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CASE NO: A-23-879213-C
Department 20

6 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
7 **OF THE STATE OF NEVADA IN AND FOR CLARK COUNTY**
8

9 CLARK COUNTY EDUCATION
ASSOCIATION,
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11 Plaintiff,

Case No.:
Dept. No.:

12 vs.

**COMPLAINT FOR
DECLARATORY RELIEF**

13 THE STATE OF NEVADA; and the
CLARK COUNTY SCHOOL DISTRICT,
14 a political subdivision of the State of
Nevada and a local government
15 employer,
16 Defendants.

(ARBITRATION EXEMPTION:
DECLARATORY RELIEF)

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18 Plaintiff, the CLARK COUNTY EDUCATION ASSOCIATION (“CCEA”), by
19 and through its attorneys, complains and alleges as follows:

20 **SUMMARY**

21 1. CCEA seeks a declaration from the Court that NRS 288.700, 288.074,
22 288.705, 288.710, and 288.715 are unconstitutional, both facially and as applied to it,
23 pursuant to NRS 30.040(1).
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1 2. NRS 288.700 is the Nevada statute prohibiting strikes by workers
2 against the State or any local government employer.¹

3 3. NRS 288.700 impermissibly impinges upon the fundamental rights of
4 speech and association of CCEA and its members, is overbroad, void for vagueness,
5 and is not narrowly tailored to achieve a compelling state interest.

6 4. CCEA further seeks a declaration from the Court that NRS 288.074 is
7 unconstitutional, both facially and as applied to it.

8 5. NRS 288.074 defines “strike” for purposes of Nevada Revised Statutes
9 Chapter 288.²

10 6. NRS 288.074 impermissibly impinges upon the First Amendment rights
11 of CCEA and its members, is overbroad, void for vagueness, is not narrowly tailored
12 to achieve a compelling state interest, lacks specific enforcement standards, and
13 encourages, authorizes, and fails to prevent arbitrary and discriminatory
14 enforcement.

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17 ¹ See **NRS 288.700 Legislative findings and declaration; illegality of strikes.**

18 1. The Legislature finds as facts:

19 (a) That the services provided by the State and local government employers are
20 of such nature that they are not and cannot be duplicated from other sources and are
21 essential to the health, safety and welfare of the people of the State of Nevada;

22 (b) That the continuity of such services is likewise essential, and their disruption
23 incompatible with the responsibility of the State to its people; and

24 (c) That every person who enters or remains in the employment of the State or a
25 local government employer accepts the facts stated in paragraphs (a) and (b) as an
26 essential condition of the person’s employment.

27 2. The Legislature therefore declares it to be the public policy of the State of
28 Nevada that strikes against the State or any local government employer are illegal.

² See **NRS 288.074 “Strike” defined.** “Strike” means any concerted:

1. Stoppage of work, slowdown or interruption of operations by employees of the
State of Nevada or local government employees;

2. Absence from work by employees of the State of Nevada or local government
employees upon any pretext or excuse, such as illness, which is not founded in fact;
or

3. Interruption of the operations of the State of Nevada or any local government
employer by any employee organization or labor organization.

1 7. Because they enforce both the unlawful prohibitions in NRS 288.700 and
2 the invalid definitions of “strike” found in NRS 288.074, statutes regarding the
3 availability of injunctive relief and providing the draconian penalties for striking or
4 a threatened strike, NRS 288.705, 288.710, and 288.715, are also constitutionally
5 invalid.³

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8 ³ See **NRS 288.705 Injunctive relief against strike or threatened strike.**

9 1. If a strike occurs against the State or a local government employer, the State
10 or local government employer shall, and if a strike is threatened against the State or
11 a local government employer, the State or local government employer may, apply to
12 a court of competent jurisdiction to enjoin such strike. The application shall set forth
13 the facts constituting the strike or threat to strike.

14 2. If the court finds that an illegal strike has occurred or unless enjoined will
15 occur, it shall enjoin the continuance or commencement of such strike. The provisions
16 of N.R.C.P. 65 and of the other Nevada Rules of Civil Procedure apply generally to
17 proceedings under this section, but the court shall not require security of the State or
18 of any local government employer.

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21 **NRS 288.710 Punishment of employee organization, labor
22 organization, officer or employee by court for commencement or
23 continuation of strike in violation of order.**

24 1. If a strike is commenced or continued in violation of an order issued pursuant
25 to NRS 288.705, the court may:

26 (a) Punish each employee organization or labor organization guilty of such
27 violation by a fine of not more than \$50,000 against each employee organization or
28 labor organization for each day of continued violation.

 (b) Punish any officer of an employee organization or labor organization who is
wholly or partly responsible for such violation by a fine of not more than \$1,000 for
each day of continued violation, or by imprisonment as provided in NRS 22.110.

 (c) Punish any employee of the State or of a local government employer who
participates in such strike by ordering the dismissal or suspension of such employee.

 2. Any of the penalties enumerated in subsection 1 may be applied alternatively
or cumulatively, in the discretion of the court.

**NRS 288.715 Punishment of employee by employer for
commencement or continuation of strike or violation in violation of court’s
order.**

 1. If a strike or violation is commenced or continued in violation of an order
issued pursuant to NRS 288.705, the State or the local government employer may:

 (a) Dismiss, suspend or demote all or any of the employees who participate in
such strike or violation.

 (b) Cancel the contracts of employment of all or any of the employees who
participate in such strike or violation.

 (c) Withhold all or any part of the salaries or wages which would otherwise accrue
to all or any of the employees who participate in such strike or violation.

 2. Any of the powers conferred by subsection 1 may be exercised alternatively or
cumulatively.

1 8. The challenged statutes violate due process afforded Plaintiff and all
2 Nevadans pursuant to Article I, Section 8 of the Nevada Constitution, and the Fifth
3 and Fourteenth Amendments to the United States Constitution.

4 9. The challenged statutes violate the free speech and assembly
5 guarantees afforded to Plaintiff and all Nevadans pursuant to Article I, Sections 9
6 and 10 of the Nevada Constitution, and the First Amendment to the United States
7 Constitution.

8 **THE PARTIES**

9 10. Plaintiff CCEA is a labor union doing business in Clark County, Nevada,
10 and is the recognized bargaining unit representing the licensed public-school
11 educators of that county, with more than 16,000 members.

12 11. The State of Nevada (the “State”) is herein named as a party to permit
13 defense of the Nevada statutes at issue.

14 12. The Clark County School District (“CCSD”) is a political subdivision of
15 the State of Nevada, and a local government employer whose purpose is to administer
16 public education in Clark County, Nevada.

17 **JURISDICTION & VENUE**

18 13. Jurisdiction is proper in this Court because this is a complaint seeking
19 declaratory relief regarding the constitutional validity of the identified Nevada
20 statutory provisions affecting the respective rights of the parties, and pursuant to
21 Nev. Const. art. VI, section 6.

22 14. Venue is proper in this Court as to all Parties because they reside or
23 conduct business in Clark County, Nevada, pursuant to NRS 13.010, 13.020, and
24 13.030.

25 **GENERAL FACTUAL ALLEGATIONS**

26 15. The foregoing paragraphs of this Complaint are realleged and fully
27 incorporated as if set forth in full herein.

1 23. Strike activity, like all work actions generally, is a form of core political
2 speech protected by fundamental rights to free expression and association.

3 24. NRS 288.700 impermissibly burdens free speech conduct protected by
4 the Nevada and United States Constitutions.

5 25. NRS 288.700 is not narrowly tailored, and makes no distinction between
6 or among public employees, be they teachers, police officers, office clerks, librarians,
7 or any other type of public employee performing any function in any context.

8 26. NRS 288.700 incorporates and enforces the overbroad definition of
9 “strike” contained in NRS 288.074.

10 27. NRS 288.700, on its own terms, therefore, is unconstitutionally and
11 substantially overbroad because it sweeps within its ambit other activities that in
12 ordinary circumstances constitute exercise of protected First Amendment rights.

13 28. NRS 288.700 is thus constitutionally invalid.

14 **SECOND CLAIM FOR RELIEF**

15 (NRS 288.700: Violation of the Due Process Clause of Article I, Section 8 of the
16 Nevada Constitution, and the Fifth and Fourteenth Amendment to the United
States Constitution)

17 29. The foregoing paragraphs of this Complaint are realleged and fully
18 incorporated as if set forth in full herein.

19 30. NRS 288.700 is constitutionally invalid because it incorporates and
20 employs, as its primary term, the impermissibly vague and overbroad definitions of
21 “strike” contained in NRS 288.074, and therefore encourages and authorizes, and fails
22 to prevent, arbitrary and discriminatory enforcement, and sweeps in constitutionally-
23 protected speech activity within its prohibitions.

24 31. NRS 288.700 is thus constitutionally invalid.

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1 **THIRD CLAIM FOR RELIEF**

2 (NRS 288.074: Violation of the Due Process Clause of Article I, Section 8 of the
3 Nevada Constitution, and the Fifth and Fourteenth Amendment to the United
4 States Constitution)

5 32. The foregoing paragraphs of this Complaint are realleged and fully
6 incorporated as if set forth in full herein.

7 33. NRS 288.074 purports to define “strike” for purposes of prohibiting such
8 conduct under NRS 288.700, and punishing it under NRS 288.705, 288.710, and
9 288.715.

10 34. The penalties for engaging in conduct defined as a “strike” under
11 NRS 288.074 are very harsh, and include injunction, steep fines, termination of
12 employment and withholding of wages, and, for a labor union, the possibility of
13 withdrawal of bargaining unit status.

14 35. The harshness of the penalties for engaging in a “strike” should cause
15 courts to scrutinize closely the standards for enforcement of the terms of
16 NRS 288.074, with great care and skepticism, where such fluid and ambiguous terms
17 cannot give appropriate guidance to individuals regarding their conduct.

18 36. NRS 288.074 does not provide sufficient notice to enable persons of
19 ordinary intelligence to understand what conduct it prohibits.

20 37. Furthermore, NRS 288.074 lacks specific standards, and thereby
21 encourages, authorizes, and fails to prevent arbitrary and discriminatory
22 enforcement.

23 38. NRS 288.074(1) does not give fair notice to persons of ordinary
24 intelligence what is meant by “stoppage of work, slowdown, or interruption of
25 operations by employees.”

26 39. NRS 288.074 (2) does not give fair notice to persons of ordinary
27 intelligence what is meant by “Absence of work by employees ... upon any pretext or
28 excuse, such as illness, which is not founded in fact.”

1 40. NRS 288.074(3) does not give fair notice to persons of ordinary
2 intelligence what is meant by “interruption of operations.”

3 41. NRS 288.074 is thus constitutionally invalid.

4 **FOURTH CLAIM FOR RELIEF**

5 (NRS 288.074: Violation of Article I, Sections 9 and 10 of the Nevada Constitution,
6 and the First Amendment to the United States Constitution)

7 42. The foregoing paragraphs of this Complaint are realleged and fully
8 incorporated as if set forth in full herein.

9 43. NRS 288.074 is overbroad in violation of the constitutional guarantees
10 and protections of freedom of speech and assembly found in the Nevada and United
11 States Constitutions.

12 44. The statute is substantially overbroad because it sweeps within its
13 ambit other activities that in ordinary circumstances constitute exercise of protected
14 First Amendment rights.

15 45. Each of the terms and concepts identified above as impermissibly vague
16 also indicate the overbreadth of NRS 288.074 generally.

17 46. NRS 288.074 is thus constitutionally invalid.

18 **FIFTH CLAIM FOR RELIEF**

19 (NRS 288.705: Violation of the Due Process Clause of Article I, Section 8 of the
20 Nevada Constitution, and the Fifth and Fourteenth Amendment to the United
States Constitution)

21 47. The foregoing paragraphs of this Complaint are realleged and fully
22 incorporated as if set forth in full herein.

23 48. NRS 288.705 is constitutionally invalid because it incorporates and
24 employs, as its primary term, the impermissibly vague and overbroad definitions of
25 “strike” contained in NRS 288.074, and therefore encourages and authorizes, and fails
26 to prevent, arbitrary and discriminatory enforcement, and sweeps in constitutionally-
27 protected speech activity within its prohibitions.

1 49. NRS 288.705 is thus constitutionally invalid.

2 **SIXTH CLAIM FOR RELIEF**

3 (NRS 288.710: Violation of the Due Process Clause of Article I, Section 8 of the
4 Nevada Constitution, and the Fifth and Fourteenth Amendment to the United
States Constitution)

5 50. The foregoing paragraphs of this Complaint are realleged and fully
6 incorporated as if set forth in full herein.

7 51. NRS 288.710 is constitutionally invalid because it incorporates and
8 employs, as its primary term, the impermissibly vague and overbroad definitions of
9 “strike” contained in NRS 288.074, and therefore encourages and authorizes, and fails
10 to prevent, arbitrary and discriminatory enforcement, and sweeps in constitutionally-
11 protected speech activity within its prohibitions.

12 52. NRS 288.710 is thus constitutionally invalid.

13 **SEVENTH CLAIM FOR RELIEF**

14 (NRS 288.715: Violation of the Due Process Clause of Article I, Section 8 of the
15 Nevada Constitution, and the Fifth and Fourteenth Amendment to the United
States Constitution)

16 53. The foregoing paragraphs of this Complaint are realleged and fully
17 incorporated as if set forth in full herein.

18 54. NRS 288.715 is constitutionally invalid because it incorporates and
19 employs, as its primary term, the impermissibly vague and overbroad definitions of
20 “strike” contained in NRS 288.074, and therefore encourages and authorizes, and fails
21 to prevent, arbitrary and discriminatory enforcement, and sweeps in constitutionally-
22 protected speech activity within its prohibitions.

23 55. NRS 288.715 is thus constitutionally invalid.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff requests this Court render judgment and:

26 1. Declare NRS 288.074, NRS 288.700, NRS 288.705, NRS 288.710, and
27 NRS 288.715 to be invalid and of no effect, for the reasons stated herein;

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2. Award Plaintiff its reasonable attorney fees for having brought this action; and

3. Award such other relief as the Court deems proper in the circumstances.
DATED this 9th day of October, 2023.

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