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6 REPRESENTING DEFENDANTS
7 JAMIE RODRIGUEZ, WASHOE
COUNTY REGISTRAR OF VOTERS,
8 ERIC BROWN, ALEXIS HILL,
and WASHOE COUNTY

9
10 **FIRST JUDICIAL DISTRICT COURT OF NEVADA**
CARSON CITY

11 * * *

12 ROBERT BEADLES, an individual,

13 Plaintiff,

Case No. 23-OC-00105-1B

14 vs.

Dept No. D1

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

23 Defendants.

24 **DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR ATTORNEYS' FEES**
25 **AND COSTS**

26

1 Defendants Jamie Rodriguez, the Office of the Washoe County Registrar of Voters,
2 Washoe County Manager Eric Brown, Washoe County Commissioner Alexis Hill, and
3 Washoe County, by and through counsel, DDA Lindsay Liddell, hereby file their Reply in
4 Support of Motion for Attorneys' Fees and Costs. This Reply is based on the following
5 Memorandum of Points and Authorities, and all papers and pleadings on file with this
6 Court.

7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 **I. INTRODUCTION**

9 At the Court's instruction, Defendants filed a Motion for Attorneys' Fees and Costs.
10 Defendants seek an award of attorneys' fees based on NRS 18.010(2). The requested fee is
11 calculated based on the lodestar method, using a reasonable market hourly rate multiplied
12 by hours spent. The costs sought are based on Defendants' previously-filed verified
13 Memorandum of Costs.

14 In opposing Defendants' Motion, Beadles claims, without citing legal authority, that
15 the lodestar calculation for government attorneys is "robbery." *See Opp.* at p. 2, ln. 21. He
16 implies that as "County employees," defense counsel is less qualified, and that government
17 parties should not be awarded fair market value of their in-house government attorneys. *See*
18 *Opp.* He also disputes the amount of hours spent defending this case. *Id.* Lastly, he requests
19 that the Court delay ruling on the instant Motion until the appeal of the order dismissing
20 this case and order denying his request for change of venue is resolved. *Id.*

21 As set forth below, case law supports use of the lodestar method with a reasonable
22 market hourly rate for government attorneys. The evidence presented shows the reasonable
23 market hourly rate is \$400 per hour, which is voluntarily reduced in Defendants' request for
24 reimbursement at \$375 per hour. The *Brunzell* factors support the requested fee including
25 the hours worked. Moreover, this Court has authority to issue an attorney fee award and
26 judicial efficiency would be served by a prompt resolution of this Motion.

1 **II. THE COURT HAS AUTHORITY TO AND SHOULD ISSUE AN ATTORNEY**
2 **FEE AWARD.**

3 As set forth in the Motion, an award of attorneys' fees is appropriate where the
4 prevailing party did not recover more than \$20,000 or where the claims were brought or
5 maintained without reasonable ground. NRS 18.010. Under Nevada law, "[i]n awarding
6 attorneys' fees, the court may pronounce its decision on the fees at the conclusion of the
7 trial or special proceeding without written motion and with or without presentation of
8 additional evidence." NRS 18.010(3).

9 Here, the Court lawfully pronounced its attorney fee award at the conclusion on the
10 November 20, 2023 hearing. *See Ex 1, Hearing Transcript*; NRS 18.010(3). The Court based
11 its attorney fee award in part on NRS 18.010(2)(b), which provides for an award of
12 attorneys' fees for having to defend claims brought or maintained without reasonable
13 ground. Ex. 1. Early in this case, Defendants filed a Motion for Sanctions relying on NRCP
14 11 and NRS 18.010(2)(b). The Motion for Sanctions was fully briefed, including regarding
15 the issue of whether Beadles brought his claims without reasonable ground. Defendants
16 hereby incorporate by reference the Motion for Sanctions filed September 11, 2023,
17 Beadles's 69-page Opposition of Motion for Sanctions filed September 21, 2023, and
18 Defendants' Reply in Support of Motion for Sanctions filed September 28, 2023, as though
19 fully set forth herein.

20 In opposing the instant Motion, Beadles again disputes that his claims were brought
21 or maintained without reasonable ground. *Opp.* at p. 7. He claims that "most attorneys and
22 pundits" who watched the hearing or read the transcript believe the case should not have
23 been dismissed.

24 An award of attorneys' fees is appropriate under both NRS 18.010(2)(a) and NRS
25 18.010(2)(b). Defendants are the prevailing parties and they recovered less than \$20,000.
26 Additionally, Beadles brought and maintained claims without reasonable ground.

1 The Court should not delay ruling on the instant motion. Prompt rulings on motion
2 for attorneys' fees minimize concerns that the relevant circumstances will no longer be
3 fresh in the mind of the Court after a lengthy appeal process. Efficient disposition of this
4 matter is best served by resolution of the instant Motion for Attorneys' Fees and Costs. As
5 set forth below, the lodestar calculation is the most appropriate method to determine fees,
6 and the *Brunzell* factors support Defendants' requested award.

7 **III. THE REQUESTED ATTORNEYS' FEES ARE REASONABLE.**

8 "The decision whether to award attorney's fees is within the sound discretion of the
9 trial court." *Bergmann v. Boyce*, 109 Nev. 670, 674, 856 P.2d 560, 563 (1993), *superseded by*
10 *statute on other grounds as recognized in In re DISH Network Derivative Litig.*, 133 Nev. 438, 451
11 n.6, 401 P.3d 1081, 1093 n.6 (2017). The Court is not limited to a specific approach when
12 determining the amount of fees to award, so long as the amount takes into account the
13 *Brunzell* factors. *Logan v. Abe*, 131 Nev. 260, 266, 350 P.3d 1139, 1143 (2015)(citations and
14 quotations omitted).

15 **A. THE LODESTAR METHOD AND MARKET RATE IS APPROPRIATE.**

16 Defendants seek an award of attorneys' fees based on the reasonable market value
17 of their counsels' hourly rate of \$375. *See Mot.* at p. 8. Beadles claims the requested hourly
18 rate is "not based in reality," that it is "price gauging," and that it is "phantom money being
19 charged." *Opp.* at pp. 2, 5, 8. He argues Defendants' counsel are not worth top law firm
20 rates, that Defendants should only be awarded the hourly salary paid to Ms. Liddell and
21 Ms. Hickman, and that paying a market rate "fundamentally misunderstands the role of
22 county attorneys who are not operating as a private law firm." *Id.*

23 The lodestar method is commonly used to calculate fees, which multiplies the
24 number of hours spent by a reasonable hourly rate. *University of Nevada v. Tarkanian*, 110
25 Nev. 581, 591, 879 P.2d 1180, 1188 n.4 (1994). The Nevada Supreme Court upheld use of
26 the lodestar method for attorneys serving as a government entity's in-house counsel. *Cuzze*

1 *v. Univ. & Cmty. Coll. Sys. of Nevada*, 123 Nev. 598, 607, 172 P.3d 131, 137 (2007). Rejecting
2 appellant’s argument that the reasonable market rate was excessive, the Nevada Supreme
3 Court noted that such an argument would ignore persuasive federal precedent and that “a
4 **lawyer’s position as a government attorney as no bearing on the fees that may be**
5 **recovered**” under that precedent. *Id.*, 123 Nev. 598, 607, n. 29, 172 P.3d 131, 137, n. 29
6 (emph. added).

7 The lodestar method of using “prevailing market rates necessarily takes into
8 consideration such factors as salary, overhead, the cost of support personnel, and incidental
9 expenses.” *PLCM Group v. Dexler*, 22 Cal. 4th 1084, 1097 (2000), *as modified* (June 2, 2000).
10 Use of the lodestar method for in-house counsel is “presumably reasonable.” *Id.* The Ninth
11 Circuit has “repeatedly held that determination of a reasonable hourly rate ‘is not made by
12 reference to the rates actually charged...’” *Welch v. Metro. Life. Ins. Co.*, 480 F.3d 942, 946
13 (9th Cir. 2007); *see also United States v. City of Jackson*, 359 F.3d 727, 733–34 (5th Cir.
14 2004)(rejecting city attorney’s salary as the fee rate, instead using the reasonable market
15 rate for the local legal community).

16 Awarding government attorney’s fees according to the lodestar method’s reasonable
17 market rate is appropriate and purely compensatory. *Acosta v. Sw. Fuel Mgmt., Inc.*, Case No.
18 CV164547FMOGRX, 2018 WL 1913772, at *10 (C.D. Cal. Mar. 28, 2018).¹ A California
19 Court of Appeals upheld lodestar calculations with market rates of \$500 and \$625 per hour
20 for two assistant attorneys general in the San Francisco Bay area in 2013, rather than the
21 governmental rates actually incurred. *In re Tobacco Cases I*, 216 Cal.App.4th 570, 581–82
22 (2013). The U.S. District Court in Nevada recently applied the lodestar method to award a

23
24 ¹ Ample authority supports awarding attorneys fees based on reasonable market hourly value for in-house
25 government attorneys. *See e.g. Napier v. Thirty or More Unidentified Fed. Agents*, 855 F.2d 1080, 1092–93 (3rd
26 Cir. 1988)(Assistant U.S. Attorney’s fee should “be valued at a market rate”); *Ex.-Imp. Bank of the U.S. v.*
united California Disc. Corp., Case No. CV 09-2930 CASPLAX, 2011 WL 165312, at *2 (C. D. Cal Jan. 12,
2011)(awarding a reasonable market rate to government attorneys, even though they were paid a salary and
did not formally bill clients); *Hamilton v. Daley*, 777 F.2d 1207, 1213 (7th Cir. 1985)(calculating county
attorneys’ fees “based on reasonable billing rates in the relevant community, not net hourly earnings”).

1 reasonable attorney fee of \$400 per hour for Washoe County Deputy District Attorney
2 Michael Large. Ex. 2; Ex. 3. The price of pursuing baseless claims in Nevada Courts
3 should not be lowered because the opposing party is a governmental entity. *See* NRS
4 18.025.

5 Here, the reasonable market rate is at least \$400 for comparable counsel, and
6 Defendants requested a voluntarily discounted rate of \$375 per hour. *See Mot.* at pp. 8, Exs.
7 4–6. Beadles does not provide any declarations from local attorneys regarding the market
8 hourly rate. *See Opp.* Instead, he argues that Ms. Liddell and Ms. Hickman are not entitled
9 to McDonald Carano attorney Matt Addison’s fee rate, or the Laffey Matrix.² *Opp.* at 2.
10 Defendants do not seek Mr. Addison’s market rate of \$650 per hour, and instead used his
11 discounted rate of \$375 per hour to the City of Sparks as a basis to discount their own fee
12 request. *See Mot.* at p. 8, Ex. 5. Beadles ignores the remaining exhibits showing hourly rates
13 for eight Nevada attorneys from \$400 to \$750. *See Mot. Exs. 4, Ex. 6.*

14 The evidence presented shows that the reasonable market rate for Ms. Liddell and
15 Ms. Hickman is at least \$400. *See Mot. Ex. 4 and Ex. 6; Ex. 2; Ex. 3.* Two local attorneys
16 testified that \$400 per hour “is customary and accepted in the community for complex civil
17 litigation matters that proceed to trial.” *Mot.* at Ex. 4, *Declaration of Michael Burke, Esq.,*
18 *Declaration of Nathan Aman, Esq.* Ms. Hickman has substantially similar experience to her
19 law school classmate Sam Mirkovich, Esq., who was awarded a rate of \$500 per hour. *See*
20 *Mot.* at Ex. 3; Ex. 6. Ms. Liddell has been a licensed attorney for over seven years and has
21 substantial litigation experience. *Mot.* at Ex. 1. Two local attorneys testified that \$400 per
22 hour “is customary and accepted in the community for complex civil litigation matters that
23

24
25 ² Beadles incorrectly claims the D.C. Circuit Court reversed use of the Laffey Matrix—the case Beadles cites
26 remanded a District Court’s decision to use a USAO Matrix instead of the Laffey Matrix. *DL v. Dist. of*
Columbia, 924 F.3d 585, 593 (D.C. Cir. 2019). Nonetheless, Defendants merely included the Laffey Matrix
as persuasive authority, and it was not the only authority to show that the reasonable market value for
comparable counsel is at least \$400 per hour.

1 proceed to trial.” The market value is at least \$400, and Defendants’ request for a
2 discounted rate of \$375 is extremely reasonable.

3 The Court should apply the lodestar method and award Defendants attorneys’ fees
4 at a current market value rate of \$400 per hour. The evidence presented demonstrates that
5 \$400 is an appropriate current market value for Ms. Liddell and Ms. Hickman’s hourly rate.
6 Ex. 2; Ex. 3; *Mot. Exs. 4–6*. It would be unreasonable to award only Ms. Liddell and Ms.
7 Hickman’s net salary, which does not take into account any overhead costs, costs of
8 support staff, or costs of health and retirement benefits. The lodestar method is a
9 reasonable approach to calculating fees for government attorneys. *See Cuzze*, 123 Nev. 598,
10 607, n. 29, 172 P.3d 131, 137, n. 29; *Acosta*, 2018 WL 1913772, at *10; Ex. 2; Ex. 3. This
11 Court should award Defendants their attorneys’ fees by multiplying the number of hours
12 Ms. Liddell and Ms. Hickman spent on defending Beadles’s claims by \$400.

13 **B. THE *BRUNZELL* FACTORS SUPPORT THE REQUESTED FEE AWARD.**

14 The *Brunzell* factors include the qualities of the advocate, the character of the work
15 to be done, the work actually performed by the lawyer, and the result. *Brunzell v. Golden Gate*
16 *National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

17 Beadles argues that the *Brunzell* factors do not support Defendants’ requested award.
18 *See Opp*. He appears to imply that because Ms. Liddell and Ms. Hickman chose careers in
19 public service they are inherently less qualified. *See id.* at p. 3 ln. 8. He states Ms. Liddell
20 and Ms. Hickman’s degrees and experiences are “at best, 25%” of the attorneys cited in the
21 declarations attached to Defendants’ Motion. *Id.* at p. 3. lns. 19–20. Beadles claims the
22 requested hours are “highly inflated.” *Id.* p. 4. He also claims that because the order
23 dismissing this case is on appeal, the court did not hold the work performed to “proper
24 scrutiny,” and the fourth factor regarding the result is “yet to be determined.” *Id.* at pp. 3–4.
25 Beadles provides no cogent argument to dispute that both Ms. Liddell and Ms. Hickman
26 are well-qualified and well-respected members of the legal community. *See Opp*.

1 The requested hours are reasonable, and any allegation of overbilling is mitigated by
2 the reduced hourly rate of \$375 per hour.³ Beadles takes issue with Ms. Liddell’s client
3 conferences and internal conferences, calling into question her competency for doing so.
4 *Opp.* at p. 4 lns. 13–15. He claims emails Ms. Liddell sent to Beadles should only be billed
5 at 30 to 60 seconds, that Ms. Hickman and Ms. Liddell should not be permitted to bill for
6 working together on a draft filing, that Ms. Liddell should not have personally retrieved the
7 boxes of exhibits he delivered to her clients, and that Defendants should not be reimbursed
8 for hours spent on the related case number CV23-01283. *Opp.* at pp. 4–5. The requested
9 hours were billed at tenths of an hour, a standard practice in the legal profession. Ex. 4,
10 *Declaration of Lindsay Liddell*, at ¶2; *see also Mot.* at Ex. 6. Beadles’s first Complaint, case
11 number CV23-01283, is nearly identical to the instant case and the work initially performed
12 therein was used in the present case. *See Ex. 5, Complaint; Mot.* at Ex. 1 at ¶6.

13 Moreover, the request is a conservative estimate of hours and both attorneys did not
14 log every single minute or activity spent in defending this case. *Mot.* Ex. 1 at ¶6, Ex. 2 at ¶5.
15 Having experience in private practice, Ms. Liddell kept a more thorough log of time that
16 included internal conferences. Ex. 4 at ¶2. Experience has taught her the importance of
17 gathering information, discussing proposed strategies with colleagues, diligent research,
18 thorough review of evidence, and thoroughly briefing important issues in a case. *Id.* at ¶3.
19 The Time Log reflects as much. *Id.; see also Mot.* at Ex. 3. Ms. Liddell’s August 14, 2023
20 travel to retrieve Beadles’s Exhibit boxes was appropriate and necessary.⁴ *Id.* at ¶4.

22 ³ Defendants’ request includes a discounted hourly rate of \$375 from the current market rate of \$400. Without
23 this discount, the attorneys’ fees request for 263.7 hours would total \$105,480 as opposed to \$98,887.50.
24 Beadles is receiving a total discount of \$6,592.50 in the requested attorneys’ fees.

25 ⁴ Close to 5 p.m. on Friday, August 11, 2023, Ms. Liddell was informed that Beadles delivered five binders
26 and a USB drive with “exhibits” to her clients at a building approximately 15-20 minutes away. Ex. at ¶4. She
was drafting a motion to dismiss, which she intended to file the following Monday. *Id.* After learning of the
“exhibits,” it was prudent to obtain and review them to ensure the motion to dismiss was not affected. *Id.* Ms.
Liddell engaged in confidential attorney client communication on Monday August 14, 2023, via email. *Id.* No
other person was available to immediately retrieve the exhibits, and it was most efficient for Ms. Liddell to
personally retrieve them to finalize and file the motion to dismiss on August 15, 2023. *Id.*

1 Additionally, Ms. Liddell and Ms. Hickman engaged in a standard practice of dividing the
2 necessary research and drafting for each filing. *See Mot.* Ex. 3; Ex. 6. As displayed in the
3 time log of awarded attorney fees for Governor Lombardo’s attorneys, internal meetings,
4 review and drafting of email correspondence, and multi-attorney research and briefing is
5 reasonable and appropriate. *See Mot.* at Ex. 6. Every time entry reflects time actually spent
6 defending this case. *Mot.* at Ex. 1 at ¶6, Ex. 2 at ¶5.

7 In sum, the Court should promptly issue an award of attorneys’ fees using the
8 lodestar calculation method. The reasonable market rate for comparable counsel is \$400
9 per hour, and Defendants reasonably request a discounted rate of \$375 per hour. The time
10 reasonably spent is 263.7 hours. The *Brunzell* factors support the requested award as both
11 Ms. Liddell and Ms. Hickman are well qualified, they performed high quality work in
12 response to Beadles’s numerous and length filings, each of them actually performed the
13 work, and they received a successful outcome for their clients.

14 **III. AN AWARD OF COSTS IS APPROPRIATE.**

15 “The determination of allowable costs is within sound discretion of the trial court.”
16 *Sheehan & Sheehan v. PETA*, 114 Nev. 1348, 1352, 971 P.2d 383, 385 (1998). “Costs must be
17 allowed of course to the prevailing party against any adverse party against whom judgment
18 is rendered...” in an action where plaintiff seeks to recover more than \$2,500 and in special
19 proceedings. NRS 18.020. Within three days of service of a memorandum of costs, the
20 adverse party may move to retax the costs. NRS 18.110(4). A party waives any challenge to
21 claimed costs when he does not file a motion to retax costs pursuant to NRS 18.110(4).
22 *Estate of Powell Through Powell v. Valley Health Sys., LLC*, Case No. 84861, 2023 WL 8291871
23 at *4 (Nov. 30, 2023)(unpublished disposition).

24 On November 29, 2023, Defendants filed a verified Memorandum of Costs in the
25 amount of \$378.94. Beadles did not file a motion to retax those costs, timely or otherwise.
26 The Motion for Attorneys’ Fees and Costs seeks an award of costs based on the previously-

1 filed Memorandum of Costs. *See Mot.* at pp. 8–9. Beadles’s Opposition does not appear to
2 dispute Defendants’ costs. *See Opp.*

3 The Court should issue an award of costs in the amount of \$378.94. Beadles did not
4 file a motion to retax costs pursuant to NRS 18.110(4). Therefore, he waived any challenge
5 to Defendants’ costs. Defendants are entitled to their costs, and Defendants provided the
6 Court with an accounting totaling \$378.94 in costs. *See Memorandum of Costs and*
7 *Disbursements filed November 29, 2023.*

8 **IV. CONCLUSION**

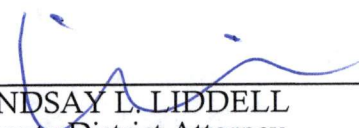
9 The Court should issue an award of attorneys’ fees in the amount of \$98,887.50,
10 and an award of costs in the amount of \$378.94.

11 A revised proposed order is attached hereto as “Exhibit 6.”

12 AFFIRMATION PURSUANT TO NRS 239B.030

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

15 Dated this 8th day of January, 2024.

16
17
18 By 
19 LINDSAY L. LIDDELL
20 Deputy District Attorney
21 One South Sierra Street
22 Reno, NV 89501
23 lliddell@da.washoecounty.gov
24 (775) 337-5700

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ATTORNEY FOR DEFENDANTS

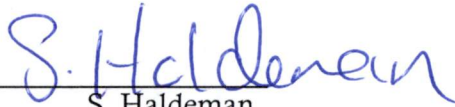
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Office of the District Attorney of Washoe County, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, Defendants' Reply In Support Of Motion For Attorneys' Fees And Costs was filed with the First Judicial District Court, Carson City. I certify that on this date, based on the parties' agreement pursuant to NRCP 5(b)(2)(E), Plaintiff Robert Beadles was served with a copy of Defendants' Reply In Support Of Motion For Attorneys' Fees And Costs at the following electronic mail address:

Robert Beadles
beadlesmail@gmail.com

Dated this 8th day January, 2024.


S. Haldeman

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INDEX OF EXHIBITS

Exhibit 1 Hearing Transcript 5 pages

Exhibit 2 Motion for Attorney’s Fees and Costs, 38 pages
Mezzano et al v. Second Jud. Dist. Ct.

Exhibit 3 Order, *Mezzano et al v. Second Jud. Dist. Ct.* 10 pages

Exhibit 4 Declaration of Lindsay Liddell in Support of Reply in Support of2 pages
Defendants’ Motion for Attorneys’ Fees and Costs

Exhibit 5 Complaint filed in Second Judicial District Court 24 pages
Case Number CV23-01283

Exhibit 6 Revised Proposed Order 11 pages

EXHIBIT 1

EXHIBIT 1

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IN THE FIRST JUDICIAL DISTRICT COURT
CARSON CITY, NEVADA
BEFORE THE HONORABLE JAMES TODD RUSSELL
-o0o-

ROBERT BEADLES,) 23 OC 00105 1B
) Dpt. No. 1
Plaintiff,)
)
vs.)
)
JAMIE RODRIGUEZ,)
)
Defendant.)
_____)

TRANSCRIPT OF PROCEEDINGS
MOTIONS HEARING
MONDAY, NOVEMBER 20, 2023

APPEARANCES:

For the Plaintiff: ROBERT BEADLES
IN PRO PER

For the Defendant: LINDSAY LIDDELL, ESQ.
Washoe County DA's Office
1 S. Sierra St., South Tower,
4th Floor
Reno, Nevada 89501

Reported by: NICOLE J. HANSEN, CCR #446,
RPR, CRR, RMR

1 do this. These simple examples I just gave you show this
2 case has to go forward. I overcome 12E5 all day long. I
3 overcome the Rule 11. I've overcome their motion for
4 sanctions. All of it. I just needed one claim. I've
5 literally just given you seven just like that. I can go
6 all day with hundreds more if you want, Your Honor.

7 THE COURT: Okay. That's fine. Thank you.
8 Again, I've gone through. I read the briefs and I've
9 gone through and checked the law. I've gone through all
10 of the different statutes, I've gone through the
11 constitutional requirements. I've looked at all of the
12 different articles cited, I looked at your first cause of
13 action basically was a claim under Article 1 Section 10
14 of the Nevada Constitution.

15 Your second cause of action primarily was a
16 claim primarily under Article 15, Section 2 of the Nevada
17 Constitution; also a mandamus claim in respect to that in
18 regards to that. Your second cause of action primarily
19 is a complaint for removal under NRS 266.430.
20 Additionally, it claims removal under NRS 283.440 in
21 respect to this matter.

22 I've gone through and I've read again all of
23 the allegations against these individuals in respect to
24 this particular matter. And based upon my review of all

1 of those documents and everything else, so that this can
2 all go up to the Supreme Court at once and go ahead and
3 basically on that basis, I think Mr. Beadles' complaint
4 fails to state any claims upon which relief can be
5 granted. I know he's got a lot of smoke, mirrors and all
6 kinds of fancy numbers and everything else.

7 MR. BEADLES: Then I move to disqualify you
8 right now. I move to disqualify you right now to tie
9 your hands to do anything else.

10 THE COURT: None of it makes any sense for
11 any violation under the Nevada Constitution or Nevada
12 law. Based upon that, I'm dismissing his complaint
13 pursuant to NRCP 12B5 with prejudice so that it can go to
14 the Supreme Court. They can review all of his actions
15 and review everything just as I did, and I find no basis.

16 Now, onto the motion for sanctions. I think
17 you believe in what you've done and you have some --

18 MR. BEADLES: Then your court orders mean
19 absolutely nothing. You literally just dismissed the
20 case where there was court orders demanding my rights be
21 met and they didn't do that. I don't understand how
22 you're doing what you're doing and --

23 THE COURT: That's fine, but I --

24 MR. BEADLES: -- still wearing a robe.

1 THE COURT: But I am going to go ahead and
2 award attorneys fees to Washoe County. I'm doing that
3 under NRS 18.0102 B under Brunzell versus Golden Gate
4 National Bank case. I'd like the defendants to provide
5 us a detailed accounting of their attorney's fees and
6 costs they spent in respect to this particular matter in
7 regards to that. I will sign both orders: An order for
8 change of order also the order to dismiss. In respect to
9 that, you'll file additional motion for the attorney's
10 fees in respect to this particular matter. We'll go
11 forward on that basis.

12 MS. LIDDELL: Thank you, Your Honor.

13 THE COURT: Thank you.

14 (The hearing concluded at 2:07 p.m.)

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STATE OF NEVADA)
CARSON CITY) ss.

I, NICOLE J. HANSEN, Certified Court Reporter in and for the State of Nevada, do hereby certify:

That the foregoing proceedings were taken by me at the time and place therein set forth; that the proceedings were recorded stenographically by me and thereafter transcribed via computer under my supervision; that the foregoing is a full, true and correct transcription of the proceedings to the best of my knowledge, skill and ability.

I further certify that I am not a relative nor an employee of any attorney or any of the parties, nor am I financially or otherwise interested in this action.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing statements are true and correct.

Dated this November 24, 2023.

Nicole J. Hansen

Nicole J. Hansen, CCR #446, RPR,
CRR, RMR

EXHIBIT 2

EXHIBIT 2

1 CHRISTOPHER J. HICKS
Washoe County District Attorney
2 MICHAEL W. LARGE
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5 (775) 337-5700

6 ATTORNEYS FOR SECOND JUDICIAL
DISTRICT COURT OF NEVADA,
7 JUDGE BRIDGET E. ROBB, ALICIA LERUD,
EMILY REED & WILLIAM WRIGHT
8

9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 * * *

12 ROCHELLE MEZZANO, JAY V. SHORE,
individually, and as next friend for Rochelle
13 Mezzano,

Case No. 3:23-cv-00324-RJC-CSD

14 Plaintiff,

MOTION FOR ATTORNEY'S FEES
AND COSTS

15 vs.

16 SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA, as a covered entity
17 under the Americans with Disabilities Act;
THE STATE OF NEVADA; BRIDGET E.
18 ROBB, individually, and in her professional
capacity as Judge; ALICIA LERUD,
19 individually, and as Trial Court Administrator
and Clerk for the Second Judicial District
20 Court of the State of Nevada; EMILY REED,
Individually, and as ADA Coordinator and
21 Assistant Court Administrator for the Second
Judicial District Court of the State of Nevada;
22 WILLIAM M. WRIGHT, JR. individually, and
as Assistant Court Administrator for the
23 Second Judicial District Court of the State of
Nevada,

24 Defendants. _____/

1 Defendants Second Judicial District Court of Nevada, Judge Bridget E. Robb, Alicia
2 Lerud, Emily Reed, and William Wright (hereinafter “Defendants”), through counsel, Michael
3 W. Large, Deputy District Attorney, moves for an award of attorneys’ fees against Plaintiffs
4 Rochelle Mezzano and Jay Shore pursuant to Federal Rule of Civil Procedure 11, 42 U.S.C. §12205,
5 and this Court’s inherent authority to sanction reckless and bad faith conduct.

6 This motion is based on the Motion for Sanction that is filed contemporaneously
7 herewith, the following Memorandum of Points and Authorities and all the pleadings and papers
8 on file in this Court.

9 MEMORANDUM OF POINTS AND AUTHORITIES

10 This case is the poster child for frivolous, legally unreasonable, and vexatious litigation.
11 Plaintiffs Rochelle Mezzano and Jay Shore hiding behind their pro se status attempted to
12 weaponize Title II of the Americans with Disabilities Act to delay Mezzano’s divorce trial in state
13 court by suing the presiding judge and the state court on the eve of trial. Sanctions are
14 appropriate under FRCP 11, 42 U.S.C. §12205, and this Court’s inherent authority to sanction
15 reckless and bad faith conduct.

16 Plaintiffs’ decision to file and maintain this lawsuit is not legally defensible. Defendants
17 made Plaintiffs’ aware at the outset of this litigation pursuant to FRCP 11 that their claims were
18 legally deficient. See Ex. 1. And yet, Plaintiffs did nothing. Plaintiffs wasted this Court’s time
19 and needlessly increased caused Defendants to incur attorneys’ fees and costs in defending this
20 action. Accordingly, Washoe County respectfully request’s that this Court sanction Plaintiffs
21 and award Defendants reasonable attorney’s fees and costs incurred in defending this vexatious
22 and needless action.

23 //

24 //

25 //

26 //

1 I. ANALYSIS

2 A. Sanctions should be awarded against Plaintiffs Rochelle Mezzano and Jay Shore
3 pursuant to FRCP 11, 42 U.S.C. §12205, and the Court’s inherent authority.

4 I. An award of attorney’s fees as Rule 11 sanctions is appropriate.

5 This Court’s Order of Dismissal of this action specifically found that Plaintiffs’ claims
6 were “frivolous and brought in bad faith...” *Mezzano v. Second Judicial Dist. Court*, 2023 WL 4868441,
7 at *1 (D. Nev. July 31, 2023). Plaintiffs admitted in their pleadings that this action was filed for
8 the improper purpose of delaying the state court proceedings and to get Judge Robb recused from
9 the case. In the Complaint, Plaintiffs requested that this Court “enjoin and remove” the divorce
10 case and enjoin “Defendant Robb from further acting or adjudicating” the dispute. ECF No. 1 at
11 p. 38. Plaintiffs additionally requested declaratory relief that “instructs the Defendants on how
12 to act and behave in accord with the ADA...” *Id.* at p. 37. Quite simply, Plaintiffs were
13 engaging in gamesmanship by attempting to pit one court against another because they didn’t
14 like the way the divorce trial was being handled. This is improper, and any reasonable legal
15 inquiry would have found that their claims were meritless.

16 Rule 11 “provides for the imposition of sanctions when a filing is frivolous, legally
17 unreasonable, or without factual foundation, or is brought for an improper purpose.” *Estate of Blue*
18 *v. Cty. of Los Angeles*, 120 F.3d 982, 985 (9th Cir. 1997). “Frivolous filings’ are those that are both
19 baseless and made without a reasonable and competent inquiry.” *Buster v. Greisen*, 104 F.3d 1186,
20 1190 (9th Cir. 1997) (*quoting Townsend v. Holman Consulting Corp.*, 929 F.2d 1358, 1362 (9th Cir. 1990)
21 (en banc)). “The test for whether Rule 11 is violated does not require a finding of subjective bad
22 faith by the attorney or unrepresented party.” *McMahon v. Pier 39 Ltd. P’ship*, 2003 WL 22939233, at
23 *6 (N.D. Cal. 2003). “An objective standard of reasonableness is applied to determinations of
24 frivolousness as well as improper purpose” under Rule 11. *Hudson v. Moore Business Forms, Inc.*, 836
25 F.2d 1156, 1159 (9th Cir. 1987) (citation omitted). Rule 11 does not require bad faith or willfulness.
26 *Zaldivar v. City of Los Angeles*, 780 F.2d 823, 829 (9th Cir. 1986), abrogated on other grounds by

1 *Cooter & Gell*, 496 U.S. at 399-400. A party or attorney may violate Rule 11 out of inexperience or
2 incompetence. See *Smith v. Ricks*, 31 F.3d 1478, 1488 (9th Cir. 1994) (rejecting attorney's argument
3 that Rule 11 should not be awarded because he had just made a “stupid mistake”); see also *Zuniga*
4 *v. United Can Co.*, 812 F.2d 443, 452 (9th Cir. 1987) (“[C]ounsel can no longer avoid the sting of
5 Rule 11 sanctions by operating under the guise of a pure heart and empty head.”). Rule 11(b)
6 “explicitly applies to parties not represented by attorneys.” *Warren v. Guelker*, 29 F.3d 1386, 1390
7 (9th Cir. 1994)(emphasis added). Thus, a court cannot decline to impose sanctions “where a
8 violation has arguably occurred, simply because plaintiff is proceeding pro se.” *Id.*

9 A filing that is “both baseless and made without a reasonable and competent inquiry” is
10 frivolous. *Portnoy v. Veolia Transp. Services, Inc.*, 2014 WL 3689366, at *5 (E.D. Cal. 2014) quoting
11 *Townsend v. Holman Consulting Corp.*, 929 F.2d 1358, 1362 (9th Cir. 1990).

12 Any reasonable and incompetent inquiry would have determined that the *Rooker-Feldman*
13 doctrine prevents this Court from exercising subject matter jurisdiction over this action.
14 Plaintiffs attempted a de facto appeal of Judge Robb’s Orders regarding reasonable
15 accommodations. District court throughout the Ninth Circuit have determined that the *Rooker-*
16 *Feldman* doctrine bars similar de facto appeals of reasonable accommodation requests under the
17 ADA. See *Farina v. Cnty. of Napa, California*, 2022 WL 1539518, at *2 (N.D. Cal. May 16, 2022)(“This
18 order need not entertain the merits of plaintiff’s ADA claim to conclude that plaintiff raises a de
19 facto appeal of a state-court order” and “*Rooker-Feldman* doctrine thwarts all claims); *Sidiakina v.*
20 *Bertoli*, 2012 WL 12850130, at *3–4 (N.D. Cal. Sept. 7, 2012) (dismissing ADA claims against
21 presiding judge based on *Rooker-Feldman*), *aff’d*, 612 Fed. Appx. 477 (9th Cir. 2015); *Bernstein v.*
22 *United States Dept. of Hous. & Urb. Dev.*, 2021 WL 1530939, at *4 (N.D. Cal. Apr. 19, 2021) (dismissing
23 ADA reasonable accommodation claims against Alameda County Superior Court and presiding
24 judges based on *Rooker-Feldman* and judicial immunity); *McDaniels v. Dingley*, 2021 WL 5564727,
25 at *5 (W.D. Wash. Nov. 29, 2021) (“Plaintiff’s ADA accommodation claims are barred by *Rooker-*
26 *Feldman* because they challenge state court decisions denying his requests for reasonable

1 accommodations under Title II of the ADA.”); *Langworthy v. Whatcom Cty. Superior Ct.*, 2021 WL
2 1788391, at *3 (W.D. Wash. May 5, 2021)(same).

3 In *Habib v. Cruz*, 17 Fed. Appx. 666, 667 (9th Cir. 2001), the Ninth Circuit upheld the award
4 of Rule 11 sanctions against a pro se plaintiff. Therein, the district court had dismissed plaintiff’s
5 claims under Rooker-Feldman because plaintiff sought review of issues previously litigated in
6 Guam Superior Court and raised federal constitutional claims that were “inextricably
7 intertwined” with the previous judgment. Similarly in the present instance, Rule 11 sanctions are
8 appropriate.

9 Likewise, any reasonable and competent inquiry would have determined that *Younger*
10 abstention bars a federal court for granting declaratory and injunctive relief under the facts
11 presented in this case. See *H.C. ex rel. Gordon v. Koppel*, 203 F.3d 610 (9th Cir. 2000); *ReadyLink*
12 *Healthcare, Inc. v. State Compensation Ins. Fund*, 754 F.3d 754, 759 (9th Cir. 2014) (citations omitted)
13 (emphasis added); see also *Middlesex Cty. Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423, 432
14 (1982) (“Where vital state interests are involved, a federal court should abstain unless state law
15 clearly bars the interposition of the constitutional claims.”).

16 Additionally, any reasonable and competent inquiry would have determined that
17 Plaintiffs claims under the ADA against Judge Robb are barred by judicial immunity. See *Duvall v.*
18 *County of Kitsap*, 260 F.3d 1124, 1133 (9th Cir. 2001)(“Judicial immunity applies to claims under
19 Title II of the ADA). It has long been established that judges are absolutely immune from liability
20 for damages, injunctive relief, and declaratory relief sought as a result of judicial acts performed
21 in their judicial capacity. *Moore v. Brewster*, 96 F.3d 1240, 1243–44 (9th Cir.1996). To qualify for
22 judicial immunity, a judge must have performed “judicial acts” within the scope of his or her
23 jurisdiction. *Stump v. Sparkman*, 435 U.S. 349, 356–57, 98 S.Ct. 1099, 55 L.Ed.2d 331 (1978). “An act
24 is judicial in nature if it is a function normally performed by a judge and the parties to the act
25 were dealing with the judge in his judicial capacity.” *McGuire v. Clackamas Cnty. Counsel*, 2009 WL
26 4456310, at *4 (D.Or. Nov. 24, 2009) (citing *Stump*, 435 U.S. at 362, 98 S.Ct. 1099). Judges “enjoy

1 absolute immunity even when their actions are erroneous, malicious, or in excess of judicial
2 authority.” *Tanner v. Heise*, 879 F.2d 572, 576 (9th Cir. 1989).

3 Defendants complied with the strict requirements of FRCP 11. On July 17, 2023, the
4 undersigned sent Plaintiffs a safe harbor letter pursuant to FRCP 11 along with required Motion
5 for Sanctions. *See* Ex. 1 (declaration of Michael W. Large); Ex. 3 (Rule 11 Letter). Additionally, a
6 copy of the Motion to Dismiss which had been filed that same day and completely outlined the
7 legal deficiencies in the Complaint was sent as well. *Id.* This letter was sent certified mail in
8 compliance with FRCP 5(b). *See* Ex. 2 (declaration of service). Additionally, the undersigned
9 provided the letter and motions via mail to Plaintiffs in accordance with emails addresses
10 provided in the CM/ECF system. *See* Ex. 1.

11 Accordingly, sanctions under Rule 11 are appropriate.

12 **2. An award of attorney’s fees under 42 USC §12205 is appropriate.**

13 Section 12205 of the Americans with Disabilities Act provides that

14 In any action or administrative proceeding commenced pursuant to this chapter,
15 the court or agency, in its discretion, may allow the prevailing party, other than the
16 United States, a reasonable attorney's fee, including litigation expenses, and costs,
17 and the United States shall be liable for the foregoing the same as a private
18 individual.

19 42 U.S.C. § 12205. While either plaintiffs or defendants may qualify as prevailing parties, fee
20 awards to defendants should be reserved for “exceptional circumstances,” lest they have “a
21 chilling effect on the filing of ADA lawsuits by plaintiffs.” *Peters v. Winco Foods, Inc.*, 320 F.Supp.2d
22 1035, 1037 (E.D. Cal. 2004), *aff’d*, 151 Fed.Appx. 549 (9th Cir. 2005). ADA defendants may
23 accordingly receive attorneys’ fees only “upon a finding that the plaintiff’s action was frivolous,
24 unreasonable, or without foundation.” *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 421, 98
25 S.Ct. 694, 54 L.Ed.2d 648 (1978). While *Christiansburg* sets out the standards for awarding fees
26 under Title VII, the same standards apply for fee awards under the ADA. *See Summers v. Teichert &*
Son, Inc., 127 F.3d 1150, 1154 (9th Cir. 1997).

1 This Court has already held the Plaintiffs' Complaint which was based on Title II of the
2 ADA was frivolous and brought in bad faith, and accordingly, it fits into the "exceptional
3 circumstances" justifying an award of attorney's fees to Defendants as the prevailing party in this
4 litigation.

5 3. An award of attorney's fees based on this Court's inherent power to levy
6 sanctions is appropriate.

7 Courts have the "inherent power to levy sanctions, including attorneys' fees, ... when the
8 losing party has acted in bad faith, vexatiously, wantonly, or for oppressive reasons." *Fink v.*
9 *Gomez*, 239 F.2d 989, 991 (9th Cir. 2001) (quoting *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 766
10 (1980)). Under the court's inherent power, however, sanctions are only available "if the court
11 specifically finds bad faith or conduct tantamount to bad faith." *Id.* at 994. Conduct that is
12 tantamount to bad faith includes "recklessness when combined with an additional factor such
13 as frivolousness, harassment, or an improper purpose." *Id.*

14 Again, this Court has already held that Plaintiffs filing of this action was frivolous and in
15 bad faith, and therefore an award of attorney's fees based on the Court's inherent power is
16 appropriate.

17 In sum, pursuant to FRCP 11, this Court's inherent power and 42 USC §12205, both
18 Plaintiffs should be sanctioned because the filing of this lawsuit was legally frivolous and
19 presented for an improper purpose, and brought in bad faith.

20 **B. Summary and Itemization of Washoe County's Fees As Required by FRCP**
21 **54(d)(2) & LR 54-14(1).**

22 Defendants are seeking an award of its attorneys' fees and costs pursuant to FRCP
23 54(d)(2) as the prevailing party in this litigation. Under FRCP 54(d)(2), a motion for attorney's
24 fees must be brought within 14 days and specify the judgment and the statute, rule or other
25 grounds entitling the movant to the award. As argued prior, Washoe County is entitled to its
26 attorneys' fees as a sanction under FRCP 11, this Court's inherent powers, and 28 U.S.C. §1927.

1 “Once a party has established that it is entitled to an award of attorneys' fees, it remains
2 for the district court to determine what fee is reasonable.” *Hensley v. Eckerhart*, 461 U.S. 424, 433
3 (1983). In federal courts reasonable attorneys' fees are generally based on the traditional
4 “lodestar” calculation set forth in the three Supreme Court cases of *Hensley v. Eckerhart*, 461 U.S.
5 424 (1983); *Blum v. Stenson*, 465 U.S. 886 (1984) (same), and *Pennsylvania v. Delaware Valley Citizens'*
6 *Council for Clean Air*, 478 U.S. 546 (1986) (awarding fees pursuant to Clean Air Act 42 U.S.C. §§
7 7401 et seq.).

8 First, the court must determine a reasonable fee by multiplying the number of hours
9 reasonably expended on the litigation by a reasonably hourly rate. *Hensley*, 461 U.S. at 433.
10 Second, the court must decide whether to adjust the lodestar amount based on an evaluation of
11 the factors articulated in *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 70 (9th Cir.1975), which have
12 not been subsumed in the lodestar calculation. *See Fischer*, 214 F.3d at 1119 (citation omitted).
13 Local Rule 54-14, motion for attorney’s fees has codified the *Kerr* factors and the lodestar
14 methodology and is addressed below.

15 **(1) A reasonable itemization and description of the work performed**

16 Michael W. Large served as counsel for Defendants in this matter. His declaration is
17 attached hereto as Exhibit 1 and his billing records including an itemization and description of
18 the work performed is attached hereto as Exhibit 4.

19 **(2) An itemization of all costs sought to be charged as part of the fee award and**
20 **not otherwise taxable under LR 54-1 through 54-13**

21 None. Washoe County is only seeking attorneys’ fees in this matter.

22 **(3) A brief summary of:**

23 **(A) The results obtained and the amount involved**

24 Defendants obtained complete success because of this Court’s Order on the Motion to
25 Dismiss based on FRCP 12(b)(1)&(6). Plaintiffs were seeking declaratory and injunctive relief
26

1 under Title II of the ADA and substantive due process. Additionally, Plaintiffs sought monetary
2 damages.

3 **(B) The time and labor required;**

4 Mr. Large spent 65.5 hours in defending this case since July 5, 2023. Ex. 4. As evidenced
5 by the entries, the bulk of this time was researching and drafting the pleadings in this matter.

6 **(C) The novelty and difficulty of the questions involved;**

7 Every case presents novel and difficult questions. This was a case based on Title II of the
8 ADA and substantive due process. Additionally, the issues presented required extensive research
9 into federal court abstention doctrines, judicial immunity, the unauthorized practice of law, and
10 basis failure to state a claim analysis.

11 **(D) The skill requisite to perform the legal service properly;**

12 Every case is difficult and a level of legal skill to be done properly. This case required the
13 same.

14 **(E) The preclusion of other employment by the attorney due to acceptance of
15 the case;**

16 Mr. Large is the head of litigation for Washoe County and is an employee of the Washoe
17 County District Attorney's Office. Dedicating his time to this matter, required allocation of
18 business resources, and necessarily required that other matters were delayed or represented by
19 other attorneys.

20 **(F) The customary fee;**

21 There is no customary fee for representing Washoe County.

22 **(G) Whether the fee is fixed or contingent;**

23 Mr. Large is a salaried employee.

24 **(H) The time limitations imposed by the client or the circumstances;**

25 The requirements of Federal Rules of Civil Procedure imposed deadlines on the pleadings
26 submitted in this case. Additionally, the procedural posture of this case especially in relation to

1 the ongoing state court divorce action required that work be done expeditiously to prevent
2 further injustice.

3 **(I) The experience, reputation, and ability of the attorney(s);**

4 Mr. Large is a seasoned trial attorney who has worked for Washoe County for 9 years.
5 He has prior experience with the United States Attorney's Office of Nevada and the law firms of
6 Laxalt & Nomura, Ltd and Perkins Coie LLP. He is also a former law clerk for Honorable Procter
7 Hug, Jr. of the United States Court of Appeals for the Ninth Circuit, and Honorable Howard D.
8 McKibben and Honorable David W. Hagen of the United States District Court of Nevada.

9 **(J) The undesirability of the case, if any;**

10 This case was undesirable from the standpoint that the entirety of this action had been
11 previously litigated in the state court proceeding.

12 **(K) The nature and length of the professional relationship with the client**

13 Mr. Large has represented Washoe County and its various agencies, including the Second
14 Judicial District Court of Nevada and its employees, for 9 years. Ex.

15 **(L) Awards in similar cases**

16 Hourly Rate:

17 The Ninth Circuit has "repeatedly held that the determination of a reasonable hourly rate
18 is not made by reference to rates actually charged the prevailing party." *Welch v. Metropolitan Life*
19 *Ins., Co.*, 480 F.3d 942, 946 (9th Cir.2007). Rather, the reasonable hourly rate should reflect "the
20 prevailing market rates in the relevant community." *Webb v. Ada County*, 285 F.3d 829, 840 n. 6 (9th
21 Cir.2002). The relevant community is the forum in which the district court sits. *Barjon v. Dalton*,
22 132 F.3d 496, 500 (9th Cir. 1997). Reasonably competent counsel bill at a reasonable hourly rate
23 based on the local legal community as a whole. *See Blum v. Stenson*, 465 U.S. 886, 893, 104 S.Ct. 1541,
24 79 L.Ed.2d 891 (1984). "The definition of what is a reasonable fee applies uniformly to all federal
25 fee-shifting statutes." *Anderson v. Director, Office Workers Compensation Programs*, 91 F.3d 1322, 1325
26 (9th Cir.1996).

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of the Office of the District Attorney of Washoe County, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, I deposited for mailing in the U.S. Mails, with postage fully prepaid, a true and correct copy of the foregoing MOTION FOR ATTORNEY'S FEES AND COSTS in an envelope addressed to the following:

ROCHELLE MEZZANO
125 YELLOWSTONE DRIVE
RENO, NV 89512

JAY V. SHORE
3521 50TH STREET #51
LUBBOCK, TX 79413

Pursuant to FRCP 5(b), I certify that I am an employee of the Office of the District Attorney of Washoe County, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, the foregoing was electronically filed with the United States District Court. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

JOHN SPRINGATE, ESQUIRE
CASEY QUINN, ESQUIRE

Dated this 7th day of August, 2023.

/s/ C. Theumer
C. Theumer

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EXHIBIT INDEX

- Exhibit 1 Declaration of Michael W. Large
- Exhibit 2 Declaration of Service
- Exhibit 3 FRCP II Letter/Motion for Sanctions
- Exhibit 4 Billing Records
- Exhibit 5 Declarations Regarding Hourly Rates in Northern Nevada

EXHIBIT INDEX

EXHIBIT 1

EXHIBIT 1

DECLARATION OF MICHAEL W. LARGE

STATE OF NEVADA

COUNTY OF WASHOE

I, Michael W. Large, who declares under penalty of perjury and states:

1. I am counsel of record in this matter for Defendants Washoe County. I have served a Deputy District Attorney in the Civil Division of the Washoe County District Attorney's Office for nine years. Prior that I worked in the criminal division of the U.S. Attorney's Office of Nevada and as a civil litigator in the law firms of Laxalt & Nomura Ltd. in Reno, Nevada and Perkins Coie LLP in Portland, Oregon. I served as a law clerk for Honorable Procter Hug, Jr. on the United States Court of Appeals for the Ninth Circuit, and a law clerk for Honorable David W. Hagen and Honorable Howard D. McKibben with the United States District Court for the District of Nevada.

2. Attached hereto as Exhibit 4 is a true and accurate copy of time records for this matter that includes itemization of the work performed. Pursuant to LR 54-14(c), I verify that as the head of litigation for Washoe County, I am responsible for maintaining the time records and have reviewed and edited these entries and believe that the fees and costs charged in this matter are reasonable.

3. Attached hereto as Exhibit 3 is a true and accurate copy of a letter pursuant to Rule 11 that was served on Plaintiffs Mezzano and Shore on July 17, 2023 via certified mail and sent via email to Plaintiffs on July 17, 2023 as well. Attached hereto as Exhibit 2 is a true and accurate copy of the Declaration of Service for the Rule 11 letter and motion for sanctions.

4. Attached hereto as Exhibit 5 are affidavits from counsel in Northern Nevada attesting to \$400 being a reasonable hourly rate in this legal community.

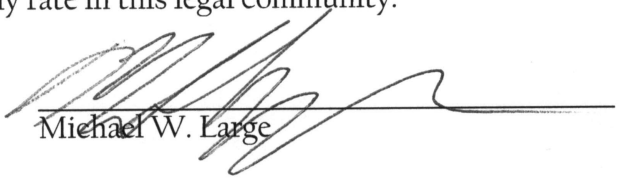

Michael W. Large

EXHIBIT 2

EXHIBIT 2

1 MICHAEL W. LARGE
2 Deputy District Attorney
3 Bar Number: 10119
4 One South Sierra Street
5 Reno, NV 89501
6 (775) 337-5700
7 mlarge@da.washoecounty.gov

8 ATTORNEYS FOR SECOND JUDICIAL
9 DISTRICT COURT OF NEVADA,
10 JUDGE BRIDGET E. ROBB, ALICIA LERUD,
11 EMILY REED & WILLIAM WRIGHT

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 * * *

15 ROCHELLE MEZZANO, JAY V. SHORE,
16 individually, and as next friend for Rochelle
17 Mezzano,

Case No. 3:23-cv-00324-RCJ-CSD

18 Plaintiff,

AFFIDAVIT OF SERVICE

19 vs.

20 SECOND JUDICIAL DISTRICT COURT OF
21 THE STATE OF NEVADA, as a covered entity
22 under the Americans with Disabilities Act;
23 THE STATE OF NEVADA; BRIDGET E.
24 ROBB, individually, and in her professional
25 capacity as Judge; ALICIA LERUD,
26 individually, and as Trial Court Administrator
and Clerk for the Second Judicial District
Court of the State of Nevada; EMILY REED,
Individually, and as ADA Coordinator and
Assistant Court Administrator for the Second
Judicial District Court of the State of Nevada;
WILLIAM M. WRIGHT, JR. individually, and
as Assistant Court Administrator for the
Second Judicial District Court of the State of
Nevada,

Defendants. _____/

STATE OF NEVADA
COUNTY OF WASHOE

1 The undersigned, being first duly sworn, under penalty of perjury, deposes and says: That
2 affiant is, and was when the herein described mailing took place, a citizen of the United States,
3 over 21 years of age, and not a party to, nor interested in, the within action; that on July 17, 2023,
4 affiant deposited in the County mail system for deposit in the United States Mail with postage
5 fully prepaid, certified mail, return receipt requested, a copy of the Motion to Sanctions,

6 addressed to:

7 ROCHELLE MEZZANO
8 120 YELLOWSTONE DR
9 RENO, NV 89512

9171 9690 0935 0214 9419 43

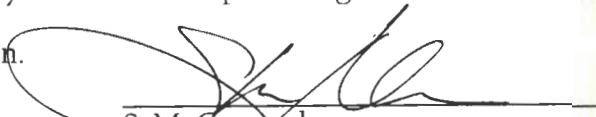
10 JAY V. SHORE
11 3251 50TH ST #51
12 LUBBOCK, TX 79413

9171 9690 0935 0214 9419 36

13 and that there is a regular communication by mail between the place of mailing and the place
14 addressed.

15 AFFIRMATION PURSUANT TO NRS 239B.030 AND 603A.040

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


18 S. McCormack

19 COUNTY OF WASHOE

20 STATE OF NEVADA

21 SUBSCRIBED and SWORN to before me

22 This 17th day of July, 2023

23 by S. McCormack.



24 
25 Notary Public
26

EXHIBIT 3

EXHIBIT 3



Christopher J. Hicks
District Attorney

1 South Sierra Street
Reno, Nevada 89501
775.328.3200
washoecounty.us/da

July 17, 2023

Rochelle Mezzano
125 Yellowstone Dr.
Reno, NV 89512

Jay V. Shore
3521 50th St. #51
Lubbock, TX 79413

Re: *Mezzano et al v. Second Judicial District Court of Nevada et al*, 3:23-cv-00324-RCJ-CSD

Dear Ms. Mezzano and Mr. Shore:

I am writing regarding the above-referenced matter that was filed in the United States District Court of Nevada on July 6, 2023. I serve as counsel for the Second Judicial District Court, Judge Robb, Alicia Lerud, Emily Reed, and William Wright. Please refer all further to communications to me and refrain from speaking to my clients regarding any matter currently pending in the federal court action.

I am writing pursuant Federal Rule of Civil Procedure ("FRCP") 11. FRCP 11 authorizes a court to sanction a party who files a pleading that is presented for an improper purpose, asserts claims unsupported by existing law or a good-faith argument for an extension or change in existing law, or makes factual statements lacking evidentiary support. Fed. R. Civ. P. 11(b); *see also Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1177 (9th Cir. 1996) ("Rule 11 provides for the imposition of sanctions when a filing is frivolous, legally unreasonable, or without factual foundation, or is brought for an improper purpose."). "[T]he central purpose of Rule 11 is to 'deter baseless filings in district court' *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 393 (1990). Rule 11(b) 'explicitly applies to parties not represented by attorneys.' *Warren v. Guelker*, 29 F.3d 1386, 1390 (9th Cir. 1994). Thus, a court cannot decline to impose sanctions 'where a violation has arguably occurred, simply because plaintiff is proceeding pro se.' *Id.*

Pursuant to FRCP 11(b)(1), this lawsuit has been presented for an improper purpose of attempting to manufacture grounds to force Judge Robb's recusal from the divorce proceedings and to needlessly delay divorce trial from proceeding. Pursuant to FRCP 11(b)(2), your claims lack merit because they are barred by the *Younger* and *Rooker-Feldman* abstention doctrines, judicial immunity, and you fail to state a claim upon which relief can be granted under FRCP 12(b)(6).

As required by FRCP 11(c)(2), I have enclosed a copy of the Motion for Sanctions that will be filed should you fail to voluntarily dismiss this action within 21 days. Additionally, I am including a copy of the recently filed Motion to Dismiss.

Rochelle Mezzano

Jay V. Shore

July 17, 2023

Page 2

If you have any questions, please do not hesitate to contact me.

Sincerely,

CHRISTOPHER J. HICKS

District Attorney

By: 

MICHAEL W. LARGE
Deputy District Attorney

MWL/cat

Enclosures

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5 (775) 337-5700

6 ATTORNEYS FOR SECOND JUDICIAL
DISTRICT COURT OF NEVADA,
7 JUDGE BRIDGET E. ROBB, ALICIA LERUD,
EMILY REED & WILLIAM WRIGHT
8

9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 * * *

12 ROCHELLE MEZZANO, JAY V. SHORE,
individually, and as next friend for Rochelle
13 Mezzano,

Case No. 3:23-cv-00324-RJC-CSD

14 Plaintiff,

MOTION TO SANCTIONS

15 vs.

16 SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA, as a covered entity
17 under the Americans with Disabilities Act;
THE STATE OF NEVADA; BRIDGET E.
18 ROBB, individually, and in her professional
capacity as Judge; ALICIA LERUD,
19 individually, and as Trial Court Administrator
and Clerk for the Second Judicial District
20 Court of the State of Nevada; EMILY REED,
Individually, and as ADA Coordinator and
21 Assistant Court Administrator for the Second
Judicial District Court of the State of Nevada;
22 WILLIAM M. WRIGHT, JR. individually, and
as Assistant Court Administrator for the
23 Second Judicial District Court of the State of
Nevada,

24 Defendants. _____/

1 Defendants Second Judicial District Court of Nevada, Judge Bridget E. Robb, Alicia
2 Lerud, Emily Reed, and William Wright, through counsel, Michael W. Large, Deputy District
3 Attorney, hereby moves for sanctions pursuant to Federal Rule of Civil Procedure 11. This motion
4 is based on the following Memorandum of Points and Authorities, all the pleadings on file in this
5 Court and any oral argument that this Court wishes to entertain.

6 **MEMORANDUM OF POINTS AND AUTHORITIES**

7 **I. Introduction**

8 This case has been brought in bad faith and for no other reason than harassment and delay
9 of ongoing state court proceedings. Suing a presiding judge on the eve of trial to delay the trial
10 would result in disbarment by a practicing attorney. Sanctions under Rule 11 are appropriate.

11 **II. Background**

12 On September 24, 2019, John Townley sued his wife Rochelle Mezzano for divorce. *See*
13 Ex. 1 (docket sheet in Townley v. Mezzano, DV19-01564). Over the course of the next four years,
14 the divorce case proceeded first in the Second Judicial District Court of Nevada then the Nevada
15 Supreme Court, and back. *Id.*

16 On or about January 2023, Mezzano hired Jay V. Shore to serve as her “ADA Advocate.”
17 At that time, she was still represented by counsel in the divorce proceeding.¹ On January 12, 2023,
18 Mr. Shore’s sent a letter on Ms. Mezzano’s behalf to Judge Robb and Clerk of Court Alicia Lerud
19 dated January 12, 2023. Ex. 2 (1-12-23 letter from Shore). In that letter, Shore argues that Judge
20 Robb’s legal rulings throughout the case have been wrong and as a result have created a
21 “physiological condition that substantially limits Ms. Mezzano’s major life activities...” *Id.* at 4.

22 The letter also requests accommodations pursuant to the Americans With Disabilities
23 Act (“ADA”). Because the requested accommodations would fundamentally alter the divorce
24 proceedings, SJDC administration informed Mezzano that she would be required to file a motion
25

26 ¹ On February 9, 2023, Judge Robb issued an Order granting Mezzano’s counsel the right to be relieved as counsel. Since that time, Ms. Mezzano has been representing herself in the underlying divorce proceedings.

1 seeking accommodations with the Court, and that this could be done under seal to protect
2 Mezzano’s privacy concerns. On April 4, 2023, Mezzano filed her request for accommodation
3 with the Court. *See* Ex. 1.

4 On April 14, 2023, Judge Robb issued a Trial Procedure Order for the trial in the divorce
5 action set for April 17, 2023. Ex. 3. In that Order, Judge Robb delineated that Mezzano could have
6 a “support person of her choosing present at trial...” *Id.* On April 17, 2023, the Parties appeared
7 before the Court on April 17, 2023 for a contested divorce trial; however, the “trial did not proceed
8 due to the unavailability of Ms. Mezzano’s A.D.A. Advocate whose presence was granted in the
9 Order regarding Trial Procedure.” Ex. 4.

10 The divorce trial was reset for July 6th and July 7th, 2023.

11 On May 4, 2023, an ex parte hearing regarding ADA issues. Ex. 5. Neither Mezzano nor
12 Shore showed up for the hearing.

13 On June 28, 2023, Judge Robb issued an Order Regarding Trial which was set for July 6-
14 7, 2023. Ex. 6.

15 On July 5, 2023, Plaintiffs filed this lawsuit in the United States District Court of Nevada
16 against Judge Robb, the SJDC, and several SJDC administrators. Later that day, in the divorce
17 action, Mezzano filed a “Petition for Recusal of Judge Robb” and a document entitled “Notice of
18 Filing of Federal Complaint and Notice of Removal to Federal Court.” Ex. 7.

19 On July 6, 2023, Judge Robb vacated the divorce trial based on the filing of the purported
20 Notice of Removal.

21 **III. Legal Analysis**

22 **A. Rule II Standard**

23 Federal Rule of Civil Procedure Rule 11 authorizes a court to sanction a party who files a
24 pleading that is presented for an improper purpose, asserts claims unsupported by existing law
25 or a good-faith argument for an extension or change in existing law, or makes factual statements
26 lacking evidentiary support. Fed. R. Civ. P. 11(b); *see also Simpson v. Lear Astronics Corp.*, 77 F.3d 1170,

1 1177 (9th Cir. 1996) (“Rule 11 provides for the imposition of sanctions when a filing is frivolous,
2 legally unreasonable, or without factual foundation, or is brought for an improper purpose.”).
3 “[T]he central purpose of Rule 11 is to “deter baseless filings in district court” *Cooter & Gell v.*
4 *Hartmarx Corp.*, 496 U.S. 384, 393 (1990).

5 “An objective standard of reasonableness is applied to determinations of frivolousness as
6 well as improper purpose” under Rule 11. *Hudson v. Moore Business Forms, Inc.*, 836 F.2d 1156, 1159
7 (9th Cir. 1987) (citation omitted). Rule 11 does not require bad faith or willfulness. *Zaldivar v. City*
8 *of Los Angeles*, 780 F.2d 823, 829 (9th Cir. 1986), abrogated on other grounds by *Cooter & Gell*, 496
9 U.S. at 399-400. A party or attorney may violate Rule 11 out of inexperience or incompetence. *See*
10 *Smith v. Ricks*, 31 F.3d 1478, 1488 (9th Cir. 1994) (rejecting attorney's argument that Rule 11 should
11 not be awarded because he had just made a “stupid mistake”); *see also Zuniga v. United Can Co.*, 812
12 F.2d 443, 452 (9th Cir. 1987) (“[C]ounsel can no longer avoid the sting of Rule 11 sanctions by
13 operating under the guise of a pure heart and empty head.”).

14 Rule 11(b) “explicitly applies to parties not represented by attorneys.” *Warren v. Guelker*,
15 29 F.3d 1386, 1390 (9th Cir. 1994). Thus, a court cannot decline to impose sanctions “where a
16 violation has arguably occurred, simply because plaintiff is proceeding pro se.” *Id.*

17 A sanction imposed under Rule 11 must be calculated to “deter repetition of the conduct”
18 giving rise to the sanction. Fed. R. Civ. P. 11(c)(4). The sanction may include, “if imposed on
19 motion and warranted for effective deterrence, an order directing payment of the movant of part
20 or all of the reasonable attorney's fees and other expenses directly resulting from the violation.”
21 *Id.*

22 B. Sanctions are Warranted Under Rule 11(b)(1)

23 An unrepresented plaintiff is subject to sanctions when he presents a pleading for an
24 “improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of
25 litigation.” Fed. R. Civ. P. 11(b)(1).
26

1 Plaintiffs admit in their pleadings that this action were filed for the improper purpose of
2 delaying the state court proceedings and to get Judge Robb recused from the case. In the
3 Complaint, Plaintiffs are requesting that this Court “enjoin and remove” the divorce case and
4 enjoin “Defendant Robb from further acting or adjudicating” the dispute. ECF No. 1 at p. 38.
5 Plaintiffs additionally request declaratory relief that “instructs the Defendants on how to act and
6 behave in accord with the ADA...” *Id.* at p. 37. Additionally, Plaintiffs seek the answers to at least
7 36 separate questions about the ADA. *Id.* at pp. 32-37.

8 In filing this lawsuit, Plaintiffs are attempting to manufacture grounds to force Judge
9 Robb’s recusal from the divorce proceedings because they believe that she is biased against
10 Mezzano. *See Jordaán v. Hall*, 275 F. Supp. 2d 778, 786 (N.D. Tex. 2003)(awarding Rule 11 sanctions
11 when original complaint was “filed for the purpose of manufacturing grounds to force Judge
12 Lewis’s recusal”). These accusations pre-date any requests for accommodations under the ADA
13 by Ms. Mezzano. In Mr. Shore’s initial letter to the Court on January 12, 2023, he states that
14 Judge Robb has showed “extreme bias, artifice, and circumvention” of the law and accuses her of
15 discrimination. Ex. 2. Notably, at that time, Mezzano had never claimed that she suffered from
16 a disability and yet Shore still believed that Judge Robb was discriminating against her.

17 The timing of this lawsuit equally shows that Plaintiffs have brought this case for an
18 improper purpose of delaying the state court proceedings. The divorce proceeding had been
19 pending for four years in state court. Judge Robb had issued a series of rulings which Plaintiffs
20 disagreed with. *See* ECF No. 1 at pp. 13-30. Nevertheless, Plaintiffs waited until the eve of trial,
21 July 5, 2023 in order to delay the state court trial from proceedings and needlessly waste this
22 Courts and the state courts time in dealing with the fallout from the filing of this lawsuit.

23 Accordingly, a finding should be made that sanctions are warranted under FRCP 11(b)(1).

24 **C. Sanctions are Warranted Under Rule 11(b)(2)**

25 Fed. R. Civ. P. 11(b)(2) imposes an obligation on an unrepresented party to ensure that
26 its “claims, defenses, and other legal contentions are warranted by existing law or by a

1 nonfrivolous argument for extending, modifying or reversing existing law or for establishing new
2 law.” In assessing frivolousness under Rule 11, “[t]he key question ... is whether a complaint states
3 an arguable claim – not whether the pleader is correct in his perception of the law.” *Hudson*, 836
4 F.2d at 1159; *see also Riverhead Savings Bank v. National Mortgage Equity Corp.*, 893 F.2d 1109, 1115 (9th
5 Cir. 1990) (same). Sanctions are appropriate “where a claim or motion is patently unmeritorious
6 or frivolous.” *Riverhead Savings Bank*, 893 F.2d at 1115 (internal quotation marks and citation
7 omitted).

8 Any reasonable inquiry would have determined that the *Rooker-Feldman* doctrine prevents
9 this Court from exercising subject matter jurisdiction over this action. Plaintiffs are attempting
10 a de facto appeal of Judge Robb’s Orders regarding reasonable accommodations. District court
11 throughout the Ninth Circuit have determined that the *Rooker-Feldman* doctrine bars similar de
12 facto appeals of reasonable accommodation requests under the ADA. *See Farina v. Cnty. of Napa,*
13 *California*, 2022 WL 1539518, at *2 (N.D. Cal. May 16, 2022)(“This order need not entertain the
14 merits of plaintiff’s ADA claim to conclude that plaintiff raises a de facto appeal of a state-court
15 order” and “*Rooker-Feldman* doctrine thwarts all claims); *Sidiakina v. Bertoli*, 2012 WL 12850130, at
16 *3–4 (N.D. Cal. Sept. 7, 2012) (dismissing ADA claims against presiding judge based on *Rooker-*
17 *Feldman*), *aff’d*, 612 Fed. Appx. 477 (9th Cir. 2015); *Bernstein v. United States Dept. of Hous. & Urb. Dev.*,
18 2021 WL 1530939, at *4 (N.D. Cal. Apr. 19, 2021) (dismissing ADA reasonable accommodation
19 claims against Alameda County Superior Court and presiding judges based on *Rooker-Feldman*
20 and judicial immunity); *McDaniels v. Dingley*, 2021 WL 5564727, at *5 (W.D. Wash. Nov. 29, 2021)
21 (“Plaintiff’s ADA accommodation claims are barred by *Rooker-Feldman* because they challenge
22 state court decisions denying his requests for reasonable accommodations under Title II of the
23 ADA.”); *Langworthy v. Whatcom Cty. Superior Ct.*, 2021 WL 1788391, at *3 (W.D. Wash. May 5,
24 2021)(same).

25 In *Habib v. Cruz*, 17 Fed. Appx. 666, 667 (9th Cir. 2001), the Ninth Circuit upheld the award
26 of Rule 11 sanctions against a pro se plaintiff. Therein, the district court had dismissed plaintiff’s

1 claims under Rooker-Feldman because plaintiff sought review of issues previously litigated in
2 Guam Superior Court and raised federal constitutional claims that were “inextricably
3 intertwined” with the previous judgment. Similarly in the present instance, Rule 11 sanctions are
4 appropriate.

5 Likewise, any reasonable inquiry would have determined that *Younger* abstention bars a
6 federal court for granting declaratory and injunctive relief under the facts presented in this case.
7 See *H.C. ex rel. Gordon v. Koppel*, 203 F.3d 610 (9th Cir. 2000); *ReadyLink Healthcare, Inc. v. State*
8 *Compensation Ins. Fund*, 754 F.3d 754, 759 (9th Cir. 2014) (citations omitted) (emphasis added); see
9 also *Middlesex Cty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423, 432 (1982) (“Where vital state
10 interests are involved, a federal court should abstain unless state law clearly bars the
11 interposition of the constitutional claims.”). Thus, Rule 11 sanctions are appropriate.

12 Additionally, any reasonable inquiry would have determined that Plaintiffs claims under
13 the ADA against Judge Robb are barred by judicial immunity. See *Duvall v. County of Kitsap*, 260
14 F.3d 1124, 1133 (9th Cir. 2001) (“Judicial immunity applies to claims under Title II of the ADA). It
15 has long been established that judges are absolutely immune from liability for damages,
16 injunctive relief, and declaratory relief sought as a result of judicial acts performed in their
17 judicial capacity. *Moore v. Brewster*, 96 F.3d 1240, 1243–44 (9th Cir.1996). To qualify for judicial
18 immunity, a judge must have performed “judicial acts” within the scope of his or her jurisdiction.
19 *Stump v. Sparkman*, 435 U.S. 349, 356–57, 98 S.Ct. 1099, 55 L.Ed.2d 331 (1978). “An act is judicial in
20 nature if it is a function normally performed by a judge and the parties to the act were dealing
21 with the judge in his judicial capacity.” *McGuire v. Clackamas Cnty. Counsel*, 2009 WL 4456310, at *4
22 (D.Or. Nov. 24, 2009) (citing *Stump*, 435 U.S. at 362, 98 S.Ct. 1099). Judges “enjoy absolute
23 immunity even when their actions are erroneous, malicious, or in excess of judicial authority.”
24 *Tanner v. Heise*, 879 F.2d 572, 576 (9th Cir. 1989).

25 Accordingly, pursuant to FRCP 11, Plaintiffs’ claims are legally frivolous and presented for
26 an improper purpose and by signing and filing the complaint both Plaintiff should be sanctioned.

1 IV. CONCLUSION

2 Plaintiffs Rochelle Mezzano and Jay V. Shore have brought this lawsuit in bad faith for
3 improper purposes and with no basis in law. Accordingly, Defendants respectfully requests that
4 the Court enter an Order sanctioning Plaintiffs and ordering them to pay Defendants' attorney's
5 fees and costs incurred in filing both this Motion and its previous Motion to Dismiss or any other
6 relief that the Court believes equitable.

7 Dated this 17th day of July 2023.

8
9 CHRISTOPHER J. HICKS
10 District Attorney

11 By /s/ Michael W. Large
12 MICHAEL W. LARGE
13 Deputy District Attorney
14 One South Sierra Street
15 Reno, NV 89501
16 mlarge@da.washoecounty.gov
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18
19 ATTORNEYS FOR SECOND JUDICIAL
20 DISTRICT COURT OF NEVADA,
21 JUDGE BRIDGET E. ROBB, ALICIA LERUD,
22 EMILY REED & WILLIAM WRIGHT
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Exhibit Index

- Ex. 1 - docket sheet in Townley v. Mezzano, DV19-01564).
- Ex. 2 - 1-12-23 letter from Shore)
- Ex. 3 – April 14, 2023 Trial Procedure Order
- Ex. 4 – April 17, 2023 – Order Vacating Trial
- Ex. 5 – Order Setting Ex Parte Hearing on ADA issues
- Ex. 6 – June 28, 2023 Order Regarding Trial
- Ex. 7 – Notice of Filing of Federal Complaint and Notice of Removal to Federal Court

EXHIBIT 4

EXHIBIT 4

Date	Attorney	Description	Time Log
7/5/2023	Michael W. Large	Review Complaint; call with clients and preliminary research	2.1
7/6/2023		-	
7/7/2023		-	
7/8/2023	Michael W. Large		
7/9/2023	Michael W. Large		
7/10/2023	Michael W. Large	Review divorce proceeding filings; Research federal abstentions issues involving divorce proceedings; call with Robb	3.5
7/11/2023	Michael W. Large	Research and draft Motion to Dismiss ; meeting with Lerud and Reed regarding legal strategy	4.8
7/12/2023	Michael W. Large	Research Rooker-Feldman doctrine and Younger abstention doctrine	
7/13/2023	Michael W. Large	Research and draft Motion to Dismiss	5.5
7/14/2023	Michael W. Large	Research MTD	1.8
7/15/2023	Michael W. Large	Research and draft Motion to Dismiss	6.3
7/16/2023	Michael W. Large	Finalize Motion to Dismiss; Draft Motion for Sanctions	4.9
7/17/2023	Michael W. Large	Finalize and file Motion to Dismiss; finalize Rule 11 Letter and motion to dismiss; draft emails to Plaintiffs providing copies of MTD, Rule 11 Letter and Motion for Sanctions	4.1
7/18/2023	Michael W. Large	Email to Plaintiffs; draft Emergency Motion to Remand	3.1
7/19/2023	Michael W. Large	Draft email to Plaintiffs attempting to meet and confer on emergency motion to remand; finalize and file Emergency Motion for Remand	3.2
7/20/2023	Michael W. Large		
7/21/2023	Michael W. Large	Review Court's Minute Order; Draft email to Plaintiffs sending MTD and Emergency Motions	0.5
7/22/2023	Michael W. Large		
7/23/2023	Michael W. Large		
7/24/2023	Michael W. Large	Review Motion to Intervene	
7/25/2023	Michael W. Large	Prepare for hearing on MTD; review and research Writ of Mandamus sent via email by Plaintiffs	6.5
7/26/2023	Michael W. Large	Prepare for and attend hearing on MTD	2.5
7/27/2023	Michael W. Large	Draft proposed Order	4.8
7/28/2023	Michael W. Large	Draft proposed Order and circulate to parties pursuant to LR 7-4	4.1
7/29/2023	Michael W. Large		
7/30/2023	Michael W. Large		
7/31/2023	Michael W. Large	Finalize Order on MTD	3.3
8/1/2023	Michael W. Large		
8/2/2023	Michael W. Large		
8/3/2023	Michael W. Large		
8/4/2023	Michael W. Large	Research and Draft Motion for Attorney's Fees	5.1
8/5/2023	Michael W. Large		
8/6/2023	Michael W. Large		
8/7/2023	Michael W. Large	Finalize and File Motion for Attorney's Fees and Motion for Sanctions	1.5
		Total Hours	65.50

EXHIBIT 5

EXHIBIT 5

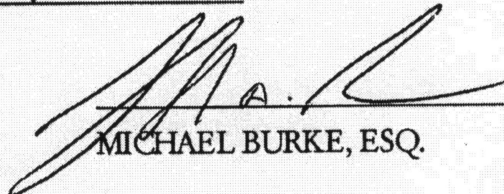
DECLARATION OF MICHAEL BURKE, ESQ.

I, Michael Burke, declare that the assertions in this Declaration are true and correct, based upon my personal knowledge, and that I am competent to testify to the facts stated below:

1. I am an attorney in good standing admitted to practice in the State of Nevada;
2. I have practiced in Northern Nevada since 2009;
3. I am admitted to practice in all courts of the State of Nevada and the United States District Court for the District of Nevada;
4. I have litigated complex civil matters in my capacity as a shareholder attorney at a Reno, Nevada based law firm; and
5. In my experience and opinion, an attorney rate of \$400/hour is customary and accepted in the community for complex civil litigation matters that proceed to trial.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 2/22/21



MICHAEL BURKE, ESQ.

DECLARATION OF NATHAN AMAN, ESQ.

I, Nathan Aman, declare that the assertions in this Declaration are true and correct, based upon my personal knowledge, and that I am competent to testify to the facts stated below:

1. I am an attorney in good standing admitted to practice in the State of Nevada;
2. I have practiced in Northern Nevada since 2003;
3. I am admitted to practice in all courts of the State of Nevada and the United States District Court for the District of Nevada;
4. I have litigated complex civil matters in my capacity as a partner attorney at a Reno, Nevada based law firm; and
5. In my experience and opinion, an attorney rate of \$400/hour is customary and accepted in the community for complex civil litigation matters that proceed to trial.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: _____

2/22/21



NATHAN AMAN, ESQ.

**DECLARATION OF KEVIN BENSON IN SUPPORT OF
MOTION FOR ATTORNEYS' FEES**

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STATE OF NEVADA }
COUNTY OF CARSON }

I, KEVIN BENSON, certify the following:

1. I am in attorney in good standing in the Northern Nevada community.

2. I graduated from the Rutgers University School of Law in Camden, New Jersey in May, 2004.

3. I began my legal career as a legal researcher at the Nevada Attorney General's Office in September of 2004.

4. I have been an attorney licensed in Nevada since 2007.

5. I am admitted to practice before all courts of the State of Nevada, the United States District Court for the District of Nevada, the United States Court of Appeals for the Ninth Circuit, and the U.S. Supreme Court.

6. I began my litigation career defending the various state agencies in civil rights and employment litigation as a Deputy Attorney General. During my time with that office, I managed a heavy civil litigation caseload, taking cases from their initiation through discovery, trial or dispositive motion, and appeal. From 2010 through 2015, the Secretary of State was my primary client. In that capacity, I defended a number of civil rights cases challenging certain aspects of Nevada's election and campaign finance laws. I successfully briefed and argued two cases of first impression before the Ninth Circuit, one dealing with an equal protection challenge to Nevada's rule requiring signatures on initiative petitions to be gathered in all congressional districts, and the other dealing with a challenge to Nevada's unique "None of the Above" ballot option.

7. Additionally, I successfully briefed and argued numerous other cases before the Nevada Supreme Court. These cases have involved a variety of matters, including: equal protection challenges to Nevada's candidate qualifications statutes, First Amendment and equal protection challenges to Nevada's initiative petition laws, various disputes regarding initiative petitions, the

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EXHIBIT 3

EXHIBIT 3

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROCHELLE MEZZANO, JAY V. SHORE,)
individually, and as next friend for Rochelle)
Mezzano,)
)
Plaintiffs,)
)
vs.)
)
SECOND JUDICIAL DISTRICT COURT OF)
THE STATE OF NEVADA, as a covered)
entity under the Americans with Disabilities)
Act, et al.,)
)
Defendants.)

Case No. 3:23-cv-00324-RCJ-CSD

ORDER

This is a divorce case that has gone off the rails. In September 2019, non-party John Townley filed for divorce from his wife, Plaintiff Rochelle Mezzano. (Dkt. 35 at 2). Four years later, Plaintiffs Mezzano and Jay V. Shore filed this lawsuit pro se¹ alleging that “the 2nd District and all other Defendants are knowingly and willfully outside the scope of the ADA [Americans

¹ “Courts in this circuit have an obligation to give a liberal construction to the filings of pro se litigants,” which relieves pro se litigants “from the strict application of procedural rules and demands that courts not hold missing or inaccurate legal terminology or muddled draftsmanship against them.” *Blaisdell v. Frappiea*, 729 F.3d 1237, 1241 (9th Cir. 2013). Even so, “pro se litigants must comply with the Federal Rules of Civil Procedure.” *Bailey v. Suey*, 2014 WL 5342573, at *1 (D. Nev. Oct. 20, 2014), *aff’d*, 669 F. App’x 472 (9th Cir. 2016).

1 With Disabilities Act], and blatantly denying equal access on the basis of disability[.]” (Dkt. 1 at
2 30). The Court dismissed the case with prejudice on July 31, 2023, finding it to be “frivolous and
3 brought in bad faith[.]” (Dkt. 33 at 2).

4 Now, pending before the Court, are Defendants’ Motion for Attorney’s Fees and Costs,
5 (Dkt. 34), and Motion for Sanctions, (Dkt. 35).² For the following reasons, the Court grants the
6 motions.

7 I. Factual Background

8 This action arises out of an ongoing divorce case pending in the Second Judicial District
9 Court of Nevada (“SJDC”). (Dkt. 1). Mezzano and her husband John Townley are parties to the
10 divorce action that has been pending for over four years. (*Id.* at 5) (citing *Townley v. Mezzano*,
11 DV 19-01564 (Second Judicial District Court of Nevada)).³ On or about January 11, 2023, acting
12 on behalf of Mezzano, Shore called Clerk of Court Alicia Lerud requesting the email or fax number
13 for the ADA Coordinator. (*Id.* at 6).

14 On January 12, 2023, Shore sent a letter to Lerud and Judge Robb. (*Id.* at Ex. A). Within
15 that letter, Shore explained that he is not an attorney but rather is acting as an ADA Advocate on
16 behalf of Mezzano. (*Id.*). After disclaiming any legal acumen, Shore spent three pages of the
17

18
19 ² Plaintiffs have not filed a response in opposition to either motion. Under this Court’s Local Rules,
20 failure to file a response in opposition constitutes consent to the granting of the motion, except in the case
of certain motions including motions for attorney’s fees. LR 7-2(d).

21 ³ The Court takes judicial notice of the state court proceedings in *Townley v. Mezzano*, DV 19-01564
22 because they are referenced throughout the Complaint and because they form the basis for this lawsuit. *See*
United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc., 971 F.2d 244, 248 (9th Cir.
23 1992) (the court “may take judicial notice of proceedings in other courts, both within and without the federal
judicial system, if those proceedings have a direct relation to matters at issue.” (internal quotations and
24 citations omitted)).

1 letter criticizing Mezzano’s counsel and criticizing Judge Robb’s rulings in the divorce action. (*Id.*
2 at Ex. A pp 3-5). In the letter, Shore claimed that Mezzano is a qualified individual with a disability
3 and requested a number of accommodations. (*See Id.* at 5–6).

4 On January 12, 2023, Lerud replied by email acknowledging she had received the letter
5 and informing Shore that he had engaged in an improper ex parte communication to the court by
6 also sending the letter to Judge Robb. On January 13, 2023, former Assistant Clerk of Court
7 William Wright emailed Shore and Mezzano stating that he would be the primary point of contact
8 for Mezzano’s ADA request and cautioned Shore about ex parte communications with Judge
9 Robb. (*Id.* at Ex. B). Wright also stated that if “[Shore] or Ms. Mezzano would like to make any
10 official filings before the Court, that you should certainly feel free to make those filing[s].” (*Id.* at
11 Ex. C).

12 On January 30, 2023, Wright emailed Shore and Mezzano stating that the requests could
13 not be accommodated by Court Administration because they sought to alter the court proceedings,
14 and therefore needed to be decided by Judge Robb. (*Id.* at 11). Wright further stated that: “[m]y
15 understanding is that Ms. Mezzano is currently represented by counsel in this matter. The requests
16 that you have made should be made by her counsel and filed with the Court to make appropriate
17 rulings and determinations.” (*Id.* at 11–12).

18 On March 13, 2023, a settlement conference was held in the divorce proceedings. (*Id.* at
19 13-18). Judge Robb questioned Mezzano on why she did not file a Settlement Conference
20 Statement. (*Id.*). Mezzano stated that she did not have ADA access to the court and wanted her
21 ADA advocate to be present. (*Id.*). Judge Robb informed her that she needed to file a motion with
22 the Court and not send in ex parte requests, and that the settlement conference would proceed.

1 (*Id.*). On April 4, 2023, Judge Robb sent an email to Shore and Mezzano along with Court
2 Administration that stated:

3 “As I have said, multiple times, Ms. Mezzano needs to make a formal filing with
4 the Court in order for me to take action. The filing can be sealed, and subject to in
5 camera review, but I cannot act in a substantive way without a formal request.
6 Moreover, Ms. Mezzano requested, and I GRANTED her request to have her ADA
7 advocate present with her in Court. He was not present, despite her request, at the
8 last hearing.”

9 (*Id.* at Ex. E.).

10 On April 14, 2023, Judge Robb issued an Order Regarding Pre-Trial Procedure for the
11 April 17, 2023 divorce trial which stated in relevant part that: “Ms. Mezzano may have a support
12 person of her choosing present at trial as broadly contemplated by NRS 125.080.” (*Id.* at 20–26
13 & Ex. F). On April 17, 2023, Assistant Clerk of Court Emily Reed sent Shore an email which
14 stated that: “Last week, Judge Robb approved your virtual appearance as Ms. Mezzano’s advocate.
15 The trial is currently on hold and my understanding is that Ms. Mezzano has been trying to reach
16 you. I am reaching out to confirm your availability for this afternoon and Wednesday all day.
17 Please let me know at your earliest convenience.” (*Id.* at Ex. G).

18 Later that day, Shore responded that: “[i]f any reasonable person reads [the trial procedure
19 order] they would reasonably observe that there is no grant of right for me, as Ms. Mezzano’s
20 ADA advocate, to attend trial. I am not under Nevada Revised Statute 125.080. I am in capacity
21 under 42 USC §12203(b) and 28 CFR §35.134(b). Shore also complained that Judge Robb did
22 not copy him on the order directly and he only saw it because Mezzano provided him a copy.”
23 (*Id.*). Because of Shore’s failure to appear, the divorce trial was vacated and reset.

24 On April 28, 2023, Judge Robb issued a Notice of Ex Parte Hearing, which stated that: “An
ex parte hearing regarding A.D.A. issues has been scheduled in this matter for May 4, 2023 at 4:00

1 p.m. This hearing will be recorded on the Courts' JAVS system, which will be the official record
2 of the proceedings. No other recordings will be permitted." (*Id.* at Ex. I). Neither Mezzano nor
3 Shore attended the Ex Parte Hearing. (*Id.* at 27–28). On June 28, 2023, Judge Robb issued an
4 Order Regarding Trial which set the trial for July 6, 2023. (*Id.* at Ex. J). On the eve of trial, July
5 5, 2023, Mezzano filed a complaint in this Court, (*id.*), as well as a document in state court entitled
6 "Notice of Filing Federal Complaint and Notice of Removal to Federal Court" in her divorce
7 proceeding. *See Townley v. Mezzano*, DV 19-01564. In August 2023, the Court dismissed
8 Mezzano's complaint with prejudice "pursuant to Fed. R. Civ. P. 12(b)(1), based on *Younger*
9 abstention and/or *Rooker-Feldman* abstention doctrines and pursuant to Fed. R. Civ. P. 12(b)(6),
10 based on judicial immunity and failure to state a claim against Defendants." (Dkt. 33 at 26).

11 II. Legal Standard

12 Rule 11 of the Federal Rules of Civil Procedure "provides for the imposition of sanctions
13 when a filing is frivolous, legally unreasonable, or without factual foundation, or is brought for an
14 improper purpose." *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1177 (9th Cir. 1996); *see also*
15 Fed. R. Civ. P. 11; *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 393 (1990). "The two
16 problems that Rule 11 addresses, therefore, are 'frivolous filings' and the use of judicial procedures
17 as a tool for 'harassment.'" *Hudson v. Moore Bus. Forms, Inc.*, 836 F.2d 1156, 1159 (9th Cir.
18 1987). "Sanctions are mandatory if the court concludes that Rule 11 has been violated." *Id.*

19 "An award of Rule 11 sanctions raises two competing concerns: the desire to avoid abusive
20 use of the judicial process and to avoid chilling zealous advocacy." *Id.* at 1159–60. Therefore,
21 when determining whether a complaint is frivolous or filed with an improper purpose, court apply
22 an objective standard of reasonableness, asking primarily whether the complaint "states an
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1 arguable claim—not whether the pleader is correct in his perception of the law.” *Id.* at 1159.
2 Accordingly, the subjective intent of the filer is irrelevant to the court’s objective analysis. *Id.*;
3 *see also Zaldivar v. City of Los Angeles*, 780 F.2d 823, 829 (9th Cir. 1986), *abrogated on other*
4 *grounds by Cooter*, 496 U.S. at 399–400.

5 Notably, Rule 11’s application “explicitly applies to parties not represented by attorneys.”
6 *Warren v. Guelker*, 29 F.3d 1386, 1390 (9th Cir. 1994) (explaining that courts cannot declines to
7 impose monetary sanctions “simply because plaintiff is proceeding *pro se*”). “The district court is
8 therefore not at liberty to exempt automatically such persons from the rule's requirements.” *Id.*
9 Accordingly, when taking into consideration the context of the case, “[a] sanction imposed under
10 [Rule 11] must be limited to what suffices to deter repetition of the conduct or comparable conduct
11 by others similarly situated.” Fed. R. Civ. P. 11(c)(4).

12 The form of sanctions available under Rule 11 include “[r]easonable attorneys' fees and
13 expenses,” which may be awarded by the court “when a claim is clearly frivolous, clearly
14 vexatious, or brought primarily for purposes of harassment.” *Simpson*, 77 F.3d at 1177 (citing 31
15 U.S.C. § 3730(d)(4)); *see also* Fed. R. Civ. P. 11(c)(4) (“The sanction may include nonmonetary
16 directives; an order to pay a penalty into court; or, if imposed on motion and warranted for effective
17 deterrence, an order directing payment to the movant of part or all of the reasonable attorney's fees
18 and other expenses directly resulting from the violation.”).

19 **III. Analysis**

20 **A. Rule 11 Sanctions**

21 This Court has already decided that there is no legal basis for this case to proceed for
22 multiple reasons “pursuant to Fed. R. Civ. P. 12(b)(1), based on *Younger* abstention and/or *Rooker-*
23

1 *Feldman* abstention doctrines and pursuant to Fed. R. Civ. P. 12(b)(6), based on judicial immunity
2 and failure to state a claim against Defendants.” (Dkt. 33 at 26). The Court need not reiterate the
3 reasons for its finding that this case was both “frivolous and brought in bad faith[.]” (*Id.* at 2).

4 Accordingly, Rule 11 sanctions are appropriate here under either Rule 11(b)(1), prohibiting
5 litigation “presented for any improper purpose,” or Rule 11(b)(2), requiring that a case’s “claims,
6 defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument
7 for extending, modifying, or reversing existing law or for establishing new law[.]” Fed. R. Civ. P.
8 11(b)(1)–(2).

9 **B. Attorney’s Fees**

10 District courts have “inherent power to levy sanctions, including attorneys’ fees, for willful
11 disobedience of a court order or when the losing party has acted in bad faith, vexatiously, wantonly,
12 or for oppressive reasons[.]” *Fink v. Gomez*, 239 F.3d 989, 991 (9th Cir. 2001) (cleaned up)
13 (quoting *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 766 (1980)). “[S]anctions are available if
14 the court specifically finds bad faith or conduct tantamount to bad faith,” specifically
15 encompassing “a variety of types of willful actions, including recklessness when combined with
16 an additional factor such as frivolousness, harassment, or an improper purpose.” *Id.* at 994. As
17 the Court explained above, such a finding has already been made in this case. (*See* Dkt. 33 at 2).
18 Therefore, the Court must only determine the appropriate amount of attorney’s fees in this case.
19 *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983) (“Once a party has established that it is entitled to
20 an award of attorneys’ fees, it remains for the district court to determine what fee is reasonable.”).

21 The Supreme Court in *Hensley* established a “lodestar” calculation on which reasonable
22 attorneys’ fees are traditionally based. *Id.* “The most useful starting point for determining the
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1 amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied
2 by a reasonable hourly rate.” *Hensley*, 461 U.S. at 433. In order to determine the value of the
3 legal services, or the lodestar, “[t]he party seeking an award of fees should submit evidence
4 supporting the hours worked and rates claimed.” *Id.* Notably, the district court may reduce the
5 award where appropriate and “also should exclude from this initial fee calculation hours that were
6 not ‘reasonably expended.’” *Id.* at 433–34.

7 “The product of reasonable hours times a reasonable rate does not end the inquiry. There
8 remain other considerations that may lead the district court to adjust the fee upward or downward,
9 including the important factor of the ‘results obtained.’” *Id.* at 434. For instance, “[w]here a
10 plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee.
11 Normally this will encompass all hours reasonably expended on the litigation, and indeed in some
12 cases of exceptional success an enhanced award may be justified.” *Id.* at 435. The second step of
13 the inquiry allows courts to “adjust the lodestar upward or downward using a ‘multiplier’⁴ based
14 on factors not subsumed in the initial calculation of the lodestar.” *Van Gerwen*, 214 F.3d at 1045.

15 “The lodestar amount is presumptively the reasonable fee amount, and thus a multiplier
16 may be used to adjust the lodestar amount upward or downward only in rare and exceptional cases,
17 supported by both specific evidence on the record and detailed findings by the lower courts that

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19 ⁴ “Under *Hensley*, 11 factors are relevant to the determination of the amount of attorney's fees: (1)
20 the time and labor required; (2) the novelty and difficulty of the issues; (3) the skill requisite to perform
21 the legal service properly; (4) the preclusion of employment by the attorney due to acceptance of the case;
22 (5) the customary fee; (6) time limitations imposed by the client or the circumstances; (7) the amount
23 involved and the results obtained; (8) the experience, reputation and ability of the attorneys; (9) the
24 “undesirability” of the case; (10) the nature and length of the professional relationship with the client; and
(11) awards in similar cases.” *Van Gerwen*, 214 F.3d at 1045 n.2.

1 the lodestar amount is unreasonably low or unreasonably high.” *Id.* (cleaned up). Ultimately,
2 despite these considerations, “[t]here is no precise rule or formula for making these
3 determinations.” *Hensley*, 461 U.S. at 436. “The district court may attempt to identify specific
4 hours that should be eliminated, or it may simply reduce the award to account for the limited
5 success. The court necessarily has discretion in making this equitable judgment.” *Id.* at 436–37.
6 Importantly, “[a] request for attorney’s fees should not result in a second major litigation.” *Id.* at
7 437.

8 Defendants have provided evidence of counsel’s billing records in the form of “an
9 itemization and description of the work performed[.]” (Dkt. 34 at 8); (Dkt. 34-1); (Dkt. 34-4).
10 The total hours worked came out to 65.50 hours, (Dkt. 34-4 at 2), at a rate of \$400 per hour, (Dkt.
11 34-1 at 2). Finding that this rate is reflective of “the prevailing market rates” in this community,
12 *see Webb v. Ada County*, 285 F.3d 829, 840 n.6 (9th Cir. 2002), and that the hours were
13 “reasonably expended,” *see Hensley*, 461 U.S. at 435, the Court awards attorney’s fees to
14 Defendants in the amount of \$26,200.00.

1 **CONCLUSION**

2 IT IS HEREBY ORDERED that Defendants' Motion for Sanctions, (Dkt. 35), is
3 **GRANTED.**

4 IT IS FURTHER ORDERED that Defendants' Motion for Attorney's Fees and Costs, (Dkt.
5 34), is **GRANTED.**

6 IT IS FURTHER ORDERED that Plaintiffs shall pay Defendants \$26,200.00 in attorney
7 fees and costs.

8 IT IS SO ORDERED.

9 Dated November 22, 2023.

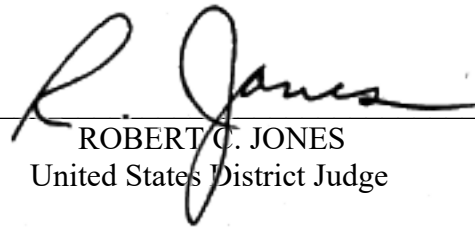
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13 ROBERT C. JONES
14 United States District Judge
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EXHIBIT 4

EXHIBIT 4

1 DECLARATION OF DEPUTY DISTRICT ATTORNEY LINDSAY L. LIDDELL
2 IN SUPPORT OF DEFENDANTS' REPLY IN SUPPORT OF MOTION FOR
3 ATTORNEYS' FEES

4
5 STATE OF NEVADA

6 COUNTY OF WASHOE

7 I, Lindsay L. Liddell do hereby declare, under penalty of perjury, the following:

8 1. I am a Deputy District Attorney for the Washoe County District Attorney's Office.

9 I am the primary attorney handling the defense in *Robert Beadles v. Jamie Rodriguez et al.*,
10 First Judicial District Court case number 23-OC-00105-1B.

11 2. The hours requested in Defendants' Motion for Attorneys' Fees and Costs are
12 based on billing at tenths of an hour, a standard practice in the legal profession. Having
13 experience billing in private practice, I kept a more thorough log of time that included
14 internal conferences, email correspondence, etc.

15 3. Experience has taught me the importance of gathering information, discussing
16 proposed strategies with colleagues, diligent research, thorough review of evidence, and
17 thoroughly briefing important issues in a case. The Time Log reflects as much.

18 4. My August 14, 2023 travel to retrieve Beadles's Exhibit boxes was appropriate and
19 necessary. Close to 5 p.m. on Friday, August 11, 2023, I was informed that Beadles
20 delivered five binders and a USB drive with "exhibits" to her clients at a building
21 approximately 15-20 minutes away. I was drafting a motion to dismiss, which I intended to
22 file the following Monday. After learning of the "exhibits," it was prudent to obtain and
23 review them to ensure the motion to dismiss was not affected. I engaged in confidential
24 attorney client communication on Monday August 14, 2023, via email. No other person
25 was available to immediately retrieve the exhibits, and it was most efficient for me to
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1 personally retrieve them so that I could finalize and file the motion to dismiss on Tuesday
2 August 15, 2023.

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LINDSAY L. LIDDELL

EXHIBIT 5

EXHIBIT 5

COMP
ROBERT BEADLES
10580 N. McCarran Blvd. #115, Apt. 386
Reno, NV 89503
Plaintiff, Pro Se

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

MR ROBERT BEADLES, an individual,

Plaintiff,

vs.

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

Defendants.

CASE NO.:
DEPT. NO.:

**COMPLAINT FOR EQUITABLE,
INJUNCTIVE RELIEF, PETITION FOR
REMOVAL OF PUBLIC OFFICIAL
FROM OFFICE,
AND PUNITIVE DAMAGES**

**(Jury Trial Demanded)
Automatically Exempt from Arbitration
NAR 5(a)(1)(G)—Declaratory Relief**

Plaintiff ROBERT BEADLES (“Beadles”), in proper person, hereby files this Complaint against JAMIE RODRIGUEZ (“Rodriguez”) in her official capacity as Registrar of Voters and in her personal capacity; the WASHOE COUNTY REGISTRAR OF VOTERS, a government agency; ERIC BROWN (“Brown”) in his official capacity as WASHOE COUNTY MANAGER and in his personal capacity, ALEXIS HILL (“Hill”) in her official capacity as CHAIRWOMAN OF WASHOE COUNTY BOARD OF COMMISSIONERS and in her personal capacity;

WASHOE COUNTY, Nevada, a political subdivision of the State of Nevada, and DOES I-X; and ROE CORPORATIONS I-X. collectively (“Defendants”), allege and petition this Court as follows:

JURISDICTION & VENUE

1. This Court has jurisdiction pursuant to NRS 13.030.
2. Under the doctrine of concurrent jurisdiction, this Court has jurisdiction to resolve claims under Nevada State and federal Constitution and under federal and Nevada State election laws.
3. This Court has jurisdiction to hear this matter, as all events giving rise to this incident took place in Washoe County, Nevada. The harm to be enjoined is threatened in Washoe County.
4. This Court has jurisdiction over this matter pursuant to Nev. Const. Art. 6 § 6, regarding all cases not assigned to the justices’ courts.
5. The venue is proper in Washoe County for election complaints pursuant to NRS 293.2546 (11).
6. The venue is proper in Washoe County pursuant to NRS 13.040, where the plaintiff and defendants reside.
7. The Fourteenth Amendment permits the aggrieved party to initiate a contested proceeding both to secure his or her rights by declaring the wrongful actions constitutionally void and, in appropriate circumstances such as in this case, for monetary damages.
8. In *Schumacher v. Furlong*, 78 Nev. 167, 370 P.2d 209 (1962), the Opinion of the Nevada Attorney General, “Under this statutory procedure any complainant can, for specifically enumerated grounds, e.g., malfeasance or nonfeasance, initiate district court proceedings

to remove any person holding any nonjudicial office in this state. This statutory procedure has previously been used against a county officer.”

9. The Defendant(s), acting individually or in concert in contravention of Plaintiff’s right to equal protection are subject to penalties pursuant to NRS 283.440 and/or NRS 266.430.
10. Defendant Washoe County Nevada, is a political subdivision of the State of Nevada under the doctrine of respondent superior. Washoe County is vicariously liable for the actions of its officers and officials when they are acting within the scope of their employment.
11. Under 42 U.S.C. 1983, every person acting under color of state law who deprives another person of his or her constitutional rights is also liable at law and in equity.
12. This Court has jurisdiction over this matter pursuant to NRS 4.370 (1) as the matter in controversy exceeds \$15,000, exclusive of attorney fees, interest, and costs.
13. Where, as here, Defendants’ conduct is shown to be inspired by a reckless or callous indifference to Plaintiff’s constitutional rights, punitive damages may be awarded. *Smith v. Wade*, 461 U.S. 30 (1983).

PARTIES

14. Plaintiff Robert Beadles resides in Washoe County, Nevada, and is a qualified elector who voted in the 2020 and 2022 elections and who intends to vote again in 2024.
15. Plaintiff comes before the court *pro se* because many BAR-certified attorneys are being targeted, dis-barred, sanctioned, etc. for simply bringing an elections-related lawsuit forward. Plaintiff hereby represents himself *pro se* to save his lawyers from attacks on their livelihoods.

16. Plaintiff's rights to have their legitimate grievances of matters of elections and the officials who conduct them responded to "fairly, accurately, and efficiently as provided by law" have been ignored by the Defendants and DOES and ROES to be determined.
17. The office of the Registrar of Voters was created pursuant to NRS 244.164 and W.C.C. 5.541 (except duties imposed by virtue of NRS 293.393 to make out and deliver certificates of election). In general terms, the defendants handle voter registrations and conduct elections on behalf of the people of Washoe County.
18. Defendant Rodriguez is a resident of Washoe County. Rodriguez is and was at all times relevant hereto, the Washoe County Registrar of Voters and a person acting under the color and authority of law. Rodriguez is named in her official and personal capacities.
19. Rodriguez has not responded to Plaintiff's November 18, 2022 Petition. [EXHIBIT 1]
20. Rodriguez has not responded to Plaintiff's November 23, 2022 Petition. [EXHIBIT 2]
21. Rodriguez has not responded to Plaintiff's December 1, 2022 Petition. [EXHIBIT 3]
22. Defendant Brown is a resident of Washoe County. Brown is and was at all times relevant hereto, the Washoe County Manager and a person acting under the color and authority of law. Brown is named in his official and personal capacities.
23. Brown has not responded to Plaintiff's November 18, 2022 Petition. [EXHIBIT 1]
24. Brown has not responded to Plaintiff's November 23, 2022 Petition. [EXHIBIT 2]
25. Brown has not responded to Plaintiff's December 1, 2022 Petition. [EXHIBIT 3]
26. Defendant Hill is a resident of Washoe County. Hill is and was at all times relevant hereto, the Chairwoman of the Washoe County Board of Commissioners and a person acting under the color and authority of law. Hill is named in her official and personal capacities.
27. Hill has not responded to Plaintiff's November 18, 2022 Petition. [EXHIBIT 1]

28. Hill has not responded to Plaintiff's November 23, 2022 Petition. [EXHIBIT 2]
29. Hill has not responded to Plaintiff's December 1, 2022 Petition. [EXHIBIT 3]
30. Defendant Washoe County, Nevada, is a political subdivision of the State of Nevada under the doctrine of respondent superior. Washoe County is vicariously liable for the actions of its officers and officials when they are acting within the scope of their employment.
31. Defendants Does I through X and Roe Corporations I through X are persons or entities that, at all times material hereto, committed acts, activities, misconduct or omissions which make them jointly and severally liable under the claims for relief set forth herein. The true names and capacities of the Doe Defendants and Roe Corporate Defendants are presently unknown, but when ascertained, Plaintiff requests leave of Court to amend this complaint to substitute their true names and identities.

III. NATURE OF THE CASE

32. Plaintiff is and was at all times relevant hereto a legally registered voter in Washoe County who was affected by the 2020 and 2022 elections overseen by Defendants.
33. Plaintiff brings this complaint against Defendants based on their violations of Plaintiff's federal and state Constitutional rights to due process, equal protection, voter's rights, and the laws of Nevada in the conduct of elections, regarding Defendants' non-response to Plaintiff's grievances and general stonewalling when presented with reports and analysis on voting systems in use in Washoe County and various requests for information.
34. Plaintiff alleges violations of his rights and the laws of Nevada based on the Defendants having never acknowledged or responded to two formal Petitions filed with the county by Plaintiff.

35. Plaintiff will show that Defendants willfully committed acts of malpractice, maladministration, and/or nonfeasance, and perjury in the conduct of their official duties, thus having the appearance of impropriety and damaging the public's trust.
36. Plaintiff hereby introduces Exhibit 4 that is a highlight of several supplemental statements in support of the merits of the underlying Petitions. Individually and as a whole, highlights presented in Exhibit 4 are of such a serious matter that they cannot be ignored—just as the original Petitions should never have been ignored—to cure the problems that are self-evident, including but not limited to: unclean and grossly inaccurate voter rolls, unapproved and unsecure voting systems that Defendant(s) chose of their own volition, the rush toward pioneering new technology that could impact county, state, and national security, failure to train staff and election officials, failure to provide trained election officials, telling staff to not verify signatures, unequal treatment of signatures at the polls, counting of votes in secret, illegal function within the election system, gross violations of the Nevada Revised Statutes and Administrative Codes regarding election procedures, and the list goes on.
37. Plaintiff wishes to direct the Court's attention to Exhibit 4, point 6 a) "The Washoe ROV's staff has seen: "100% turnover in permanent staff and a loss of institutional knowledge." The Elections Group 6-9-23" The Election Group is the consulting agency initially hired by County Manager Brown.
38. Plaintiff hereby alleges the Registrar of Voters is in violation of Nevada law and, if left uncorrected, is unprepared to run the 2024 presidential primary safely, securely, and accurately as required by law unless all the issues are put on the table and addressed by one or more Defendant(s) under the Court's supervision.

39. Plaintiff hereby alleges Defendant(s) ignored Plaintiff's Petitions as an annoyance and will continue to do so if this Court does not intervene.
40. The Plaintiff demands this complaint and the underlying Petitions be heard by this honorable court.

FACTUAL ALLEGATIONS

41. Plaintiff voted in Washoe County in the 2020 and 2022 elections overseen by Defendants.
42. Plaintiff intends to vote in Washoe County in the upcoming presidential primary to occur in January 2024 and in subsequent elections overseen by Defendants.
43. Plaintiff and others provided each of the Defendants with a Petition addressing certain violations of elections, errors, and anomalies, prior to the Board of Commissioner's canvass of the vote in public meeting held November 18, 2022. This first of three Petitions was filed at the Washoe County Manager's office (the "November 18, 2022 Petition").
[Exhibit 1]
44. Plaintiff provided Defendants with a second Petition addressing a different set of issues and related violations of elections and other laws enumerated therein on November 23, 2022 Petition (the "November 23rd, 2022 Petition"). [Exhibit 2]
45. Plaintiff provided Defendants with a third Petition addressing a different set of issues and related violations of elections and other laws enumerated therein on December 1, 2022 (the "December 1st, 2022 Petition"). [Exhibit 3]
46. Defendants have a duty and obligation to respond to Petitions of elections pursuant to the Voter's Bill of Rights Nev. Const. Art. 2 Sec. 1A § 11 and NRS 293.2546 (11).

47. Defendants, and each of them, have failed and refused to respond to or address the allegations made in the Petitions and continue to fail and refuse to respond to or address the same since the filing of the Petitions.
48. Plaintiff's rights to have legitimate grievances regarding matters of elections and the officials who conduct them responded to "fairly, accurately, and efficiently as provided by law" have been ignored by the Defendants, and each of them.
49. By failing to address the Petitions, Defendants have each violated their oath to office, Nevada Revised Statutes, Federal, and State laws, and violated the Plaintiff's constitutional rights.
50. Defendants have allowed elections in Washoe County to be tainted by allowing and failing to address gross inaccuracies and improper maintenance of voter rolls.
51. Defendants have allowed elections in Washoe County to be tainted by allowing and failing to address illegal functions within the election system that alter intended votes.
52. Defendants have allowed elections in Washoe County to be tainted by allowing and failing to address the counting of votes in secret and without adequate verification.
53. Defendants have allowed elections in Washoe County to be tainted by allowing and failing to address instructions to Washoe County election workers to disregard signature verification, in violation of the law.
54. Defendants have allowed elections in Washoe County to be tainted by allowing and failing to address violations of the election processes required by Nevada statutes, HAVA, NVRA, the Nevada Constitution, the U.S. Constitution, the United States Code, and numerous other laws and statutes.

55. Because of the violations alleged herein, Defendants have not and are not able to conduct elections fairly, accurately, and securely as required by law.
56. Defendants' actions or inaction going forward may impact state and national security because of the critical flaws and vulnerabilities in many of the systems and procedures related to voter registration, handling of signatures and voter data, voting, signature curing, and recording and reporting votes as mentioned in the underlying Petitions and Exhibit 4.
57. Plaintiff respectfully requests the court's indulgence to accept Exhibit 4 in support of a) timeliness of this complaint, b) the severity of problems that underpin the underlying Petitions.
58. Plaintiff has suffered and will continue to suffer emotional distress, reputation damage, and irreparable harm—namely, disenfranchisement through gross violations of one's right to pose grievances of elections and against election officials and have them answered and resolved.
59. Defendants' failure to address the various violations stated within the underlying Petitions has resulted in a loss of confidence in the election system in Washoe County and Nevada. The Defendants' continued failure will result in an irreparable erosion of public confidence in the election system and its results in future elections unless the Court intervenes.
60. The disregard of legal obligations by the Defendants will contribute to a more generalized erosion of the rule of law, encouraging further acts of disobedience by other public servants without the accountability this Court can and must impose.
61. If public officials are not held accountable for their actions, citizens will fear that their freedoms and rights are not adequately protected, leading to a sense of insecurity and potential suppression of those rights.

62. If left unchecked, if there is no accountability, public officials can act with impunity. By this Court not acting affirmatively to correct the ills before it will set a dangerous precedent, paving the way for more widespread infringement of civil liberties.
63. The mission statement of the ROV states in part: “that Washoe County's Elections are operated with the utmost integrity, transparency, and accountability; and that the department is known for excellence in customer service and the administration of elections.”¹
64. Plaintiff hereby alleges the Registrar of Voters has failed their mission statement.
65. Plaintiff hereby alleges that the Defendants, individually, have failed their oath of office and in their duties to Plaintiff and all electors who reside in Washoe County.
66. The Court should hold Defendants to a standard of propriety and as stated in Plaintiff's November 18, 2022 Petition, which reads:
- i. Federal judges are held to a standard known as a semblance of impropriety, to which Nevada's Chief Justice in 1980, Harry E. Claiborne, was accused. Judge Claiborne was the first federal judge to go to jail and the second to be impeached in U.S. history. (<https://www.senate.gov/about/powers-procedures/impeachment/impeachment-claiborne.htm>) Here, the defendants are held to a similar standard because of the nature of elections being a right and the pinnacle of a Constitutional Republic.
 - ii. By failing to address the petitions the Defendants have violated their oath to office, Nevada Revised Statutes, Federal, and State laws, and violated the Plaintiff's constitutional rights.

¹ <https://www.washoecounty.gov/voters/index.php>

- iii. The actions of Defendants and/or those acting on behalf of Defendants and referred to herein, depriving Plaintiffs and other Washoe County residents of their rights secured by the Constitution and laws of the United States, were done while acting under color of law.
67. The plaintiff has diligently raised concerns regarding the flaws and irregularities within the Washoe County Nevada election system for the past two years. Despite the plaintiff's genuine efforts to bring these issues to the attention of the defendants, they have remained unresponsive.
68. Defendant Washoe County Nevada, a political subdivision of the State of Nevada under the doctrine of respondent superior, Washoe County is vicariously liable for the actions of its officers and officials when they are acting within the scope of their employment.
69. Plaintiff has no adequate remedy at law and will suffer serious and irreparable harm to his constitutional rights unless this honorable court intervenes to enjoin the Defendants.

FIRST CAUSE OF ACTION

VIOLATION OF NEVADA CONSTITUTION ARTICLES 1, 2, 15 and THE

VOTER'S BILL OF RIGHTS

(EQUITABLE AND INJUNCTIVE RELIEF SOUGHT OR WRIT OF MANDAMUS)

70. Plaintiff repeats and realleges his allegations herein above inclusively, as though set forth herein, and incorporates the same by this reference.
71. "A public office is a public trust and shall be held for the sole benefit of the people." NRS 281A.020.
72. **Duty:** Defendants, and each of them, pledged an oath pursuant to Nev. Const. Art. 15 Sec. 2 that provides in part: ". . . I will well and faithfully perform all the duties of the office of

....., on which I am about to enter; (if an oath) so help me God; (if an affirmation) under the pains and penalties of perjury.”

73. Defendants, and each of them, have a duty to uphold Plaintiff’s constitutional rights.
74. Plaintiff’s right to have their grievances heard is enshrined in Nev. Const. Art. 1 § 10: “to petition the Legislature for redress of Grievances.”
75. Plaintiff’s right to have their Petitions of elections resolved “fairly, accurately and efficiently” is enshrined in Nev. Const. Art. 2 Sec. 1A § 11 and NRS 293.2546 (11).
76. Plaintiff submitted valid Petitions to Defendant(s) as shown in Exhibits 1, 2, and 3 as referenced herein.
77. On information and belief, Defendants received and are aware of the underlying Petitions filed by Plaintiff.
78. **Breach Of Duty:** As of the filing of this complaint, there has been no acknowledgment or response from the Defendants regarding the underlying Petitions filed by Plaintiff.
79. Plaintiff exercised his constitutional right to pose grievances and have them resolved “fairly, accurately and efficiently” but was ignored by the Defendant(s).
80. Defendants have thus deprived Plaintiff to have his grievances heard as enshrined in Nev. Const. Art. 1 § 10.
81. Defendants have thus violated Plaintiff’s right to have his Petitions, individually or as a whole, resolved “fairly, accurately, and efficiently.” Nev. Const. Art. 2 Sec 1A § 11 and NRS 293.2546 (11) when they ignored said Petitions.
82. Defendants have thus perjured their oath of office.
83. In addition, Defendants have failed to address, correct, or rectify the issues raised in the underlying Petitions, including but not limited to, (1) updating and resolving the voter

registration lists; (2) providing proper vote counting mechanisms; (3) counting votes in secret; (4) inadequate signature verification; (5) illegal function within the election system; (6) violations of election procedures as required under Nevada law. [Exhibit 4]. Plaintiff seeks an injunction regarding the foregoing.

84. Plaintiff has further been damaged as his vote did not count as he cast it and thus has been robbed of his right to suffrage.
85. *Qui non negat, fatetur* is a Latin maxim of law, meaning “he who does not deny, admits.” As such, Plaintiff’s assertions in the underlying Petitions stand unopposed.
86. Plaintiff has a reasonable likelihood of prevailing on the merits.
87. As a result, Plaintiff suffered and will continue to suffer emotional distress, reputation damage, and irreparable harm—namely, disenfranchisement through gross violations of one’s right to pose grievances of elections and against election officials and have them answered and resolved. Without Injunctive Relief, Plaintiff will suffer irreparable harm for which monetary damages are inadequate.
88. The Defendant(s)’ actions have resulted in harm to Plaintiff and unless admonished for their breach of oath and duty will continue to inflict harm upon Plaintiff.
89. Granting the requested relief will serve public interest in seeing the harm stopped. There is little to no hardship for the Defendants to respond to the Petitions and resolve discrepancies that are identified herein. In the alternative, Plaintiff seeks a writ of Mandamus from the Court as allowed by NRS 34.160; NRS 34.190, ordering the Defendants to respond to the Petitions and rectify those issues raised in Paragraph 83 herein.

90. Plaintiff has no adequate remedy at law and therefore seeks the injunctive and equitable relief as stated in Demand for Relief below.

SECOND CAUSE OF ACTION

Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983 and Nevada

Constitution Article 1

**(PROCEDURAL DUE PROCESS VIOLATION, EQUITABLE AND INJUNCTIVE
RELIEF SOUGHT OR WRIT OF MANDAMUS)**

91. Plaintiff repeats and realleges its allegations herein above inclusively, as through set forth herein, and incorporates the same by this reference.
92. Plaintiff is a registered voter in Washoe County, Nevada who filed timely Petitions against the Defendants stating various violations of election laws by Defendants and Washoe County on the morning of November 18, 2022 [Exhibit 1], on November 23, 2022 [Exhibit 2], and on December 1, 2022. [Exhibit 3].
93. **Duty:** Section I of the Fourteenth Amendment to the United States Constitution prohibits states from depriving “any person of... liberty... without due process of law.” This includes the fundamental right to pose grievances as enshrined in Nev. Const. Art. 1, Sec. 10.
94. **Breach Of Duty:** There has been no acknowledgment or response from the defendants regarding the petitions filed by the Plaintiff.
95. Defendants have failed and refused to redress the violations enumerated in the underlying Petitions.
96. Plaintiff exercised his constitutional right to pose grievances and have them resolved “fairly, accurately and efficiently” but was ignored numerous times.

97. Under 42 U.S.C. § 1983, every person acting under color of law who deprives another person of his or her constitutional rights is also liable at law and in equity.
98. The plaintiff's efforts to bring attention to the flaws and gross violations in the Washoe County election system have been met with negligent disregard by the Defendants.
99. Defendants violated Plaintiffs' due process rights by failing to respond to Plaintiff's grievances/Petitions. Plaintiff seeks an order from the Court requiring the County to respond to the Petitions and address the other issues as set forth in paragraphs herein.
100. Plaintiff has further been damaged as his vote did not count as he cast it and thus has been robbed of his right to suffrage.
101. Plaintiff has a reasonable likelihood of prevailing on the merits.
102. Granting the requested relief will serve public interest.
103. As a result, Plaintiff suffered and will continue to suffer emotional distress, reputation damage, and irreparable harm—namely, disenfranchisement through gross violations of one's right to pose grievances of elections and against election officials and have them answered and resolved timely.
104. Plaintiff will suffer irreparable harm in the form of the continued failure to redress the violations contained in the underlying Petitions, as well as the harm of failing to provide secure and accurate elections, without the Court's intervention. There is little to no hardship for the Defendants to respond to the Petitions and resolve discrepancies that are identified herein. In the alternative, Plaintiff seeks a writ of Mandamus from the Court as allowed by NRS 34.160; NRS 34.190, ordering the Defendants to respond to the Petitions and rectify those issues raised herein.

105. Plaintiff has no adequate remedy at law and therefore seeks the injunctive relief as stated in the Demand for Relief below.

THIRD CAUSE OF ACTION

EQUAL PROTECTION VIOLATION

Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983 and Nevada

Constitution Article 1

(EQUITABLE AND INJUNCTIVE RELIEF SOUGHT)

106. Plaintiff repeats and realleges its allegations herein above inclusively, as through set forth herein, and incorporates the same by this reference.

107. **Duty:** “A public office is a public trust and shall be held for the sole benefit of the people.”
NRS 281A.020.

108. Section I of the Fourteenth Amendment to the United States Constitution prohibits states from depriving “any person within its jurisdiction the equal protection of the laws.”

109. **Breach of Duty:** Defendant(s), acting by and through themselves, their managers, agents, and their employees, have twice ignored Plaintiff’s valid grievances to which he is entitled to receive proper application and equal protection under the law.

110. The Defendants have thus broken the public’s trust by failing to rectify those issues identified in paragraph 83 herein and failed Plaintiff through their flagrant and negligent ignoring of Plaintiff’s Petitions.

111. Unless restrained from doing so, Defendant(s) will continue to violate Plaintiff’s rights or that of any other citizen with a proper Petition, thus continuing to inflict injuries for which Plaintiff has no adequate remedy at law.

112. Under 42 U.S.C. 1983, every person acting under color of state law who deprives another person of his or her constitutional rights is also liable at law and in equity.
113. Plaintiff has further been damaged as his vote did not count as he cast it and thus has been robbed of his right to suffrage.
114. Plaintiff has a reasonable likelihood of prevailing on the merits.
115. Granting the requested relief will not disservice the public interest.
116. As a result, Plaintiff suffered and will continue to suffer emotional distress, reputation damage, and irreparable harm—namely, disenfranchisement through gross violations of one’s right to pose grievances of elections and against election officials and have them answered and resolved.
117. Plaintiff will suffer irreparable harm in the form of the continued failure to redress the violations contained in the underlying Petitions, as well as the harm of failing to provide secure and accurate elections, without the Court’s intervention.
118. As a direct and proximate result of Defendant’s actions, Plaintiff has been damaged and is entitled to the relief set forth below, in addition to such other relief as the circumstances and demands of justice may warrant to restore the public’s trust in elections and the officials who run them.

FOURTH CAUSE OF ACTION

PETITION FOR REMOVAL OF OFFICERS FROM OFFICE

119. Plaintiff repeats and realleges its allegations herein above inclusively, as through set forth herein, and incorporates the same by this reference.
120. Plaintiff respectfully demands this honorable court to remove Defendants Jaime Rodriguez, Washoe County Registrar of voters, Eric Brown, Washoe County Manager,

Alexis Hill, Washoe County Commissioner from office pursuant to the Court's authority under NRS 283.440 and NRS 266.430.

121. Defendants, and each of them, have failed to fulfill the duties of their respective offices as alleged herein.

122. Defendants have additionally failed to address, correct, or rectify the issues raised in the underlying Petitions, including but not limited to, (1) updating and resolving the voter registration lists; (2) providing proper vote counting mechanisms; (3) counting votes in secret; (4) inadequate signature verification; (5) illegal function within the election system; (6) violations of election procedures as required under Nevada law. [Exhibit 4]. Plaintiff seeks an injunction regarding the foregoing.

123. Defendants through their acts of malpractice, malfeasance, and or nonfeasance have failed to perform their duties and have harmed and will continue to harm plaintiff.

124. Granting the requested relief will serve public interest.

JURY TRIAL DEMANDED

125. Plaintiff demands a jury trial on all claims triable by jury as provided by Nevada State and Federal laws.

PUNITIVE DAMAGES

126. The Defendant(s) have acted in their personal and professional capacities.

127. The actions of Defendant(s) constitute a willful disregard for Plaintiff's rights, accuracy in elections, the mission statement of the ROV, and a free and fair Constitutional republic.

128. Plaintiff suffered and will continue to suffer emotional distress, reputation damage, and irreparable harm—namely, disenfranchisement through gross violations of one's right to

pose grievances of elections and against election officials and have them answered and resolved timely.

129. The Defendant(s) have no cover of sovereign immunity. *Scheuer v. Rhodes*, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974).

130. Punitive damages are warranted when gross and willful violations of rights and law occur as is the case here. *Smith v. Wade*, 461 U.S. 30 (1983).

131. Punitive damages, in this case, are meant to punish and deter future abuses of the same sort and must be significant in their application to these Defendant(s) per the Court's discretion.

DEMAND FOR RELIEF

132. WHEREFORE, Plaintiff respectfully demands for a judgment against Defendant(s) for:

i. An adequate and proper response by Defendant(s) to Plaintiff's petition of November 18, 2022, through the discovery processes, under court supervision and seeks an injunction regarding the same;

ii. An adequate and proper response by Defendant(s) to Plaintiff's petition of December 1, 2022, through the discovery processes, under court supervision and seeks an injunction regarding the same;

iii. Defendants must take into account and redress all elections issues that Plaintiff puts on the table, no shying away;

iv. Award Plaintiff their cost of suit;

v. Award monetary damages in excess of \$15,000;

vi. Award punitive damages;

vii. Defendants that are found in violation of laws shall be fined, fired, and/or removed from office; [NRS 283.440, NRS 266.430]

viii. Enjoin Defendants from their continued violations of the following NRSs and strictly comply with NRS 293.530, NRS 293.2546(11), NRS 293B.033, NRS 293.269927, NRS 293.36, NRS 293.740, NRS 293B.063, NRS 293B.104, NRS 293B.1045(1), NAC 293B.110(1)(b), NRS 293.269931(1), NRS 293.3606(1), NRS 293.363(1), NRS 293B.353, NRS 293B.354, NRS 293B.380(2)(a), NAC 293.311(4), NRS 293.423, NRS 293.269927, NRS 293.269927(4)(b), NRS 293.277(3), NRS 293.269927, NRS 293.285(1)(b)(4), NRS 293.3075(4), NRS 293.3585(1)(d), NRS 293.403(2), NRS 293.404(2), Nev. Const. Art. 2 Sec.1A § 1(b);

ix. Enjoin Defendants from using any voting and tabulation machines for elections in Washoe County; and

x. Enjoin Defendants to use paper ballots at all polling locations and in every election;

xi. Enjoin Defendants to disclose ACB applicant's names and credentials publicly prior to appointment;

xii. Enjoin the defendants and halt the expenditure of \$12.6M of taxpayer dollars for unapproved and unsafe equipment and software;

xiii. Enjoin the Defendants and make the digitized vote tally database (Microsoft SQL) open for public inspection;

xiv. Honorable court to strike down NRS 293.269935(2) and 293.3606(4) to allow public inspection of ballots;

xv. Enjoin the Defendants to prohibit QR codes from use in recounts;

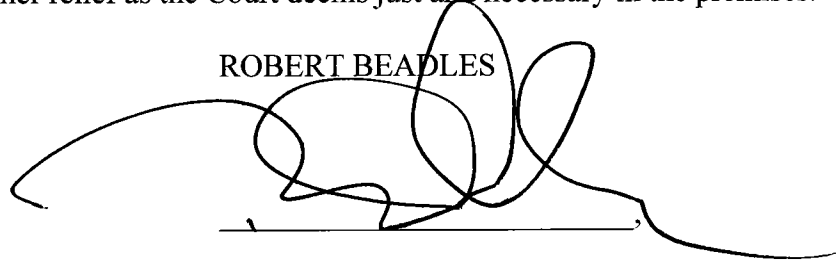
xvi. Grant or impose any remedy, and further relief at law or equity, that this Court deems just and proper in these circumstances;

xvii. Removal of Defendants from office; and

xviii. For such further relief as the Court deems just and necessary in the premises.

Dated: July 25, 2023

ROBERT BEADLES

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Robert Beadles, *pro se*

VERIFICATION

I, Robert Beadles have read Plaintiff's Verified Complaint for Removal Of Officers per 283.440 and believe the facts contained therein are true or based upon a good faith belief that the facts stated therein are true, under the penalty of perjury.

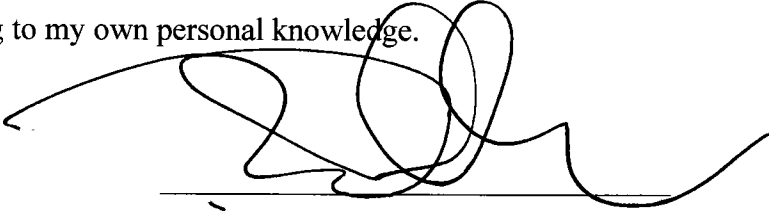
DATED July 25th, 2023



Robert Beadles

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that this document does not contain the social security number of any person. UNDER PENALTIES OF PERJURY, I affirm that the facts alleged in the foregoing are true and correct according to my own personal knowledge.

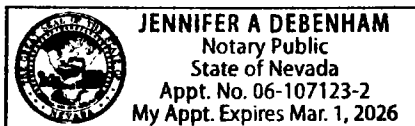


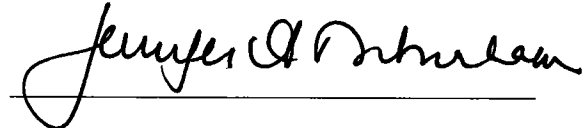
Robert Beadles, Plaintiff

STATE OF NEVADA

COUNTY OF WASHOE

On the 25 day of July, 2023, personally appeared before me Robert Beadles who, being by me first duly sworn, executed the foregoing in my presence and stated to me under penalties of perjury that the facts alleged therein are true and correct according to his own personal knowledge.





Notary Public

My commission expires: 03-01-2026-

CERTIFICATE OF SERVICE

Pursuant to N.R.C.P. 5(b), I hereby certify that I am an _____, and that on the ___ day of _____, 2023, I caused a true and correct copy of the foregoing COMPLAINT FOR EQUITABLE AND INJUNCTIVE RELIEF, PUNITIVE DAMAGES to be served via personal service as follows:

RODRIGUEZ
REGISTRAR OF VOTERS
1001 E Ninth Street, Bldg. A, suite 135
Reno, Nevada 89512-2845
Defendant

BROWN
COUNTY MANAGER
1001 E Ninth Street, Bldg. A
Reno, Nevada 89512-2845
Defendant

HILL
COUNTY COMMISSION CHAIR
1001 E Ninth Street, Bldg. A
Reno, Nevada 89512-2845
Defendant

_____/s/ [NAME]_____
[TITLE]

EXHIBIT 6

EXHIBIT 6

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FIRST JUDICIAL DISTRICT COURT OF NEVADA
CARSON CITY

ROBERT BEADLES, an individual,

Plaintiff,

Case No. 23-OC-00105 1B

vs.

Dept No. D1

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

Defendants.

ORDER GRANTING DEFENDANTS' MOTION FOR ATTORNEYS' FEES AND COSTS

PROCEDURAL HISTORY

On November 20, 2023, the Court held a hearing on Defendants' Motion to Dismiss, Motion to Change Venue, and Plaintiff Robert Beadles's ("Beadles") Second Motion to Change Venue. The Court granted the Motion to Dismiss, dismissing Beadles's

1 claims against the Washoe County Registrar of Voters Jamie Rodriguez (“Ms.
2 Rodriguez”), the Washoe County Registrar of Voters, Washoe County Manager Eric
3 Brown (“Manager Brown”), Chairperson of the Washoe County Board of County
4 Commissioners Alexis Hill (“Commissioner Hill”), and Washoe County with prejudice.

5 The Court indicated on the record that it would award Defendants their attorneys’
6 fees under NRS 18.010, and instructed Defendants to file a motion accordingly. On
7 November 29, 2023, Defendants’ Memorandum of Costs and Disbursements was filed. On
8 December 12, 2023, Defendants’ Motion for Attorneys’ Fees was filed. Beadles filed an
9 Opposition, and Defendants filed a Reply in support of their Motion.

10 **FINDINGS OF FACT**

11 Having reviewed the filings in this case, and having considered, without limitation,
12 all evidence submitted by the parties to the Court, as well as the parties’ written arguments,
13 the Court makes the following findings of fact:

14 1. This Court held a hearing on November 20, 2023, during which it
15 pronounced that Beadles’s claims were dismissed with prejudice and that Defendants
16 would be awarded their attorneys’ fees.

17 2. This case was dismissed with prejudice. Therefore, Defendants are the
18 prevailing party in this matter. Defendants did not recover any sum of damages, and
19 Beadles originally sought more than \$2,500 in damages.

20 3. Deputy District Attorney Lindsay Liddell is the primary attorney on this
21 case. Ms. Liddell earned a Juris Doctor from the William S. Boyd School of Law (2015), a
22 B.A. in economics and a B.A. in psychology *magna cum laude* from the University of
23 Nevada, Reno (2013), and an A.A. in criminal justice *summa cum laude* from Western
24 Nevada College (2011). Ms. Liddell is licensed in both Nevada and California (inactive),
25 and has been practicing law in the State of Nevada since May 2016. Ms. Liddell has a wide
26 range of experience. During law school, she was an Articles Editor for the Nevada Law

1 Journal, vice president of the environmental law society, an intern for the Honorable
2 Nathan Tod Young in the Ninth Judicial District Court, worked in the Education
3 Advocacy Clinic supporting children with special needs, and won an award for research
4 conducted in New Delhi, India. Ms. Liddell also served as a law clerk where she received
5 substantial mentorship after law school. Prior to joining the Washoe County District
6 Attorney's Office, Ms. Liddell was a civil litigation associate attorney at Robison, Sharp,
7 Sullivan & Brust. Ms. Liddell is an active member of the Bruce R. Thompson Inns of
8 Court. She is one of nine Nevada Lawyer Representatives appointed by Chief Judge
9 Miranda Du for the United States District Court, District of Nevada. As a Deputy District
10 Attorney, she successfully first chaired a jury trial, successfully first chaired bench trials and
11 evidentiary hearings, participated in many other hearings, attended settlement conferences,
12 conducted pretrial litigation, and received many favorable outcomes for clients. She was
13 recently nominated for the Reno Tahoe Young Professional Network's 20 Under 40 award.

14 4. Deputy District Attorney Elizabeth Hickman is the secondary attorney on
15 this case. Ms. Hickman earned a Juris Doctor *cum laude* from William S. Boyd School of
16 Law (2009), and a B.A in Sociology *magna cum laude* from Willamette University (2006).
17 Ms. Hickman is licensed in the State of Nevada and has been practicing law since October
18 2009. Prior to joining the District Attorney's Office, Ms. Hickman served as a Senior
19 Deputy Attorney General. At the Attorney General's Office for nearly thirteen years, Ms.
20 Hickman worked in both the Litigation Division, defending civil cases brought against the
21 State, and the Tobacco Enforcement Unit, enforcing a complex tobacco settlement on
22 behalf of Nevada and representing the Nevada Department of Taxation. At the District
23 Attorney's Office, Ms. Hickman represents the Office of the Registrar of Voters, gaining
24 specialized knowledge of Nevada's election laws.

25 5. The Court finds that Ms. Liddell and Ms. Hickman's representation in this
26 case was of high quality. Ms. Liddell and Ms. Hickman actually performed the work

1 necessary to defend the Defendants in this case. Ms. Liddell and Ms. Hickman spent at
2 least 263.7 hours defending against Beadles's claims. The hours include work performed on
3 Beadles's first case, filed as Second Judicial District Court case number CV23-01283. The
4 first case contained identical claims brought under state law, and the work performed on
5 that case was necessary to obtain a successful outcome herein—Beadles refiled his claims
6 in the present case and removed only the federal law claims. The work performed in the
7 first case was used to defend the present case and is necessarily related to the defense in this
8 case. Therefore, it is appropriate to include those hours in an award of attorneys' fees.
9 Defendants received a successful and favorable outcome—Beadles's claims were dismissed
10 with prejudice.

11 6. The current reasonable market hourly rate for legal counsel comparable to
12 Ms. Liddell and Ms. Hickman is at least \$400 per hour for comparable counsel. Some
13 Nevada attorneys charge in excess of \$500 per hour. According to the Laffey Matrix, an
14 attorney fee scale used in many federal cases, the rate for an attorney four to seven years
15 out of law school is \$538 per hour, and is \$878 per hour for attorneys eleven to nineteen
16 years out of law school. In sworn declarations submitted in a case Deputy District
17 Attorney Michael Large handled, local attorneys stated that \$400 per hour is a customary
18 rate for civil litigation. In November 2023, the City of Sparks retained McDonald Carano,
19 LLP attorney Matt Addison as outside litigation counsel. Mr. Addison's standard hourly
20 rate is \$650 per hour, which he reduced for the City of Sparks to \$375 per hour. In a case
21 regarding Joey Gilbert's 2022 elections contest, attorney Colby Williams was awarded \$750
22 per hour and attorney Sam Mirkovich was awarded \$500 per hour.

23 7. Though the reasonable market rate for comparable counsel is at least \$400
24 per hour, the Court finds that Defendants' request to be awarded a voluntarily reduced rate
25 of \$375 per hour is reasonable.

26 8. Defendants incurred costs in the amount of \$378.94 in defending this action.

1 9. Prompt rulings on motion for attorneys' fees minimize concerns that the
2 relevant circumstances will no longer be fresh in the mind of the Court after a lengthy
3 appeal process. Efficient disposition of this matter is best served by resolution of the instant
4 Motion for Attorneys' Fees and Costs.

5 CONCLUSIONS OF LAW

6 10. "The decision whether to award attorney's fees is within the sound discretion
7 of the trial court." *Bergmann v. Boyce*, 109 Nev. 670, 674, 856 P.2d 560, 563 (1993),
8 *superseded by statute on other grounds as recognized in In re DISH Network Derivative Litig.*, 133
9 Nev. 438, 451 n.6, 401 P.3d 1081, 1093 n.6 (2017).

10 11. Under NRS 18.010, the Court may award attorneys' fees to a prevailing party
11 under the following circumstances:

12 (a) When the prevailing party has not recovered more than
13 \$20,000; or

14 (b) Without regard to the recovery sought, when the court finds
15 that the claim...of the opposing party was brought or
16 maintained without reasonable ground or to harass the
prevailing party. The court shall liberally construe the
provisions of this paragraph in favor of awarding attorney's
fees in all appropriate situations.

NRS 18.010(2).

17 12. In awarding attorneys' fees, "the [C]ourt may pronounce its decision on the
18 fees at the conclusion of the trial or special proceeding without written motion and with or
19 without presentation of additional evidence." NRS 18.010(3). "The [C]ourt may decide a
20 postjudgment motion for attorney fees despite the existence of a pending appeal from the
21 underlying judgment." NRCP 54(d)(2)(A). As such, this Court had the authority to issue its
22 decision to award Defendants their attorneys' fees at the conclusion of the November 20,
23 2023 hearing. Moreover, this Court retains limited jurisdiction over this matter to decide
24 the instant motion for attorneys' fees pursuant to NRCP 54(d)(2)(A).

25 13. An award of attorneys' fees is appropriate under NRS 18.010(2)(a) because
26 Defendants are the prevailing party and Defendants did not recover more than \$20,000.

1 14. Additionally, an award of attorneys' fees is appropriate under NRS
2 18.010(2)(b) because Beadles brought and maintained his claims without reasonable
3 grounds.¹ A groundless claim is a claim unsupported by credible evidence. *Frederic &*
4 *Barbara Rosenberg Living Tr. V. MacDonald Highlands Realty, LLC*, 134 Nev. 570, 580, 427 P.3d
5 104, 113 (2018). Beadles's first cause of action alleged that Defendants' failure to respond
6 to his "petitions" amounts to a constitutional violation under the Nevada Constitution
7 Article 1 Section 10, Article 2 Section 1A(11), Article 15 Section 2 and NRS 293.2546(11).
8 *Compl.* at ¶¶67–87. Beadles brought this claim without reasonable ground because
9 Defendants have no duties specific to Beadles arising under the Nevada Constitution
10 Article 1 Section 10, Article 2 Section 1A(11), Article 15 Section 2 and NRS 293.2546(11).
11 *Order Granting MTD* at pp. 7–13. Beadles's Second Cause of Action demanded Ms.
12 Rodriguez, Manager Brown, and Commissioner Hill's removal from their positions under
13 NRS 266.430 and NRS 283.440. *Compl.* at ¶89. Beadles brought this claim without
14 reasonable ground because none of his allegations could state a claim for removal of Ms.
15 Rodriguez, Manage Brown, and Commissioner Hill. *Order Granting MTD* at pp. 15–25.
16 With no basis in law, the claims are unsupported by credible evidence and are thus
17 groundless under NRS 18.010.

18 15. In Nevada, "the method upon which a reasonable fee is determined is subject
19 to the discretion of the court" which "is tempered only by reason and fairness." *Shuette v.*
20 *Beazer Homes Holdings Copr.*, 121 Nev. 837, 864, 124 P.3d 530, 548 (2005). When
21 determining the reasonable value of attorney services, a court considers the following
22 *Brunzell* factors:

- 23 (1) the qualities of the advocate: his ability, his training,
24 education, experience, professional standing and skill; (2) the

25 ¹ This Court stated on the record that it would not award sanctions because it appeared as though Beadles had
26 "some belief in this."

1 character of the work to be done: its difficulty, its intricacy, its
2 importance, time and skill required, the responsibilities imposed
3 and the prominence and character of the parties where they
4 affect the importance of litigation; (3) the work actually
performed by the lawyer: the skill time and attention given to the
work; (4) the result: whether the attorney was successful and
what benefits were derived.

5 *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

6 16. The attorneys representing the Defendants, Ms. Liddell and Ms. Hickman, are
7 well qualified. As demonstrated by the successful outcome in this case, Ms. Liddell and Ms.
8 Hickman are skilled legal advocates. Ms. Liddell and Ms. Hickman have extensive
9 experience and education, and have an esteemed professional standing in the legal
10 community.

11 17. Regarding the character of the work done, Ms. Liddell and Ms. Hickman
12 vigorously defended against Beadles's many filings, including his Complaints, motions to
13 change venue, motions to request a specific judge, and other motions he filed. This Court
14 has had an opportunity to observe and review the character of the work performed in the
15 multiple filings in this case. This is a case involving baseless claims of election fraud, and a
16 strategic and tenacious defense was necessary.

17 18. Ms. Liddell and Ms. Hickman undertook the work necessary to bring forth
18 successful motions to dismiss and to bring the instant motion. Ms. Liddell and Ms.
19 Hickman actually performed all of the work for which Defendants seek attorneys' fees. In
20 total, Ms. Liddell and Ms. Hickman spent at least 263.7 hours defending against Beadles's
21 claims. This is a conservative estimate, and does not include the time incurred in drafting
22 the Defendants' Motion for Attorneys' Fees, which the Court further finds is reasonable.

23 19. Defendants received a successful and favorable outcome—Beadles's claims
24 were dismissed with prejudice.

25 20. A court shall not reduce the amount of attorney's fees to a local government, a
26 public officer, or a public employee solely because the party is a local government, a public

1 officer, or a public employee. NRS 18.025(1)(b). If a Court determines that such a party is
2 entitled to receive attorney's fees, and the fee rates are not set forth in an applicable rule or
3 statute, "the court shall award *reasonable* attorney's fees and costs." NRS 18.025(2)(emph.
4 added).

5 21. The Court is not limited to a specific approach when determining the amount of
6 fees to award, so long as the amount takes into account the *Brunzell* factors. *Logan v. Abe*,
7 131 Nev. 260, 266, 350 P.3d 1139, 1143 (2015)(citations and quotations omitted). The
8 lodestar approach to calculating attorneys' fees involves multiplying the number of hours
9 reasonably spent on the case by a reasonable hourly rate. *University of Nevada v. Tarkanian*,
10 110 Nev. 581, 591, 879 P.2d 1180, 1188 n.4 (1994). Billing records are not required; instead,
11 the Court bases its award on reasonableness. *See O'Connell v. Wynn Las Vegas, LLC*, 134 Nev.
12 550, 557–58, 429 P.3d 664, 670–71 (Nev. App. 2018).

13 22. The Court concludes that the lodestar method is an appropriate and reasonable
14 method to calculate the award of attorneys' fees in this case. The Nevada Supreme Court
15 upheld use of the lodestar method for attorneys serving as a government entity's in-house
16 counsel. *Cuzze v. Univ. & Cmty. Coll. Sys. of Nevada*, 123 Nev. 598, 607, 172 P.3d 131, 137
17 (2007). Rejecting appellant's argument that the reasonable market rate was excessive, the
18 Nevada Supreme Court noted that such an argument would ignore persuasive federal
19 precedent and that "**a lawyer's position as a government attorney as no bearing on the**
20 **fees that may be recovered**" under that precedent. *Id.*, 123 Nev. 598, 607, n. 29, 172 P.3d
21 131, 137, n. 29 (emph. added). The lodestar method of using "prevailing market rates
22 necessarily takes into consideration such factors as salary, overhead, the cost of support
23 personnel, and incidental expenses." *PLCM Group v. Dexler*, 22 Cal. 4th 1084, 1097 (2000),
24 *as modified* (June 2, 2000). Use of the lodestar method for in-house counsel is "presumably
25 reasonable." *Id.* The Ninth Circuit has "repeatedly held that determination of a reasonable
26 hourly rate 'is not made by reference to the rates actually charged...'" *Welch v. Metro. Life*.

1 *Ins. Co.*, 480 F.3d 942, 946 (9th Cir. 2007); *see also United States v. City of Jackson*, 359 F.3d
2 727, 733–34 (5th Cir. 2004)(rejecting city attorney’s salary as the fee rate, instead using the
3 reasonable market rate for the local legal community).

4 23. Awarding government attorney’s fees according to the lodestar method’s
5 reasonable market rate is appropriate and purely compensatory. *Acosta v. Sw. Fuel Mgmt.,*
6 *Inc.*, Case No. CV164547FMOGRX, 2018 WL 1913772, at *10 (C.D. Cal. Mar. 28, 2018).²
7 A California Court of Appeals upheld lodestar calculations with market rates of \$500 and
8 \$625 per hour for two assistant attorneys general in the San Fransisco Bay area in 2013,
9 rather than the governmental rates actually incurred. *In re Tobacco Cases I*, 216 Cal.App.4th
10 570, 581–82 (2013). The U.S. District Court in Nevada recently applied the lodestar
11 method to award a reasonable attorney fee of \$400 per hour for Washoe County Deputy
12 District Attorney Michael Large. This case law further persuades the Court that use of the
13 lodestar method with a reasonable market hourly rate is an appropriate approach to
14 calculating an award of attorneys’ fees for in-house government attorneys. The price of
15 pursuing baseless claims in Nevada Courts should not be lowered because the opposing
16 party is a governmental entity. *See* NRS 18.025.

17 24. Defendants reasonably and conservatively seek fees based on a voluntarily
18 discounted rate of \$375 per hour. Having spent 263.7 hours on this matter, an appropriate
19 attorneys’ fee award is \$98,887.50. The requested hours are reasonable, and any allegation
20 of overbilling is mitigated by the reduced hourly rate of \$375 per hour.

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23 ² Ample authority supports awarding attorneys’ fees based on reasonable market hourly value for in-house
24 government attorneys. *See e.g. Napier v. Thirty or More Unidentified Fed. Agents*, 855 F.2d 1080, 1092–93 (3rd
25 Cir. 1988)(Assistant U.S. Attorney’s fee should “be valued at a market rate”); *Ex.-Imp. Bank of the U.S. v.*
26 *united California Disc. Corp.*, Case No. CV 09-2930 CASPLAX, 2011 WL 165312, at *2 (C. D. Cal Jan. 12,
2011)(awarding a reasonable market rate to government attorneys, even though they were paid a salary and
did not formally bill clients); *Hamilton v. Daley*, 777 F.2d 1207, 1213 (7th Cir. 1985)(calculating county
attorneys’ fees “based on reasonable billing rates in the relevant community, not net hourly earnings”).

1 25. “Costs must be allowed of course to the prevailing party against any adverse
2 party against whom judgment is rendered...” in an action where plaintiff seeks to recover
3 more than \$2,500 and in special proceedings. NRS 18.020. “[A]ny proceeding in a court
4 which was not under the common-law and equity practice, either an action at law or a suit
5 in chancery, is a special proceeding.” *Foley v. Kennedy*, 110 Nev. 1295, 1304, 885 P.2d 583,
6 588 (1994)(quoting *Schmaling v. Johnston*, 54 Nev. 293, 301, 13 P.2d 1111, 1113 (1932)).
7 Within three days of service of a memorandum of costs, the adverse party may move to
8 retax the costs. NRS 18.110(4). A party waives any challenge to claimed costs when he
9 does not file a motion to retax costs pursuant to NRS 18.110(4). *Estate of Powell Through*
10 *Powell v. Valley Health Sys., LLC*, Case No. 84861, 2023 WL 8291871 at *4 (Nov. 30,
11 2023)(unpublished disposition).

12 26. Because Defendants are the prevailing party and Beadles sought to recover more
13 than \$2,500, Defendants are entitled to an award of their costs in the amount of \$378.94.
14 Moreover, Beadles did not file a motion to retax costs, timely or otherwise, and thus waived
15 any challenge to Defendants’ requested costs.

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1 Therefore, based on the above Findings of Fact and Conclusions of Law made by
2 this Court, and good cause appearing:

3 **IT IS HEREBY ORDERED** that Defendants' Motion for Attorneys' Fees is
4 **GRANTED**.

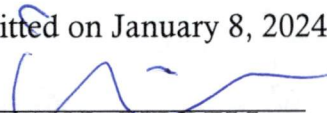
5 **IT IS HEREBY FURTHER ORDERED** that Defendants are award attorneys' fees
6 in the amount ninety-eight thousand eight hundred eighty-seven dollars and fifty cents
7 (\$98,887.50), and awarded of costs in the amount of three hundred seventy-eight dollars
8 and ninety-four cents (\$378.94).

9 **IT IS HEREBY FURTHER ORDERED** that there being no just reason for delay,
10 the Court hereby determined and directs that final judgment is entered in favor of
11 Defendants pursuant to NRCP 54(b).

12
13 Dated: _____.

14
15
16 _____
17 JAMES T. RUSSELL
18 DISTRICT JUDGE

19 Submitted on January 8, 2024 by:

20 
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26 COUNTY REGISTRAR OF VOTERS,
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and WASHOE COUNTY