

1 3795
LINDSAY L. LIDDELL
2 Deputy District Attorney
Nevada State Bar Number 14079
3 ELIZABETH HICKMAN
Deputy District Attorney
4 Nevada State Bar Number 11598
One South Sierra Street
5 Reno, NV 89501
lliddell@da.washoecounty.gov
6 ehickman@da.washoecounty.gov
(775) 337-5700

7 ATTORNEYS FOR DEFENDANTS

8
9 **IN THE SECOND JUDICIAL DISTRICT COURT**
10 **OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE**

11
12 * * *

13 ROBERT BEADLES, an individual,

14 Plaintiff,

Case No. CV23-01341

15 vs.

Dept No. D9

16 JAMIE RODRIGUEZ, in her official
17 capacity as Registrar of Voters and in her
personal capacity; the WASHOE COUNTY
18 REGISTRAR OF VOTERS, a government /
agency; ERIC BROWN in his official
19 capacity as WASHOE COUNTY
MANAGER and in his personal capacity,
20 ALEXIS HILL in her official capacity as
CHAIRWOMAN OF WASHOE
21 COUNTY BOARD OF
COMMISSIONERS and in her personal
22 capacity; WASHOE COUNTY, a political
subdivision of the State of Nevada, and
23 DOES I-X; and ROE CORPORATIONS I-
X.

24 Defendants.

25 **REPLY IN SUPPORT OF MOTION TO DISMISS**

26 //

1 Defendants Jamie Rodriguez (“Ms. Rodriguez”), the Office of the Washoe County
2 Registrar of Voters, Washoe County Manager Eric Brown (“Manager Brown”), Washoe
3 County Commissioner Alexis Hill (“Commissioner Hill”), and Washoe County, by and
4 through counsel, DDA Lindsay Liddell, hereby file their Reply in Support of Motion to
5 Dismiss. This Reply is based on NRCP 12(b)(5) and the following Memorandum of Points
6 and Authorities.

7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 **I. INTRODUCTION**

9 Plaintiff Robert Beadles (“Beadles”) is not empowered to dictate how Washoe
10 County’s elections are conducted. Beadles is not the Nevada legislature, nor the Nevada
11 Secretary of State. He does not have the power to enact the laws governing elections or
12 implement regulations on how elections are conducted or how election complaints should
13 be handled. Beadles’s preferences for how elections should be conducted, how his
14 complaints should be addressed, and his various theories of past election fraud, which have
15 been soundly rejected by every competent court to address them, do not state viable claims
16 upon which relief can be granted.

17 The crux of this lawsuit is that Beadles disagrees with the way Washoe County
18 conducted past elections. He seeks removal of those he perceives as his enemies based on
19 his interpretation of what he believes Nevada election law should be, rather than what it
20 actually is. Beadles asks this Court to mandate that Washoe County use the processes that
21 he prefers in conducting elections, e.g. certain signature verifications, hand counting of all
22 ballot, individually responding to all his complaints. *Compl.* at ¶101. Beadles asks this
23 Court to ignore or declare unconstitutional those laws or processes that he does not like, i.e.
24 voting and tabulation machines, electronic ballots, NRS 293.269935(2) and NRS
25 293.3606(4), QR codes. *Compl.* at ¶101(ix-xv).

26 //

1 At 119 pages, the Opposition to Motion to Dismiss is long in length, but short in
2 substance. Beadles claims he is in a “courtroom” because an artificial intelligence platform
3 told him to do so. *Opp.* at 3. He claims he “is Paul Revere yelling throughout the streets of
4 Washoe County to this honorable court that election fraud isn’t coming; it’s already here.”
5 *Opp.* at 51. He includes two pages of arguing he has a right to a jury trial, which has no
6 bearing on the Motion to Dismiss. *Opp.* at 37–9. He includes two pages asserting that the
7 Secretary of State “is a fraud,” erroneously claims that the Secretary of State “passed a
8 bill,” that the Secretary of State fails to rectify election fraud “because it is convenient or
9 politically advantageous it is an abuse of their office,” and refers to the elections complaint
10 process as “Venezuela 2.0.” *Opp.* at 91–3. Hyperbole aside, these assertions have absolutely
11 no bearing on whether Plaintiff has viable claims against Defendants in this matter.

12 Beadles includes approximately fourteen pages setting forth calculations he states
13 prove the 2020 election was “rigged” *Opp.* 39–52. Based on his “formula,” he argues that
14 “Biden lost to Trump, Angie Taylor lost to Montognese, Devon Reese lost to Eddie Lorton,
15 and Alexis Hill lost to Marsha Berkbigler in the 2020 elections.” *Opp.* at 41. Notably,
16 Beadles’s “formula” and unqualified “expert” Edward Soloman have been previously
17 debunked by Governor Lombardo in last year’s Beadles-funded primary elections contest.¹
18 Affirming sanctions in that case, the Nevada Supreme Court recently held that:
19 “[s]ometimes, as is the case here, the issue is novel because it is so lacking in arguable merit
20 that no previous litigant has raised it.”² Allegations “that an election was affected by ‘a
21 predetermined algorithm’ and ‘illicit mathematics,’ with no legitimate explanation for how
22 that occurred, much less evidence to support those allegations, falls far short of being
23 ‘legitimate.’” *Id.* More to the point, Beadles’s mathematics have no bearing on whether he
24

25 ¹ Case no. 22 OC 000851B, filed in the First Jud. Dist. Ct. of the State of Nevada in and for Carson City.

26 ² *Mueller v. First Jud. Dist. Ct. in and for Cnty. of Carson City*, no. 86064, 2023 WL 5317951 at *3 (Aug. 17, 2023).

1 can state a claim for relief regarding his unanswered elections petitions or for removal
2 based on a public officer's official duties.

3 Regarding his first claim, he insists Defendants are "duty bound" to respond to his
4 petitions. *Opp.* pp. 3, 16, 58, 61, 74, 93. He provides no legal authority in support of his
5 argument, instead asking the Court to prescribe a legal duty out of fairness. *See id.* at pp.
6 19, 21, 93, 112 Regarding his second claim, he again insists Commissioner Hill, Manager
7 Brown, and Ms. Rodriguez committed nonfeasance or malfeasance in connection with a
8 legal duty. *Opp.* 79–91. He provides no legal authority that supports his contention. *Id.*
9 Additionally, he improperly attempts to rely on over one hundred fugitive documents he
10 filed as "supplemental exhibits."

11 The Opposition is saturated with disgruntled digressions³ on matters outside the
12 Complaint, and is inadequate to rebut the arguments raised in the Motion to Dismiss. A
13 Motion to Dismiss tests the sufficiency of the Complaint, i.e. whether the allegations in the
14 Complaint are sufficient to make out the elements of a right to relief. In this case, Beadles's

15
16 ³ Beadles dedicated four pages of his Opposition to aspersions and ad hominem attacks on DDA
17 Lindsay Liddell's ethics, integrity, and honesty. *Opp.* at 105–09. Beadles's personal attacks are designed to
18 impugn her character and reputation, and are made without a proper purpose, justification, accuracy, or
19 excuse. More importantly, the attacks serve only to distract from the lack of merit to the Opposition.

20 He suggests DDA Lindsay Liddell is colluding with her clients to engage in some kind of elections
21 fraud cover-up. *Opp.* at 107. Notwithstanding the District Attorney's legal duty to defend suits brought
22 against the County, he claims her representation is "shielding county officers from accountability." *Id.*;
23 NRS 252.110(2). He erroneously claims DDA Liddell's representation is a "cloak" to disguise her
24 "partnership" in election fraud. *See Opp.* at 107. He alleges she is somehow colluding with the media in an
25 "unholy alliance." *Opp.* at 105–06. He falsely asserts that Rule 11 letters are confidential—they are not—and
26 then attacks DDA Liddell's professionalism. *Id.* He falsely claims she violated Rules of Professional
Conduct 3.6, Trial Publicity, but omits the Rule's exception regarding information contained in a public
record. *Id.*; RPC 3.6(b)(2). He fails to include the only comment her office provided to the media, which
was that Beadles's claims were disputed and would be vigorously defended. Moreover, there is no support
for the erroneous conclusion that she has personally spoken to any media representatives regarding Beadles
or his lawsuits. Beadles's personal attacks on DDA Liddell lack merit and justification.

27 A pro se litigant is not entitled to make ad hominem attacks on opposing counsel. *McKenna v.*
28 *Nestle Purina Petcare Co.*, No. C2-05-976, 2011 WL 144418, at *4 (S.D. Ohio Jan. 3, 2011). "[R]epeated
29 vituperative or insulting references to defendants and defendants' counsel" are improper. *Draper v. Airco,*
30 *Inc.*, 580 F.2d 91, 96 (3d Cir. 1987). "[I]nflammatory attacks on the opposing advocate" have "no place in
the administration of justice and should neither be permitted nor awarded." *United States v. Young*, 470 U.S.
1, 9 (1985).

1 Complaint does not and cannot state a claim upon which relief can be granted. The
2 Complaint should be dismissed with prejudice in its entirety.

3 **II. SCOPE OF A MOTION TO DISMISS UNDER RULE 12(b)(5).**

4 When entertaining a motion to dismiss pursuant to Rule 12(b)(5), the Court’s “task is
5 to determine whether or not the pleading sets forth allegations sufficient to make out the
6 elements of a right to relief.” *Edgar v. Wagner*, 101 Nev. 226, 227, 699 P.2d 110, 111 (1985).
7 A complaint must be dismissed for failure to state a claim when it appears that plaintiff can
8 prove no set of facts, which even if accepted by the trier of fact, would not entitle him to
9 relief against Defendants. *Simpson v. Mars*, 113 Nev. 188, 190, 929 P.2d 966, 967 (1997).

10 Beadles has thus far filed two rogue sets of “supplemental exhibits:” (1) the
11 Supplemental Exhibits in Support of Plaintiff’s Complaint filed August 9, 2023, and (2) the
12 Supplemental Exhibits in Support of Plaintiff’s Motions filed August 24, 2023. On
13 information and belief, Beadles also provided the Court approximately six binders and two
14 flashdrives of “evidence” accompanying the aforementioned supplements. Beadles has now
15 filed one hundred and forty-five rogue “supplemental exhibits,”⁴ among other things, which
16 include various national and local news articles and Edward Soloman elections content.

17 Beadles’s rogue “supplemental exhibits,” are outside the pleadings and should not be
18 considered. Supplemental pleadings may not be filed without Court permission. NRCP
19 15(d). A party must move the Court to file a supplemental pleading, and then the Court
20 may, at its discretion, permit the filing. *Id.* There is no inherent right nor ability to
21 unilaterally file supplements to pleadings. *See id.*

22 These “supplemental exhibits” are not part of the Complaint, and are not within the
23 scope of a Motion to Dismiss pursuant to Rule 12(b)(5). The Court should not convert the
24

25 _____
26 ⁴ Defendants object to the admissibility of all the “supplemental exhibits.”

1 instant Motion to a motion for summary judgment. The Motion should be decided based
2 solely on the allegations set forth in the Complaint.

3 **III. BEADLES’S FIRST CLAIM FOR UNANSWERED PETITIONS FAILS.**

4 The first cause of action alleges that Defendants’ failure to respond to his
5 “petitions” amounts to violations of the Nevada Constitution Article 1 Section 10, Article
6 2 Section 1A(11), Article 15 Section 2 and NRS 293.2546(11). *Compl.* at ¶¶67–87.

7 Specifically, Beadles sues Commissioner Hill because: “Hill has not responded to
8 Plaintiff’s November 18, 2022 Petition. Hill has not responded to Plaintiff’s November 23,
9 2022 Petition. Hill has not responded to Plaintiff’s December 1, 2022 Petition.” *Comp.* at
10 ¶¶24–26. Beadles sues Manager Brown because: “Brown has not responded to Plaintiff’s
11 November 18, 2022 Petition. Brown has not responded to Plaintiff’s November 23, 2022
12 Petition. Brown has not responded to Plaintiff’s December 1, 2022 Petition.” *Comp.* at
13 ¶¶20–22. And Beadles sues Ms. Rodrigues, the Registrar of Voters, because: “Rodriguez
14 has not responded to Plaintiff’s November 18, 2022 Petition. Rodriguez has not responded
15 to Plaintiff’s November 23, 2022 Petition. Rodriguez has not responded to Plaintiff’s
16 December 1, 2022 Petition.” *Comp.* at ¶¶16–18. He alleges Defendants violated his
17 constitutional rights because they received his grievances and Beadles was “ignored.”
18 *Comp.* at ¶¶67–78.

19 The Opposition repeatedly relies on the erroneous assertion that Defendants “are
20 duty-bound to answer his past petitions.” *Opp.* at pp. 3, 16, 58, 61, 74, 93. Neither the
21 Nevada Constitution nor NRS 293.2546(11) required Defendants to respond to Beadles’s
22 three alleged “petitions.” Beadles fails to state a claim on which relief can be granted⁵
23

24
25 ⁵ A complaint must contain a short and plain statement of the claim showing that the pleader is entitled to
26 relief. NRCP 8(a)(2). Beadles cannot save his meritless complaint by alluding to the “dozens if not hundreds
of claims” that purportedly could be asserted based on the nearly 150 fugitive documents he has submitted in
this case. *Opp.* at 16. The claims that he did allege in the complaint fail as a matter of law.

1 under the Nevada Constitution and NRS 293.2546(11), and the First Cause of Action must
2 be dismissed in its entirety and with prejudice.

3 In his 119-page Opposition, Beadles implores this Court to allow this case to move
4 forward based on the purported output of an artificial intelligence chat robot and he spends
5 more than a dozen pages walking through a mathematical algorithm the Nevada Supreme
6 Court has already deemed so lacking in arguable merit that reliance on it is sanctionable.⁶
7 *Opp.* at p.3, 39–54. Despite the length of the filing, Beadles plainly fails to demonstrate that
8 he stated a claim under Nevada law on which relief can be granted.

9 **A. THE CLAIM UNDER ARTICLE 2 SECTION 1A(11) OF THE NEVADA**
10 **CONSTITUTION OR THE NEVADA VOTERS’ BILL OF RIGHTS FAILS.**

11 Article 2 Section 1A Subsection 11 of the Nevada Constitution provides that each
12 registered voter has the right “to have complaints about elections and election contests
13 resolved fairly, accurately and efficiently as provided by law.” This is codified in NRS
14 293.2546(11), the Nevada Voters’ Bill of Rights. Beadles acknowledges “Nev. Const. Art 2
15 Sec 1A § 11 does not confer an obligation onto the Defendants, rather, Plaintiff contends
16 that Sec 1A § 11 is silent as to the responsive agency or department. Nothing in the
17 Nevada Constitution dictates how a grievance should be posed, just that a person’s
18 grievances cannot be simply ignored.” *Opp.* at p. 99. With this, Beadles concedes Article 2
19 Section 1A is not a self-executing provision of the Nevada Constitution and he cannot
20 bring a private right of action.

21 In determining whether a private right of action exists to enforce a provision of the
22 Nevada Constitution, the initial inquiry is whether the provision at issue is “self-
23 executing.” *Mack v. Williams*, 138 Nev. Adv. Op. 86, 522 P.3d 434, 441–42 (2022) (citing
24

25 _____
26 ⁶ *Mueller v. First Jud. Dist. Ct. in and for Cnty. of Carson City*, no. 86064, 2023 WL 5317951 (Aug. 17, 2023).

1 *Wren v. Dixon*, 40 Nev. 170, 161 P. 722, 729 (1916)).⁷ “A constitutional provision may be
2 said to be self-executing if it supplies a sufficient rule by means of which the right given
3 may be enjoyed and protected, or the duty imposed may be enforced; and it is not self-
4 executing when it merely indicates principles, without laying down rules by means of
5 which those principles may be given the force of law.” *Wren*, 40 Nev 170, 161 P. at 729.
6 Additionally, a prohibitory provision is self-executing as it is complete in itself to the extent
7 of the prohibition. *Mack*, 138 Nev. Adv. Op. 86, 522 P.3d at 441–42. Only self-executing
8 constitutional provisions give rise to a cause of action independent of any statutory
9 procedure authorizing a private action. *Alper v. Clark County*, 93 Nev. 569, 572, 571 P.2d
10 810, 812 (1977).

11 Addressing Beadles’s allegation that he is entitled to relief under Article 2 § 1A(11)
12 first, which is included in the Nevada Voters’ Bill of Rights as NRS 293.2546(11), this
13 provision states that each registered voter in the State of Nevada has the right “to have
14 complaints about elections and election contests resolved fairly, accurately and efficiently
15 as provided by law.” This is not a prohibitory provision and lacks the detailed means to
16 describe how the policy would be enforced. Insofar as it explicitly states “as required by
17 law,” this provision defers to the legislature to set forth processes to enforce this policy.
18 Therefore, Article 2 § 1A(11) of the Nevada Constitution is not self-executing.

19 Turning to the statute, nothing in NRS 293.2546(11) contemplates a private right of
20 action. To the contrary, the Legislature made clear via NRS 293.840 that violations of
21 Chapter 293 may result in criminal penalties and a civil penalty, but only in “a civil action
22 brought in the name of the State of Nevada by the Attorney General or by any district
23 attorney in a court of competent jurisdiction.” Nothing in NRS Chapter 293 authorizes
24

25 ⁷ Beadles’s Opposition includes analysis as to whether the Nevada Constitutions are self-executing, arguing
26 he has a private right of action, and citing to *Mack v. Williams*, 522 P.3d 434 (2022). *Opp.* at 10–12. Because he
raised this argument, it is therefore appropriate to rebut and argue the merits of those issues in this Reply.

1 Plaintiff to pursue a private right of action for an alleged violation of NRS 293.3546(11),
2 nor does Article 2 § 1A(11) provide for a private right of action.⁸

3 Even assuming hypothetically that a private right of action could be brought under
4 Article 2 § 1A(11) or NRS 293.3546, Beadles does not state a claim on which relief can be
5 granted. Beadles erroneously suggests, “this Court must determine where the responsibility
6 falls within local government when a citizen poses an inquiry or complaint and
7 petition...regarding election abnormalities, errors, and improper procedures on behalf of
8 the ROV.” *Opp.* at 99. In this regard, Beadles is simply wrong.

9 Establishing the process through which a complaint about elections will be heard is
10 within the purview of the legislature. Per NRS 293.124, the Secretary of State is the Chief
11 Office for Elections in Nevada, and all execution and enforcement of NRS Title 24 (NRS
12 Chapters 293–306), and all other provisions of State and Federal law relating to elections,
13 are the responsibility of the Secretary of State. NRS 293.124(1). The Secretary of State
14 was given broad authority to enact regulations as are necessary to carry out the provisions
15 of Title 24. NRS 293.124(2). Such regulations have the force of law. NRS 233B.040(1)(a);
16 *Banegas v. State Industrial Ins. Sys.*, 117 Nev. 222, 227, 19 P.3d 245, 248 (2001)(recognizing
17 “the Legislature may authorize administrative agencies to make rules and regulations
18 supplementing legislation.”).

19 NAC 293.025 specifically provides: “A person who wishes to file a complaint
20 concerning an alleged violation of any provision of Title 24 of NRS [NRS Chapters 293–
21 306], must: 1. Submit the complaint in writing to the Secretary of State; and 2. Sign the
22 complaint.” The obligation is on the Secretary of State to “resolve [the complaints] fairly,

23
24 ⁸ That there is no private cause of action is separate from whether there may be a writ of mandamus
25 compelling performance of a nondiscretionary duty. *See American Civil Liberties Union of Nev. v. Cnty. of Nye*,
26 no. 85507, 2022 WL 14285458 (Oct. 21, 2022)(unpublished disposition)(granting a writ of mandamus
regarding specific duties set forth in NRS Chapter 293); *Baldonado v. Wynn Las Vegas, LLC*, 124 Nev. 951, 961,
194 P.3d 96, 102 (2008)(“[W]hen an administrative official is expressly charged with enforcing a section of
laws, a private cause of action generally cannot be employed.”).

1 accurately and efficiently as provided by law.” NRS 293.2546(11); NAC 293.025. Thus,
2 state law places the “duty” to resolve complaints about elections based on Article 2 §
3 1A(11) on the Secretary of State’s office rather than on the named Defendants in this
4 action. Accordingly, Beadles’s claim fails because there is no duty or obligation mandated
5 by Nevada law for the Defendants to respond to his complaints related to the elections
6 process.

7 In addition to submitting complaints to the Secretary of State concerning any
8 alleged violation of NRS Title 24, any registered voter may contest the election of a
9 candidate by filing a Statement of Contest with the clerk of the district court. NRS
10 293.407. Again, this statute imposes no duty on a County, a County Commissioner, a
11 County Manager, or a Registrar of Voters.

12 The Complaint, construed liberally and in favor of Beadles, fails to state a claim
13 under Article 2 Section 1A(11) of the Nevada Constitution or NRS 293.2546(11).
14 Accordingly, Beadles’s claim under Article 2 Section 1A(11) must be dismissed with
15 prejudice.

16 **B. THE CLAIM UNDER ARTICLE 1, SECTION 10 OF THE NEVADA**
17 **CONSTITUTION FAILS.**

18 Article One, Section Ten of the Nevada Constitution, provides: “The people shall
19 have the right freely to assemble together to consult for the common good, to instruct their
20 representatives and to petition the Legislature for redress of Grievances.” NEV. CONST.
21 ART. 1 SEC. 10. Beadles fails to allege facts demonstrating that Defendants impeded his
22 right to assemble, to instruct his representatives, or to petition **the Legislature**. In his
23 Opposition, Beadles makes only conclusory assertions reiterating that by not responding to
24 his three submissions complaining about the election in 2022, “Defendants have thus
25 deprived Plaintiff’s right to have his grievances heard as enshrined in Nev. Const. Art. 1 §
26 10: ‘to petition the Legislature for redress of Grievances.’” *Opp.* at 8, 98–99.

1 The Complaint fail to state a claim on which relief can be granted under Article
2 One, Section 10 of the Nevada Constitution. Like Article 2 Section 1A Subsection 11, this
3 Article One, Section 10 is not self-executing and therefore does not include a private right
4 of action. *Mack*, 138 Nev. Adv. Op. 86, 522 P.3d at 441–42. Writ of mandamus relief is
5 likewise unattainable because Defendants each have no nondiscretionary duties to Beadles
6 under Article One, Section 10 of the Nevada Constitution. While Defendants acknowledge
7 the breadth of rights and privileges protected by the Nevada Constitution, those rights do
8 not confer a right to a response to any demand made of any citizen regarding any matter to
9 any government official.

10 Defendants fully acknowledge Beadles’s right to submit complaints concerning
11 violations of elections laws to the Secretary of State, and to submit elections challenges to
12 the District Court. NAC 293.025; NRS 293.407. However, submitting those documents to
13 the Defendants instead, contrary to the legal processes in place, and then demanding a
14 response simply does not state a claim for a violation of the Article 1 Section 10 of the
15 Nevada Constitution. Beadles includes no allegations regarding his right to assemble, he
16 was clearly afforded his right to inform his representatives, and the Defendants are not the
17 Legislature. This claim must be dismissed with prejudice.

18 **C. THE CLAIM UNDER ARTICLE 15, SECTION 2 OF THE NEVADA**
19 **CONSTITUTION FAILS.**

20 Beadles also alleges Defendants breached their oath because “[a]s of the filing of
21 this complaint, there has been no acknowledgement or response from the Defendants
22 regarding the underlying Petitions filed by Plaintiff.” *Compl.* at ¶75. In his opposition,
23 Beadles simply reiterates that the Nevada Constitution requires officers take an oath and
24 summarily concludes “thus plaintiff can hold them accountable.” *Opp.* at 8. He further
25 argues that “implicit in this oath is a commitment to uphold the principles of democracy,
26 which include addressing the concerns and grievances of the citizenry.” *Id.* at 64, 69, 73.

1 Article 15, Section 2 of the Nevada Constitution requires all members of the
2 legislature, and all officers, executive, judicial and ministerial, to take an oath before
3 performing the duties of their respective offices. The oath provides, in relevant part, that
4 the public officer will support, protect, and defend the Constitutions of the United States
5 and Nevada, and “will well and faithfully perform all duties of [their] office...” NEV.
6 CONST. ART. 15 SEC. 2.

7 Beadles’s claim is wholly premised on the allegation that Defendants did not
8 respond to “petitions,” which as shown supra, they had no legal duty to respond. As
9 previously demonstrated, responding to Beadles’s allegations of violations of elections laws
10 or elections challenges are not within the duties of Defendants’ offices. Beadles’s
11 suggestion that responding to his grievances is “implicit in this oath” is simply without
12 merit, and his claim fails as a matter of law. Moreover, this provision of the Nevada
13 Constitution does not include a private right of action. *Mack*, 138 Nev. Adv. Op. 86, 522
14 P.3d at 441–42. Beadles’s complaint does not state a claim under Article 15 of the Nevada
15 Constitution. This claim should be dismissed with prejudice.

16 **D. MANDAMUS AND EQUITABLE RELIEF ARE UNATTAINABLE.**

17 Beadles seeks a writ of mandamus ordering Defendants to respond to the three
18 “petitions” allegedly submitted in 2022. *Compl.* at ¶86. In his Opposition, Beadles concedes
19 that the responsibility of responding to complaints relating to elections rests with the
20 Secretary of State per NAC 293.025, but argues that “an implied duty exists” requiring
21 Defendants to respond. *Opp.* at 93.

22 A Court may issue a writ “to compel the performance of an act which the law
23 especially enjoins as a duty resulting from an office, trust or station...” NRS 34.160.
24 “[M]andamus will never issue, unless a clear, legal right to the relief sought is shown.” *State*
25 *v. Daugherty*, 48 Nev. 299, 231 P. 384, 385 (1924). An extraordinary remedy, mandamus will
26 “not lie to control discretionary action, unless discretion is manifestly abused or is

1 exercised arbitrarily or capriciously.” *Mineral Cnty. v. State, Dep't of Conserv.*, 117 Nev. 235,
2 243, 20 P.3d 800, 805 (2001)(internal citations and quotations omitted).

3 The Nevada Constitution provides that each registered voter in the State of Nevada
4 has the right “to have complaints about elections and election contests resolved fairly,
5 accurately and efficiently **as provided by law.**” NEV. CONST. ART. 2 SEC. 9 (emphasis
6 added). Beadles’ right, therefore, is to follow the process set forth by the legislature to lodge
7 complaints with the Secretary of State or file challenges to elections results with the District
8 Court, as provided by law. NRS 293.407; NAC 293.025. Defendants have no legal duty to
9 respond to Beadles’s “petitions,” and he fails to cite any authority supporting his claim that
10 “an implied duty exists.”

11 Unless a clear legal right to the relief sought is shown, mandamus relief is
12 unavailable. In this case, it is clear that Beadles has no legal right to the relief sought. As
13 such, Beadles’s request for a writ of mandamus and equitable relief in his first cause of
14 action should be dismissed with prejudice.

15 **E. DISCRETIONARY ACT IMMUNITY OTHERWISE PROHIBITS THE FIRST CAUSE**
16 **OF ACTION.**

17 Although Beadles fails to state a claim under the Nevada Constitution, even if he
18 alleged a viable claim and have a private right of action, Defendants are entitled to
19 discretionary act immunity. Beadles argues that the acts alleged were “non-discretionary
20 acts that harmed Plaintiff, which acts are not immune.” *Opp.* at 101.

21 No action may be brought against a public employee or political subdivision
22 “[b]ased upon the exercise or performance or the failure to exercise or perform a
23 discretionary function or duty...whether or not the discretion involved is abused.” NRS
24 41.032(2). Under the two-part test, a government defendant is not liable if the decision (1)
25 involves an ‘element of individual judgment or choice,’ and (2) is ‘based on considerations
26 of social, economic, or political policy.’” *Clark Cnty. Sch. Dist. v. Payo*, 133 Nev. 626, 631–32

1 (2017). at 631–32 (citations omitted). The specific decision and the employee’s subjective
2 intent is irrelevant to whether the type of decision is susceptible to policy analysis. *Paulos v.*
3 *FCHI, LLC*, 136 Nev. 18, 26, 456 P.3d 589, 595 (2020).

4 Here, although Beadles characterizes Defendants’ decision not to respond to his
5 “petitions” as non-discretionary, he cannot point to any legal authority. Instead he
6 characterizes their obligation as an implied duty that falls within his perceived “principles
7 of democracy, which include addressing the concerns and grievances of the citizenry.” *Opp.*
8 at 64, 69, 73, 101. There is no duty for Defendants to respond to a “petition” asserting
9 complaints about the elections process or challenging the results of an election, as those
10 complaints and challenges are required to be submitted to the Secretary of State or District
11 Court. NRS 293.407; NAC 293.025. Therefore, to the extent a citizen does submit such a
12 complaint to Defendants, the decision whether to respond is entirely discretionary.

13 When Beadles submitted the “petitions” to Defendants in 2022, Defendants had the
14 individual choice whether to respond, as a response was not required by law, and certainly
15 in the context of the 2022 elections such a decision involved consideration of political
16 policy. Defendants’ discretionary decisions, based on the allegations in this case, fall
17 squarely within the parameters of discretionary act immunity.

18 **IV. BEADLES CONCEDES HE HAS NO CLAIM FOR REMOVAL UNDER**
19 **NRS 266.430.**

20 In the Complaint, Beadles states he seeks to “remove” Commissioner Hill, Manager
21 Brown, and Ms. Rodriguez “pursuant to the Court’s authority under NRS 283.440 and
22 NRS 266.430.” *Compl.* at ¶89. The Motion argued that NRS 266.430 is a criminal statute
23 that applies only to municipalities, and therefore the claim for removal under NRS 266.430
24 should be dismissed. *Mot.* at 9.

25 //

26 //

1 Beadles now states the “defense fails to understand NRS 266.430 reference in
2 Complaint.” *Opp.* at 26. He states he cited NRS 266.430 “in the context of the severity of
3 the penalties should the Defendants be found negligent pursuant to NRS 283.440, not to
4 prosecute them in this civil proceeding.” *Id.*

5 To the extent Beadles alleged a claim under NRS 266.430, his Opposition makes
6 clear that claim is abandoned. *Opp.* at 26–27. Beadles’s claim for removal under NRS
7 266.430 should be dismissed with prejudice.

8 **V. THE SECOND CAUSE OF ACTION, NRS 283.440 REMOVAL, FAILS.**

9 In the Complaint, Beadles vaguely and summarily asserts that Commissioner Hill,
10 Manager Brown, and Ms. Rodriguez should be removed as each “failed to fulfill the duties
11 of their respective offices as alleged herein...” *Compl.* at ¶90. He also alleges Defendants
12 failed to update and resolve voter registrations, provide “proper vote counting
13 mechanisms,” they counted votes in secret, “illegal function within the election system,”
14 and “violations of elections procedures. *Id.* at ¶91. The Motion set forth that the Complaint
15 failed to state a claim for removal under NRS 283.440. *Mot.* at 9–14. Moreover, the
16 language in NRS 283.440, “hold any office” language, “a person... who shall hereafter *hold*
17 *any office,*” applies only to remove elected officials. *Id.* at 14–16.

18 Beadles’s argument regarding removal lacks cogency and is largely
19 incomprehensible. He provides irrelevant statutory language regarding submission of false
20 claims to a government entity. *Opp.* at 9. The statute, NRS 357.040, prohibits instances such
21 as a person submitting a fake invoice to a government entity attempting to receive payment
22 therefrom. NRS 357.020; NRS 357.040. It has no relation to removing a person from office
23 under NRS 283.440. He also argues he has standing to bring a removal claim, an issue that
24 Defendants did not pursue in their Motion. *See Opp.* at 10–12.

25 //

26 //

1 He argues the Complaint is sufficient because Nevada has a notice pleading
2 standard. *Opp.* at 39, 56. He argues that “[t]here are numerous claims made by the Plaintiff
3 in [Exhibits 1-145] that clearly warrant removal.” *Opp.* at 28. He also states, “By ignoring
4 the Petitions, Defendants did not apprise the Plaintiff of his rights, which are acts of
5 malpractice and nonfeasance.” *Opp.* at 96. Beadles requests “relief in the 3 defendants
6 joining the unemployment line.” *Opp.* at 15.

7 Removal “is an extreme and extraordinary measure, intended only for extreme and
8 extraordinary occasions.” *Jones v. Eighth Jud. Dist. Ct. of State*, 67 Nev. 404, 418, 219 P.2d
9 1055, 1062 (1950). As set forth below, the Complaint fails to state a claim for
10 Commissioner Hill, Manager Brown, or Ms. Rodriguez’s removal. It fails to allege specific
11 legal duties and nonfeasance or malfeasance for Commissioner Hill, Manager Brown, and
12 Ms. Rodriguez. Additionally, NRS 283.440 should only be applied to remove elected
13 officials as the legislature intended. Beadles’s second cause of action for removal should
14 therefore be dismissed with prejudice.

15 **A. THE COMPLAINT FAILS TO STATE A CLAIM FOR REMOVAL.**

16 There are two relevant bases for removal under NRS 283.440: (1) if a public officer
17 “refused or neglected to perform official duties pertaining to the officer’s office as
18 prescribed by law;” or (2) if the officer “[h]as been guilty of any malpractice or malfeasance
19 in office.” NRS 283.440(2)(b)–(c). These are cited as nonfeasance and malfeasance,
20 respectively. *Buckingham v. Fifth Jud. Dist. Ct. in and for Mineral Cnty.*, 60 Nev. 129, 102 P.2d
21 632, 635 (1940)(analyzing NRS 283.440’s predecessor, N.C.L. Sections 4860–61).

22 To state a claim for removal based on malfeasance, “the mere words ‘malpractice’
23 and ‘malfeasance’ will not suffice.” *Buckingham*, 60 Nev. 129, 102 P.2d at 635–36. “The
24 wrongful act must be made to appear by the description employed[.]” *Id.* The complaint
25 must allege an act of malfeasance having “a direct relation to and be connected with the
26 performance of official duties.” *Jones v. Eighth Jud. Dist. Ct. of State*, 67 Nev. 404, 408, 219

1 P.2d 1055, 1057 (1950). “[T]he conduct charged must be something that the defendant did
2 in his official capacity.” *Id.*

3 For nonfeasance, the Complaint must identify an act required by law to be
4 specifically performed by the person whose removal is sought, and allege the person refused
5 or neglected to so act. *Buckingham*, 60 Nev. 129, 102 P.2d at 636 (“...the acts of omission
6 charged against him do not come within the provisions of Section 4860, N.C.L., for reason
7 that the acts which it alleged were omitted were not required of a county treasurer at the
8 time of the enactment of the said Section 4860.”). Even where an official duty exists, the
9 officer can have discretion in carrying out the duty unless specifically prescribed by law. *See*
10 *Jones*, 67 Nev. at 411–12, 219 P.2d at 1058–59. Allegations describing a public officer
11 exercising that discretion is not nonfeasance that would state a claim for removal. *Id.*

12 **i. The Complaint Fails to Allege Official Legal Duties Specific to**
13 **Commissioner Hill, Manager Brown, or Ms. Rodriguez.**

14 The threshold issue here is whether the Complaint identifies acts required by law to
15 be specifically performed by Commissioner Hill, Manager Brown, or Ms. Rodriguez.
16 Turning first to Commissioner Hill and Manager Brown, the Complaint and its four
17 exhibits do not identify any act required by law to be performed by a county commissioner
18 or county manager. He alleges they ignored his elections grievances, but neither have a
19 specific legal duty to respond to the same. Additionally, he makes generalized allegations
20 regarding elections.

21 The Complaint insufficiently states “defendants” have legal duties. The Complaint
22 and Opposition identify internal “mission statements,” which are not laws and do not
23 impose specific legal duties on specific employees. *Compl.* at ¶60; *Opp.* at 61. There are no
24 laws specifically prescribing a duty for a county commissioner or a county manager to
25 perform any of the acts set forth in the Complaint. Beadles does not and cannot state a

26 //

1 claim for Commissioner Hill or Manager Brown’s removal because neither have any legal
2 duty to specifically act on any of the issues alleged.

3 Next, turning to Ms. Rodriguez, the Complaint and its four exhibits fail to identify a
4 precise legal duty that she must carry out in a specific way. *See Compl.* The Complaint cites
5 no law other than one’s right to have elections grievances resolved. *Id.* Beadles does
6 however state, “Defendants have additionally failed to address, correct, or rectify the issues
7 raised in the underlying Petitions, including but not limited to, (1) updating and resolving
8 the voter registration lists; (2) providing proper vote counting mechanisms; (3) counting
9 votes in secret; (4) inadequate signature verification; (5) illegal function within the election
10 system; (6) violations of election procedures as required under Nevada law. [Exhibit 109].”
11 *Compl.* at ¶91; *see also Compl.* at ¶¶46–51.⁹ Regardless, the allegation is plainly that Ms.
12 Rodriguez fails to “address, correct, or rectify” issues set forth in Beadles’s petitions. *Compl.*
13 at ¶91; *see also Compl.* at ¶¶46–51. A registrar of voters has no legal duty to “address,
14 correct, or rectify” a person’s perceived issues. As such, the Complaint does not state a
15 claim for Mr. Rodriguez’s removal because has no legal duty to specifically act on any of
16 the issues alleged.

17 Additionally, Beadles fails to distinguish between one’s power to act and one’s duty
18 to act. He provides numerous examples of a board of county commissioners’ power to act
19 regarding elections. *See e.g. Opp.* at 78. He provides no legal authority *requiring* those
20 actions, much less requiring Commissioner Hill, Manager Brown, or Ms. Rodriguez to
21 perform those actions in the way Beadles would prefer them performed.

22
23
24 ⁹ This allegation describes petition contents that touch on a registrar of voters’s legal duties. As such, the
25 Motion to Dismiss bypassed the threshold legal duty analysis for Ms. Rodriguez, instead turning to the
26 second step—whether there are allegations of malfeasance or nonfeasance. This will be addressed in the
section to follow. However, the Opposition argues the Complaint sufficiently alleges official duties for Ms.
Rodriguez, thus warranting a closer analysis of the allegations in the Complaint.

1 In sum, Beadles does not allege any official legal duties to state a claim for
2 Commissioner Hill, Manager Brown, or Ms. Rodriguez’s removal. Commissioner Hill and
3 Manager Brown have no legal duties requiring each of them to perform a specific act
4 regarding elections. Beadles cannot state a claim for their removal. He additionally does
5 not identify a legal duty for Ms. Rodriguez, but even if he could, he cannot allege
6 nonfeasance or malfeasance as set forth below.

7 **ii. The Complaint Falls Short of Alleging Nonfeasance or Malfeasance for**
8 **Ms. Rodriguez.**

9 Assuming arguendo, that the complaint set forth legal duties, it must also allege acts
10 of malfeasance or omissions of nonfeasance. For malfeasance, there must be some
11 egregious act committed that has “a direct relation to and be connected with the
12 performance of official duties.” *Jones*, 67 Nev. at 408, 219 P.2d at 1057. For nonfeasance, a
13 public official must have refused or neglected to perform their official duties. NRS
14 283.440(2)(b). The exercise of discretion in performing duties does not state a claim for
15 removal based on nonfeasance. *See Jones*, 67 Nev. at 411–12, 219 P.2d at 1058–59.

16 While Ms. Rodriguez has certain legal duties as the Registrar of Voters, Beadles
17 does not sufficiently allege acts of malfeasance or omissions of nonfeasance. He alleges
18 “Defendants have additionally failed to address, correct, or rectify the issues raised in the
19 underlying Petitions, including but not limited to, (1) updating and resolving the voter
20 registration lists; (2) providing proper vote counting mechanisms; (3) counting votes in
21 secret; (4) inadequate signature verification; (5) illegal function within the election system;
22 (6) violations of election procedures as required under Nevada law. [Exhibit 109].” *Compl.*
23 at ¶91; *see also Compl.* at ¶¶46–51.

24 As an initial matter, there are no specific egregious acts of wrongdoing specific to
25 Ms. Rodriguez that would state a claim for removal based on malfeasance. *See id*; *see*
26 *generally Compl.* Allegations of “illegal function” and vague “violations of election

1 procedures,” is no different than simply alleging there is “malfeasance.” It is not an
2 allegation that Ms. Rodriguez herself committed an egregious act related to her duties, and
3 therefore it is not malfeasance under NRS 283.440.

4 Regarding nonfeasance, the Complaint falls short of alleging Ms. Rodriguez
5 neglected or refused to perform an official duty. A registrar of voters must cancel voter
6 registration in certain circumstances, maintain certain voter registration records, and
7 provide voters written notice of any changes to their voter registration. NRS 293.530. An
8 allegation that there are issues with “updating and resolving voter registration lists” does
9 not allege Ms. Rodriguez specifically neglected or refused to perform her duties under NRS
10 293.530. An allegation that there are issues with “providing proper vote counting
11 mechanisms” does not allege Ms. Rodriguez specifically neglected or refused to perform an
12 official duty as prescribed by law. Regarding public observation, the registrar of voters must
13 allow general public observation of ballot counting unless it interferes with ballot counting.
14 NRS 293B.353; NAC 293.311(4). Having discretion in carrying out that duty, the allegation
15 is so vague that it does not allege Ms. Rodriguez specifically neglected or refused to so
16 perform. Lastly, allegations of “illegal function” and vague “violations of election
17 procedures” do not allege Ms. Rodriguez specifically neglected or refused to perform an
18 official duty as prescribed by law.

19 Beadles fails to allege nonfeasance or malfeasance for Ms. Rodriguez. Even if he
20 alleged she has a specific legal duty, the complaint falls short of stating a claim for her
21 removal under NRS 283.440.

22 **iii. The Opposition Improperly Includes Allegations Not in Complaint.**

23 Beadles makes various spurious allegations in the Opposition that are outside the
24 allegations in the Complaint. *See Compl.; Opp.* at 80–82, 86–87. He vaguely claims
25 Defendants violated “numerous provisions” of certain NRS Chapters. *Opp.* at 80, 81, 86.
26 He asserts matters well beyond the Complaint, including stealing county property,

1 insufficient ethics disclosures, appointing “unqualified puppets,” and committing
2 obstruction of justice. *Opp.* at 80–2, 86–7. As set forth in Section II above, this Motion
3 should be limited to testing the sufficiency of the Complaint. Defendants dispute these
4 assertions, but further discussion is irrelevant to the instant Motion.

5 Additionally, the Opposition offers the legal conclusion that Defendants violated
6 twenty-four laws, citing them without providing factual allegation regarding the same. *Opp.*
7 at 16. The Complaint does not include those citations as a basis for Commissioner Hill,
8 Manager Brown, or Ms. Rodriguez’s removal. *See Compl.* Rather, the Complaint identifies
9 those portions of law in a request for relief to “enjoin Defendants from their continued
10 violations” of the same. *Compl.* at 15–6. Based on this alone, the references to the twenty-
11 four laws should not be considered when determining whether Beadles stated a claim for
12 removal. Nevertheless, even assuming his vague legal conclusions can be considered, it still
13 does not state a claim for Commissioner Hill, Manager Brown, or Ms. Rodriguez’s
14 removal.

15 Beadles asserts “Defendants” violated the following, each of which do not state a
16 claim for removal:

- 17 1. NRS 293.530 provides a county clerk¹⁰ authority to correct the statewide
18 voter registration list, requires the clerk to cancel registration in certain
19 instances, requires the clerk to maintain certain voter registration records,
20 requires the Secretary of State to adopt certain regulations, and requires the
21 clerk to provide written notice to a voter of any registration changes. It
22 prescribes absolutely no legal duties on a single county commissioner or a
23 county manager. Some portions of NRS 293.530 are discretionary, some
24 impose no duties on a registrar of voters, and others impose specific duties

25 ¹⁰ A registrar of voters assumes the duties of a county clerk with respect to elections. NRS 244.164(2).
26

1 on a registrar of voters. Without a more specific allegation, simply stating a
2 registrar of voters “violated” NRS 293.530 cannot be grounds for removal.

3 2. NRS 293.2546(1) codifies the voters’ bill of rights. It prescribes no direct
4 legal duties on the part of any single county commissioners, a county
5 manager, or a county clerk/registrar of voters. Therefore, NRS 293.2546(1)
6 does not provide a basis for removal under NRS 283.440 in this case.

7 3. NRS 293B.033 defines “mechanical voting system.” It prescribes no direct
8 legal duties on a single county commissioner, a county manager, or a county
9 clerk/registrar of voters. Therefore, NRS 293B.033 does not provide a basis
10 for removal under NRS 283.440 in this case.

11 4. NRS 293.269927 establishes certain duties of the county clerk when a mail
12 ballot is returned, including checking signatures, safeguarding and delivery
13 of mail ballots, imposes a duty on voters to provide a signature or
14 confirmation of their signature in certain instances, and requiring the clerk to
15 establish procedures for voters to cure defective mail ballots. It prescribes no
16 legal duties on a single county commissioner or a county manager. For
17 registrars of voters, it includes a certain amount of discretion in determining
18 a reasonable question of fact regarding a signature, including whether there
19 are “only slight dissimilarities.” NRS 293.269927(4). Without a more specific
20 allegation, simply stating a registrar of voters “violated” NRS 293.269927
21 cannot establish removal. The statute imposes both duties on a registrar of
22 voters and a voter themselves. It likewise includes some discretion,
23 depending on the subsection at issue.

24 5. NRS 293.740 provides that soliciting votes and electioneering are unlawful
25 inside and within 100 feet of a polling place, and requires the registrar of
26 voters to post a notice to that effect on the outer limits of the affected area. It

1 prescribes no legal duties on a single county commissioner or a county
2 manager. Without a more specific allegation, simply stating a registrar of
3 voters “violated” NRS 293.740 cannot be grounds for removal. The statute
4 imposes a duty on a registrar of voter, but focuses on prohibiting people from
5 soliciting and electioneering—making it unclear whether such an allegation
6 means the registrar of voters engaged in prohibited conduct or whether she
7 failed to post a notice. It likewise includes some discretion in determining
8 precisely where, how, and how many notices to post.

9 6. NRS 293B.063 requires that a mechanical voting system meet or exceeds
10 federal standards. It prescribes no direct legal duties on a single county
11 commissioner, a county manager, or a county clerk/registrar of voters.
12 Therefore, NRS 293B.063 does not provide a basis for removal under NRS
13 283.440 in this case.

14 7. NRS 293B.104 prohibits a secretary of state from approving mechanical
15 voting machines that do not meet federal standards. It prescribes no direct
16 legal duties on a single county commissioner, a county manager, or a county
17 clerk/registrar of voters. Therefore, NRS 293B.104 does not provide a basis
18 for removal under NRS 283.440 in this case.

19 8. NRS 293B.1045(1) prohibits the purchase or lease of a mechanical voting
20 machines unless the secretary of state has approved the system or device. It
21 prescribes no direct legal duties on a single county commissioner, a county
22 manager, or a county clerk/registrar of voters. Therefore, NRS 293B.1045(1)
23 does not provide a basis for removal under NRS 283.440 in this case.

24 9. NAC 293B.110(1)(b) establishes duties for an absent ballot central counting
25 board. It prescribes no direct legal duties on a single county commissioner, a
26 county manager, or a county clerk/registrar of voters. Therefore, NAC

1 293B.110(1)(b) does not provide a basis for removal under NRS 283.440 in
2 this case.

3 10. NRS 293.269931(1) provides a period for the mail ballot central counting
4 board to count ballots, and requires that the central counting board conduct
5 the counting procedure in public. It prescribes no direct legal duties on a
6 single county commissioner, a county manager, or a county clerk/registrar of
7 voters. Therefore, NRS 293.269931(1) does not provide a basis for removal
8 under NRS 283.440 in this case.

9 11. NRS 293.3606(1) establishes a timeline for ballot counting for “the
10 appropriate board.”. It prescribes no legal duties on a single county
11 commissioner, a county manager, or a registrar of voters.

12 12. NRS 293.363(1) requires the counting board to prepare to count ballots, and
13 requires that the counting board conduct the count procedure in public. It
14 prescribes no direct legal duties on a single county commissioner, a county
15 manager, or a county clerk/registrar of voters. Therefore, NRS 293.363(1)
16 does not provide a basis for removal under NRS 283.440 in this case.

17 13. NRS 293B.353 requires the county clerk to allow general members of the
18 public to observe ballot counting *if they do not interfere with ballot counting*. It
19 prescribes no legal duties on a single county commissioner or a county
20 manager. Disagreement a registrar’s determination that a person was
21 interfering with counting and therefore could be excluded from observation
22 would not be grounds for removal because a registrar of voters has discretion
23 making that determination. Moreover, Beadles makes no allegation that *he*
24 was personally excluded from public viewing. Therefore, NRS 293B.353 does
25 not provide a basis for removing a county commissioner, a county manager,
26 or a registrar of voters under NRS 283.440 in this case.

1 14. NRS 293B.354 requires the county clerk to submit plans to for the general
2 public observation to the Secretary of State. It prescribes no legal duties on a
3 single county commissioner or a county manager. Disagreement with the
4 substance of those plans would not be grounds for removal because the
5 clerk/registrar of voters has discretion in the detailed content so long as it
6 contains a plan for observation that is approved by the Secretary of State.
7 Therefore, NRS 293B.354 does not provide a basis for removal under NRS
8 283.440.

9 15. NRS 293B.380(2)(a) establishes the ballot processing and packaging board
10 and establishes its duties. It prescribes no direct legal duties on a single
11 county commissioner, a county manager, or a county clerk/registrar of
12 voters. Therefore, NRS 293B.380(2)(a) does not provide a basis for removal
13 under NRS 283.440 in this case.

14 16. NAC 293.311(4) requires the county clerk to allow general members of the
15 public to view absentee ballot counting *so long as they do not interfere with the*
16 *handling of absentee ballots*. It prescribes no legal duties on a single county
17 commissioner or a county manager. Disagreement a registrar’s determination
18 that a person was interfering with counting and therefore could be excluded
19 from observation would not be grounds for removal because a registrar of
20 voters has discretion making that determination. Moreover, Beadles makes
21 no allegation that *he* was personally excluded from public viewing. Therefore,
22 this statute does not provide a basis for removing a county commissioner, a
23 county manager, or a registrar of voters under NRS 283.440 in this case.

24 17. NRS 293.423 requires a recount “[a]t a hearing of any contest” be conducted
25 in the presence of the parties or their representatives. It prescribes no direct
26 legal duties on a single county commissioner, a county manager, or a county

1 clerk/registrar of voters. Therefore, NRS 293.423 does not provide a basis for
2 removal under NRS 283.440 in this case.

3 18. NRS 293.269927(4)(b) sets forth where there is not a reasonable question of
4 fact regarding the signature on a mail ballot within the procedure for
5 checking signatures of mail ballots by electronic means. It prescribes no
6 direct legal duties on a single county commissioner or a county manager. For
7 registrars of voters, it includes a certain amount of discretion in determining
8 a reasonable question of fact regarding a signature, including whether there
9 are “only slight dissimilarities.” NRS 293.269927(4)(b). Without a more
10 specific allegation, simply stating a registrar of voters “violated” NRS
11 293.269927(4)(b) cannot be grounds for removal.

12 19. NRS 293.277(3) requires the county clerk to establish procedures, with
13 secretary of state approval, to verify a voter has not already voted in their
14 county. It prescribes no direct legal duties on a single county commissioner
15 or a county manager. Disagreement with the substance of those procedures
16 would not be grounds for removal because the clerk/registrar of voters has
17 discretion in the detailed content so long as it contains topics set forth in the
18 above statute. Therefore, NRS 293.277(3) does not provide a basis for a
19 registrar of voters’s removal under NRS 283.440 in this case.

20 20. NRS 293.285(1)(b)(4) addresses the duties of the election board. It prescribes
21 no direct legal duties on a single county commissioner, a county manager, or
22 a county clerk/registrar of voters. Therefore, NRS 293.285(1)(b)(4) does not
23 provide a basis for removal under NRS 283.440 in this case.

24 21. NRS 293.3075(4) requires the county clerk to establish procedures, with
25 secretary of state approval, to verify a voter has not already voted in their
26 county. It prescribes no direct legal duties on a single county commissioner

1 or a county manager. Disagreement with the substance of those procedures
2 would not be grounds for removal of a registrar of voters because the
3 clerk/registrar of voters has discretion in the detailed content so long as it
4 contains topics set forth in NRS 293.3075(4). Therefore, NRS 293.3075(4)
5 does not provide a basis for removal under NRS 283.440 in this case.

6 22. NRS 293.3585(1)(d) establishes duties of elections board officers. It
7 prescribes no direct legal duties on a single county commissioner, a county
8 manager, or a county clerk/registrar of voters. Therefore, NRS
9 293.3585(1)(d) does not provide a basis for removal under NRS 283.440 in
10 here.

11 23. NRS 293.403(2) provides the procedures and circumstances in which a voter
12 may demand and receive a recount. It prescribes no direct legal duties on a
13 single county commissioner, a county manager, or a county clerk/registrar of
14 voters. Therefore, NRS 293.403(2) does not provide a basis for removal under
15 NRS 283.440 in this case.

16 24. NRS 293.404(2) provides that a candidate for office affected by a recount
17 may be present at a recount. It prescribes no direct legal duties on a single
18 county commissioner, a county manager, or a county clerk/registrar of
19 voters. Therefore, NRS 293.404(2) does not provide a basis for removal under
20 NRS 283.440 in this case.

21 25. Nev. Const. Art. 2 Sec. 1A Sub. Sec. 1(b) states a voter has a right to receive
22 and cast a ballot accurately reflecting their selection preferences. It prescribes
23 no direct legal duties on a single county commissioner, a county manager, or
24 a county clerk/registrar of voters. Therefore, Nev. Const. Art. 2 Sec. 1A Sub.
25 Sec. 1(b) does not provide a basis for removal under NRS 283.440.

26 //

1 Even if the Court were to consider whether Beadles stated a claim for removal based
2 on citing the above laws in his request for relief, the vague assertion that defendants
3 violated those laws does not state a claim for removal. To state a claim for removal due to
4 either malfeasance or nonfeasance, there **must** be allegations regarding an official legal duty
5 required of the person to be removed. *Jones*, 67 Nev. at 408, 219 P.2d at 1057; *Buckingham*,
6 60 Nev. 129, 102 P.2d at 636. Removal is likewise inappropriate based on a disagreement
7 with a public officer’s discretion in carrying out their legal duties. *See Jones*, 67 Nev. at 411–
8 12, 219 P.2d at 1058–59. The twenty-five laws set forth above prescribe no duties upon a
9 single county commissioner or a county manager. Neither can be removed even if
10 violations of those laws occurred, which Defendants nevertheless maintain are allegations
11 without any evidence. While nine of the above-cited laws prescribe duties on a registrar of
12 voters, without a more specific allegation, simply stating a registrar of voters “violated”
13 those laws does not state a claim for removal as set forth above.

14 The Court should dismiss the removal claim entirely with prejudice based on
15 Beadles’s failure to state a claim for removal under NRS 283.440.

16 **B. ONLY ELECTED OFFICIALS ARE SUBJECT TO REMOVAL UNDER NRS 283.440.**

17 The Motion explained that NRS 283.440 is only applicable to elected officials,
18 because they are “public officers” who “hold office.” *Mot.* at 14–6. There is no definition
19 for the same within NRS Chapter 283. It is ambiguous as to whether it applies only to local
20 elected officials or includes public employees. Recent legislative history adding to the
21 statute discussed only its application to a “local elected official.” *See Exs. 1–3 to Mot.*
22 Moreover, Nevada Courts have never applied NRS 283.440 to a non-elected local government
23 employee, even a high-ranking employee. *See Mot.* at 15–16.

24 Beadles argues NRS 283.440 should be applied to “any person” regardless of
25 whether they hold office. *Opp.* at 27–8. He argues only the excluded positions
26 constitutionally excluded from the statute, which are codified in its section 1. *Id.* He also

1 argues that because Manager Brown and Ms. Rodriguez are employed in high-level
2 positions, they can be removed. *Opp.* at 29. He misquotes the statute, stating “any person,
3 in any office,” when the language of the statute actually reads “Any person who is now
4 holding or who shall hereafter **hold any office...**” *Opp.* at 30; NRS 283.440(1)(emph.
5 added). He does not provide argument rebutting the recent legislative history, which
6 discussed NRS 283.440 only within the context of removing elected officials. *See Opp.*

7 Without a definition for “public officers” who “hold office,” NRS 283.440 is vague,
8 ambiguous, and subject to readily apparent interpretations. “Hold any office” can be
9 interpreted to mean holding an elected office. The fact that Beadles interprets the statute to
10 include public employees regardless of whether their position is elected shows the statute is
11 susceptible to more than one interpretation. As such, legislative history should be reviewed.
12 *Zohar v. Zbiegien*, 130 Nev. 733, 737, 334 P.3d 402, 405 (2014).

13 According to the legislative history, NRS 283.440 exists to remove elected officials.
14 *See Exs. 1–3 to Mot.* Unlike a high-level employee who can be removed by a majority vote of
15 a board of county commissioners, there is no other way to remove an elected official for
16 egregious conduct or failure to perform their legal duties. *Ex. 2 to Mot. at p. 13.* The
17 legislative intent behind NRS 283.440 was to “establish accountability **for elected**
18 **officials.**” *Ex. 1 to Mot. at p. 14.* Moreover, the Nevada Supreme Court has never applied
19 public officer removal statutes to non-elected positions. *Mot.* at 15–16. Therefore, this Court
20 should interpret the “public officers” who “hold office” language in NRS 283.440 to mean
21 a person in an elected position.

22 Next, it is unclear whether Beadles argues that definitions in NRS Chapter 281A
23 should be applied to NRS 283.440. *See e.g. Opp.* at 75. NRS Chapter 281A has an
24 indispensable purpose to government operations, ensuring that all government employees
25 perform their positions for the benefit of the people and without conflicts of interest. *See*
26 NRS 281A.020. It is logical that the scope of the Nevada Ethics in Government Law is

1 broader than the scope of NRS 283.440's removal procedure. *See e.g.* NRS 281A.160; NRS
2 281A.182. The legislature went so far as to clarify that the expansive scope is "solely and
3 exclusively for this chapter [281A]." NRS 281A.182(1). The Nevada Commission on Ethics
4 exists to investigate, hear, and pursue remedies for violations of NRS Chapter 281A. NRS
5 281A.705–90. This is an entirely different statutory scheme than summary removal under
6 NRS 283.440. The definitions within NRS Chapter 281A should not be applied to NRS
7 Chapter 283, because doing so would be inconsistent with legislative intent.

8 In sum, Beadles provides no legal authority outside the vague statutory language to
9 rebut Defendants' contention that removal under NRS 283.440 applies only to elected
10 officials. Instead, he asserts "[t]he defense clearly tries to hide facts from this honorable
11 court," the Motion's argument is "reprehensible," and that Defendants' interpretation
12 would be "the road to tyranny." *Opp.* at 27, 30. These attacks do not negate the legislative
13 intent for NRS 283.440 as set forth in the Motion, which is to provide a procedure to
14 remove elected officials. *Mot.* at 14–16.

15 The Court should construe NRS 283.440 to conform with reason and public policy,
16 allowing only removal of a local elected official. Allowing any disgruntled citizen to
17 remove a government employee and bypass internal investigations, safeguards, and
18 managerial discretion would be unreasonable and absurd. Removal "is an extreme and
19 extraordinary measure, intended only for extreme and extraordinary occasions." *Jones*, 67
20 Nev. at 418, 219 P.2d at 1062. Applying NRS 283.440 only to elected officials anticipates
21 that its procedures are reserved for "extreme and extraordinary occasions." *See id.*

22 Beadles cannot pursue Manager Brown and Ms. Rodriguez's removal under NRS
23 283.440 because they are not elected officials. In addition to Beadles's general failure to
24 state a claim set forth above, the Court should dismiss with prejudice the removal claim
25 against Manager Brown and Ms. Rodriguez because neither are elected officials.

26 //

1 **VI. THE OFFICE OF THE REGISTRAR OF VOTERS IS NOT A SUABLE**
2 **ENTITY.**

3 Defendants moved to dismiss the “Office of the Registrar of Voters,” a county
4 department that was named a Defendant in this case. A county department is “immune
5 from suit” because it is not a suable entity. *Wayment v. Holmes*, 112 Nev. 232, 239, 912 P.2d
6 816, 820 (1996).

7 Beadles states “If one simply looks to the NRS, it clearly states that the State,
8 County offices, and officers can be sued.” *Opp.* at 24. He then sets forth the waiver of
9 sovereign immunity analyzed in *Wayment v. Holmes*, 112 Nev. 232, 912 P.2d 816. The
10 Opposition also includes a section purporting to argue that the “ROV Can and Is Being
11 Sued,” but it contains no rebuttal to existing case law holding that a county department is
12 not a suable entity. *Opp.* at 29–30.

13 This legal issue is well settled: A department of a county is not a suable entity
14 because it is not political subdivision of the State of Nevada. *Wayment*, 112 Nev. at 237–
15 38, 912 P.2d at 819. The Office of the Registrar of Voters is not a political subdivision of
16 the State of Nevada. It is a department of Washoe County. The Office of the Registrar of
17 Voters is not a suable entity.

18 The Washoe County Registrar of Voters Office should be dismissed with prejudice.

19 **VII. THE MISCELLANEOUS RELIEF REQUESTED IS UNOBTAINABLE.**

20 Even if Beadles had viable claims, the protracted “DEMAND FOR RELIEF” seeks
21 unattainable relief. As a matter of law, punitive damages may not be awarded against
22 government entities and employees. NRS 41.035(1). “An award may not include any
23 amount as exemplary or punitive damages.” *Id.* Despite being presented with this
24 information, Beadles argues to the contrary. *Opp.* at 100–04. The Opposition contains legal
25 authority for instances of punitive damages awarded against non-government defendants in
26 state-level cases, and against government defendants for federal claims. *Id.* The Opposition

1 does not address NRS 41.035(1) or otherwise provide authority to refute its applicability in
2 claims arising under Nevada law.

3 Next the only remedy arising under NRS 283.440 “is removal from office. Nothing
4 in the statutes allows for recovery of damages by the complainant against the officer.”
5 *Armstrong v. Reynolds*, 2:17-cv-02528-APG-CWH, 2019 WL 1062364 at *8 (D. Nev. Mar. 6,
6 2019), *aff’d in part, rev’d in part and remanded*, 22 F.4th 1058 (9th Cir. 2022). It is unclear
7 whether the Opposition refutes this. *See Opp.* at 104. Beadles includes a heading that
8 purports to do so, but then he seems to acknowledge the Motion is “consistent with a
9 summary proceeding pursuant to NRS 283.440 for cause 2...” *Id.* He likewise provides no
10 legal authority to dispute the argument that monetary damages and equitable relief are
11 unavailable for removal actions.

12 Finally, the Court “cannot recognize a remedy absent an underlying cause of
13 action.” *Badillo v. American Brands, Inc.*, 117 Nev. 34, 41, 16 P.3d 435, 440 (2001). Beadles
14 asks for eighteen miscellaneous forms of relief, some vague, ranging from “adequate and
15 proper response by Defendant(s),” stating “Defendants must take into account and redress
16 all elections issues that Plaintiff puts on the table, no shying away,” monetary damages,
17 fining Defendants, and requiring Defendants to conduct elections based on Beadles’s
18 preferred procedures. *Compl.* at ¶101. In his Opposition, Beadles provides no relevant legal
19 authority to rebut the Motion’s argument that he is not entitled to the relief he requests. *See*
20 *Opp.* He cites many irrelevant criminal statutes, including NRS 193.130 outlining the
21 penalties for felony convictions. *Opp.* at 31.

22 The Court should dismiss with prejudice his request for punitive damages. Even if
23 any removal claims survive the instant Motion, the Court should dismiss with prejudice
24 Beadles’s request for injunctive relief on that claim. Even if he had viable claims, the only
25 relief available would be a writ of mandamus to compel a petition response and to remove
26 Commissioner Hill, Manager Brown, and Ms. Rodriguez as set forth above. There would

1 be no claim through which the Court could feasibly grant the miscellaneous absurd relief
2 Beadles requests. As such, the Court should dismiss Beadles’s “Demand for Relief.”

3 **VIII. BEADLES MAY NOT ASSERT CLAIMS FOR OTHERS.**

4 Beadles claims he pursues his claims “as a representative of every disenfranchised
5 voter of Washoe County...” *Opp.* at 109.

6 A person may only appear in this Court on their own behalf. *See Salman v. Newell,*
7 110 Nev. 1333, 1336, 885 P.2d 607, 608–09 (1994). A person may not appear on behalf of
8 any other party unless they are a Nevada-licensed attorney. *Id.*

9 Notwithstanding that his claims of voter disenfranchisement are vehemently
10 disputed, Beadles may not represent any other person in this case.

11 **IX. CONCLUSION**

12 Dismissal with prejudice is appropriate. Construing the Complaint liberally and in
13 Beadles’s favor, he fails to state a claim upon which relief can be granted. Defendants have
14 no legal obligation to respond to Beadles’s elections grievances. Beadles fails to identify
15 nonfeasance or malfeasance that would warrant removal under NRS 283.440.

16 AFFIRMATION PURSUANT TO NRS 239B.030

17 The undersigned does hereby affirm that the preceding document does not contain
18 the social security number of any person.

19 Dated this 5th day of September 2023.

20
21
22 By /s/ Lindsay L. Liddell
23 LINDSAY L. LIDDELL
24 Deputy District Attorney
25 One South Sierra Street
26 Reno, NV 89501
liddell@da.washoecounty.gov
(775) 337-5700

ATTORNEY FOR DEFENDANTS

