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CASE NO: A-20-823821-W
Department 18

Attorneys for Petitioners
NEVADA REPUBLICAN CENTRAL COMMITTEE
d/b/a NEVADA REPUBLICAN PARTY;
REPUBLICAN NATIONAL COMMITTEE; AND
DONALD J. TRUMP FOR PRESIDENT, INC.

DISTRICT COURT

CLARK COUNTY OF NEVADA

NEVADA REPUBLICAN CENTRAL
COMMITTEE d/b/a NEVADA
REPUBLICAN PARTY; REPUBLICAN
NATIONAL COMMITTEE; and DONALD
J. TRUMP FOR PRESIDENT, INC.

Petitioners,

vs.

CLARK COUNTY, a governmental entity;
and JOSEPH GLORIA, in his capacity as a
Registrar of Voters for Clark County,
Respondents.

CASE NO.:
DEPT. NO.:

ELECTION-RELATED ACTION:
APPLICATION FOR ORDER
COMPELLING DISCLOSURE OF
PUBLIC RECORDS PURSUANT TO
NRS 239.011/PETITION FOR WRIT OF
MANDAMUS

(EXPEDITED HEARING
REQUESTED PURSUANT TO NRS
239.011 (2))

COME NOW Petitioners, NEVADA REPUBLICAN CENTRAL COMMITTEE d/b/a
NEVADA REPUBLICAN PARTY, REPUBLICAN NATIONAL COMMITTEE and DONALD
J. TRUM FOR PRESIDENT, INC. (“Petitioners”) by and through their attorneys, David S. Lee,
Esq. and Charlene N. Renwick, Esq., of the law firm LEE, LANDRUM, CARLSON, APC, and
hereby submit their Nevada Public Records Act Application and Petition for Writ of Mandamus for
declaratory and injunctive relief (“Application”), ordering Respondents to provide Petitioners
access to public records requested by Petitioners. Petitioners also request an award for all fees and

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1 costs associated with their efforts to obtain withheld public records, and that this matter be
2 expedited, as provided for by NRS 239.011(2).

3 Petitioners hereby allege as follows:

4 **I.**

5 **NATURE OF ACTION**

6 1. Petitioners bring this Application for relief pursuant to NRS 239.011. *See also* Reno
7 Newspapers, Inc. v. Gibbons, 127 Nev. 873, 884, 266 P.3d 623, 630, n.4 (2011).

8 2. Petitioners' Application to this court is the proper means to secure Respondents'
9 compliance with the Nevada Public Records Act ("NPRO"). *Id.*; *see also* DR Partners v. Bd. of
10 Cty. Comm'rs of Clark Cty., 116 Nev. 616, 621, 6 P.3d 465, 468 (2000) (*citing* Donrey of Nevada
11 v. Bradshaw, 106 Nev. 630, 798 P.2d 144 (1990)) (a writ of mandamus is the appropriate procedural
12 remedy to compel compliance with the NPRO).

13 3. Petitioners are entitled to an expedited hearing on this matter pursuant to NRS
14 239.011(2), which mandates that "the court shall give this matter priority over other civil matters
15 to which priority is not given by other statutes."

16 **II.**

17 **PARTIES**

18 4. Petitioner Nevada Republican Central Committee d/b/a Nevada Republican Party
19 is the official state party committee for the Republican Party for the State of Nevada, and it brings
20 this petition on behalf of itself, and on behalf of the candidates, voters, and elected officials with
21 whom it associates.

22 5. Petitioner Republican National Committee is the official national committee for
23 the Republican Party of the United States, and it brings this petition on behalf of itself, and on
24 behalf of the candidates, voters, and elected officials with whom it associates.

25 6. Petitioner Donald J. Trump for President, Inc. is a Non-Profit Corporation
26 registered in the State of Virginia.

27 7. Respondent Clark County is a Nevada governmental entity, which is subject to the
28 NPRO.

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2) First and last names of voters who are registered as Democrats who are members of the counting board, including the dates and times of their shifts; and shift location.

3) First and last names of voters registered as Independents who are members of the counting board, including the dates and times of their shifts; and shift location.

4) Political composition of the counting board for each shift (7:30 a.m. to 1:00 p.m.; and 1:00 p.m. to 7:30 p.m.) for each day starting Thursday, October 15, 2020 and ending November 12, 2020.

5) First and last names of the ambassadors that poll watchers and members of the general public can interface and interact with during ballot processing, along with dates and times of their shifts; and shift locations.¹

15. On October 19, 2020, in an effort to obtain a better understanding of the policies and procedures that Respondents will employ with respect to the 2020 election ballot processing and oversight, Petitioners requested the following additional information:

1) All policies and procedures (including any official or unofficial records, training documents, and/or instructions) applicable to Clark County Election Department employees or officials regarding the receipt, processing, and tabulation of ballots, including not limited to:

- a. Any and all policies and procedures used to limit the infection or transmission of COVID19 and/or any other infectious disease or malady;
- b. Any and all documents, policies, and procedures used in training Clark County Election Department employees, agents, or officials;
- c. Any and all policies and procedures regarding the placement or restrictions on members of the public who observe process related to ballot authentication, organization, tabulation, and/or retention;
- d. Any and all policies and procedures regarding the receipt, handling, authentication, sorting, transportation, tabulation, storage, and/or retention of ballots received by the Clark County Election Department;
- e. Any and all policies and procedures used by Clark County Election Department employees, agents, or officials to call or otherwise contact electors regarding ballot and/or signature authentication;
- f. Any and all policies and procedures used to supervise Clark County Election Department employees, agents, or officials who call or otherwise contact electors regarding ballot and/or signature authentication;
- g. Any and all policies and procedures regarding the separation of ballots for the envelopes in which they were mailed;
- h. Any and all policies and procedures regarding the duplication of ballots by Clark County Election Department employees, agents, or officials;

¹ Exhibit 1, *Correspondence from S. Weir, Esq. to Clark County Election Department* (October 16, 2020); See *Declaration of Shana D. Weir, Esq.* (October 27, 2020).

- 1 i. Any and all policies and procedures regarding receptacles used to receive or
- 2 store ballots sent to the Clark County Election Department by electors;
- 3 j. Any and all policies and procedures regarding efforts to secure ballots
- 4 received by the Clark County Election Department from electors;
- 5 k. Any and all documents, policies, and procedures regarding contact with law
- 6 enforcement or other security officials in efforts to secure ballots received
- 7 by the Clark County Election Department from electors, including efforts to
- 8 secure the ballots before, during, and after the ballots are transported to or
- 9 from any Clark County Election Department facility;
- 10 2) Any and all call scripts and/or other instructions given to Clark County Election
- 11 Department employees, agents, or other officials who call or otherwise contact
- 12 voters to authenticate any ballot;
- 13 3) The names of all Clark County Election Department employees, agents, or other
- 14 officials who call or otherwise contact voters so as to authenticate ballots,
- 15 including the dates and times when each individual worked or is scheduled to work
- 16 on authenticating ballots for the 2020 general election;
- 17 4) The names of all drivers that have or are authorized to transport ballots to or
- 18 from any Clark County Election Department facility, including the dates and times
- 19 when each individual worked or is scheduled to transport ballots for the 2020
- 20 general election;
- 21 5) Any and all documents and/or communications regarding law enforcement or
- 22 other security personnel's efforts to secure ballots being transported to or from any
- 23 Clark County Election Department facility, including any and all documents and/or
- 24 communications regarding whether law enforcement officers always monitor
- 25 vehicles that transport ballots to or from any Clark County Election Department
- 26 facility;
- 27 6) Any and all logs showing departure times, arrival times, driver information, and
- 28 any other recorded data for the transport of ballots to or from any Clark County
- Election Department facility;
- 7) Any and all report or other document submitted to the Nevada Secretary of State
- or her designee regarding the handling, authentication, sorting, transportation,
- tabulation, storage, and/or retention of ballots.
- 8) All records that explain the process of how ballots are received, authenticated,
- processed, stored, and tabulated by the Clark County Election Department (such as
- the cycle of a ballot when it leaves the elector);
- 9) Any and all correspondence with voters regarding the authentication of ballots;
- 10) All records showing how many ballots have been rejected based upon
- signature authentication by the Clark County Election Department;

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11) Any and all correspondence with any official, representative, candidate or delegate from the democratic party regarding the 2020 general election;

12) Any and all requests and responses to any public records request made to Clark County from any other party regarding the 2020 general election; and

13) Any and all correspondence with the Secretary of State regarding the 2020 election.²

16. On October 23, 2020, Respondents purported to respond to Petitioners' October 16, 2020 Public Information Request, by emailing a letter dated October 21, 2020, which states as follows:

With respect to Requests 1 through 4:

- We will not be releasing the names of our counting board during the conduct of the election due to security reasons.
- The party breakdown for our Counting Board, Duplicators, and Auditors is as follows:
 - 40 Democrats
 - 35 Republicans
 - 15 Non Partisan

With respect to Request 5:

- We will not be releasing the names of our counting board during the conduct of the election due to security reasons.
- The party breakdown for our ambassadors is as follows:
 - 1 Democrats
 - 0 Republicans
 - 3 Non Partisan
 - 1 Not Registered³

17. On October 23, 2020, Petitioners made a further request to Respondents for public information pertaining to the 2020 election, which included the following:

1) Image files, documents, records, and information showing (1) each voter's signature on envelopes containing mail ballots and/or absentee ballots returned by voters to the Clark County Election Department in the November 3, 2020 general election and (2) the images of signatures of voters who have cast a mail ballot and/or an absentee ballot in the November 3, 2020 general election on record with the Clark County Election Department, the Registrar's office, the Counting Board, and/or any other affiliated entity against which signatures on envelopes containing mail ballots and/or absentee ballots are verified.

² Exhibit 2, *Correspondence from S. Weir, Esq. to Clark County Election Department* (October 19, 2020); See *Declaration of Shana D. Weir, Esq.* (October 27, 2020).
³ Exhibit 3, *Correspondence from J. Gloria to S. Weir, Esq.* (October 21, 2020).

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2) Documents, records, and information sufficient to identify the number of absentee ballots and/or mail ballots cast in the November 3, 2020 general election that were accompanied by an envelope that (a) did not contain the voter's signature, or (b) contained a signature that the Recorder's Office determined does not match the signature on file in the voter's registration record.

3) For every ballot within the scope of Request 2, all documents, records, and information necessary to show whether the absentee ballot and/or mail ballot was ultimately approved for tabulation.

4) Documents, images, records, and information identifying all absentee ballots and/or mail ballots cast in the November 3, 2020 general election that were accompanied by an envelope that was initially rejected by the Agilis Ballot Packing Sorting System used by the Clark County Election Department.

5) Documents and information sufficient to identify the number of mail ballots cast in the November 3, 2020 general election that the Registrar's Office and/or Counting Board determined were not eligible for processing and/or tabulation for a reason other than a missing or mismatched signature on the accompanying envelope.

6) For every early ballot that is within the scope of Request No. 5, documents and information sufficient to identify:

- a. The name and voter ID number of the voter who ostensibly cast the ballot;
- b. The reason(s) the early ballot was determined to be legally insufficient or otherwise ineligible for tabulation and/or processing;
- c. The date(s) on which the County Recorder's Office attempted to contact the voter and the result of the contact attempt(s); and
- d. Whether the early ballot was subsequently accepted for processing and/or tabulation.

7) Documents and information sufficient to identify the number of provisional ballots and conditional provisional ballots cast in the November 3, 2020 general election.

8) For every provisional ballot or conditional provisional ballot that is within the scope of Request No. 7, documents and information sufficient to identify:

- a. The name and voter ID number of the voter who ostensibly cast the ballot;
- b. The reason(s) the voter was required to cast a provisional ballot or conditional provisional ballot;
- c. Any contact or communications between the voter and the County Recorder's Office in connection with the provisional ballot or conditional provisional ballot; and
- d. Whether the conditional provisional ballot or provisional ballot was subsequently accepted for processing and/or tabulation.

1 We request that responsive documents and information be produced promptly and
2 on a rolling basis as they become available. This request will terminate on November 30,
2020.⁴

3 18. On October 24, 2020, Petitioners sent an email to Respondents requesting the legal
4 authority upon which Respondents based their denial of Petitioners' October 16, 2020 request for
5 information, pursuant to NRS 239.0107(1)(d), as Respondents failed to provide any statutory or
6 other legal authority that justified their failure to comply with the NPRA.

7 19. On October 26, 2020, Counsel for Respondents, Mary-Anne Miller, Esq.,
8 responded by email to Petitioners' request for a legal basis supporting their denial of Petitioners'
9 October 16, 2020 Public Information Request, and blanketly denied Petitioners' October 19 and
10 23, 2020 Public Information Requests as follows:

11 Joseph Gloria has referred your recent request for legal authority to me for
12 response to his withholding the names of election officials until after the canvass
13 for election security purposes. We are relying upon the case of *Donrey v.*
14 *Bradshaw*, 106 Nev. 630, 798 P.2d 144 (1990), in which the Nevada Supreme
15 Court recognized that any limitation on the general disclosure requirements of
16 NRS 239.010 must be based upon a balancing or 'weighing' of the interests of
non-disclosure against the general policy in favor of open government. See
also *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 266 P.3d 623 (2011). As
you are aware, election security is of heightened interest this year.

17 In response to two other pending requests you have made, please be
18 advised that due both to the assignment of available election department personnel
19 to key election processing tasks and to the large amount of documents that you
20 have requested, we are unable to respond to your October 19 and October 23
21 requests before the election canvass.

22 With respect to your request of October 23, 2020, we note that you
23 requesting some documents that are not yet even in existence, and we do not
24 accept public records requests for records that are not in existence yet. You may
25 wish to wait until the canvass of the vote is completed before renewing your
26 request.

27 Finally, you noted on your request of October 23, 2020 that you are
28 requesting documents on behalf of the Trump campaign. Because the Trump
campaign is currently in related litigation it filed against Joseph Gloria on the same

⁴ Exhibit 4, *Correspondence from S. Weir, Esq. to Clark County Election Department* (October 23, 2020); See *Declaration of Shana D. Weir, Esq.* (October 27, 2020).

1 day as you sent in your request, please coordinate your broad request with the
2 Trump campaign's attorneys of record discovery plan on that matter.⁵

3 20. In responding to Petitioners' October 16, 2020 request, Respondents do not assert
4 that any of the requested information is confidential, yet they refuse to provide the names of the
5 members of the Counting Board. Even more egregiously, Respondents refuse to provide the dates
6 and times of their respective shifts and the shift locations as requested in Requests 1-3, and 5.
7 Finally, Respondent makes no effort whatsoever to respond to Request 4, in violation of NPRA.

8 21. As demonstrated above, Respondents' wholly fail to respond to Petitioners'
9 October 19, 2020 public records requests, despite having the information requested. Moreover,
10 while Respondents claim that their personnel are too busy to respond to Petitioners' request, they
11 fail to comply with NRS 237.0107 because they fail to:

12 Make a reasonable effort to assist the requester to focus the request in such a
13 manner as to maximize the likelihood the requester will be able to inspect, copy or
14 receive a copy of the public book or record as expeditiously as possible.

14 NRS 239.107 (1)(c)(2).

15 22. Respondents further fail to respond to Petitioner's October 23, 2020 request for
16 public records, claiming that some records are not currently in existence as the election canvass is
17 not yet complete. As Respondents well know, this response wholly ignores Petitioner's request
18 that the responsive information be provided by Respondents on a rolling basis as it becomes
19 available. Rather than produce the public information that is clearly in their possession and
20 readily available, Respondents have refused to provide the same, without any basis under NRS
21 239.107.

22 23. Further, Respondents refuse to respond to Petitioners' third Public Information
23 Request, arguing that Petitioners must seek these public records through litigation. As this
24 information is not confidential, and is public record subject to NRS 239.010, Respondents have
25 no basis for withholding the same, and failed to provide any authority permitting non-disclosure
26 under NRS 239.107.

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⁵ See *Declaration of Shana D. Weir, Esq.* (October 27, 2020).

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- (1) Notice of that fact; and
- (2) A citation to the specific state or other legal authority that make the public book or record, or a part thereof, confidential.

NRS 239.0107(1)(d).

28. The NPRA dictates that a meaningful response be provided within five (5) days of a request. NRS 239.0107(1).

29. When a governmental entity is unable to make a public record available by the end of the fifth business day after the request is received, said entity shall:

Make a reasonable effort to assist the requester to focus the request in such a manner as to maximize the likelihood the requester will be able to inspect, copy or receive a copy of the public book or record as expeditiously as possible.

NRS 239.107 (1)(c)(2).

30. Per NRS 239.0113(2),

The governmental entity that has legal custody or control of the public book or record asserts that the public book or record, or a part thereof, is confidential, the governmental entity has the burden of proving by a preponderance of the evidence that the public book or record, or a part thereof, is confidential.

31. ‘[T]he balancing test under *Bradshaw* now requires a narrower interpretation of private or government interests promoting confidentiality or nondisclosure to be weighed against the liberal policy for an open and accessible government.’ More specifically, in order for requested records to be withheld under this balancing test, **the state entity bears the burden to prove that its interest in nondisclosure ‘clearly outweighs the public’s right to access.’**

Reno Newspapers, Inc. v. Gibbons, 127 Nev. 873, 880, 266 P.3d 623, 627-628 (2011) (citing *Reno Newspapers v. Sheriff*, 126 Nev. -----, 234 P.3d 922, 926 (2010). Emphasis added.

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VII.
CLAIM FOR RELIEF

32. Petitioners re-allege and incorporate by reference each and every allegation contained in paragraphs 1-31 above, as though fully set forth herein.

33. Petitioners should be provided with the public records they requested, but were denied by Respondents.

34. The requested public records are subject to disclosure. Respondents failed to meet their burden of establishing otherwise, and indeed have failed to provide any basis for withholding records as required by the NPRA. NRS 239.0107(1)(d).

35. Respondents failed to make any effort to assist Petitioners in narrowing their requests in order assist in expediting receipt of responsive information, as mandated by NRS 239.0107 (1)(c)(2).

36. A writ of mandamus is necessary to compel Respondents' compliance with the NPRA, and response to Petitioners' Public Information Requests.

37. Respondents have violated the provisions and intent of NRS 239.010 by failing to provide Petitioners with the information requested under their October 16, 19 and 23, 2020 Public Information Requests under the NPRA.

WHEREFORE, the Petitioners pray for the following relief:

1. That the court hear and adjudicate this matter on an expedited basis as mandated by NRS 239.011;
2. Injunctive relief ordering Respondents to immediately make available complete copies of all records requested, which are admittedly in their legal custody and control;

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- 3. Reasonable costs and attorney’s fees pursuant to NRS 239.011(2); and
- 4. Any further relief the Court deems appropriate.

DATED this 27th day of October, 2020.

LEE, LANDRUM & CARLSON, APC

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