

BRADLEY S. SCHRAGER, ESQ. (SBN 10217)  
DANIEL BRAVO, ESQ. (SBN 13078)  
BRAVO SCHRAGER LLP  
6675 South Tenaya Way, Suite 200  
Las Vegas, Nevada 89113  
Tele.: (702) 996-1724  
Email: bradley@bravoschrager.com  
Email: daniel@bravoschrager.com

*Attorneys for Real Parties in Interest*

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

DONNA WASHINGTON, an individual;  
COALITION FOR PARENTS AND  
CHILDREAN, a Political Action  
Committee,

Plaintiffs,

vs.

FRANCISCO V. AGUILAR, in his official  
capacity as NEVADA SECRETARY OF  
STATE;

Defendant,

and

NEVADANS FOR REPRODUCTIVE  
FREEDOM, a Political Action  
Committee,

Intervenor-Defendant.

Case No.: 23 OC 00115 1B

Dept. No.: I

**NOTICE OF ENTRY OF ORDER**

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1                                    **NOTICE OF ENTRY OF ORDER**


2            NOTICE IS HEREBY GIVEN that a FINDINGS OF FACT CONCLUSIONS  
3 OF LAW AND ORDER was entered in the above-captioned matter on the 21st day  
4 of November, 2023. A true and correct copy of the Order is attached hereto as  
5 Exhibit 1.

6                                    **AFFIRMATION**

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

9            DATED this 22nd day of November, 2023.

10  
11                                   **BRAVO SCHRAGER LLP**

12  
13            By:   
14                                   BRADLEY S. SCHRAGER, ESQ. (SBN 10217)  
15                                   DANIEL BRAVO, ESQ. (SBN 13078)  
16                                   6675 South Tenaya Way, Suite 200  
17                                   Las Vegas, Nevada 89113  
18                                   Tele.: (702) 996-1724  
19                                   Email: bradley@bravoschrager.com  
20                                   Email: daniel@bravoschrager.com

21                                   *Attorneys for Intervenor-Defendant,*  
22                                   *Nevadans for Reproductive Freedom*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 22nd day of November, 2023, I served the foregoing  
3 **NOTICE OF ENTRY OF ORDER** by depositing a true copy of the same via  
4 electronic mail, per the October 17, 2023 Stipulation, as follows:

5 Jason D. Guinasso, Esq.  
6 HUTCHISON & STEFFEN, PLLC  
7 5371 Kietzke Lane  
8 Reno, Nevada 89511  
9 [iguinasso@hutchlegal.com](mailto:iguinasso@hutchlegal.com)

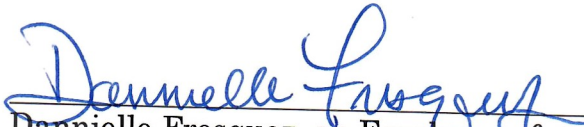
10 *Attorneys for Plaintiffs*

11 Julie Harkleroad  
12 Judicial Assistant to  
13 Hon. James T. Russell  
14 First Judicial District Court, Dept. I  
15 [JHarkleroad@carson.org](mailto:JHarkleroad@carson.org)

Laena St Jules  
Senior Deputy Attorney General  
100 N. Carson Street  
Carson City, Nevada 89701  
[LStJules@ag.nv.gov](mailto:LStJules@ag.nv.gov)

*Attorneys for Defendant,  
Francisco V. Aguilar in his Official  
Capacity as the Nevada Secretary of  
State*

16 By:

17   
18 Dannielle Fresquez, an Employee of  
19 BRAVO SCHRAGER LLP  
20  
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24  
25  
26  
27  
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# Exhibit 1



1 Jason D. Guinasso, Esq. (8478)  
2 HUTCHISON & STEFFEN, PLLC  
3 5371 Kietzke Lane  
4 Reno, Nevada 89511  
5 Telephone: (775) 853-8746  
6 jguinasso@hutchlegal.com

7 *Attorney for Plaintiffs*

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

10 DONNA WASHINGTON, an individual;  
11 COALITION FOR PARENTS AND CHILDREN,  
12 a Political Action Committee,

13 Plaintiffs,

14 vs.

15 FRANCISCO V. AGUILAR, in his Official  
16 Capacity as the NEVADA SECRETARY OF  
17 STATE,

18 Defendant,

19 and

20 NEVADANS FOR REPRODUCTIVE FREEDOM, a  
21 Political Action Committee,

22 Intervenor-Defendant.

23 Plaintiffs DONNA WASHINGTON and COALITION FOR PARENTS AND CHILDREN  
24 ("Plaintiffs"), a Political Action Committee, by and through its undersigned counsel Jason D. Guinasso,  
25 Esq., of the law firm Hutchison & Steffen, PLLC, filed a Complaint for Declaratory and Injunctive  
Relief on October 5, 2023 to challenge Initiative Petition C-01-2023 (the "Petition"). Plaintiffs  
submitted a Memorandum of Points and Authorities in Support of the Complaint for Declaratory and  
Injunctive Relief on October 20, 2023. Intervenor-Defendant Nevadans for Reproductive Freedom  
("Intervenor-Defendant") filed an Answer to the Complaint on November 8, 2023. On the same day,  
Intervenor-Defendant filed a Memorandum of Points and Authorities in Opposition to the Complaint

REC'D & FILED

November 21, 2023

Date

WILLIAM SCOTT HOEN

CLERK

By

Deputy

Case No.: 23-OC-00115

Dept. No. 1

**PLAINTIFFS' [PROPOSED] FINDINGS  
OF FACTS, CONCLUSIONS OF LAW,  
AND ORDER GRANTING  
DECLARATORY AND INJUNCTIVE  
RELIEF**

1 for Declaratory and Injunctive Relief. Plaintiffs filed a Reply to the Memorandum of Points and  
2 Authorities in Opposition to the Complaint on November 15, 2023. Plaintiffs and the Intervenor-  
3 Defendant both submitted competing proposed orders on November 15, 2023. This matter came before  
4 the Court for a hearing on November 21, 2023. After reviewing all pleadings on file, entertaining the  
5 arguments of counsel at the hearing, and reviewing the proposed orders, this Court hereby enters these  
6 Findings of Fact, Conclusions of Law, and Order GRANTING Declaratory and Injunctive Relief in  
7 favor of the Plaintiffs, which enjoins the Nevada Secretary of State from advancing Initiative Petition  
8 C-01-2023.

### 9 FINDINGS OF FACT

10 1. On or about September 14, 2023, Lindsey Harmon, on behalf of the Intervenor-  
11 Defendant, filed Nevada Constitutional Initiative Petition C-01-2023 (the “Petition”).

12 2. The Petition seeks to add a new section to the Nevada Constitution, which will be  
13 designated as Section 25 of Article 1 (the “Amendment”).

14 3. The first subsection of the Amendment would create a “fundamental right to  
15 reproductive freedom.” Among other things, this right provides that reproductive freedom—which  
16 includes “all matters relating to pregnancy”—shall not be denied, burdened, or infringed upon unless  
17 justified by a compelling State interest. This section would expressly apply to “prenatal care,  
18 childbirth, postpartum care, birth control, vasectomy, tubal ligation, abortion, abortion care,  
19 management of a miscarriage, and infertility care.”

20 4. The second subsection of the Amendment would allow the State to “regulate the  
21 provision of abortion care after fetal viability, provided that in no circumstance may the State Prohibit  
22 an abortion that, in the professional judgment of an attending provider of health care, is medically  
23 indicated to protect the life or physical or mental health of the pregnant individual.”

24 5. The third subsection of the Amendment would prohibit the State from penalizing or  
25 prosecuting an individual based on “perceived or alleged outcome of the pregnancy of the individual,



1 including, without limitation, a miscarriage, stillbirth or abortion.”

2         6.       The fourth subsection of the Amendment would prohibit the State from penalizing,  
3 prosecuting, or otherwise taking adverse action against “a provider of health care” for acting within the  
4 standard of care for performing an abortion or providing abortion care.

5         7.       The fifth subsection of the Amendment would prohibit the State from penalizing or  
6 prosecuting an individual for aiding or assisting another individual in exercising the right of the  
7 individual to reproductive freedom.

8         8.       The sixth subsection of the Amendment would provide that “nothing herein narrows or  
9 limits the rights to equality and equal protection.”

10        9.       The Petition includes a description of effect that states:

11               If enacted, this initiative would add a new section to Article 1 of the  
12 Nevada Constitution establishing a fundamental right to reproductive  
13 freedom. This initiative enables individuals to make and carry out decisions  
14 about matters relating to their pregnancies, including prenatal care,  
15 childbirth, postpartum care, birth control, vasectomies and tubal ligations,  
16 abortion and abortion care, and care for miscarriages and infertility.

17               If this measure is enacted, the State still may regulate provision of  
18 abortion care after fetal viability, except where medically indicated to protect  
19 the life or physical or mental health of the pregnant individual.

20               Under this measure, the State may not penalize, prosecute, or take  
21 adverse action against any individual based on the outcome of a pregnancy of  
22 the individual, or against any licensed health care provider who acts  
23 consistent with the applicable scope and practice of providing reproductive  
24 health care services to an individual who has granted their voluntary consent.  
25 Neither may the State penalize, prosecute, or take adverse action against any  
individual or entity for aiding or assisting another individual in the exercise  
of the rights established by this initiative.

21        10.      On October 5, 2023, Plaintiffs filed a Complaint for Declaratory and Injunctive Relief  
22 on October 5, 2023 to challenge the legality of the Petition.

23        11.      On October 20, 2023, Plaintiffs filed a Memorandum of Points and Authorities in  
24 Support of the Complaint for Declaratory and Injunctive Relief. Plaintiffs argued that the Petition does  
25 not embrace a single subject, contains a misleading and/or inaccurate description of effect, and contains

1 an unfunded mandate in violation of Nevada law.

2 12. On November 8, 2023, the Intervenor-Defendant filed an Answer to the Complaint for  
3 Declaratory and Injunctive Relief. The same day, the Intervenor-Defendant filed a Memorandum of  
4 Points and Authorities in Opposition to Plaintiffs' Complaint for Declaratory and Injunctive Relief.  
5 Intervenor-Defendant argued that the Petition contains a single subject, contains an accurate description  
6 of effect, and does not contain an unfunded mandate.

7 13. On November 15, 2023, Plaintiffs filed a Reply to Intervenor-Defendant's Memorandum  
8 of Points and Authorities in Opposition to Plaintiffs' Complaint for Declaratory and Injunctive Relief.  
9 The same day, both parties submitted competing proposed orders to this Court.

10 14. On November 21, 2023, this matter came before this Court for a hearing.

11 15. Any finding of fact that is more properly construed as a conclusion of law shall be duly  
12 incorporated into this Court's Conclusions of Law.

### 13 CONCLUSIONS OF LAW

14 1. This Court may consider Plaintiffs challenge to the Petition. "Courts will consider  
15 challenges to an initiative petition preelection in limited circumstances, such as when those challenges  
16 are based on the petition's compliance with the single-subject requirement, the statutory requirement  
17 for the description of effect, or the preclusion against unfunded mandates." *Helton v. Nevada Voters*  
18 *First PAC*, 138 Nev., Adv. Op. 45, 512 P.3d 309, 313 (2022). Plaintiffs have alleged that the Petition  
19 violates each of the foregoing legal grounds identified by *Helton*. The Intervenor-Defendant argues  
20 that the Petition meets each of the foregoing legal standards.

#### 21 The Single-Subject Requirement

22 2. NRS 295.009(1)(a) provides that an initiative petition *must* embrace *only* "one subject  
23 and matters necessarily connected therewith and pertaining thereto." An initiative petition embraces  
24 one subject "if the parts of the proposed initiative or referendum are functionally related and germane  
25 to each other in a way that provides sufficient notice of the general subject of, and of the interests likely



1 to be affected by, the proposed initiative or referendum.” NRS 295.009(2).

2       3.       “The single-subject requirement ‘facilitates the initiative process by preventing petition  
3 drafters from circulating confusing petitions that address multiple subjects.’” *Helton*, 138 Nev., Adv.  
4 Op. 45, 512 P.3d at 314 (quoting *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894,  
5 902, 141 P.3d 1235, 1240 (2006)). “[T]he single-subject requirement helps both in promoting informed  
6 decisions and in preventing the enactment of unpopular provisions by attaching them to more attractive  
7 proposals or concealing them in lengthy, complex initiatives (i.e., logrolling).” *Id.* (internal quotation  
8 marks omitted). “[L]ogrolling occurs when two or more completely separate provisions are combined  
9 in a petition . . . .” *Id.* at 315 (internal quotation marks omitted). In ascertaining whether a petition  
10 violates the single-subject requirement, “[t]he court must first determine the initiative’s purpose or  
11 subject and then determine if each provision is functionally related and germane to each other and the  
12 initiative’s purpose or subject.” *Helton*, 138 Nev., Adv. Op. 45, 512 P.3d at 314. “To determine the  
13 initiative’s purpose or subject, this court looks to its textual language and the proponents’ arguments.”  
14 *Id.* (internal quotation marks omitted). “The court also will look at whether the description of effect  
15 articulates an overarching purpose and explains how provisions relate to a single subject.” *Id.*

16       4.       This Court agrees with Plaintiffs that the Petition embraces a multitude of subjects that  
17 amount to logrolling. Subsection 1, alone, embraces the following subjects: prenatal care, childbirth,  
18 postpartum care, birth control, vasectomy, tubal ligation, abortion, abortion care, management of a  
19 miscarriage, and infertility care. Subsection 1 purportedly creates a “fundamental right to reproductive  
20 freedom,” but there is no limiting language in that section to circumscribe that right such that the  
21 section embraces a single and articulable subject. For instance, it is unclear how a vasectomy relates to  
22 infertility care or postpartum care. Likewise, it is unclear how postpartum care is related to abortions or  
23 birth control. Thus, it is improper to characterize these broad categories as a “single subject” because  
24 there is no explanation as to how these provisions are functionally related.

25 ///

1           5.       The Petition also creates several laws that are not functionally related and/or germane to  
2 the proposed “right to reproductive freedom.” First, subsection 2 would allow the State to regulate an  
3 abortion after fetal viability, but the State would be *prohibited* from regulating a viable fetus if a  
4 “provider of health care” indicated that an abortion was necessary to “protect the life or physical or  
5 mental health of the pregnant individual.” The petition does not define the term “provider of health  
6 care,” but other Nevada law defines that term to include physician assistants, dentists, nurses, physical  
7 therapists, chiropractors, optometrists, and psychologists. *See* NRS 41A.017. It is unclear how  
8 subsection 2 functionally relates to postpartum care, birth control, vasectomy, tubal ligation,  
9 vasectomies, and infertility care.

10           6.       Subsection 3 of the Petition would prohibit the State from penalizing or prosecuting any  
11 person based on the “actual, potential, perceived or alleged outcome of the pregnancy of the individual,  
12 including, without limitation, a miscarriage, stillbirth or abortion.” This section of the Petition would  
13 essentially bar the State from making any investigation of a miscarriage or stillbirth. It is unclear how  
14 this provision functionally relates to postpartum care, birth control, tubal ligation, vasectomies, and  
15 infertility care.

16           7.       Subsection 4 of the Petition would prohibit the State from penalizing, prosecuting, or  
17 “taking adverse action against” any “provider of health care” for acting within the standard of care in  
18 performing an abortion. It is unclear how this provision functionally relates to postpartum care, birth  
19 control, tubal ligation, vasectomies, and infertility care.

20           8.       Subsection 5 of the Petition prohibits the State from penalizing or prosecuting any  
21 person or entity that aids or assists another person in “exercising the right of the individual to  
22 reproductive freedom with the voluntary consent of the individual.” It is unclear how this provision  
23 functionally relates to postpartum care, birth control, tubal ligation, vasectomies, and infertility care.

24           9.       These provisions constitute logrolling because they regulate separate conduct but are  
25 placed in the same Petition. Subsections 2-5 of the Petition pertain to various abortion rights, and do



1 not address postpartum care, birth control, tubal ligation, vasectomies, and/or infertility care. Thus,  
2 subsection 1 of the Petition is not “functionally related and germane” to the provisions in Subsections  
3 2-5. *See Helton*, 138 Nev., Adv. Op. 45, 512 P.3d at 314.

4       10. Intervenor-defendant contends that the Petition contemplates a single subject in  
5 compliance with NRS 295.009(1)(a) because it embraces a single “framework,” *i.e.*, reproductive care.  
6 The alleged framework of the Petition is “ensuring freedom of care, access to care, and decision-  
7 making among individuals and health care providers in the realm of reproduction.” This “framework”  
8 language is taken from *Helton*, 138 Nev. Adv. Op. 45, 512 P.3d at 314, which found that a petition that  
9 proposed (1) primaries with open voting and (2) general elections with ranked-choice voting presented  
10 a single subject because it was a “framework” governing how officials are elected. The Court then  
11 looked to the textual language of the petition and the proponents arguments, and verified that the  
12 purpose of both provisions was to create a framework for voting. *See id.* The Court contrasted the  
13 petition’s framework for electing officials versus the “*mechanics*” of voting like early voting, absentee  
14 ballots, voting machines, and paper ballots. *See id.*

15       11. Unlike the facts in *Helton*, it is unclear what “framework” the Petition applies, especially  
16 when its textual provisions are compared. This Petition would expressly apply to “prenatal care,  
17 childbirth, postpartum care, birth control, vasectomy, tubal ligation, abortion, abortion care,  
18 management of a miscarriage, and infertility care.” While the Intervenor-Defendant states that the  
19 supposed framework on these topics “enables individuals to make and carry out decisions about matters  
20 relating to [reproductive health],” it cites *no* provision in the Petition that effectuates, defines, or  
21 constrains this “framework.” Thus, unlike the petition in *Helton*—which could be reduced to a  
22 framework for electing officials—the subjects contained in this petition cannot be confined to a single  
23 operative framework. In other words, there is no criteria, *i.e.*, framework, for effectuating this right to  
24 “make and carry out decisions.”

25       12. Existing statutory laws addressing reproductive health also underscore the breadth of the

1 Petition and show that it does not contain a single subject. For instance: (1) Birth Control is addressed  
2 in NRS 422.308, NRS 442.080, and NRS 449.1885; (2) Post-Partum and/or Prenatal Care is addressed  
3 in NRS 698A.0419, NRS 689C.194, NRS 689B.03785, NRS 422.27177, and other related statutes; (3)  
4 Miscarriage is addressed in NRS 614.4383; (4) Tubal Ligation is addressed in NRS 449.198; (5)  
5 Abortion is addressed in NRS 442.250, *et seq.*, and NRS 689A.042; (6) Vasectomies are addressed in  
6 NRS 442.725; and (7) Infertility Care is addressed in NRS 126.510. This list, which includes only a  
7 partial list of applicable statutes, highlights the breadth of the Petition. The Legislature could not  
8 reduce “reproductive health” into a single statute, let alone a single statutory chapter, and therefore had  
9 to compartmentalize this broad swath of conduct into multiple statutes contained in various parts of the  
10 Nevada Revised Statutes. The Petition addresses all of this conduct in several paragraphs without an  
11 articulable framework.

12 13. Further, after reviewing the pleadings on file, this Court did not find arguments to show  
13 how the proposed “framework” ties into subsections 2-5 of the Petition.

14 14. In sum, this Court concludes that the Petition constitutes logrolling and does not  
15 encompass a single subject. Accordingly, the Petition violates of NRS 295.009(1)(a).

#### 16 Description of Effect

17 15. NRS 295.009(1)(b) provides that the initiative petition must set forth in no more than  
18 200 words “a description of effect of the initiative.” “The description of effect facilitates the  
19 constitutional right to meaningfully engage in the initiative process by helping to prevent voter  
20 confusion and promote informed decisions.” *Helton*, 138 Nev. Adv. Op. 45, 512 P.3d at 316. “A  
21 description of effect ‘must be a straightforward, succinct, and nonargumentative summary of what the  
22 initiative is designed to achieve and how it intends to reach those goals.’” *Id.* (quoting *Educ. Initiative*  
23 *PAC v. Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013)). Also, a description of  
24 effect cannot be “deceptive or misleading.” *Id.* at 42, 293 P.3d at 879 (internal quotation marks  
25 omitted). The Nevada Supreme Court has held that a description of effect is misleading if it “omits the



1 need for or nature of the revenue source to fund” the proposal in the Petition. *See Educ. Freedom PAC*  
2 *v. Reid*, 138 Nev., Adv. Op. 47, 512 P.3d 296, 304 (2022).

3 16. The Petition’s description of effect is misleading because it fails to mention that the law  
4 will bar the State from prosecuting, fining, or regulating any miscarriage or stillbirth. Instead, the  
5 description of effect vaguely states, “the State may not penalize, prosecute, or take adverse action  
6 against any individual based on the outcome of the pregnancy of the individual.” This is misleading  
7 because it does not delineate the fact that the Petition will prevent the State from investigating and/or  
8 taking action against any miscarriage or stillborn birth.

9 17. The description of effect is also misleading because it fails to mention that a “provider of  
10 health care,” which is an undefined term, has the power to order a late-term abortion if it is “medically  
11 indicated” to protect the physical or mental health of the pregnant individual. For this reason, voters  
12 are misled into believing that a physician would be empowered to determine that the mother’s physical  
13 or mental well-being requires an abortion. In reality, any “provider of health care,” which is broadly  
14 defined under existing Nevada law, *see* NRS 41A.017, would seemingly be able to approve a late-term  
15 abortion. Likewise, the term “medically indicated” is undefined, which misleads voters into believing  
16 that there is a specific set of criteria to determine when the mother’s physical or mental health requires  
17 an abortion.

18 18. The description of effect also is misleading because it fails to explain that it affects  
19 “equality” and “equal protection.” Subsection 6 of the Petition provides that “[n]othing herein narrows  
20 or limits the rights to equality and equal protection.” While the right to “equal protection” is well  
21 established in American jurisprudence, it is unclear what the term “equality” means legally. In any  
22 event, the description of effect wholly omits that it will impact the constitutional right of equal  
23 protection or a newly identified right to equality.

24 19. Additionally, the enactment of the Petition would fundamentally alter the statutes listed  
25 in Paragraph 12 of this Court’s Conclusions of Law. The description of effect does not mention this.

20. The Intervenor-Defendant argues that the description of effect is not misleading because it sets forth its terms “with admirable clarity.” Yet, the Intervenor-Defendant does not identify how the description of effect adequately addresses the foregoing concerns. Given the breadth of this petition, it is unclear how the Intervenor-Defendants could describe it accurately in 200-words, which further supports this Court’s conclusion that the Petition fails to embrace a single subject.

21. In sum, this Court concludes that the description of effect is misleading and violates NRS 295.009(1)(b).

### Unfunded Mandate

22. Article 19, Section 6 of the Nevada Constitution provides that the initiative power “does not permit the proposal of any statute or statutory amendment which makes an appropriation or otherwise requires the expenditure of money, unless such . . . amendment also imposes a sufficient tax, not prohibited by the Constitution, or otherwise constitutionally provides for raising the necessary revenue.” Thus, “all initiative petitions must comply with Article 19, Section 6’s requirement that initiatives requiring expenditures or appropriations contain a funding provision.” *Educ. Freedom PAC v. Reid*, 138 Nev., Adv. Op. 47, 512 P.3d 296, 303 (2022). “[A]n initiative that makes an appropriation or requires an expenditure of money is void if it does not also provide for the necessary revenue.” *Reid*, 138 Nev., Adv. Op. 47, 512 P.3d at 303.

23. Subsection 4 of the Petition would prohibit the State from penalizing, prosecuting, or otherwise taking adverse action against “a provider of health care” for acting within the standard of care for performing an abortion or providing abortion care. Only doctors and other providers of health care would be in a position to testify as to the applicable standard of care. *See* NRS 41A.071(2) (contemplating that only an *expert* who practices in a medical field can render an opinion as to the standard of care). Thus, funding would need to be appropriated to create a Panel or Board—most likely under the supervision of the Nevada Board of Medical Examiners—to evaluate whether a provider of health care performed an abortion within the standard of care. Yet, the Petition does not set forth a



1 revenue source to create this board or panel. *See Educ. Freedom PAC v. Reid*, 138 Nev., Adv. Op. 47,  
2 512 P.3d 296, 303 (2022). If no board is created, as Plaintiff suggests, then the plain meaning of the  
3 Petition would be rendered meaningless because there would be no legal entity to ascertain whether a  
4 provider of healthcare acted within the standard of care. This is an unfunded mandate.

5 24. This Court concludes that the Petition contains an unfunded mandate in violation of  
6 Article 19, Section 6 of the Nevada Constitution.

7 25. Any conclusion of law that is more properly characterized as a finding of fact shall be  
8 duly incorporated into this Court's Findings of Facts.

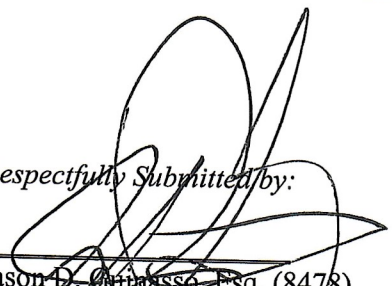
9 **[PROPOSED] ORDER**

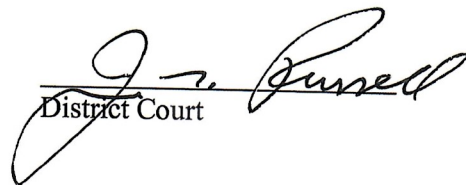
10 THE COURT HEREBY ORDERS, ADJUDGES, and DECREES that Initiative Petition C-01-  
11 2023 does not embrace a single subject, contains a misleading description of effect, and contains an  
12 unfunded mandate. Therefore, it violates NRS 295.009 and Article 19, Section 6, of the Nevada  
13 Constitution.

14 THE COURT FURTHER ORDERS, ADJUDGES, AND DECREES that the Nevada Secretary  
15 of State shall be enjoined from placing Initiative Petition C-01-2023 on the ballot.

16 IT IS SO ORDERED.

17 Dated this 21st day of November 2023.

18  
19  
20 Respectfully Submitted by:  
21   
22 Jason D. Guinasso, Esq. (8478)  
23 HUTCHISON & STEFFEN, PLLC  
24 5371 Kietzke Lane  
25 Reno, Nevada 89511  
Telephone: (775) 853-8746  
[jguinasso@hutchlegal.com](mailto:jguinasso@hutchlegal.com)  
Attorney for Plaintiffs

  
District Court