important issues of law regarding Nevada's takings law and presenting an importation question of public policy concerns as well as serving judicial economy); *State v. Eighth Judicial Dist. Court*, 118 Nev. 140, 145, 147, 42 P.3d 233, 236-37, 238 (2002) (granting the requested writ due to important issues of law and judicial economy and public policy concerns); *Scrimmer*, 116 Nev. at 512, 517, 998 P.2d at 1193, 1196-97 (granting the requested writ in Docket No. 33367 due to important issues of law that needed clarification and judicial economy and public policy concerns).

1. Writ of Mandamus

A writ of mandamus is utilized to compel the performance of an act which the law requires as a duty resulting from an office, trust or station or to control an arbitrary or capricious exercise of discretion. NRS 34.160; *Scrimmer*, 116 Nev. at 512, 998 P.2d at 1193; *Borger v. District Court*, 120 Nev. 1021, 1025, 102 P.3d 600, 603 (2004). Mandamus is appropriate where a petition raises important legal issues that are likely to be the subject of litigation within the Nevada Court System. *Borger*, 120 Nev. at 125-25.

A district court's failure to apply controlling legal authority "is a classic example of a manifest abuse of discretion that may be controlled through a writ of mandamus." *Gonzalez v. Dist. Ct.*, 129 Nev. ____, ____, P.3d ____ (Adv. Op. No. 22, April 4, 2013). A manifest abuse of discretion can consist of "a clearly erroneous interpretation of the law or a clearly erroneous application of a law or rule," for which mandamus relief is appropriate. *Id.*

Writ relief is available where (1) no factual dispute exists, and the district court is obligated to take certain action, or (2) an important issue of law needs clarification, and considerations of sound judicial economy and administration militate in favor of granting the petition. *Beazer Homes Nevada, Inc. v. District Court*, 120 Nev. 575, 579, 97 P.3d 1132 (2004).

2. *Writ of Prohibition*

A writ of prohibition is utilized to arrest performance of an act outside of the trial court's discretion. NRS 34.320; *D.R. Horton, Inc.*, 123 Nev. at ___, 168 P.3d at 737; *Scrimmer*, 116 Nev. at 512, 998 P.2d at 1193 (“A writ of prohibition is available to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court”). Here, the sanctioning of Chattah in contravention of State law, was in excess of the jurisdiction of the district court and should be prevented by this Court.

3. *Legal Standards Applicable To Both Writs*

Writs of mandamus and prohibition are available only when the petitioner has no “plain, speedy and adequate remedy in the ordinary course of law.” NRS 34.170; 34.330; *D.R. Horton, Inc.*, 123 Nev. at ___, 168 P.3d at 737; *Scrimmer*, 116 Nev. at 512, 998 P.2d at 1193.

This Court has found that a future right of appeal may constitute a plain, speedy and adequate remedy; however, whether a future right of appeal is sufficiently adequate and speedy depends on the facts and circumstances and status of the underlying proceedings, the issues raised in the writ petition, and whether a future appeal will permit this court to meaningful review the issues presented. *D.R. Horton, Inc.*, 123 Nev. at ___, 168 P.3d at 736 (granting the requested writ relief after finding that an eventual future appeal from a final judgment would be

neither a speedy nor adequate remedy given the facts and circumstances of the case and the issues involved). Moreover, a writ may be issued when there is a possibility of a future appeal where:

1. Circumstances reveal urgent or strong necessity; or
2. An important issue of law needs clarification and public policy is served by the Court's exercise of its jurisdiction.

Falcke v. County of Douglas, 116 Nev. 583, 586, 3 P.3d 661, 662-63 (2000). For instance, in *Falcke*, this Court issued a writ when petitioner had a plain, speedy and adequate remedy at law through a declaratory action because this Court found that the legal issue was one of first impression in the State of Nevada, that the legal issue was an important issue of law needing clarification, and that public policy was best served by issuance of a writ despite petitioner's plain remedy at law through a declaratory action. *Id.*

This Court has also held that, despite future appeal potential, it will grant a writ of an interlocutory order denying a motion for summary judgment under one or more of the following circumstances:

1. An important issue of law requires clarification, and considerations of sound judicial economy and administration militate in favor of granting the petition; or

2. No disputed factual issues exist and the district court is obligated to act in a certain manner pursuant to clear authority under law.

State, 118 Nev. at 147, 42 P.3d at 238 (granting the requested writ); *Scrimmer*, 116 Nev. at 512, 998 P.2d at 1193 (granting the requested writ in Docket No. 33367); *Smith v. Eighth Judicial Dist. Court*, 113 Nev. 1343, 1344-45, 950 P.2d 280, 281 (1997) (granting the requested writ).

The subject of this Writ Petition addresses an important issue of law that requires clarification and considerations of sound judicial economy and administration militate in favor of granting the petition.

This matter originated as a proceeding governed by the NRS 293.2045. As such, the Constitutional rights of all parties are at issue. The important issue of law that needs clarification in this proceeding is whether NRS 293.2045(2) fails to provide the adequate relief necessary to ensure a fair election in the Nevada Attorney General race. Universal mail in ballots preclude any relief provided against voters who will have a disqualified candidate on their mail in ballot and will not be at polling locations to see any notices regarding disqualified candidate.

The District Court's ruling in this matter has wide-reaching public policy effects on how disqualified candidates are addressed with universal mail in ballots precluding disclosure of a disqualified candidate. If this issue is not immediately addressed by this Court, and this important issue of law is not immediately

clarified, the integrity of the election will be compromised and a disqualified candidate will inevitably draw votes from qualified candidates on the ballot.

At the hearing on September 6, 2022, it was noted that Stewart MacKie, a disqualified candidate in the Democratic Primary Election had drawn over 8,896 votes from incumbent Aaron Ford, despite signs at precincts advising of his disqualification.⁵ Again, it is significant to note that in 2018, Aaron Ford won the General Election by 4,533 votes, 4,000 less votes than what Mackie received as a disqualified candidate in this past primary, with signs notifying voters of his disqualification at all voting precincts.

Based on all of the foregoing, there is an important issue of law involved in this proceeding and considerations of sound judicial economy and administration militate in favor of granting this Application to provide legal guidance to everyone, including current candidates and future candidates. This issue is one of first impression in Nevada, is an entirely legal issue, and there are no disputed factual issues. There is a strong public interest in an immediate resolution of this issue, and an urgent necessity to clarify and resolve this issue of law in the State of Nevada as the General Election is scheduled in 60 days.

⁵ Stuart MacKie - Ballotpedia.com

B. The Court Abused its Discretion in Denying the Preliminary Injunction

A preliminary injunction is proper where the moving party can demonstrate that it has a reasonable likelihood of success on the merits and that, absent a preliminary injunction, it will suffer irreparable harm for which compensatory damages would not suffice. *See* NRS 33.010; *Boulder Oaks Cmty, Ass'n v. B & J Andrews Enters., LLC*, 125 Nev. 397, 403, 215 P.3d 27, 31 (2009).

There are simply no compensatory damages which can suffice in this matter to rectify allowing a disqualified candidate to remain on the ballot; specifically since the disqualified candidate requested to be removed from same. The probability of a disqualified candidate remaining on the ballot effecting the outcome of an election is not speculative as addressed in detail *infra*.

Furthermore, it is undisputed that the NRS 193.124 requires the Secretary of State to enforce all election laws, including qualifications of a candidate required under NRS 228.010. Had the Court taken this into consideration, it would have come to the conclusion that had NRS 193.124 had been complied with, Chattah would inevitably succeed on the merits. Especially, in light of Kennedy requesting to be removed from the ballot and withdrawing from the race.

1. **Imputing Enforcement of Election Laws Creates an Undue Burden on Candidates to determine Qualifications Reserved for the Secretary of State Under NRS 293.124**

"NRS 293.124 entitled Secretary of State to serve as Chief Officer of Elections; regulations.

1. The Secretary of State shall serve as the Chief Officer of Elections for this State. As Chief Officer, the Secretary of State is **responsible for the execution and enforcement** of the provisions of title 24 of NRS **and all other provisions of state and federal law relating to elections in this State.**

2. The Secretary of State shall adopt such regulations as are necessary to carry out the provisions of this section.

[Emphasis added]

The District Court's determination that under NRS 293.182(1) it is incumbent on an elector (or candidate) to file a qualification challenge contradicts NRS 293.124, which obligates Cegavske to enforce all state laws relating to the elections in the state. There is a clear law rendering qualifications of a candidate for Nevada Attorney General in the State of Nevada codified in NRS 228.010. A lack of enforcement of this law renders it futile and marginalizes its purpose of preventing unqualified candidates from running for Nevada Attorney General.

This remains especially true taking into consideration the email presented by Defendant Kennedy during this proceeding which reads as follows⁶:

"When I filed for my candidacy in your (Cegavske) office I was interviewed by two members of your staff, one of whom asked me if I was a lawyer. I stated that I was not, but that it was my understanding that this was not a requirement to run for the office. She verbally confirmed to me that it was not a requirement."

⁶ See Kennedy August 26, 2022 email [EX 5 Appx SC00070]

Taking all facts presented as true, as is incumbent on the District Court, it is clear that there was an utter disregard to the requirements of NRS 228.010. Again, under NRS 293.124, it is Cegavske's obligation to enforce all provisions of state and federal law relating to elections in this State, including the disqualification and removal of a disqualified candidate from the General Election ballot.

The Court's decision imputing an obligation on Chattah to challenge an unqualified candidate, places an undue burden on the elector or candidate to engage in. It cannot be reasonably contemplated that it is a candidate's responsibility to ensure that NRS 228.010 is followed and ensure that a purported candidate meets the qualifications to run for Attorney General. Particularly in this case, where Kennedy himself notified the Secretary of State *at the time of his time of filing* the Declaration of Candidacy that he was not an attorney in Nevada. It was the failure of the Secretary of State's office at the outset, to preclude him from filing for this office.

The Court placed the onerous responsibility of enforcement of NRS 228.010 on Chattah, where it is clear that placing such a burden on a Candidate is not the intent of NRS 293.124.

C. Having a Disqualified Candidate on the November Ballot Would Create Irreparable Harm to Chattah

Irreparable harm is an injury "for which compensatory damage is an inadequate remedy." *Excellence Cmty. Mgmt., LLC v. Gilmore*, 351 P.3d 720 (2015), *Dixon v. Thatcher*, 103 Nev. 414, 415, 742 P.2d 1029, 1029 (1987). Here there is no compensatory damages available as an adequate remedy. Irreparable harm is presumed by the nature of this case and therefore, the Court's position that irreparable harm is speculative is fatally flawed.

There are no compensatory damages that could compensate for a disqualified candidate receiving votes because his name remains on the ballot. This is further compounded by the following facts:

- The candidate notified the Secretary of State that he was not a licensed attorney when he filed his Declaration of Candidacy on March 10, 2022
- On August 26, 2022, he requested to withdraw and have his name removed from the ballot
- His requests were ignored and per the Affidavit submitted by Wlaschin, Kennedy lied in his email to the Secretary of State and never told their offices he wasn't a licensed attorney.

Most significant though is that the District Court refused to take any remedial measures offered in NRS 293.2045, including even allowing NRS 293.2045(2) measures which provides:

2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election because the statutory deadline for making changes to the ballot has passed, **the appropriate election officers shall post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of the office.**

Here, the District Court refused to even grant any relief alternatively requested at even the minimal remedial measures despite the request by Kennedy to withdraw his name and remove his name from the ballot.

Furthermore, despite the fact that the Court was presented with information regarding Stuart MacKie's almost 9,000 votes drawn as a candidate on the ballot in the Democratic Primary Election, the Court refused to accept the plausibility of Kennedy's impact on the Attorney General Race. The fact that Kennedy notified the Secretary of State in his August 26, 2022 email, that he wanted his name removed from the ballot and withdrawn from the race, was also ignored by the Court without explanation for same.

D. Defendants Presented No Evidence in Support of Financial Burden to the State if Kennedy was to be Removed.

The District Court required Defendants to provide proof of costs to modify the mail in ballots. At the time of the hearing, it was abundantly clear that ballots had not been printed. It is most significant to note that nowhere in Wlaschkin's Affidavit does he confirm that the ballots have been printed. There was no

evidence of any prejudicial effect or associated costs of having the Court enjoin the Secretary of State to modify the mail in ballots removing the disqualified candidate. This was clear since ballots have not been printed yet.

Instead, the Court relied on hearsay testimony from Wlaschkin as to purported figures were provided to him. There were no communications, invoices, or testimony presented from anyone at Runbeck Election Services as to any prejudicial effect by incurring costs the removal would have caused.

The Court rested the whole analysis on public interest not paying for ballot corrective action, on hearsay evidence, not supported by anything but an Affidavit from Wlaschkin even acknowledging what the corrective action would involve since ballots were not printed.

CONCLUSION

Based upon all of the foregoing, Petitioner respectfully requests that this Court immediately issue a writ of mandamus directing the District Court to instruct Defendant Cegavske to remove the disqualified Candidate John T. Kennedy from the General Election Ballot.

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Petitioner further respectfully requests that this Court immediately issue a writ of prohibition restraining the District Court from allowing NRS 293.2045 signs from being placed at polling locations, in an attempt to resolve in person voting when all registered voters will be receiving mail in ballots.

DATED this 8th day of September, 2022.

/s/ Joey Gilbert

JOSEPH S. GILBERT

Nevada Bar No.: 9033

JOEY GILBERT LAW

405 Marsh Ave.

Reno, Nevada 89509

Tel: (775) 284-7000

Fax: (775) 284-3809

Joey@joeygilbertlaw.com

Attorneys for Petitioner

AFFIDAVIT

STATE OF NEVADA }
COUNTY OF CLARK } ss.

JOSEPH GILBERT, being first duly sworn, deposes and says:

That he is a member of the law firm of the Joey Gilbert Law, attorneys for Petitioners in the above-entitled action, that he has read the above and foregoing, **PETITIONER'S WRIT OF MANDAMUS OR PROHIBITION**, knows the contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters, he believes them to be true.

This verification is made pursuant to NRS 15.010.

DATED this 9th day of September, 2022.

/s/ Joseph S. Gilbert

JOSEPH S. GILBERT

CERTIFICATE OF COMPLIANCE-NRAP 32(A)(9)

I am the attorney for Petitioner. This brief contains 5369 words, is written in Times New Roman 14 point typeface. I certify that this brief with the word limit of NRAP 32(a)(4)-(6).

/s/ Joseph S. Gilbert

JOSEPH S. GILBERT

CERTIFICATE OF SERVICE

The undersigned, an employee of JOEY GILBERT LAW, hereby certified that on the 9th day of September, 2022, she served a true and correct copy of the foregoing, **PETITIONER'S EMERGENCY WRIT OF MANDAMUS OR PROHIBITION**, via the Court's E-Flex Electronic Filing System to the following:

Aaron D. Ford, Attorney General
Craig Newby,
Senior Deputy Attorney General
Office of the Attorney General
3014 West Charleston Boulevard, Suite 150
Las Vegas, Nevada 89102
Attorneys for Respondent

Nathan Lawrence, Esq.
2355 Red Rock St,
Las Vegas, NV 89146

Honorable James R Wilson
Department 2
First Judicial District Court
Carson City County

/s/ S. Sampson
An employee of Joey Gilbert Law