

1 David O’Mara (NV Bar #8599)  
 The O’Mara Law Firm, P.C.  
 2 311 E. Liberty Street  
 Reno, NV 89501  
 3 Telephone: 775/323-1321  
 David@omaralaw.net  
 4 *Local Counsel for Plaintiffs*  
 5 James Bopp, Jr. (Ind. bar #2838-84)\*  
 jboppjr@aol.com  
 6 Richard E. Coleson (Ind. bar #11527-70)\*  
 rcoleson@bopplaw.com  
 7 Corrine L. Youngs (Ind. bar #32725-49)\*  
 cyoungs@bopplaw.com  
 8 Amanda L. Narog (Ind. bar #35118-84)\*  
 anarog@bopplaw.com  
 9 True the Vote, Inc.  
 Voters’ Rights Initiative  
 10 The Bopp Law Firm, PC  
 1 South Sixth St.  
 11 Terre Haute, IN 47807-3510  
 Telephone: 812/877-4745  
 12 \*Pro hac vice application pending  
 13 *Counsel for Plaintiffs*

**UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA**

**Stanley William Paher, Terresa Monroe-  
 Hamilton, and Garry Hamilton,**

Plaintiffs

v.

**Barbara Cegavske**, in her official capacity as  
 Nevada Secretary of State, and **Deanna  
 Spikula**, in her official capacity as Registrar  
 of Voters for Washoe County,

Defendants

Case Number: \_\_\_\_\_

**Verified Complaint for Declaratory  
 and Injunctive Relief**

Plaintiffs Stanley William Paher, Terresa Monroe-Hamilton, and Garry Hamilton (collectively “Voters”) complain as follows:

1. Nevada Secretary of State (“Secretary”) and Nevada county clerks and registrars of voters (“County Administrators”) intend to conduct the June 9, 2020, Nevada state and federal primary election under the “all-mail election” plan (“Plan”) on the Secretary’s website. Under the Plan, the Secretary and County Administrators intend to mail unrequested absentee ballots (herein

1 “mail-in ballots”) to *active* registered voters only: “All active registered voters in Nevada will be  
2 mailed an absentee ballot<sup>1</sup> for the primary election. No action or steps, such as submitting an  
3 absentee ballot request application, will be required by individual voters in order to receive a bal-  
4 lot in the mail.” Ex. A.

5 **2.** The Plan strips vote-fraud-prevention safeguards established by the Legislature, which  
6 allows illegal voting that violates Voters’ right to vote by dilution. Among other constitutional  
7 flaws , the Plan is not what the Legislature chose as required, U.S. Const. art I, § 4, cl. 1, so it  
8 may not be used where as here federal candidates are on the ballot. *See*  
9 <https://www.nvsos.gov/sos/home/showdocument?id=8461> (Nevada Secretary of State, “2020  
10 Non-Judicial Candidates Filed with the Secretary of State,” attached as Ex. F).

11 **3.** The Plan violates Voters’ (i) right to vote under the U.S. Constitution (due to vote dilu-  
12 tion), (ii) right to vote in a federal election compliant with the U.S. Constitution at Article I, § 4,  
13 cl. 1, and (iii) right to a republican form of government under Article IV, § 4 of the U.S. Consti-  
14 tution.

15 **Jurisdiction and Venue**

16 **4.** This action arises under 42 U.S.C. Section 1983, the First and Fourteenth Amendments to  
17 the Constitution of the United States, and Article I, Section IV the Constitution of the United  
18 States.

19 **5.** This Court has jurisdiction over all claims pursuant to 28 U.S.C. Sections 1331 and  
20 1343(a). It also has jurisdiction pursuant to the Declaratory Judgment Act as codified at 28  
21 U.S.C. Sections 2201 and 2202.

22 **6.** Venue is proper under 28 U.S.C. Section 1391(b) because it is where at least one of the  
23 Defendants reside.

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26 <sup>1</sup> The Secretary uses “*absentee* ballot” synonymously with the Nevada term “absent bal-  
27 lot,” Nevada Revised Statutes (“NRS”) 293.013. Ex. A. But because the ballots are not sent per  
28 the legislatively required absent-ballot request procedure, they are actually like the *mail-in bal-*  
*lots* sent in statutory all-mail-voting plans, such as used in California.



1 ***The Plan***

2 **13.** On March 24, 2020, in response to the Covid-19 pandemic, the Secretary, and County  
3 Administrators announced the Plan: “to conduct an all-mail election for the June 9, 2020 primary  
4 election.” Press Release, *Nev. Sec’y of State, Secretary Cegavske Announces Plan to Conduct the*  
5 *June 9, 2020 Primary Election by All Mail* (Mar. 24, 2020),  
6 <https://www.nvsos.gov/sos/Home/Components/News/News/2823/309> (Ex. A); *see also*  
7 <https://www.nvsos.gov/sos/elections/voters/absentee-voting> (Ex. B).

8 **14.** Under the Plan: “All active registered voters in Nevada will be mailed an absentee ballot  
9 for the primary election. No action or steps, such as submitting an absentee ballot request appli-  
10 cation, will be required by individual voters in order to receive a ballot in the mail.” Ex. A.

11 **15.** Others who are qualified voters but not “active” won’t get an absentee ballot without ap-  
12 plying for one: “Any registered voter may request to vote by mail. To request an absent ballot,  
13 you must complete and submit an Absent Ballot Request Form to the County Clerk/Registrar of  
14 Voters in the county where you are registered to vote.” Ex. B.

15 **16.** Voters will mark their ballot at home “and then return it by mail using a postage-prepaid  
16 envelope or by dropping it off in person at a designated county location.” *Id.*

17 **17.** Voters are reminded that mail-in ballots must be dropped off in person by the close of  
18 polls on Election Day, or postmarked by Election Day. *Id.*

19 **18.** Ballots that are postmarked by Election Day and received no later than seven days after  
20 the election will be counted. Additionally, if a voter fails to sign the ballot return envelope or the  
21 voter’s signature does not match the one on file with the county election official, the voter will be  
22 contacted, and the voter will have up to the seventh day after the election to make the necessary  
23 correction. It is important to understand that these statutory deadlines will result in updating vote  
24 totals and election results for up to seven days after the election. *Id.*

25 **19.** In Washoe County’s notice, created on April 10, 2020, it details the Plan. Ex. C. Washoe  
26 County voters will receive a mail-in ballot. Voters may return these ballots either by mailing  
27 them through the U.S. Postal Service or by dropping them at the Registrar’s Office in Reno, Ne-  
28 vada. *Id.*

1       **20.** As an example, the Elko County clerk’s office has similarly released the Plan. It has  
2 stated that it will mail ballots to “[a]ll registered voters” only “during the first part of May 2020.”  
3 Ex. D and E. Voters may return their ballots by mail or by dropping them off in person. *Id.*

4       **21.** Similarly, the Clark County clerk’s notice, created April 2, 2020, details the Plan. Ex. G.  
5 All active voters in Clark County will receive a mail ballot. But Clark county will mail an addi-  
6 tional notice. “All inactive voters will be receiving a notice in the mail asking them to update  
7 their information in order to be listed as active voters and receive a mail ballot for the 2020 Pri-  
8 mary Election.” *Id.*

9 ***Nevada Election Law***

10       **22.** The Nevada Legislature has enacted detailed legislation governing how elections are to  
11 be conducted in NRS Title 24, Chapter 293 (titled “Elections”).<sup>2</sup>

12       **23.** Chapter 293 requires the Secretary to enact implementing regulations, but § 247 limits  
13 that to when a regulation (i) is consistent with legislation and (ii) in place by the last business day  
14 of February before the primary:

15       The Secretary of State shall adopt regulations, *not inconsistent with the election laws* of this  
16 State, for the conduct of primary, general, special and district elections in all cities and  
17 counties. Permanent regulations of the Secretary of State that regulate the conduct of a  
18 primary, general, special or district election and are effective *on or before the last business*  
19 *day of February* immediately preceding a primary, general, special or district election govern  
20 the conduct of that election.

21 NRS 293.247 (emphasis added).

22       **24.** The law mandates that county clerks “shall establish election precincts”<sup>3</sup> “on or before the  
23 third Wednesday in March of every even-numbered year.” NRS 293.205. Although county clerks  
24 may establish “mailing precincts” (where all ballots are mailed, with certain exceptions) under  
25 certain guidelines, NRS 293.343, those like all precincts had to be established by March 18 under  
26 NRS 293.205.

27       **25.** Moreover, “on or before the last day in March of every even-numbered year, the county

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28       <sup>2</sup> Available at <https://www.leg.state.nv.us/NRS/NRS-293.html>.

<sup>3</sup> “[S]tatutes . . . that employ the term ‘shall’ are presumptively mandatory.” *Nev. Pub.*  
*Emps. Ret. Bd. v. Smith*, 129 Nev. 618, 627, 310 P.3d 560, 566 (2013) (citation omitted).

1 clerk shall provide the Secretary of State and the Director of the Legislative Counsel Bureau with  
2 a copy or electronic file of a map showing the boundaries of all election precincts in the county,”  
3 NRS 293.206, and this was apparently not done given the substitution of the Plan.

4 **26.** The law requires that clerks establish and the Secretary approve maps of precincts,  
5 293.205 and .206, indicates the Legislature’s intent for such precincts for in-person voting, not  
6 that the whole election be subsumed under an exception allowing mailing districts in certain cir-  
7 cumstances, e.g., “whenever there were not more than 20 voters registered in a precinct for the  
8 last preceding general election, the county clerk may establish that precinct as a mailing pre-  
9 cinct,” NRS 293.213(1).

10 **27.** The intent of the Legislature to have regular in-person voting and absentee procedures as  
11 the controlling model, with certain exceptions, is evidenced throughout Chapter 293 in its provi-  
12 sions for regular voting. The Plan is not the Legislature’s prescribed manner.

13 **28.** Where mailing precincts are created, “county clerk[s] shall, at least 14 days before estab-  
14 lishing or designating a precinct as a mailing precinct . . . cause notice of such action to be: (a)  
15 Posted [as prescribed] . . . ; and (b) Mailed to each Assemblyman, [etc. as prescribed]. *Id.*

16 **29.** NRS 293.3568 requires provision for early in-person voting at permanent polling places,  
17 but the Clark County Registrar of Voters’ doesn’t identify locations for doing that. (Ex. G.) The  
18 Secretary and County Administrators have apparently determined that § 3568 is no longer appli-  
19 cable and that “[i]f a request is made to vote early by a registered voter in person, the election  
20 board shall issue a ballot for early voting to the voter,” NRS 293.356, they need not comply. That  
21 “ballot must be voted on the premises of a polling place,” *id.*, but in this case, the Registrar has  
22 decided to circumvent the Legislature and only provide a mail ballot drop-off location and not a  
23 permanent or temporary location to request a ballot and have it voted there.

#### 24 ***Anti-Vote-fraud Safeguards***

25 **30.** Nevada requires that “a person who registered by mail or computer shall, for the first  
26 election in which the person votes at which that registration is valid, vote in person unless he or  
27 she has previously voted in the county in which he or she is registered to vote.” NRS 293.272(1).  
28 And an individual who registers at the Department of Motor vehicles, by mail, or by computer

1 must present valid identification and a document establishing residence. NRS.293.2725.<sup>4</sup>

2 **31.** For all in-person voters whose name appears on the roster of registered voters (or they  
3 provide an affirmation that they are entitled to vote), the voter “state his or her name to the elec-  
4 tion board officer in charge of the roster,” who “shall . . . [a]nnounce the name of the registered  
5 voter,” require a signature and then authenticate it or resolve any discrepancy. NRS 293.285. The  
6 voter “must sign his or her name in the roster or on a signature card when he or she applies to  
7 vote.” NRS.293.277(1). This is all done before witnesses who may know the person, but in any  
8 case can watch the person’s demeanor and can see if the person is trying to duplicate a signature  
9 from an exemplar or produces the signature spontaneously. There are some exceptions, but those  
10 are the general rules, and they allow local poll workers and watchers to monitor who is voting  
11 and deny voting and issue challenges if appropriate—as does in-person voting in general.

12 **32.** The signature is then compared by an election board officer with the signature on file or  
13 on approved identification cards, such as a driver’s license. *Id.* at (1)-(2). Records are checked to  
14 assure the voter has not already voted. *Id.* at (3). The law provides that any person who votes  
15 knowing he or she is not qualified commits a Class D felony, as does one attempting to vote in  
16 the name of another. NRS 293.775. The same penalty applies to those voting more than once in  
17 the same election. NRS 293.780

18 **33.** Nevada requires the safeguard that a voter must *request* the ballot: “Except as provided in  
19 NRS 293.272 and 293.502, a registered voter may request an absent ballot if, before 5 p.m. on  
20 the 14th calendar day preceding the election, the registered voter; (a) Provides sufficient written  
21 notice to the county clerk; and (b) Has identified himself or herself to the satisfaction of the  
22 county clerk.” NRS 293.313.

23 **34.** The Nevada Administrative Code provides that, “A clerk that receives a request for an  
24 absent ballot shall: (1) Compare the address of the voter’s residence in this State which is indi-  
25 cated on the request with the address which is indicated on the voter’s application to register to

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26  
27 <sup>4</sup> Likewise, where mail voting has been authorized by law, individuals could only vote by  
28 mail if they provide the county clerk the same information required at the polling location. NRS  
293.2725(1)(b)(1)-(2).

1 vote.” NAC 293.295. 293.295. If the address is different on the voter registration and absent bal-  
2 lot applications, the court will send a written notice including: “(a) A copy and explanation of the  
3 provisions set forth in NRS 293.525; and (b) A postcard to be returned by the voter to the county  
4 clerk which includes verification of the address of the voter’s residence in this State. The county  
5 clerk shall use a postcard that may not be forwarded to an address of the voter which is different  
6 from the address to which the notice is mailed.” NAC 293.295(2).

7 **35.** The safeguards in place when a registered voter moved “from one precinct to another or  
8 from one congressional district to another within the same county” require that the registered  
9 voter “must be allowed to vote in the precinct where the elector previously resided” but only after  
10 “providing an oral or written affirmation before an election board officer attesting to his or her  
11 new address.” NRS 293.525. Even if the registered voter moved within the same precinct, that  
12 elector must only be “allowed to vote after providing an oral or written affirmation before an  
13 election board officer attesting to his or her new address.” *Id.*

#### 14 **Claims for Relief**

##### 15 **Count I**

#### 16 **The Plan violates the right to vote by removing safeguards against fraudulent votes that dilute legal votes.**

17 **36.** Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint and  
18 the paragraphs below as though fully set forth herein.

19 **37.** The federal right to vote is fundamental, *Harper v. Va. State Bd. of Elections*, 383 U.S.  
20 663, 667 (1966), and well-established: “Undeniably the Constitution of the United States protects  
21 the right of all qualified citizens to vote, in state as well as in federal elections” and to have that  
22 vote counted. *Reynolds v. Sims*, 377 U.S. 533, 554 (1964).

23 **38.** “The right to vote can neither be denied outright, nor destroyed by alteration of ballots,  
24 nor diluted by ballot-box stuffing.” *Id.* at 555 (internal citations omitted). “And the right of suf-  
25 frage can be denied by a debasement or dilution of the weight of a citizen’s vote just as effec-  
26 tively as by wholly prohibiting the free exercise of the franchise.” *Id.*

27 **39.** The right to vote inheres in, and is protected by, the First and Fourteenth Amendments of  
28 the U.S. Constitution.





1 *tee v. Democratic National Committee*, No. 19A1016 (U.S. Apr. 6, 2020) (per curiam) and sum-  
 2 marized: “This Court has repeatedly emphasized that lower federal courts should ordinarily not  
 3 alter the election rules on the eve of an election. See *Purcell v. Gonzalez*, 549 U. S. 1 (2006) (per  
 4 curiam); *Frank v. Walker*, 574 U. S. 929 (2014); *Veasey v. Perry*, 574 U. S. \_\_ (2014).

5 **53.** The general rule is that no court order altering election procedures near an election is per-  
 6 missible because it violates the right to vote. And because the Principle is anchored in the right to  
 7 vote, it applies to state and local election administrators as well because their election-altering  
 8 actions pose the same risk.

9 **54.** The “possibility that qualified voters might be turned away from the polls,” *Purcell* at 4,  
 10 violates their right to vote.

11 **55.** The Plan alters the nature of Nevada’s election, changing it from an in-person election  
 12 with absentee ballots received by request to a scheme of mailing mail-in ballots to some, but not  
 13 all, registered voters and highly restricted walk-in voting options. The same risk of voters losing  
 14 their franchise because of the confusion caused by this recent Plan exists.

#### 15 **Count IV**

#### 16 **The Plan violates the Voters’ right to have, and to vote in, federal elections with the man- 17 ner of election is chosen by the legislature (U.S. Const. art I, § 4, cl. 1).**

18 **56.** Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint and  
 19 the paragraphs below as though fully set forth herein.

20 **57.** The Plan violates Voters’ right to have, and to vote in, a federal election where the “Man-  
 21 ner” of election is “prescribed . . . by the Legislature,” as required:

22 The Times, Places and Manner of holding Elections for Senators and Representa-  
 23 tives, shall be prescribed in each State by the Legislature thereof; but the Congress  
 24 may at any time by Law make or alter such Regulations, except as to the Places of  
 chusing Senators.

25 U.S. Const. art. I, § 4, cl. 1.

26 **58.** Candidates for the office of U.S. Representative are on the ballot for the June 9 primary.  
 27 Ex. F. Therefore, the June 9 primary must be conducted in the Legislature’s prescribed manner.

28 **59.** But the Plan is not at all what the Legislature chose and is contrary to controlling legisla-

1 tion. See supra ¶¶ 24-31. The Secretary and County Administrators chose a manner not autho-  
2 rized by the Legislature and contrary to the Legislature’s choices. See supra ¶¶ 15-23 .

3 **60.** They have eliminated safeguards against vote fraud that the Legislature chose. See Supra  
4 ¶¶ 32-37.

5 **61.** The Plan violates Article I, § 4, cl. 1, including a violation of the Voter’s right to have,  
6 and to vote in, such an election as the U.S. Constitution prescribes.

7  
8 **Count V**  
9 **The Plan violates the right to a republican form of government under the United States**  
10 **Constitution.**

11 **62.** Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint and  
12 the paragraphs below as though fully set forth herein.

13 **63.** The loss of representative government and invalidation of votes for legislators identified  
14 in the preceding claims violates the Voters’ right to a republican form of government under the  
15 U.S. Constitution. Article IV, § 4, of the U.S. Constitution provides that “the United States shall  
16 guarantee to every state in this union a republican form of government” (“Guarantee Clause”).

17 **64.** A republican form of government is lost if a Secretary of State and County Administra-  
18 tors supplant the people’s elected representative in exercising powers entrusted entirely to the  
19 Legislature, in this case establishing the manner of elections.

20 **65.** The U.S. Constitution is founded on and derived from the will of the people who hold the  
21 ultimate power, *see* U.S. Const. preamble (“We the people . . . .”), the people have a right to the  
22 republican government they chose in their own exercise of that political will and which the  
23 United States guarantees.

24 **66.** The Plan would violate the very foundational rights of the Voters to a republican form of  
25 government and to vote in manner established under a republican form of government.

26 **Prayer for Relief**

27 Wherefore, Plaintiffs respectfully request this Court:

28 **1.** Declare that the Plan violates the right to vote the First and Fourteenth Amendments of the  
U.S. Constitution and Nev. Const. art 2, § 1. Article 1, §§ 8 and 9 of the Nevada Constitution and

1 strips safeguards against fraudulent votes that dilute legal votes;

2 **2.** Declare that the Plan violates the right to vote under the First and Fourteenth Amendments  
3 of the U.S. Constitution, as well as Article 2, § 1 of the Nevada Constitution, because the Secre-  
4 tary and County Administrators' Plan overrules and replaces the legislator's chosen manner of  
5 elections;

6 **3.** Declare that the Plan violates the right to vote under the *Purcell* Principle;

7 **4.** Declare that the Plan violates Article I, § 4 , cl. 1 of the U.S. Constitution;

8 **5.** Declare that the Plan violates the Voters' right to a republican form of government under  
9 Article IV, § 4 of the U.S. Constitution;

10 **6.** Preliminarily and permanently enjoin the Secretary and County Administrators from con-  
11 ducting the Plan in violation of the Voters' right to vote;

12 **7.** Preliminarily and permanently enjoin the Secretary and County Administrators to imple-  
13 ment the primary election in the manner the Nevada Legislature prescribed;

14 **8.** Award all costs and expenses of bringing this action, including attorneys' fees and costs;  
15 and

16 **9.** Grant any other relief this court deems appropriate.

17  
18 April 21, 2020

Respectfully submitted,

19 James Bopp, Jr. (Ind. bar #2838-84)\*

jboppjr@aol.com

20 Richard E. Coleson (Ind. bar #11527-70)\*

rcoleson@bopplaw.com

21 Corrine L. Youngs (Ind. bar #32725-49)\*

cyoungs@bopplaw.com

22 Amanda L. Narog (Ind. bar #36118-84)\*

anarog@bopplaw.com

23 True the Vote, Inc.

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24 The Bopp Law Firm, PC

1 South Sixth St.

25 Terre Haute, IN 47807-3510

Telephone: 812/877-4745

26 \*Pro hac vice application pending

27 *Counsel for Plaintiffs*

/s/ David O'Mara

David O'Mara

311 E. Liberty Street

Reno, NV 89501

Telephone: 775/323-1321

David@omaralaw.net

*Local Counsel for Plaintiffs*