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WILLIAM SCOTT HOEN
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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

UBER SEXUAL ASSAULT SURVIVORS
FOR LEGAL ACCOUNTABILITY AND
NEVADA JUSTICE ASSOCIATION,

Plaintiff,

vs.

UBER TECHNOLOGIES, INC., A
DELAWARE CORPORATION; MATT
GRIFFIN, JOHN GRIFFIN, SCOTT GILLES,
AND TIA WHITE, INDIVIDUALS;
NEVADANS FOR FAIR RECOVERY, A
REGISTERED NEVADA POLITICAL
ACTION COMMITTEE; AND FRANCISCO
AGUILAR, IN HIS OFFICIAL CAPACITY
AS NEVADA SECRETARY OF STATE,

Defendant

Case No.: 24 OC 00056 1B

Dept No. 1

**FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER DENYING
PLAINTIFFS' LEGAL CHALLENGE TO INITIATIVE PETITION S-04-2024**

This matter came before this Court following a complaint filed by Plaintiffs Uber Sexual Assault Survivors for Legal Accountability and Nevada Justice Association (collectively, "Plaintiffs") challenging the legal sufficiency of Initiative Petition S-04-2024 (the "Petition").

On March 18, 2024, Tia White, on behalf of Nevadans for Fair Recovery, filed the Petition with the Nevada Secretary of State. On April 8, Plaintiffs filed their complaint, pursuant to NRS

1 295.061. After briefing according to a schedule to which the parties stipulated, the Court held a
2 hearing on May 6, 2024, regarding Plaintiffs' legal challenge to the Petition.

3 As indicated by this Court in all initiative hearings, this Court takes no position as to the
4 merit of the initiative but seeks to determine if the requirements of NRS 295.009, et al and Article
5 19 of the Nevada Constitution have been complied with.

6 Initially, the Court would note that Plaintiffs have made strong argument's as to the
7 initiative having the effect of precluding access to legal counsel, reducing the reimbursement to
8 the State Medicaid fund, and changing the calculation of contingent fees by removal of medical
9 expenses from the calculations thereof. All of these arguments against the initiative may or may
10 not have merit, but are not dermane to whether the requirements of NRS 295.009 and Article 19
11 of the Nevada Constitution have been complied with.

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

14 **FINDINGS OF FACT AND CONCLUSIONS OF LAW¹**

15 **A. FINDINGS OF FACT**

16 **1. Initiative Petition S-04-2024**

17 On March 18, 2024, Tia White, on behalf of Nevadans for Fair Recovery, filed the Petition
18 with the Nevada Secretary of State. The Petition seeks to amend Title 1, Chapter 7 of the Nevada
19 Revised Statutes by adding a new section thereto that seeks to limit the fees an attorney can charge
20 and receive in a civil case in Nevada to 20% of any amount or amounts recovered, beginning in
21 2027.

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26 ¹ Any findings of fact which are more appropriately considered conclusions of law shall be
27 treated as such, and any conclusions of law which are more appropriately considered findings of fact
28 shall be treated as such.

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

3 If enacted, this initiative will limit the fees an attorney can
4 charge and receive as a contingency fee in a civil case in Nevada to 20% of any
5 amount or amounts recovered, beginning in 2027.

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7 In Nevada currently, most civil cases do not limit an attorney's
8 contingent fee percentages, except that such fees must be reasonable. Current
9 law does, however, limit attorney fees in medical malpractice cases to 35% of
10 any recovery, and caps contingency fees for a private attorney contracted to
11 represent the State of Nevada to 25% of the total amount recovered.

12 **2. Procedural History**

13 On April 8, Plaintiffs filed their complaint, pursuant to NRS 295.061, challenging the legal
14 sufficiency of the Petition. On April 12, Plaintiffs filed a memorandum in support of their
15 complaint.

16 On April 16, the parties stipulated to, and the Court ordered, a briefing schedule for this
17 matter. On April 19, Defendants Uber Technologies, Inc., Matt Griffin, John Griffin, Scott Gilles,
18 Tia White, and Nevadans for Fair Recovery (collectively, "Defendants") filed a response
19 memorandum. After briefing, this Court held a hearing on the matter on May 6.

20 As an initial matter, it is important to state that at hearing both parties agreed that in a pre-
21 election challenge to an initiative petition, the only issues for the Court concern whether the
22 Petition complies with the requirements of NRS 295.009 and any pertinent procedural provisions
23 of Article 19 of the Nevada Constitution. The Court does not inquire into, and does not consider,
24 either the substantive validity of the proposal or the positive or negative qualities, as policy, of its
25 provisions.
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1 **B. CONCLUSIONS OF LAW**

2 **1. The Petition Does Not Violate Nevada’s Single Subject Rule**

3 NRS 295.009(1) provides that “[e]ach petition for initiative or referendum must ...
4 [e]mbrace but one subject and matters necessarily connected therewith and pertaining thereto.”
5 Subsection 2 of that statute explains that an initiative “embraces but one subject and matters
6 necessarily connected therewith and pertaining thereto, if the parts of the proposed initiative ... are
7 functionally related and germane to each other in a way that provides sufficient notice of the
8 general subject of, and of the interests likely to be affected by, the proposed initiative.” NRS
9 295.009(2).

10 The single-subject requirement “facilitates the initiative process by preventing petition
11 drafters from circulating confusing petitions that address multiple subjects.” *Nevadans for the Prot.*
12 *of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 902, 141 P.3d 1235, 1240 (2006). Thus, “the single-
13 subject requirement helps both in promoting informed decisions and in preventing the enactment
14 of unpopular provisions by attaching them to more attractive proposals or concealing them in
15 lengthy, complex initiatives (i.e., logrolling).” *Las Vegas Taxpayer Accountability Comte. v. City*
16 *Council of City of Las Vegas*, 125 Nev. 165, 176-77, 208 P.3d 429, 436-37 (2009).

17 In considering single-subject challenges, courts must first determine the initiative’s
18 purpose or subject. “To determine the initiative’s purpose or subject, this court looks to its textual
19 language and the proponents’ arguments.” *Las Vegas Taxpayer*, 125 Nev. at 180, 208 P.3d at 439.
20 Courts also will look at whether the description of effect articulates an overarching purpose and
21 explains how provisions relate to a single subject. *Id.*

22 Furthermore, and most recently, in *Helton v. Nevada Voters First PAC*, 138 Nev. Adv. Op.
23 45, 512 P.3d 309 (2022), the Nevada Supreme Court stated that “even if an initiative petition
24 proposes more than one change, each of which could be brought in separate initiative petitions,
25 the proper consideration is whether the changes are functionally related and germane to each other
26 and the petition’s subject.” *Id.*, 512 P.3d at 314. The Court found that “(b)oth categories of changes
27 proposed in the ... initiative concern the election process in Nevada and more specifically how
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1 candidates for the specifically defined partisan offices are presented to voters and elected.” *Id.*,
2 512 P.3d at 314-15.

3 In this case, the Court finds that the primary purpose of the Petition, clear from both its text
4 and the description of effect, is *the limitation of contingency fees in civil cases*. Further, the Court
5 finds that the Petition’s text, its description of effect, and the arguments of the Defendants in
6 briefing and at hearing confirm the Petition’s primary purpose. And unlike the petition at issue in
7 *Helton*, for example, the Petition does not appear to present multiple changes that could be
8 considered to be unrelated in any event. Section 1 sets out the substantive purpose of the proposal;
9 Section 2 describes the scope of Section 1’s proposal; and Section 3 provides a definition of
10 “recovered,” for purposes of the proposed new statute. All three sections of the Petition, therefore,
11 are functionally related and germane both to the primary purpose of the Petition and to one another.

12 The Court is unconvinced by Plaintiffs’ arguments because Plaintiffs have not identified
13 multiple “subjects” under any reading of Nevada statutory or case law authority.² For example, the
14 fact that the term “civil cases” covers more than one type of civil action does not constitute a
15 single-subject violation, because the primary purpose of the Petition is the limitation of
16 contingency fees in civil cases generally. *See, e.g.*, Nev. R. Civ. Proc., 1, 2, and 3.

17 The Court finds the Petition does not violate NRS 295.009(1)(a)’s single-subject
18 requirement.

19 2. The Petition Does Not Violate Article 19, Section 3’s “Full-Text” Requirement

20 Under Article 19, Section 3 of the Nevada Constitution, proponents must “include the full
21 text of the measure proposed” with a filed initiative petition. Nev. Const. art. 19, § 3. Plaintiffs
22 contend that some other statutory text beyond that which proponents have proposed should be
23 included with the Petition, because they speculate that the Petition, should it become law, may

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26 ² *See Helton*, 512 P.3d at 315 n.5: “A *subject* is the overall thing being discussed, whereas a change is the
27 alteration or modification of existing law. *See* ‘Subject,’ *Black’s Law Dictionary* (11th ed. 2019) (defining “subject”
28 as “[t]he matter of concern over which something is created”).”

1 have some future effect on those other provisions of law. The Court disagrees that this is what
2 Article 19, Section 3 requires, and finds that every provision that is proposed to be circulated for
3 signatures and to be considered by the electorate is included with the filed Petition, and that
4 therefore there is no violation of the full-text requirement. To rule otherwise would not only be
5 speculative, but would interfere unnecessarily with the people's right to the initiative power, if
6 each proposed petition had also to contain the text of any and all other laws that might possibly be
7 affected by the petition's enactment.

8 **3. The Petition's Description Of Effect Is Legally Adequate**

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

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

3 This Court finds that the Petition's description of effect meets the requirements of Nevada
4 law. The description of effect is straightforward, succinct, under 200 words, and there is no basis
5 for a finding of any argumentative language as written. The Court finds that Plaintiffs fail to meet
6 their burden of showing that the Petition's description of effect does not comply with NRS 295.009.

7 With their Complaint, Plaintiffs filed numerous declarations regarding the opinions of
8 multiple persons in various fields regarding what Plaintiffs believe may be the eventual effects of
9 the Petition should it one day become law, including what they contend are potential effects on
10 government programs, like Medicaid, that can receive reimbursement funds through subrogation
11 claims upon settlement or damages awards at the conclusion of civil actions. The Court makes no
12 findings regarding the truth or falsity of the claims in Plaintiffs' declarations, but believes these
13 sorts of potential effect to be too speculative and hypothetical to be required to be included in the
14 Petition's description. Most of the speculative effects Plaintiffs identify "do not concern the
15 initiative's primary goal," and instead "involve how the initiative may apply in a variety of
16 hypothetical situations." *Nevadans for Reproductive Freedom v. Washington*, 140 Nev. Adv. Op.
17 28, 2024 WL 1688083, at *5 (Nev. Apr. 18, 2024).

18 Furthermore, these and any other perceived effects of the Petition upon which Plaintiffs or
19 their declarants opine can be the subject of political speech, lobbying efforts, or campaign materials
20 in opposition to the passage and enactment of the Petition when, and if, it is transmitted to the
21 Nevada Legislature or qualifies for placement on the ballot at a general election ballot. As the
22 Supreme Court has noted, "the description of effect ... does not serve as the full, detailed
23 explanation, including arguments for and against, that voters receive prior to a general election,"
24 and "once enough signatures have been gathered to place the initiative on the ballot, the Secretary
25 of State will draft a neutral summary of the initiative, which does not have a word limit, and
26 committees will draft arguments for and against the passage of the initiative, both of which will be

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1 placed on the ballot, instead of the description of effect.” *Helton*, 512 P.3d at 317 n.6. (citing *Educ.*
2 *Initiative PAC*, 129 Nev. at 39–40).

3 Additionally, because the description of effect of an initiative petition is, by law, limited in
4 length, it cannot constitutionally be required to delineate every downstream effect that an initiative
5 may have; to conclude otherwise could obstruct, rather than facilitate, the people’s right to the
6 initiative process. *Educ. Initiative PAC*, 129 Nev. at 38. In the words of the Nevada Supreme Court,
7 “an opponent of a ballot initiative [can often] identify some perceived effect of an initiative that is
8 not explained by the description of effect, challenge the initiative in district court, and block the
9 people’s right to the initiative process.” But the “[s]tatutes enacted to facilitate the initiative
10 process cannot be interpreted so strictly as to halt the process.” *Educ. Initiative PAC*, 129 Nev. at
11 47.

12 The Court finds the description of effect of the Petition
13 satisfies Nevada’s NRS 295.009 requirements, as the plain language of the description is
14 straightforward, succinct, and non-argumentative.

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

16 **IT IS HEREBY ORDERED** and declared that Initiative Petition
17 S-04-2024 does not violate Nevada’s single subject rule.

18 **IT IS HEREBY FURTHER ORDERED** and declared that Initiative Petition
19 S-04-2024’s description of effect meets the requirements of Nevada law.

20 **IT IS HEREBY FURTHER ORDERED** and declared that Initiative Petition
21 S-04-2024 does not violate Article 19, Section 3.

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IT IS FURTHER ORDERED that Plaintiffs' challenges to Initiative Petition S-04-2023 are rejected, and Plaintiffs' complaint is dismissed with prejudice.

Dated this 10th day of May, 2024.



JAMES T. RUSSELL
DISTRICT COURT JUDGE

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCF 5(b), I certify that I am an employee of the First Judicial District
3 Court, and that on May 10th, 2024, I deposited for mailing, postage paid, at Carson City,
4 Nevada, a true and correct copy of the foregoing Order addressed as follows:

5
6 Alex Velto, Esq.
7 Nathan Ring, Esq.
8 Reese Ring Velto PLLC
9 200 S Virginia Street, Suite 655
10 Reno, NV 89501
11 alex@rrvlawyers.com
12 nathan@rrvlawyers.com

13 Deepak Gupta, Esq.
14 Matthew W.H. Wessler, Esq.
15 Jonathan E. Taylor, Esq.
16 Thomas Scott- Railton, Esq.
17 Jessica Garland, Esq.
18 Gupta Wessler, LLP
19 2001 K Street, NW
20 Washington, DC 20001
21 deepak@guptawessler.com

22 Bradley S. Schrage, Esq.
23 Daniel Bravo, Esq.
24 Bravo Schrage LLP
25 6675 South Tenaya Way, Suite 200
26 Las Vegas, NV 89113
27 bradley@bravoschrager.com
28 daniel@bravoschrager.com

Aaron D. Ford, Attorney General
Laena St-Jules, Senior Deputy Attorney General
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717
lstjules@ag.nv.gov

26 

27 Julie Harkleroad
28 Judicial Assistant, Dept. 1