

DISTRICT COURT
CLARK COUNTY, NEVADA

The People’s Legislature; Citizen Outreach;)
PEST COMMITTEE, A Nevada Ballot)
Advocacy Group; John Doe I,)

Case No.: A-12-654864
Dept. No.: XXX

Plaintiffs,)
Vs.)

Findings of Fact, Conclusions
of Law, and Order

ROSS MILLER, in his official capacity as)
Secretary of State for the State of Nevada.)

FINDINGS OF FACT.

The above-captioned matter came on before this Court on the 21st day of May, 2012, with regard to the Plaintiffs’ Motion for Summary Judgment, the Defendant’s Countermotion for Summary Judgment, the Nevada Legislature’s Countermotion to Strike and for Summary Judgment, the Defendant’s Motion for Change of Venue, and Plaintiff’s Motion to Strike Defendant’s Demand for Change of Venue.

With regard to the Secretary of State’s Motion for Change of Venue, this Court finds that NRS 13.020 does not apply. That statute reads as follows:

NRS 13.020 Venue of actions for recovery of penalties and forfeitures; actions against public officers; actions against State of Nevada. Actions for the following causes must be tried in the county where the cause, or some part thereof, arose, subject to the power of the court to change the place of trial:

1. For the recovery of a penalty or forfeiture imposed by statute . . .
2. Against a public officer, or person especially appointed to execute the duties of a public officer, for an act done by him or her in virtue of the office, or against a person who, by his or her command, or in his or her aid, does anything touching the duties of the officer. . . .

(NRS 13.020).

The present case is not a case “for the recovery of a penalty or forfeiture imposed by statute,” and it is not a case against the Secretary of State “for an act done by him in the virtue of his office.” Consequently, NRS 13.020 does not apply to the present matter.

1 The Secretary of State suggests that if NRS 13.020 does not require a change of
 2 venue, then NRS 13.040 requires a change of venue, as the Secretary of State does not
 3 “reside” in Clark County. The Secretary of State requests that this matter be removed to
 4 the First Judicial District Court (Carson City), but the Plaintiff has submitted evidence that
 5 the Secretary of State, actually lives in the Second Judicial District, and consequently,
 6 NRS 13.040 does not seem to support a venue change to the First Judicial District Court.

7 The Secretary of State also argues that NRS 295.061 requires that venue be
 8 changed to the First Judicial District. While it may not have been the intention of the
 9 Legislature, the language of the statute does not require the present litigation to be heard
 10 before the First Judicial District Court, primarily because the initiative petition has not yet
 11 been filed with the Secretary of State. The statute reads in pertinent part as follows:

12 **NRS 295.061. Challenge to description of petition; challenge to legal**
 13 **sufficiency of petition.**

14 1. Except as otherwise provided in subsection 3, whether an initiative or
 15 referendum embraces but one subject and matters necessarily connected therewith
 16 and pertaining thereto, and the description of the effect of an initiative or
 17 referendum required pursuant to NRS 295.009, may be challenged by filing a
 18 complaint in the First Judicial District Court not later than 15 days, Saturdays,
 19 Sundays and holidays excluded, *after a copy of the petition is placed on file with*
 20 *the Secretary of State* pursuant to NRS 295.015. . . .

21 (NRS 295.061, emphasis added).

22 Since the Plaintiffs have not yet placed their petition on file with the Secretary of
 23 State, NRS 295.061 does not seem to require that a Complaint be filed in the First Judicial
 24 District Court. Consequently, the requested change of venue is not mandated under NRS
 25 295.061.

26 The Plaintiffs in this action argue that AB 81 (2011) and SB 224 (2005), were
 27 passed in violation of the single subject restriction contained in Article 4, sec. 17 of the
 28 Nevada Constitution. This matter was removed to Federal Court, but by Judge Mahan’s
 Order dated April 3, 2012, all claims “challenging AB 81 and SB 224, under Article 1,

1 section 17 of the Nevada Constitution” were severed and remanded to this court.
 2 Consequently, this Court has jurisdiction to hear the matters before it.

3 Plaintiffs argue that pursuant to Article 4, sec. 17 of the Nevada Constitution, “each
 4 law enacted by the legislature shall embrace but one subject, and matter, properly
 5 connected therewith, which subject shall be briefly expressed in the title.” Plaintiffs argue
 6 that AB 81 and SB 224 were both passed in violation of the Constitution, as both consist
 7 of far more than “one subject.”

8 The Court has applied the “single subject restriction” contained in SB 224, codified
 9 in NRS 295.009, to citizens’ initiative petitions. The Nevada Supreme Court has indicated
 10 in *Nevadans for the Protection of Property Rights v. Heller*, 122 Nev. 894, 141 P.3d 1235
 11 (2006), that we look at the “primary subject” of the petition, and the Court in that case
 12 struck two provisions as “not germane” or “functionally related” to the “primary subject.”

13 Plaintiffs argue that AB 81 violates the “single subject” requirement set forth in the
 14 Nevada Constitution, as the title alone embraces at least 9 subjects, including how minor
 15 political parties are organized, revising requirements for petitions of referendum, revising
 16 provisions relating to counting ballots, discussing the residency of spouses of certain
 17 military personnel, changes relating to campaign contributions and expenditures, etc.
 18 Further, Plaintiffs argue that the 3-page preamble summarizes certain sections, and is a
 19 tacit admission by the Legislature that the act comprises multiple subjects.

20 Plaintiffs argue that the subject of AB 81 itself, as “elections” is itself overbroad.
 21 Plaintiffs argue that the bill itself contains about 50 different subjects, which were outlined
 22 and discussed in Plaintiff’s Motion for Summary Judgment, on pages 9-18. Plaintiffs
 23 argue that the connection between the title and the subject matter of the bill must be within
 24 the comprehension of the ordinary intellect, pursuant to *State v. Gibson*, 30 Nev. 353, 96
 25 P. 1057, 1059 (1908). Plaintiffs argue that this bill fails, and is a classic example of
 26 “logrolling,” which was one of the purposes behind the “single subject” restriction in
 27 Article 4, sec. 17 of the Constitution.

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1 Similarly, Plaintiffs argue that SB 224 violates the Nevada Constitution because it
2 embraces multiple subjects in the title and in the body of the text. Plaintiff asserts that the
3 title itself can be broken down into 14 subjects, including eligibility to sign a petition,
4 designating areas of a public building for gathering of signatures on a petition, requiring a
5 petition for initiative or referendum to embrace a single subject, etc.

6 Plaintiffs contend that the bill itself contains approximately 20 different subjects,
7 which were outlined and discussed in Plaintiff's Motion for Summary Judgment on pages
8 21-25.

9 Plaintiffs outlined how they believe SB 224 to be harmful to all citizens who seek
10 to initiate legislation through petitions. Plaintiffs discussed the legislative history of SB
11 224, and cited various comments and discussion regarding the same. Notably, Senator
12 Bob Beers made the comment, "I have a brain which makes uncommon connections, but I
13 appear to be the only one who finds it highly ironic that we are going to enact a single-
14 issue rule for initiatives in a bill which covers two issues." (cited on pg. 29 of Plaintiff's
15 Motion). Plaintiffs discussed the history of the effect of SB 224 with regard to various
16 ballot initiatives, including *Education First* in 2006, the *People's Initiative to Stop the*
17 *Taking of Our Land* (PISTOL) in 2006, *Tax and Spending Control* (TASC), in 2006. The
18 discussed the two Angle initiatives of 2008, the NSEA's *Save our Schools with Additional*
19 *Funding* Petition of 2007 and 2008, the *Patriot Referenda* in 2008, *Prevent Employers*
20 *from Seizing Tips*, (PEST), in 2008, and others.

21 Plaintiffs argue that NRS 295.009 and 295.061, enacted through SB 224 infringe on
22 First Amendment rights of Speech, and a "prior restraint" on core political speech. This
23 Court believes that these federal constitutional arguments relate to the federal issues
24 retained by the Federal Court, and consequently, this Court will not address those issues as
25 part of this opinion.

26 Plaintiffs argue that the vagueness of NRS 295.009, was made exponentially worse
27 by the private enforcement provision in NRS 295.061, as part of SB 224. They argue that
28 NRS 295.009 is unconstitutionally vague, as it contains no clear definition of what

1 constitutes a "single subject," and no clear standard for Nevada courts to apply in
2 determining that question. Nor does it provide a clear standard for when a 200 word
3 description adequately describes the effects of a proposed initiative.

4 The Plaintiffs argue, pursuant to their Declaratory Relief Claim, that this Court
5 should declare that the Peoples' Legislature's Initiative does not violate any provision of
6 AB81 or SB224, or any other Nevada law. The Plaintiffs seek a declaration by this Court
7 indicating the same. Plaintiffs suggest that the people's initiative has only one subject,
8 and that is a "proposed broad based tax," and the remaining portions of the initiative are
9 earmarks which merely implement details, but are not separate subjects.

10 The Plaintiffs request that this Court declare that either SB224 and AB81 violate
11 Article 4, sec. 17 of the Nevada Constitution, or that the Peoples' petition does not violate
12 any part of AB81 or SB224. Plaintiffs further request that the Court extend the time for
13 obtaining the signatures necessary to qualify it to be on the ballot, due to delays allegedly
14 caused by the Legislature and the Defendant, Ross Miller.

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16 The Defendant, Ross Miller, as Secretary of State, filed an Opposition and
17 Countermotion for Summary Judgment, through the attorney general's office.
18 Defendant asserts that there are two very different "single-subject" rules in Nevada. NRS
19 295.009, which applies only to initiative petitions, and Nev. Const. Art. 4, sec. 17, which
20 applies only to bills passed by the legislature. They serve fundamentally different
21 purposes, and have been consistently analyzed differently by the Nevada Supreme Court.
22 The initiative rule is strictly applied, whereas the legislative rule is very liberally applied.

23 The Defendant argues that the only undisputed material fact is that Plaintiffs have
24 never filed their proposed initiative petition with the Secretary of State's office.
25 Defendant argues that the initiative process does not allow for debate, input, or revision of
26 a law before enactment. The legislative structure and procedures for committees, debate,
27 bicameralism, and gubernatorial veto often act as filters to prevent or at least temper self
28 interest, factionalism, and prejudice in enacting laws. Since the two processes differ so

1 substantially, it naturally follows that different rules govern each process. The Defendant
2 argues that the legislative single subject rule is the only one applicable to this case, as set
3 forth in Nev. Const. Art. 4, sec. 17. It requires each law enacted by the legislature to
4 “embrace but one subject, and matter, properly connected therewith, which subject shall
5 be briefly expressed in the title. . . “By contrast, the single subject rule applicable to
6 initiative petitions is found in NRS 295.009, and requires “each petition for initiative or
7 referendum must embrace but one subject and matters necessarily connected therewith and
8 pertaining thereto.” Plaintiffs are attempting to apply the wrong legal standard. The
9 Defendant cites to *State v. Board of Com’rs of Humboldt County*, 21 Nev. 235, 237, 29 P.
10 974, 975 (1892), which indicated that the Courts will only interfere in cases of clear and
11 unquestioned violation of a fundamental law. Further, “a law is constitutional if all of its
12 parts relate, directly or indirectly, to the same subject, have a natural connection, and are
13 not foreign to the subject expressed in the title.”

14 The Defendant requests that he is entitled to summary judgment with regard to
15 Plaintiff’s claim that AB 81 violates Art 4, sec. 17 of the Nev. Constitution. Defendant
16 argues that the Plaintiffs apply the wrong standard by analyzing the bills using the
17 “primary purpose” and the “functionally related” and “germane” tests, that are only
18 applicable to initiative petitions. They argue that none of those apply in this case, because
19 AB 81 and SB 224 are not initiative petitions. Defendant argues that all of the information
20 set forth in AB 81 relates to elections. Plaintiffs have failed to provide any analysis or
21 argument regarding why they are not related to the subject of elections, and consequently,
22 the Defendant argues that he is entitled to summary judgment. Defendant asserts that it is
23 not necessary that each of the sections in AB 81 be related to each other, they only need to
24 be related, directly or indirectly, to the subject of elections. Citing to *Humboldt County*, 21
25 Nev. At 238.

26 Defendant argues that the “legislative digest” which the Plaintiff refers to as a
27 “preamble” is not part of the law, and has no effect on the validity of the law.

28 Defendant argues that he is entitled to summary judgment with regard to Plaintiff’s claims

1 relating to SB 244 because 1) the claim is barred by the statute of limitations; 2) the claim
2 is barred by laches, and 3) SB 224 does not violate Art 4, sec. 17, of the Nev. Const.

3 Defendant argues that a 2-year statute of limitations relating to personal injuries
4 applies, pursuant to *Wilson v. Garcia*, 471 U.S. 261 (1985). Since SB 224 was enacted in
5 2005, the statute of limitations would have run in 2007.

6 Defendant argues that laches applies, pursuant to *Miller v. Burk*, 188 P.3d 1112,
7 1125 (Nev. 2008), as there is inexcusable delay, the inexcusable delay constitutes
8 acquiescence to the condition the party is challenging, and the inexcusable delay was
9 prejudicial to others.

10 Finally, like AB 81, SB 224's provisions are all related to elections, and comply
11 with the single subject rule in Art. 4, sec. 17 of the Nev. Const. Defendant argues that
12 contrary to Plaintiffs' assertions that SB 224 violates various rights, both the Nevada
13 Supreme Court and the 9th Circuit have upheld these rules in *Heller*, 122 Nev. 894 (2006),
14 *Pest v. Miller*, 626 F.3d 1097 (9th Cir. 2010), And *Angle v. Miller*, 673 F.3d 1122 (9th Cir.
15 2012).

16 Defendant argues that he is entitled to summary judgment on Plaintiff's third
17 alternative claim for declaratory relief, as the Court lacks jurisdiction, because it is not
18 ripe, and the exclusive method for testing whether an initiative contains a single subject
19 and a non-misleading description of effect is the procedure provided in NRS 295.061. The
20 proposed Petition has never been filed with the Secretary of State, and it is not the Court's
21 duty to issue advisory opinions, but only to decide actual live controversies. *Personhood
22 Nevada v. Bristol*, 245 P.3d 572 (2010). Defendant argues that until this matter is actually
23 filed with the secretary of state, it does not constitute an initiative petition at all, and the
24 Plaintiffs lack standing to bring the claim, and the Court lacks jurisdiction to hear it.
25 Defendant discusses the expedited procedure set forth in NRS 295.061 for testing whether
26 an initiative petition complies with NRS 295.009. This procedure is triggered when an
27 initiative is filed with the Secretary of State, pursuant to Nev. Const. Art. 19, sec. 2.
28 Finally, it requires that all such challenges must be brought in the First Judicial District.

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2 The Nevada Resort Assn filed an Opposition, arguing that Plaintiffs’ brief violated
 3 EDCR 2.20, as it was more than 30 pages. Additionally, NRA notes that although the
 4 Plaintiffs’ Motion was entitled one for Summary Judgment, the Rule 56 Standard was not
 5 even discussed, and the Plaintiffs did not even attempt to meet their burden under NRCP
 6 56 for Summary Judgment. Further, the Plaintiff failed to set forth a statement of non-
 7 disputed facts, as required by NRCP 56.

8 The NRA cites to *Nevadans for Nevada v. Beers*, 122 Nev. 930, 142 P.3 339
 9 (2006), where the Court held that the description of effect requirement in SB 224,
 10 “facilitates the people’s right to meaningfully engage in the initiative process.” Also, in
 11 *PEST Committee v. Miller*, 648 F.Supp.2d 1202 (2009), the Nevada district court
 12 referenced the Beers decision wherein the Court “recognized that NRS 295.009’s
 13 description-of-effect requirement, like its single-subject requirement, serves to prevent
 14 voter confusion and promote informed decision making. These interests are important to
 15 the integrity of Nevada’s election process. Similarly in *Heller*, the Court held that the rule
 16 protects the people from “being confronted with confusing or misleading petitions and
 17 preventing proposals that would not otherwise become law from being passed solely
 18 because they are attached to more popular measures.” 122 Nev. 894 (2006).

19 NRA argues that since the Plaintiffs have not yet even filed their petition with the
 20 Secretary of State, pursuant to Article 19, section 4, the issue is unripe, the Plaintiffs lack
 21 standing, and the request is essentially one requesting an “advisory opinion” from this
 22 Court. Nevada has a long history of requiring an actual justiciable controversy as a
 23 predicate to judicial relief.

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25 The Nevada Mining Assn., Retail Assn of Nev., the Nev. Development Authority,
 26 Nev. Taxpayers Assn., and Wynn Las Vegas, filed an Opposition, arguing that Plaintiffs
 27 failed to comply with the requirement of NRCP 56, requiring a statement of undisputed
 28 facts. They cite to the Nev. Const., articles 19(2) and 19(5), indicating that the people of

1 Nevada have reserved the power to propose by initiative petition, statutes and amendments
2 to statutes, and to enact or reject them at the polls, but the legislature is tasked with
3 providing for laws and procedures to facilitate the operation of the foregoing power of
4 initiative petition.

5 These entities argue that NRS 295.009 and 295.061 exist to ensure the fair and
6 orderly conduct of elections featuring ballot questions, and to avoid chaos and confusion
7 in the initiative and referendum process. They argue that the Plaintiffs' exercise of speech
8 is burdened only insofar as they must comply with the state's procedural requirement that
9 petitions comprise a single subject and have a legally-sufficient description.

10 They argue that the legislative and initiative single-subject rules are not the same,
11 and they do not govern or regulate the same processes. They argue that ballot initiatives
12 are not subject to committee meetings, are not subject to open-meeting, transcribed
13 hearings, where witnesses testify for and against a particular measure. There is no
14 mechanism for anyone to amend or offer amendments to a proposed initiative petition.
15 They are not subject to bicameralism or presentment, to gubernatorial veto or the
16 overriding of same, or to any other aspect of the political process of a republic. Instead,
17 ballot initiatives spring from the imaginations and enthusiasms of private individuals.

18 These intervenors note that the first day that an initiative petition could have been
19 filed was September 1, 2011. To date, Plaintiffs have not filed their petition or begun
20 circulating their proposed initiative for signatures. NRS 295.009 and 295.061 provide for
21 expedited handling of these petitions through the court system, to assist the proponents in
22 having certainty in their efforts. They argue that the propose initiative petition of the
23 Plaintiffs would violate NRS 295.009, regarding the single-subject rule and the
24 requirement of a legally-sufficient description of effect, and that is obviously why the
25 Plaintiffs have not filed it. The proposed initiative petition would establish a gross
26 receipts tax, establish an intermediate appellate court, increase teachers' salaries, create a
27 no-interest loan program to promote energy efficiency, etc. Intervenors note that these

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1 may be admirable policy goals, but their presence together, in a single ballot initiative
2 petition violates the law.

3
4 The Nevada Legislature, Intervenor in this case, also filed an Opposition, and a
5 Counter-Motion to Strike and for Summary Judgment. Many of the same arguments set
6 forth above, were addressed by the Legislature. The Legislature argues that the Plaintiffs
7 claims are time-barred by the statute of limitations, but the Legislature argues that the
8 general 4-year statute of limitations in NRS 11.220 applies. Because SB 224 was enacted
9 in June of 2005, the statute of limitations would have expired in June of 2009, and the
10 Plaintiffs did not commence this case until January 18, of 2012.

11 The Legislature argues that while SB 224 and AB 81 may embrace many different
12 elections-related provisions that may not directly relate to each other, all of the provisions
13 do directly relate to the single subject of elections. Consequently, they complied with
14 Article 4, sec. 17 of the Nev. Const.

15 The Legislature argues that this Court lacks subject matter jurisdiction because
16 declaratory relief cannot be used to issue an advisory opinion regarding the validity of a
17 proposed initiative that has not been filed with the Secretary of State as required by
18 Nevada law, and it cannot be used to circumvent the exclusive statutory procedure for
19 judicial review of initiatives in NRS 295.061.

20 The Legislature argues that certain comments in the Plaintiffs' Motion were
21 unnecessarily degrading of a person's integrity or moral character or that the Plaintiff used
22 inflammatory or repulsive language that detracts from the dignity of the court, and that
23 such should be stricken.

24
25 This Court finds that the arguments and intentions of the Plaintiffs appear to be well
26 reasoned and with support in both case law and common sense. While this Court believes
27 that the initiative process in Nevada may be overly difficult to pursue by the citizens of the
28 state, the Legislature has made it this way by enacting the statutes which it has enacted. If

1 the Legislature did not intend for the statutes to be applied as they have been applied, then
2 it is for the Legislature to enact different legislation, repeal the current legislation, or
3 otherwise modify the statutes, to effectuate the Legislature's intent.

4 CONCLUSIONS OF LAW

5 Based upon the clear language of NRS 13.020, 13.040, and 295.061, this Court
6 concludes that a change of venue is not required to the First Judicial District Court, and
7 consequently, the Secretary of State's Motion to Change Venue to the First Judicial
8 District Court is not supported by the statutes referenced. Under NRS 13.040, venue may
9 be appropriate in the Second Judicial District Court, but there was no request to change
10 venue to that District. While the Plaintiffs argued that Defendants' removal of the present
11 matter acted as a "waiver" of any venue argument, this Court concludes that such removal
12 does not act as a "waiver," but that the requested change of venue is not supported by
13 evidence, statute or case law.

14 While the Defendant and Intervenors were correct in asserting that the Plaintiff
15 violated EDCR 2.20 in filing a 63 page Motion for Summary Judgment, this Court has
16 considered the entire Motion, as well as all other pleadings on file herein. This Court
17 requests, however, that if any further pleadings are filed before this Court, the parties must
18 comply with the limitations set forth in EDCR 2.20.

19 Based upon this Court's reading of the pleadings, and after hearing oral argument,
20 this Court concludes that while the Nevada Supreme Court has not expressly held that the
21 "single subject" rules in Art. 4, sec. 17 of the Nev. Const., and as contained in SB 224,
22 should be applied differently from one another, the case law in Nevada seems to suggest
23 that these rules have been applied differently, with the "single subject" rule being applied
24 liberally to the Legislature, and strictly with regard to initiative petitions. Although the
25 dissent in the case of *Nevada for the Protection of Property Rights v. Heller*, 122 Nev.
26 894, 141 P.3d 1235 (2006), seemed to favor the Plaintiff's position in this case, such
27 opinion was the "dissenting opinion" of the Court, and not the majority, and the issue was
28 not squarely before the Court at that time. This Court has no desire to legislate from the

1 bench, and consequently, this Court will follow the case law to date, and the Court hereby
2 concludes that AB 81 and SB 224 do not violate Article 4, sec. 17 of the Nev. Const. If
3 the Legislature or the Nevada Supreme Court wish to make the application of the
4 legislative "single subject" rule and the initiative "single subject" rule the same, then this
5 Court will leave it to those entities to make that change in the law. Based upon the
6 foregoing, this Court concludes that the Plaintiff has failed to satisfy the requirements of
7 NRCP 56, as it relates to Summary Judgment.

8 Based upon the Court's reading and analysis of the applicable statutes and case law,
9 this Court concludes that SB 224 and AB 81 meet the "single subject" rule set forth in the
10 Nevada Constitution, Article 4, section 17, and do not violate that section. This Court
11 finds that the State has met its burden under NRCP 56, regarding Summary Judgment, in
12 that there remains no genuine issue of material fact, as it relates to the compliance of SB
13 224 and AB 81, with Nev. Const., Art. 4, Sec. 7. Consequently, the Court grants the
14 Defendant's and Intervenors' Counter-Motion for Summary Judgment, to the extent that
15 they request that this Court find that SB 224 and AB 81 do not violate Nev. Const., Art. 4,
16 sec. 17.

17 With regard to the Plaintiffs' request that this Court determine that the proposed
18 initiative petition does not violate SB 224 or AB 81, or other state law, this Court agrees
19 with the Defendant, and the Intervenors, who have suggested that this issue is not yet ripe.
20 While this Court would be willing to issue a decision determining whether or not the
21 initiative petition does or does not violate SB 224 or AB 81, it does not seem to be the
22 prerogative of this Court. Since the proposed initiative has not been filed with the
23 Secretary of State, this Court cannot make a ruling determining whether or not the
24 initiative complies with SB 224 or AB 81. If and/or when the initiative is filed with the
25 Secretary of State's Office, then it appears that a challenge to the initiative, based on the
26 "single subject" rule, would likely be asserted pursuant to NRS 295.061, and litigation of
27 that issue would likely be more appropriate in the First Judicial District Court. At this
28 time, and under the present circumstances, if this Court were to issue an opinion with

1 regard to whether or not the Plaintiffs' proposed initiative is compliant with SB 224 and
2 AB 81, such an opinion would be considered an "advisory opinion," and the District
3 Courts are not to issue advisory opinions. Consequently, this Court concludes that the
4 Plaintiff's action for Declaratory Relief, as to the proposed initiative is not ripe, and does
5 not constitute a justiciable issue that this Court can consider at the present time.

6 With regard to the argument that the Plaintiff's current action is time-barred by the
7 applicable statute of limitations, this Court is not convinced that the "personal injury"
8 statute of limitations would apply to this case, based upon the nature of the claims
9 presented. This Court also questions whether the general 4-year statute of limitations, set
10 forth in NRS 11.220 would apply to this case. It is unclear to this Court what, if any,
11 statute of limitations applies to a "constitutional challenge" of Legislative Bills. Further,
12 there seems to remain an issue, with regard to the issue of when the Plaintiffs either "knew
13 or reasonably should have known" that an action accrued. This Court is not sure whether
14 the operative time would be the enactment of the statute, or when the statute actually had
15 application to the subject proposed initiative. Since this is an unclear issue, the parties are
16 welcome to further brief this matter, but based upon the information submitted to this
17 Court thus far, this Court concludes that the Defendants and Intervenors have failed to
18 affirmatively convince the Court that the statute of limitations precludes the Plaintiff's
19 claims, and consequently, this Court will not enter Summary Judgment with regard to any
20 potential statute of limitation violation. Similarly, this Court does not find that the
21 elements for laches have been met.

22 With regard to the Legislature's request to "strike" certain portions of the Plaintiff's
23 Motion, this Court does not find that there exists a basis for such relief.

24 With regard to the issue of whether or not this Court even has jurisdiction to hear
25 this matter, since this claim was brought as an action to challenge AB 81 and SB 224,
26 under various legal theories, some which are still before the Federal Court, and some
27 which were remanded to this Court, this Court finds that it has subject matter jurisdiction
28 for purposes of analyzing the issues set forth herein

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The Plaintiffs requested that this Court extend the time for obtaining signatures necessary to qualify on the ballot, consistent with the delay allegedly caused by the Legislature and the Defendant, Ross Miller. Based upon the Court's findings, there appears to be no reason for such an extension. Further, the Plaintiff failed to provide adequate points and authorities, or a sufficient basis for such a request, and consequently, the Court cannot justify such requested relief.

ORDER

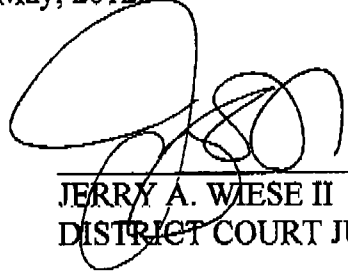
Based upon the foregoing, and good cause appearing,

IT IS HEREBY ORDERED ADJUDGED AND DECREED that the Plaintiffs' Motion for Summary Judgment is hereby **DENIED WITHOUT PREJUDICE**;

IT IS FURTHER ORDERED ADJUDGED AND DECREED that the Defendant's Counter Motion for Summary Judgment is hereby **GRANTED**;

IT IS FURTHER ORDERED ADJUDGED AND DECREED that the Intervenor, NEVADA LEGISLATURE'S Counter Motion to Strike is hereby **DENIED**, and the Counter Motion for Summary Judgment is hereby **GRANTED**.

DATED this 22 day of May, 2012.



JERRY A. WIESE II
DISTRICT COURT JUDGE, DEPT. XXX

CERTIFICATE OF SERVICE

I hereby certify that on or about the 22nd day of May 2012, I served the **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**, via facsimile to the following:

Kermitt Waters, Esq. (via fax: 731.1964)

Matthew Griffin, Esq. (via fax: 775.323.1240)

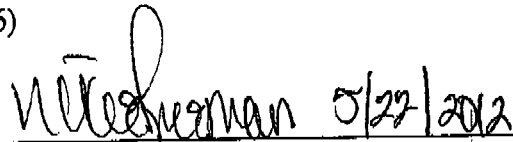
Bradley Scott Schragger, Esq. (via fax: 737.7705)

Joshua Hicks, Esq. (via fax: 775.622.9554)

Kevin Powers, Esq. (via fax: 775.684.6761)

Kevin Benson, Esq. (via fax: 775.684.1114)

Timothy O'Reilly, Esq. (via fax: 384.6266)


Vickie Freeman, JEA department 30