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BY *Stenderson* CLERK DEPUTY

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

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

Case No.: 23 OC 00149 1B

Dept. No.: I

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.

FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER

This matter came before this Court following Intervenor-Defendant Nevadans For Reproductive Freedom ("Intervenor-Defendant" or "Proponent") filing a motion to dismiss Plaintiffs Donna Washington and Coalition For Parents And Children ("Plaintiffs") complaint. The complaint, filed on December 28, 2023, pursuant to NRS 295.061, challenges the legal sufficiency of the proposed initiative petition known as Nevada Constitutional Initiative C-05-2023, the Nevada Reproductive Rights Amendment (the "Petition"). The Petition was filed with the Nevada Secretary of State on or about December 6, 2023, by Caroline Roberson, on behalf of Proponent.¹

¹ On January 8, 2024, the parties stipulated to allowing Intervenor-Defendant Nevadans For Reproductive Freedom to intervene in this litigation.

BRAVO SCHRAGER LLP

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1 Plaintiffs filed an opposition to the motion to dismiss, and Proponent filed a reply.

2 The Court, having reviewed the papers and pleadings on file, considered the
3 matter, being fully advised, and good cause appearing, finds, concludes, and orders
4 as follows:

5 **FINDINGS OF FACT AND CONCLUSIONS OF LAW²**

6 **A. FINDINGS OF FACT**

7 On December 6, 2023, Caroline Roberson, on behalf of Intervenor-Defendant,
8 filed the Petition with the Secretary. The Petition seeks to add a new section to
9 Article I of the Nevada Constitution establishing a fundamental, individual right to
10 abortion.

11 The Petition includes a description of effect as required by NRS 295.009(1)(b),
12 which reads, in full:

13 If enacted, this initiative would add a new section to Article 1 of the
14 Nevada Constitution establishing a fundamental, individual right to
15 abortion. This initiative enables individuals to make and carry out
16 decisions about matters relating to abortion without interference
17 from state or local governments. If this measure is enacted, the State
still may regulate provision of abortion after fetal viability, which is
defined in the measure, except where necessary to protect the life or
health of the pregnant individual.

18 Pursuant to NRS 295.061, Plaintiffs initiated this action by filing a complaint
19 on December 28, 2023, and Plaintiffs contend that the Petition is invalid under the
20 Nevada Constitution and pertinent state statutes for two reasons. First, Plaintiffs
21 argue that the Petition's description of effect is inadequate. And secondly, Plaintiffs
22 argue that the Petition contains an unfunded mandate in violation of Article 19,
23 Section 6 of the Nevada Constitution. Proponent filed a motion to dismiss on January
24 9, 2024, and Plaintiffs filed an opposition to the motion to dismiss, and Proponent
25 filed a reply in support of the motion to dismiss.

26 _____
27 ² Any findings of fact which are more appropriately considered conclusions of
28 law shall be treated as such, and any conclusions of law which are more appropriately
considered findings of fact shall be treated as such.

1 **B. CONCLUSIONS OF LAW**

2 **1. The Petition's description of effect is legally adequate**

3 Under NRS 295.009(1)(b), every initiative must "[s]et forth, in not more than
4 200 words, a description of the effect of the initiative or referendum if the initiative
5 or referendum is approved by the voters." The purpose of the description is to "prevent
6 voter confusion and promote informed decisions." *Nevadans for Nev. v. Beers*, 122
7 Nev. 930, 939, 142 P.3d 339, 345 (2006). Thus, "[t]he importance of the description of
8 effect cannot be minimized, as it is what the voters see when deciding whether to
9 even sign a petition." *Coal. for Nev.'s Future v. RIP Com. Tax, Inc.*, No. 69501, 2016
10 WL 2842925 at *2 (2016) (unpublished disposition) (citing *Educ. Initiative PAC v.*
11 *Comm. to Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013)). "[T]he
12 description of effect may hold even more impact with respect to a referendum, since
13 merely gathering sufficient signatures to place a referendum on the ballot guarantees
14 a change to the law regardless of the election's outcome." *Id.* (citing Nev. Const. art.
15 19, § 1(3) (providing that, if the voters approve the referendum, the statute "shall
16 stand as the law of the state and shall not be amended, annulled, repealed, set aside,
17 suspended or in any way made inoperative except by the direct vote of the people,"
18 and if the voters disapprove the statute or resolution, it is rendered void)).

19 The Nevada Supreme Court has repeatedly held that "a description of effect
20 must be straightforward, succinct, and non-argumentative, and it must not be
21 deceptive or misleading." *Educ. Initiative PAC*, 129 Nev. at 42, 293 P.3d at 879
22 (internal quotation marks and citation omitted). It must also "explain the[]
23 ramifications of the proposed amendment" in order to allow voters to make an
24 informed decision. *Nev. Judges Ass'n v. Lau*, 112 Nev. 51, 59, 910 P.2d 898, 903
25 (1996).

26 This Court finds that the Petition's description of effect meets the
27 requirements of Nevada law. The Petition's description of effect describes the aims of
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1 the proposed constitutional amendment, its terms, and its effects, with clarity. The
2 Court finds that Plaintiffs fail to meet the burden of showing that the Petition's
3 description of effect does not comply with NRS 295.009. The Petition's description
4 satisfies Nevada's requirement as its plain language is straightforward, succinct, and
5 non-argumentative.

6 **2. The Petition does not contain an unfunded mandate**

7 Article 19, section 2(1) of the Nevada Constitution provides that the initiative
8 process is "subject to the limitations of Article 19, Section 6, which "does not permit
9 the proposal of any statute or statutory amendment which makes an appropriation
10 or otherwise requires the expenditure of money, unless such statute or amendment
11 also imposes a sufficient tax, not prohibited by the constitution, or otherwise
12 constitutionally provides for raising the necessary revenue." As the Nevada Supreme
13 Court holds, Section 6 applies to all proposed initiatives. *Rogers v. Heller*, 117 Nev.
14 169, 173, 18 P.3d 1034, 1036 (2001). The primary purpose behind this requirement is
15 to ensure that no initiative is presented to the voters without funding provisions when
16 the initiative requires an appropriation or expenditure.

17 "[A]n appropriation is the setting aside of funds, and an expenditure of money
18 is the payment of funds." *Rogers v. Heller*, 117 Nev. 169, 173, 18 P.3d 1034, 1036
19 (2001). "A necessary appropriation or expenditure in *any* set amount or percentage is
20 a new requirement that otherwise does not exist." *Id.*, 117 Nev. at 176. "[A]n initiative
21 makes an appropriation or expenditure when it leaves budgeting officials no
22 discretion in appropriating or expending the money mandated by the initiative—the
23 budgeting official must approve the appropriation or expenditure, regardless of any
24 other financial considerations." *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 890, 141
25 P.3d 1224, 1233 (2006).

26 Here, this Court finds that Plaintiffs do not provide any evidence regarding the
27 expected unfunded expenditures or costs they insist come along with the Petition.

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1 The Court rejects Plaintiffs' argument that the Petition "would clearly *require* a
2 funding source" as it is unsupported by any evidence or by law. The Court finds that
3 Plaintiffs fail to meet the burden of showing that the Petition violates Article 19,
4 Section 6 of the Nevada Constitution.

5 **ORDER**

6 Based on the foregoing findings of fact and conclusions of law:

7 IT IS THEREFORE ORDERED and declared that Initiative Petition C-05-
8 2023's description of effect meets the requirements of Nevada law.


9 IT IS FURTHER ORDERED and declared that Initiative Petition C-05-2023
10 does not contain an unfunded mandate.

11 IT IS FURTHER ORDERED that Plaintiffs' challenges to Initiative Petition
12 C-05-2023 are rejected, and Plaintiffs' complaint is dismissed with prejudice.

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14 Dated this 24th day of January, 2024.

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16 
District Court Judge

17 Respectfully Submitted by:

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19
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26 *Attorneys for Intervenor-Defendant*
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1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District
3 Court, and that on January 24, 2024, I deposited for mailing, postage paid, at Carson City,
4 Nevada, a true and correct copy of the foregoing Order addressed as follows:

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