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18 UNITED STATES DISTRICT COURT  
19 DISTRICT OF NEVADA

21 DONALD J. TRUMP FOR PRESIDENT,  
22 INC.; REPUBLICAN NATIONAL  
23 COMMITTEE; and NEVADA  
24 REPUBLICAN PARTY,

24 Plaintiffs,

25 v.

26 BARBARA CEGAVSKE, in her official  
27 capacity as Nevada Secretary of State,

27 Defendant.

No. 2:20-cv-01445-JCM-VCF

**AMENDED COMPLAINT FOR  
DECLARATORY  
AND INJUNCTIVE RELIEF**

1 Plaintiffs Donald J. Trump for President, Inc., the Republican National Committee, and the  
2 Nevada Republican Party bring this action to challenge Assembly Bill 4—a bill passed on Sunday,  
3 August 2, 2020, during the 32nd Special Session of the Nevada Legislature. Plaintiffs allege as  
4 follows:

5 **INTRODUCTION**

6 1. Every American who is eligible to vote should be able to freely do so. Robust  
7 participation in our biennial elections strengthens the Nation’s civic fibers, allowing the United  
8 States of America to retain its place as the world’s preeminent constitutional republic. Thus,  
9 Republicans have always supported efforts to make it easier for voters to cast their ballot. At the  
10 same time, however, the electoral process cannot function properly if it lacks integrity and results  
11 in chaos. Put simply, the American people must be able to trust that the result is the product of a  
12 free and fair election.

13 2. Nevada’s recently enacted election laws—collectively, AB4—fall far short of this  
14 standard. On a straight-party-line vote taken on a Sunday afternoon, the Nevada Legislature passed  
15 a 60-page, single-spaced bill first introduced shortly after noon the previous Friday. AB4 adds more  
16 than 25 new election-related sections to the Nevada Revised Statutes and amends more than 60  
17 others. Many of those provisions will undermine the November election’s integrity. Some go  
18 beyond that, crossing the line that separates bad policy judgments from enactments that violate  
19 federal law or the United States Constitution.

20 3. Hence this lawsuit. Our elections must occur under valid laws. Under the U.S.  
21 Constitution, states have broad discretion to decide how to conduct their elections. But their election  
22 laws must comply with the higher law of the U.S. Constitution and with federal laws enacted under  
23 it.

24 4. Exercising its constitutional power under the Elections Clause and the Electors  
25 Clause, Congress has established a uniform, national day to elect members of Congress and to  
26 appoint presidential electors. *See* 2 U.S.C. §§ 1, 7; 3 U.S.C. §1. AB4 contravenes those valid federal  
27 laws by requiring elections officials to accept and count ballots received after Election Day *even*  
28 *when* those ballots lack objective evidence that voters cast them on or before Election Day. In short,

1 AB4 effectively postpones and prolongs Nevada’s 2020 general election past the Election Day  
2 established by Congress.

3 5. Other provisions in AB4 lack clear standards to guide the actions of county and city  
4 officials administering certain parts of Nevada’s elections. AB4 thus will result in the State treating  
5 Nevada voters differently based on nothing more than their county of residence. That disparate  
6 treatment violates their Fourteenth Amendment right to the equal protection of the laws.

7 6. The combined effect of those problems, and others described below, will be to dilute  
8 the votes of some Nevada voters, thereby infringing their right to vote under the Fourteenth  
9 Amendment.

10 7. New York’s June 2020 primary election confirms that these are not hypothetical  
11 concerns. “Elections officials in New York City widely distributed mail-in ballots for the primary  
12 on June 23.” Jesse McKinley, *Why the Botched N.Y.C. Primary Has Become the November*  
13 *Nightmare*, N.Y. Times (Aug. 3, 2020), <https://nyti.ms/3fvDrhx>. “Now, nearly six weeks later, two  
14 closely watched congressional races remain undecided, and major delays in counting a deluge of  
15 400,000 mail-in ballots and other problems are being cited as examples of the challenges facing the  
16 nation as it looks toward conducting the November general election during the pandemic.” *Id.* Yet  
17 as those very problems unfolded, Nevada’s Democratic leadership still introduced and passed AB4  
18 on a weekend, straight-party-line vote. No one should be surprised that such a process produced  
19 legislation bearing constitutional flaws.

20 8. For all these reasons and those alleged below, AB4 is illegal and must be enjoined.

### 21 **JURISDICTION AND VENUE**

22 9. This Court has subject matter jurisdiction because this action arises under the  
23 Constitution and laws of the United States. 28 U.S.C. §§1331 & 1343.

24 10. Venue is proper because a substantial part of the events giving rise to the claims  
25 occurred in this District, and the Defendants reside in this District. *Id.* §1391.

### 26 **PARTIES**

27 11. Plaintiff Donald J. Trump for President, Inc. is the principal committee for President  
28 Donald J. Trump’s reelection campaign. The committee spends resources, including hiring

1 campaign staff, in Nevada to encourage Nevadans to reelect the President. It also spends significant  
2 sums of money in Nevada to further those interests. The committee will devote its resources,  
3 including its campaign staff in Nevada, to monitor the results of the presidential election in Nevada.  
4 Changes to Nevada election laws require the committee to change how it allocates its resources,  
5 and the time and efforts of its campaign staff, to achieve its electoral and political goals.

6 12. Plaintiff Republican National Committee (RNC) is a national political party with its  
7 principal place of business at 310 First Street S.E., Washington D.C., 20003.

8 13. The RNC organizes and operates the Republican National Convention, which  
9 nominates a candidate for President and Vice President of the United States.

10 14. The RNC represents over 30 million registered Republicans in all 50 states, the  
11 District of Columbia, and the U.S. territories. It is comprised of 168 voting members representing  
12 state Republican Party organizations, including three members who are registered voters in Nevada.

13 15. The RNC works to elect Republican candidates to state and federal office. In  
14 November 2020, its candidates will appear on the ballot in Nevada for most federal and state  
15 offices. In elections for the U.S. House of Representatives, for example, the Cook Political Report  
16 lists two of Nevada's four house races as "competitive," with one of those as "likely Democratic"  
17 and the other as "lean Democratic."

18 16. The RNC has a vital interest in protecting the ability of Republican voters to cast,  
19 and Republican candidates to receive, effective votes in Nevada elections and elsewhere. The RNC  
20 brings this suit to vindicate its own rights in this regard, and in a representational capacity to  
21 vindicate the rights of its members, affiliated voters, and candidates.

22 17. The RNC also has an interest in preventing AB4's constitutionally problematic  
23 changes to Nevada election law. Major or hasty changes confuse voters, undermine confidence in  
24 the electoral process, and create incentive to remain away from the polls. Thus, AB4 forces the  
25 RNC to divert resources and spend significant amounts of money educating Nevada voters on those  
26 changes and encouraging them to still vote.

27 18. Plaintiff Nevada Republican Party (NVGOP) is a political party in Nevada with its  
28 principal place of business at 2810 West Charleston Blvd. #69, Las Vegas, NV 89102. The Nevada

1 Republican Central Committee (NRCC) is the NVGOP’s governing body. The NVGOP and NRCC  
2 exercise their federal and state constitutional rights of speech, assembly, petition, and association  
3 to “provide the statutory leadership of the Nevada Republican Party as directed in the Nevada  
4 Revised statutes,” to “recruit, develop, and elect representative government at the national, state,  
5 and local levels,” and to “promote sound, honest, and representative government at the national,  
6 state and local levels.” NRCC Bylaws, art. II, §§1.A-1.C.

7 19. The NVGOP represents over 600,000 registered Republican voters in Nevada as of  
8 August 2020.

9 20. The NVGOP has the same interests in this case as the RNC, and seeks to vindicate  
10 those interests in the same ways.

11 21. Defendant Barbara Cegavske is the Secretary of State of Nevada. She serves “as the  
12 Chief Officer of Elections” for Nevada and “is responsible for the execution and enforcement of  
13 the provisions of title 24 of NRS and all other provisions of state and federal law relating to  
14 elections in” Nevada. NRS 293.124. She is sued in her official capacity.

### 15 **BACKGROUND**

#### 16 **I. State laws that set the time, place, and manner of elections for federal offices cannot 17 conflict with contrary federal law or with federal constitutional commands.**

18 22. The U.S. Constitution’s Elections Clause vests state legislatures with power to set  
19 the time, place, and manner of congressional elections. U.S. Const., art. I, §4, cl. 1.

20 23. But the Elections Clause also reserves to “Congress” the power to “at any time by  
21 Law make or alter such Regulations, except as to the Places of chusing Senators.” *Id.*

22 24. A law governs “‘the election’ of a Senator or Representative” when it “plainly  
23 refer[s] to the combined actions of voters and officials meant to make a final selection of an  
24 officeholder.” *Foster v. Love*, 522 U.S. 67, 71 (1997).

25 25. Exercising its constitutional power to pass laws governing elections for federal  
26 offices, Congress has established one specific day as the uniform, national Election Day for  
27 members of the United States House of Representatives and of the United States Senate. For both  
28 offices, the “Tuesday next after the 1st Monday in November” is “the day for the election.” 2 U.S.C.

1 §7 (elections for members of the House of Representatives held on that day “in every even  
2 numbered year”); *see also id.* §1 (Senators to be elected “[a]t the regular election held in any State  
3 next preceding the expiration of the term for which any Senator was elected to represent such State  
4 in Congress, at which a Representative to Congress is regularly by law to be chosen”).

5 26. The U.S. Constitution also vests in “Congress” the power to “determine the Time of  
6 choosing the Electors” for the offices of President and Vice President. U.S. Const. art. II, §1, cl. 4.

7 27. Exercising that power, Congress has established that “[t]he electors of President and  
8 Vice President shall be appointed, in each State, on the Tuesday next after the first Monday in  
9 November, in every fourth year succeeding every election of a President and Vice President.” 3  
10 U.S.C. §1.

11 28. Combined, 2 U.S.C. §§1, 7, and 3 U.S.C. §1 establish the Tuesday after the first  
12 Monday in November as the uniform, national Election Day for members of Congress and as the  
13 uniform, national day for appointing electors for President and Vice President.

14 29. Those “uniform rules for federal elections” are both “binding on the States” and  
15 superior to conflicting state law: “[T]he regulations made by Congress are paramount to those  
16 made by the State legislature; and if they conflict therewith, the latter, so far as the conflict extends,  
17 ceases to be operative.” *Foster*, 522 U.S. at 69 (quoting *Ex parte Siebold*, 100 U.S. 371, 384  
18 (1879)). In other words, if a state law governing elections for federal offices “conflicts with federal  
19 law,” that state law is “void.” *Id.* at 74.

20 30. State election laws must also comport with federal constitutional requirements. For  
21 example, state election laws may not “deny to any person within” the state’s “jurisdiction the equal  
22 protection of the laws.” U.S. Const. amend. XIV, §1.

23 31. According to the Supreme Court, the Fourteenth Amendment of the U.S.  
24 Constitution protects the “the right of all qualified citizens to vote, in state as well as in federal  
25 elections.” *Reynolds v. Sims*, 77 U.S. 533, 554 (1964). “Obviously included within the right to  
26 [vote], secured by the Constitution, is the right of qualified voters within a state to cast their ballots  
27 and have them counted.” *United States v. Classic*, 313 U.S. 299, 315 (1941). “[T]he right to have  
28 the vote counted” means counted “at full value without dilution or discount.” *Reynolds*, 377 U.S.

1 at 555 n.29 (quoting *South v. Peters*, 339 U.S. 276, 279 (1950) (Douglas, J., dissenting)).

2 32. Thus, both direct denials and practices that otherwise promote fraud and dilute the  
3 effectiveness of individual votes can violate the Fourteenth Amendment. *See id.* at 555 (“[T]he  
4 right of suffrage can be denied by a debasement or dilution of the weight of a citizen’s vote just as  
5 effectively as by wholly prohibiting the free exercise of the franchise.”).

6 33. “Every voter in a federal ... election, whether he votes for a candidate with little  
7 chance of winning or for one with little chance of losing, has a right under the Constitution to have  
8 his vote fairly counted, without its being distorted by fraudulently cast votes.” *Anderson v. United*  
9 *States*, 417 U.S. 211, 227 (1974); *see also Baker v. Carr*, 369 U.S. 186, 208 (1962).

10 34. Fraudulent votes “debase[]” and “dilute” the weight of *each* validly cast vote. *See*  
11 *Anderson*, 417 U.S. at 227. When it comes to “dilut[ing] the influence of honest votes in an  
12 election,” whether the dilution is “in greater or less degree is immaterial”; it is a violation of the  
13 Fourteenth Amendment. *Id.* at 226.

14 35. The Equal Protection Clause of the U.S. Constitution requires States to “avoid  
15 arbitrary and disparate treatment of the members of its electorate.” *Charfauros v. Bd. of Elections*,  
16 249 F.3d 941, 951 (9th Cir. 2001) (quoting *Bush v. Gore*, 531 U.S. 98, 105 (2000)); *see also Dunn*  
17 *v. Blumstein*, 405 U.S. 330, 336 (1972) (“[A] citizen has a constitutionally protected right to  
18 participate in elections on an equal basis with other citizens in the jurisdiction.”); *Gray v. Sanders*,  
19 372 U.S. 368, 380 (1963) (“The idea that every voter is equal to every other voter in his State, when  
20 he casts his ballot in favor of one of several competing candidates, underlies many of [the Supreme  
21 Court’s] decisions.”).

22 36. “[T]reating voters differently” thus “violate[s] the Equal Protection Clause” when  
23 the disparate treatment is the result of arbitrary, ad hoc processes. *Charfauros*, 249 F.3d at 954.  
24 Indeed, a “minimum requirement for nonarbitrary treatment of voters [is] necessary to secure the  
25 fundamental right” to vote. *Bush*, 531 U.S. at 105.

26 37. The use of “standardless” procedures can violate the Equal Protection Clause. *Bush*,  
27 531 U.S. at 103. “The problem inheres in the absence of specific standards to ensure ... equal  
28 application” of even otherwise unobjectionable principles. *Id.* at 106. Any voting system that

1 involves discretion by decisionmakers about how or where voters will vote must be “confined by  
2 specific rules designed to ensure uniform treatment.” *Id.* at 106.

3 **II. Nevada law regulates the time, place, and manner of elections for federal offices.**

4 38. The Nevada Legislature has exercised its power under the Elections Clause to pass  
5 laws regulating the time, place, and manner of elections for federal officers from Nevada. *See, e.g.*,  
6 NRS Chapters 293, 298, 304.

7 39. For example, Nevada law regulates the administration of primary elections,  
8 including setting rules for becoming a candidate for federal and state office and for how those  
9 candidates qualify for the primary-election ballot. *See, e.g.*, NRS 293.175-293.190.

10 40. Nevada law also regulates the administration of general elections. Among other  
11 things, Nevada law establishes at least five different ways that Nevadans may vote in a general  
12 election: by in-person voting at the polls, NRS 293.270-293.307; by provisional ballot, NRS  
13 293.3078-293.3086; by absent ballot voting, NRS 293.3088-293.340; by voting in mailing  
14 precincts, NRS 293.343-293.355; and by early in-person voting, NRS 293.356-293.361. Nevada  
15 law also establishes how ballots are to be counted and the returns are to be canvassed. NRS  
16 293.3625-293.397.

17 41. Thus Nevada law itself distinguishes between absent ballot voting and mail-in ballot  
18 voting. Absent ballot voting occurs when a voter affirmatively asks, on his or her own initiative,  
19 the voter’s election official to mail a ballot to the voter. If the voter does not initiate that request,  
20 the election official will not mail an absent ballot to the voter. In contrast, voters in mail-in precincts  
21 automatically receive a ballot from their election official without having to affirmatively request  
22 one.

23 42. Those distinctions implicate important election-integrity interests. Absent ballots  
24 correspond to voters who have specifically requested that type of ballot—and who have provided  
25 information in their request that allows elections officials to verify that the voter is who he or she  
26 purports to be. Election officials in mail-in precincts, however, send ballots to every active  
27 registered voter on the precinct’s voter list—without first confirming whether those voters are still  
28 alive and still live at their listed address, and thus remain eligible to vote in that precinct’s election.



1           43. Among Nevada’s available voting options, Nevadans historically have chosen  
2 overwhelmingly to vote in person. Consider just the past two election cycles, where the Secretary’s  
3 own data show that 9 of every 10 ballots cast have been in-person votes.

4           44. In Nevada’s 2016 primary election, 89.49% of the total ballots cast were in-person  
5 votes cast during early voting (50.53% of total ballots) or on Election Day (38.96% of total ballots).  
6 Absent ballots constituted just 9.30% of total ballots cast, and the remaining 1.21% of total ballots  
7 cast were mailing ballots. Office of Nev. Sec’y of State Barbara K. Cegavske, 2016 Primary  
8 Election Turnout (June 23, 2016), <https://bit.ly/31dPyux>.

9           45. In Nevada’s 2016 general election, 93.02% of the total ballots cast were in-person  
10 votes cast during early voting (62.41% of total ballots) or on Election Day (30.61% of total ballots).  
11 Absent ballots constituted just 6.41% of total ballots cast, and the remaining 0.57% of total ballots  
12 cast were mailing ballots. Office of Nev. Sec’y of State Barbara K. Cegavske, 2016 General  
13 Election Turnout (Feb. 10, 2017), <https://bit.ly/3a0U9nS>.

14           46. Nevadans’ overwhelming preference for voting in person remained unchanged two  
15 years later. In Nevada’s 2018 primary election, 92.1% of the total ballots cast were in-person votes  
16 cast during early voting (47.75% of total ballots) or on Election Day (44.35% of total ballots).  
17 Absent ballots constituted just 7.21% of total ballots cast, and the remaining 0.69% of total ballots  
18 cast were mailing ballots. Office of Nev. Sec’y of State Barbara K. Cegavske, 2018 Primary  
19 Election Turnout (July 10, 2018), <https://bit.ly/3fyX6NH>.

20           47. So too for Nevada’s 2018 general election. There, 91.04% of the total ballots cast  
21 were in-person votes cast during early voting (56.80% of total ballots) or on Election day (34.24%  
22 of total ballots). Absent ballots constituted just 8.57% of total ballots cast, and the remaining 0.39%  
23 of total ballots cast were mailing ballots. Office of Nev. Sec’y of State Barbara K. Cegavske, 2018  
24 General Election Turnout (Nov. 20, 2018), <https://bit.ly/31kS81E>.

25 **III. With little advance notice, Nevada holds a by-mail 2020 primary election.**

26           48. For Nevada’s 2020 primary election, however, all that changed. On March 24, 2020,  
27 Secretary Cegavske announced that Nevada’s June 9, 2020, primary election would be an all-mail  
28 election due to “the many uncertainties surrounding the COVID-19 pandemic.” *Secretary*

1 *Cegavske Announces Plan to Conduct the June 9, 2020 Primary Election by All Mail* (Mar. 24,  
2 2020), <https://bit.ly/33mZt3p>. The Secretary directed county and city elections officials to mail  
3 absent ballots to all active registered voters, who could return those ballots by mail in a postage-  
4 prepaid envelope or by dropping the ballot in person at a designated county location. *See id.* But  
5 the Secretary assured Nevadans that despite the move to an all-mail election, “at least one in-person  
6 polling location will be available in each county for the June 9, 2020 primary election” to  
7 “accommodate same-day voter registration” and to help “voters who have issues with the ballot  
8 that was mailed to them.” *Id.*

9 49. Nearly a month later, the Democratic National Committee, the Nevada State  
10 Democratic Party, related entities, and four individual Nevadans sued Secretary Cegavske, the  
11 Clark County Registrar of Voters, the county clerks of Washoe and Elko Counties, and Nevada  
12 Attorney General Aaron Ford in Nevada state court. *See Compl., Corona et al. v. Cegavske et al.*,  
13 No. 20-OC-00064-I-B (1st Judicial Dist. Apr. 16, 2020). Those plaintiffs contended, among other  
14 things, that the Secretary’s plan unconstitutionally burdened Nevadans’ right to vote. They sought  
15 an order requiring elections officials (1) to open *more* in-person voting places, and (2) to mail  
16 absent ballots not just to active registered voters but also to *inactive* voters—persons the State had  
17 learned, principally from return-mail notices from the U.S. Postal Service, no longer lived at the  
18 address where they had registered to vote. The Republican National Committee and the Nevada  
19 Republican Party successfully intervened as defendants in the *Corona* case.

20 50. The plaintiffs in *Corona* moved for a preliminary injunction. Secretary Cegavske  
21 and Attorney General Ford, the Washoe and Elko County Clerks, and the RNC and NVGOP  
22 opposed the motion.

23 51. But on the day his opposition brief was due, the Clark County Registrar told the  
24 plaintiffs and other parties that the Clark County Commission had instructed him both to open  
25 additional in-person voting places in Clark County and to mail ballots to all Clark County active  
26 *and inactive* registered voters.

27 52. After receiving notice of Clark County’s concessions, the *Corona* plaintiffs  
28 withdrew their motion for a preliminary injunction. And Clark County conducted the primary

1 election as it said it would.

2 53. The consequences of this hurried switch—from Nevada elections occurring 90% by  
3 in-person voting to an all-mail election—should surprise no one. The *Las Vegas Review-Journal*  
4 reported that, within the first week of voting in Nevada’s first-ever all-mail primary, photographic  
5 evidence surfaced of numerous ballots “tossed in trash cans and littering apartment mailbox areas”  
6 in Clark County.

7 54. On May 8, 2020, one Clark County voter found “about a dozen ballots pinned to the  
8 complex’s bulletin board or otherwise thrown around.” Over the next few days, he found many  
9 more in nearby trash cans.

10 55. In a different apartment complex, another voter saw ballots “sticking out of  
11 residents’ mailboxes and ‘at least a dozen’ were sitting in nearby garbage cans.”

12 56. Another resident received a ballot at her home addressed to her deceased mother.

13 57. A U.S. Postal Service worker serving the area witnessed the breadth of the problem.  
14 She recounted that, over the course of multiple days, she saw an “influx of absentee ballots”—as  
15 many as 100 in a single day—that were “‘no good,’” often because they had been sent to recipients  
16 who had moved or died. “In all, she said there were thousands [of ballots] sitting in crates with no  
17 additional safeguards and marked to be sent back to the county.”

18 58. Recent media reports confirm just how widespread those problems were. For the  
19 2020 primary election, Clark County mailed out 1,325,934 ballots. Of that total, 223,469 were  
20 returned as undeliverable. Rory Appleton, *More than 223k mailed ballots returned undeliverable*  
21 *in primary*, *Las Vegas Review-Journal* (Aug. 14, 2020), <https://bit.ly/3kWeEXB>.

22 59. Of those 223,469 undeliverable ballots, 58 percent belonged to inactive voters. But  
23 “93,585 undeliverable ballots belonged to voters classified as active in Clark County’s voter rolls.”  
24 *Id.*

25 60. Clark County Registrar of Voters Joseph Gloria intends to mail general election  
26 ballots to those more than 93,000 active registered voters whose primary-election ballots were  
27 returned to Clark County as undeliverable.

28 61. Those more than 93,000 ballots returned as undeliverable from registered voters do

1 not include the countless numbers of not-returned-as-undeliverable ballots observed strewn about  
2 apartment complexes, garbage cans, and other locations in Clark County as described above. The  
3 number of those kinds of ballots—which also should have been returned as undeliverable, but were  
4 not—will never be known.

5 62. Clark County’s voter rolls also contain more than 2,200 people who are deceased.

6 *Id.*

7 **IV. Other states rush to implement mail-in elections in 2020, with similarly problematic**  
8 **results.**

9 63. Nevada is not the only jurisdiction that experienced those types of problems after a  
10 hurried switch to mail-in voting for its Spring 2020 elections.

11 64. First, consider Wisconsin. For its April 2020 primary election, “the Wisconsin  
12 Election Commission received over 1.3 million requests for absentee ballots..., almost 1 million of  
13 which were completed and returned by mail to the election offices. This was an increase of over  
14 440 percent from the April 2016 election.” Office of Inspector General, U.S. Postal Service,  
15 Management Alert: Timeliness of Ballot Mail in the Milwaukee Processing & Distribution Center  
16 Service Area, Report No. 20-235-R20, at 3 (July 7, 2020), <https://bit.ly/2YbjBT0>.

17 65. Given the substantial increase in absent voting, it’s no surprise that errors occurred  
18 in processing those absent ballots. For example, “[t]hree tubs of absentee ballots from Appleton  
19 and Oshkosh were found at the Milwaukee Processing & Distribution Center (P&DC) after polls  
20 closed on April 7, 2020.” *Id.* “Absentee ballots requested on March 22 and 23, 2020, were not  
21 delivered to voters.” *Id.* And—despite Postal Service guidance stating that “all ballots should be  
22 postmarked by machine or by hand”—the Milwaukee Election Office received “about 390 voter  
23 completed ballots with varying postmark issues including illegible postmarks, lack of a postmark,  
24 undated postmarks, or hand-stamped postmarks.” *Id.* at 5.

25 66. Next, consider reports from New Jersey media about similar problems that occurred  
26 in Paterson, New Jersey in the May 12 election for Second Ward City Council—the “first election  
27 in state history that was contested only by mail-in voting.”

28 67. More than 800 mail-in ballots were set aside in Paterson due to suspicion that they

1 were gathered illegally.

2 68. Hundreds of mail-in ballots were collected from *single* mailboxes. In one case, 366  
3 ballots were picked up from the same mailbox.

4 69. In some cases, “large quantities of mail-in ballots were fastened together with a  
5 rubber-band and dropped at the same location.”

6 70. There have been reports of Paterson voters not receiving their ballots as well as  
7 reports of “letter carriers leaving massive numbers of ballots in a bin at a particular apartment  
8 building.”

9 71. In addition, one candidate reported that many people’s “votes were paid for and still  
10 others who had no idea that they voted or who they voted for because someone filled out a mail-in  
11 ballot for them.” Things are so bad that a court has temporarily blocked the winning candidate from  
12 taking office. *See* Joe Malinconico, *Paterson councilman-elect charged with election fraud can’t*  
13 *take office, judge rules*, Patterson Press (June 30, 2020), <https://njersy.co/3gsZarF>.

14 72. Third, consider Connecticut. “Nearly 300,000 voters, about 20% of all registered  
15 Democrats and Republicans in the state, requested absentee ballots” for the state’s August 2020  
16 primary election. Joseph De Avila, *Connecticut’s Expanded Mail-In Voting System Off to a Choppy*  
17 *Start*, Wall St. Journal (Aug. 9, 2020), <https://on.wsj.com/3216bdd>. That’s up from “about 10,000  
18 or 15,000 absentee ballots” for a typical primary election. *Id.* Early returns of those ballots  
19 suggested voter confusion could depress participation: four days before the election, only 500 of  
20 the 3,500 voters in New Britain, Connecticut who requested absentee ballots had returned them, as  
21 had only 1,800 of the 11,000 voters who requested absentee ballots in West Hartford. *Id.*

22 73. Finally, consider New York’s June 2020 primary election. “More than 414,000 New  
23 York City residents voted by absentee ballot in the June 23 primary, which is more than 10 times  
24 the number of absentee ballots cast in the 2016 primary, according to court documents.” Katie  
25 Honan, *Judge’s Decision to Count Invalidated N.Y. Primary Ballots Shows Need for Improved*  
26 *Voting Procedures*, Wall St. Journal (Aug. 5, 2020), <https://on.wsj.com/348fnPw>. On August 3—  
27 more than six weeks after the election—results of the primary election between Rep. Carolyn  
28 Maloney and Suraj Patel for New York’s 12th District remained unknown. On that day, a federal

1 district judge in New York “ordered the counting of certain mail ballots that arrived after Election  
2 Day but without a postmark to prove when they were sent.” *An Autopsy of New York’s Mail-Vote*  
3 *Mess*, Wall St. Journal (Aug. 7, 2020), <https://on.wsj.com/3kT7d3y>.

4 74. It is still not known why absentee ballots were delivered without a postmark to  
5 election offices in New York even though the Postal Service’s “policy is to postmark all ballots,  
6 and the city was assured it would happen.” *Id.* But a manager at a New York postal processing  
7 facility testified during the lawsuit over the absentee ballots and “offered two possibilities.” *Id.*  
8 “First, postmarking machines can reject mail if, for example, it isn’t ‘folded over properly.’ On  
9 Election Day, USPS staff were ready to grab bypassed ballots and postmark them by hand.” *Id.*  
10 That happened “‘for thousands of ballots’” on Election Day, but the manager “wasn’t sure...if this  
11 happened before June 23.” *Id.* Second, “most prepaid mail usually skips postmarking altogether  
12 and goes ‘directly to a sortation machine.’” *Id.* “On Election Day, USPS staff overrode that  
13 procedure and forced everything through the postmarking system. But again, [the manager] wasn’t  
14 sure about before June 23, saying it was ‘very possible’ that some ballots went straight to sorting.”  
15 *Id.*

16 75. News reports do not disclose whether the Postal Service would invoke those manual-  
17 override processes on days *after* an Election Day to ensure postmarks were affixed both to  
18 improperly folded mail and to prepaid ballots placed in the mail after an election. Even so, the  
19 Postal Service’s pre-election performance alone led the co-chair of the New York State Board of  
20 Elections to testify that he “‘do[esn’t] have a great deal of confidence in the U.S. Postal Service.’”  
21 *Id.*

22 76. The facts from those examples confirm the common-sense conclusion of the  
23 Commission on Federal Election Reform—a bipartisan commission chaired by former President  
24 Jimmy Carter and James Baker, and cited extensively by the U.S. Supreme Court—that absentee  
25 voting is “the largest source of potential voter fraud.” *Building Confidence in U.S. Elections* 46,  
26 <https://bit.ly/3dXH7rU> (*Carter-Baker Report*). Many well-regarded commissions and groups of  
27 diverse political affiliation agree that “when election fraud occurs, it usually arises from absentee  
28 ballots.” Michael T. Morley, *Election Emergency Redlines* 2, <https://bit.ly/3e59PY1> (Morley,

1 *Redlines*). Such fraud is easier to do and harder to detect. As one federal court put it, “absentee  
2 voting is to voting in person as a take-home exam is to a proctored one.” *Griffin v. Roupas*, 385  
3 F.3d 1128, 1131 (7th Cir. 2004).

4 77. “Absentee balloting is vulnerable to abuse in several ways.” For one, ballots are  
5 sometimes “mailed to the wrong address or to large residential buildings” and “might get  
6 intercepted.” *Carter-Baker Report* 46. For another, absentee voters “who vote at home, at nursing  
7 homes, at the workplace, or in church are more susceptible to pressure, overt and subtle, or to  
8 intimidation.” *Id.* And “[v]ote buying schemes are far more difficult to detect when citizens vote  
9 by mail.” *Id.* For example, “[i]ndividuals can sign and sell their absentee ballot,” or “[o]ne spouse  
10 can coerce the other to sign the ballot and hand it over to them to vote fraudulently.”

11 78. This risk of abuse is magnified by the fact that “many states’ voter registration  
12 databases are outdated or inaccurate.” Morley, *Redlines* 2.

13 79. A 2012 study from the Pew Center on the States—which the U.S. Supreme Court  
14 cited in a recent case—found that “[a]pproximately 24 million—one of every eight—voter  
15 registrations in the United States are no longer valid or are significantly inaccurate”; “[m]ore than  
16 1.8 million deceased individuals are listed as voters”; and “[a]pproximately 2.75 million people  
17 have registrations in more than one state.”

18 80. Similarly, a 2010 study by the Caltech/MIT Voting Technology Project found that  
19 roughly 9% of listed registration records in the United States are invalid.” On top of those invalid  
20 records, “in the typical state 1 in 65 records is duplicative, meaning that the same registrant is listed  
21 multiple times.” The same study found that “[i]n the typical state, 1 in 40 counted votes in the 2008  
22 general election cannot be matched to a registrant listed as having voted” and that “1 in 100 listed  
23 registrants is likely to be deceased.”

24 81. Federal law recognizes those risks of voting by mail and thus requires certain first-  
25 time voters to present identification. *See* 52 U.S.C. § 21083(b).

26 **V. In a special session on a weekend vote, the Nevada Legislature passes AB4.**

27 82. After Nevada’s June 2020 primary election, the *Corona* plaintiffs amended their  
28 complaint. The plaintiffs’ new claims raised constitutional challenges to Nevada laws that banned



1 ballot harvesting—the process of third parties unrelated to a voter collecting and returning that  
2 voter’s absent ballot. They also challenged the Nevada laws requiring election officials to verify a  
3 voter’s signature on an absent ballot against the signature on the voter’s registration. The parties  
4 conducted expedited discovery on those claims throughout July 2020 to prepare for a one-week  
5 trial on them scheduled to begin on Monday, August 17, 2020.

6 83. On Friday, July 31, 2020, the Nevada Legislature convened its 32nd Special Session  
7 in response to a call from Governor Sisolak.

8 84. One of the bills the Nevada Legislature considered during that special session was  
9 Assembly Bill 4.

10 85. The Democratic majority in the Nevada Assembly introduced AB4 on the afternoon  
11 of July 31, 2020. AB4 runs more than 60 single-spaced pages. Even so, the Assembly passed AB4  
12 on a straight party-line vote mere hours after it was introduced.

13 86. AB4 then went to the Nevada Senate, which considered it near midnight on Friday,  
14 July 31, 2020, and again on Saturday, August 1, 2020, before passing it on Sunday, August 2, 2020,  
15 on a straight party-line vote.

16 87. Governor Sisolak signed AB4 into law on Monday, August 3, 2020.

17 88. AB4 contains 88 sections. Sections 2 through 29 enact entirely new provisions in  
18 the Nevada Revised Statutes. Within those, Sections 2 through 27 create a new framework for  
19 primary or general elections held during a declared emergency or state of disaster, defined under  
20 AB4 as an “affected election.” AB4, §§5, 8. Sections 30 through 83, in turn, amend scattered  
21 existing provisions of NRS Chapters 293 and 293C. Sections 84 through 88 appropriate money to  
22 implement the bill and establish effective dates for its provisions.

23 89. Many of AB4’s provisions are head-scratching—particularly given the stark  
24 irregularities in Nevada’s June 2020 primary election, and because AB4 changes so many election  
25 laws so close to the 2020 general election. Indeed, Defendant herself recently acknowledged that  
26 Nevada could (and should) successfully hold its 2020 general election without changing its election  
27 laws. Barbara K. Cegavske, *Nevada’s voting laws do not need to be changed*, The Nevada  
28 Independent (July 29, 2020), <https://bit.ly/30qA4UO>. But this lawsuit does not challenge AB4’s



1 wisdom (or lack thereof). *Cf. New York State Bd. of Elections v. Lopez Torres*, 552 U.S. 196, 209  
2 (2008) (Stevens, J., concurring) (“The Constitution does not prohibit legislatures from enacting  
3 stupid laws.”). Rather, this lawsuit challenges the parts of AB4 that violate the Constitution or  
4 contradict federal law enacted under it, and that are thus invalid and must be enjoined.

5 90. First among AB4’s unconstitutional provisions is Section 20. It effectively delays  
6 the day for electing members of Congress and for appointing presidential electors that Congress  
7 has established in 2 U.S.C. §§1, 7 and 3 U.S.C. §1.

8 91. The “election” established in those federal statutes is “the combined actions of  
9 voters and officials meant to make a final selection of an officeholder.” *Foster v. Love*, 522 U.S.  
10 67, 71 (1997).

11 92. Section 20.2 “deem[s]” ballots “received by mail not later than 5 p.m. on the third  
12 day following the election” “to have been postmarked on or before the day of the election” when  
13 “the date of the postmark cannot be determined.”

14 93. Section 20.2 resembles a provision of Nevada law that applies to absent ballots cast  
15 in elections not held in a declared emergency. *See* NRS 293.317(2). But that provision became  
16 effective only on January 1, 2020, and has thus never governed a general election.

17 94. AB4 increases the likelihood that mail ballots will lack a legible postmark showing  
18 when voters mailed them. AB4 instructs county and city clerks to send mail ballots to voters along  
19 with “a return envelope” that “must include postage prepaid by first-class mail.” AB4, §16.3. The  
20 U.S. Postal Service’s apparent policy of postmarking prepaid ballot-return envelopes is a stark  
21 exception to its general policy of not applying postmarks to postage prepaid envelopes. *See* United  
22 States Postal Serv., §1-1.3 Postmarks (“Postmarks are not required for mailings bearing a permit,  
23 meter, or precanceled stamp for postage, nor to pieces with an indicia applied by various postage  
24 evidencing systems.”), <https://bit.ly/3kft71>. And as Wisconsin’s and New York’s experiences  
25 confirm, the Postal Service cannot uniformly apply that exception to its default no-postmark policy  
26 when the number of mail ballots returned exceeds historical levels by orders of magnitude. Indeed,  
27 as the Postal Service’s New York trial testimony confirms, postmarking a postage prepaid ballot  
28 requires specific oversight of, and manual overrides to, the Postal Service’s ordinary processes—a

1 series of day- or week-specific decisions at each individual mail processing and distribution facility.  
2 So any given mail ballot may not be postmarked due to human, mechanical, or other oversights or  
3 errors. And election officials cannot determine whether a mail ballot without a postmark was timely  
4 cast unless they receive it on or before Election Day.

5 95. In addition, the U.S. Postal Service delivers the overwhelming majority of first-class  
6 mail sent from a Clark County address to another Clark County address, or from a Washoe County  
7 address to another Washoe County address, within one or two business days. That means mail sent  
8 within Clark County or Washoe County on a Wednesday or Thursday will usually be received  
9 within Clark County or Washoe County by the next Friday.

10 96. As a result, a ballot mailed in Clark or Washoe Counties in a state-provided, postage  
11 prepaid first-class envelope on the Wednesday or Thursday after Election Day will likely be  
12 received at the Clark County Registrar's Office or Washoe County Clerk's Office before 5:00 pm  
13 on the Friday after the election. Those ballots almost certainly will arrive without bearing a  
14 postmark because the Postal Service has no need after Election Day to invoke the manual override  
15 processes necessary to trigger its apparent ballot-specific exception to its default no-postmark-for-  
16 prepaid-mail rule. And under Section 20.2, those ballots that arrive without a postmark must be  
17 counted. Section 20.2 thus effectively extends the congressionally established Election Day.

18 97. The opening that Section 20.2 creates for ballots to be cast *after* Election Day and  
19 still counted is not just unlawful—it is unnecessary. Nevadans have ample time to request, receive,  
20 fill out, return, and have their ballots counted by Election Day. On July 31, 2020, the Postal Service  
21 General Counsel sent a letter to the Defendant stating the Postal Service's opinion that Nevadans  
22 "should have sufficient time to receive, complete, and return their ballots." The president of the  
23 American Postal Workers Union said it will be a "[p]iece of cake for postal workers" to "handle  
24 the country's mail-in ballots with proper planning." Erin Cox et al., *Postal Service warns 46 states*  
25 *their voters could be disenfranchised by delayed mail-in ballots*, Wash. Post (Aug. 14, 2020),  
26 <https://wapo.st/2PYGt3o>. Similarly, the Postal Service's spokeswoman "said the agency 'is well  
27 prepared and has ample capacity to deliver America's election mail.'" *Id.* If those assertions are  
28 correct, Section 20.2's postmark-free safe harbor, which violates federal law, is both illegal and

1 unnecessary.

2 98. Beyond that, Dr. Anthony Fauci, director of the National Institute of Allergy and  
3 Infectious Diseases, “said this week he believed Americans should be able to safely cast a ballot  
4 in-person, so long as they follow necessary social distancing protocols.” Connor Perret, *Fauci says*  
5 *‘there’s no reason’ in-person voting shouldn’t be safe with masks and proper social distancing*,  
6 *Business Insider* (Aug. 15, 2020), <https://bit.ly/3iNaL5F>. “Fauci compared the safety of casting a  
7 ballot in person to that of an in-person shopping trip to the grocery store in ‘counties and cities that  
8 are doing it correctly.’” *Id.* “‘They have X’s every six or more feet,’ he added. ‘And it says, “Don’t  
9 leave this spot until the person in front of you left their spot.” And you can do that, if you go and  
10 wear a mask, if you observe the physical distancing, and don’t have a crowded situation, there’s no  
11 reason why you shouldn’t be able to do that.’” *Id.*

12 99. Dr. Fauci’s comments are consistent with a CDC report finding “[n]o clear increase  
13 in cases, hospitalizations, or deaths” due to COVID-19 “after the election” in Wisconsin. Heather  
14 Paradis, M.D. et al., *Notes from the field: Public Health Efforts to Mitigate COVID-19*  
15 *Transmission During the April 7, 2020, Election—City of Milwaukee, Wisc., Mar. 13-May 5, 2020*  
16 (July 31, 2020), <https://bit.ly/3g5464X>.

17 100. Sections 11 and 12 of AB4 are also unconstitutional. Those sections set forth the  
18 number of in-person polling places for early voting (Section 11) and vote centers for day-of-election  
19 voting (Section 12). Under those sections, the number of in-person voting places a county must  
20 establish is tied to the county’s population, resulting in more in-person voting places per capita for  
21 voters in urban counties than in rural counties. This disparate treatment of Nevada voters based on  
22 county population violates rural voters’ rights under the Equal Protection Clause.

23 101. Section 22 of AB4 is also unconstitutional. It provides that “the county or city clerk,  
24 as applicable, shall establish procedures for the processing and counting of ballots.” Beyond that  
25 general instruction, it provides only that counties “[m]ay authorize mail ballots to be processed and  
26 counted by electronic means.” This lack of uniform standards to be applied across counties means  
27 that Nevada counties will necessarily adopt different procedures for processing and counting  
28 ballots, which could produce differences in rejection rates. This unequal, standardless treatment of

1 Nevada voters across counties constitutes an equal protection violation.

2 102. Finally, Section 25 of AB4 requires county or city clerks to count potentially  
3 fraudulent or invalid ballots, thereby diluting the votes of honest citizens and depriving them of  
4 their right to vote in violation of the Fourteenth Amendment. Section 25 provides that “[i]f two or  
5 more ballots are found folded together to present the appearance of a single ballot, they must be  
6 laid aside. If a majority of the inspectors are of the opinion that the mail ballots folded together  
7 were voted by one person, the mail ballots must be rejected and placed in an envelope, upon which  
8 must be written the reason for their rejection.” But Section 25 establishes no standard by which the  
9 inspectors should assess whether the ballots were voted by one person. Neither does Section 25  
10 require inspectors to reject either of two or more ballots folded together when a majority of the  
11 inspectors are of the opinion that the mail ballots were voted by *more than* one person. In that case,  
12 Section 25 appears to contemplate that inspectors will count *all* of the ballots, even though at least  
13 one of the voters has not complied with the bill’s signature-verification process. This loophole  
14 invites fraud, coercion, theft, or otherwise illegitimate voting that dilutes the votes of honest citizens  
15 and deprives them of their right to vote in violation of the Fourteenth Amendment.

16 103. On March 12, 2020, Governor Sisolak declared a state of emergency in Nevada due  
17 to COVID-19. That makes Nevada’s 2020 general election an “affected election” to which Sections  
18 2 through 27 of AB4 apply. *See* AB4, §§5, 8.

## 19 CAUSES OF ACTION

### 20 COUNT I

21 **Violation of 3 U.S.C. §1, 2 U.S.C. §7, 2 U.S.C. §1; Elections Clause (U.S. Const. art. I, §4, cl. 1); Electors Clause (U.S. Const. art. II, §1, cl. 4); Supremacy Clause (U.S. Const. art. VI, §2)**

22 104. Plaintiffs incorporate all their prior allegations.

23 105. 3 U.S.C. §1 provides that “[t]he electors of President and Vice President shall be  
24 appointed, in each State, on the Tuesday next after the first Monday in November, in every fourth  
25 year succeeding every election of a President and Vice President.”

26 106. 2 U.S.C. §7 provides that “[t]he Tuesday next after the 1<sup>st</sup> Monday in November, in  
27 every even numbered year, is established as the day for the election, in each of the States and  
28 Territories of the United States, of Representatives and Delegates to the Congress commencing on

1 the 3d day of January next thereafter.”

2 107. 2 U.S.C. §1 provides that, “[a]t the regular election held in any State next preceding  
3 the expiration of the term for which any Senator was elected to represent such State in Congress,  
4 at which election a Representative to Congress is regularly by law to be chosen, a United States  
5 Senator from said State shall be elected by the people thereof for the term commencing on the 3d  
6 day of January next thereafter.”

7 108. This trio of statutes “mandates holding all elections for Congress and the Presidency  
8 on a single day throughout the Union.” *Foster v. Love*, 522 U.S. 67, 70 (1997).

9 109. The word “election” in 3 U.S.C. §1 means the “combined actions of voters and  
10 officials meant to make a final selection of an officeholder.” *Foster*, 522 U.S. at 71.

11 110. It is the consummation of the process of electing an official.

12 111. By its terms then, 3 U.S.C. §1 requires that the 2020 general election be  
13 consummated on Election Day (November 3, 2020).

14 112. A mail ballot is not a legal vote unless it is marked and cast on or before Election  
15 Day. Whatever latitude state legislatures retain under federal law to define the process of casting  
16 mail ballots through the U.S. Postal Service, they cannot create a process where ballots mailed *after*  
17 Election Day can be considered timely.

18 113. Consistent with 3 U.S.C. §1, “the Voting Rights Act Amendments of 1970 require  
19 that citizens be allowed to vote by absentee ballot in Presidential elections on or before the day of  
20 the election.” *Voting Integrity Project, Inc. v. Bomer*, 199 F.3d 773, 778 (5th Cir. 2000). *See* 52  
21 U.S.C. §10502(d).

22 114. “The regulations made by Congress are paramount to those made by the State  
23 legislature; and if they conflict therewith, the latter, so far as the conflict extends, ceases to be  
24 operative.” *Foster v. Love*, 522 U.S. 67, 69 (1997). *See* U.S. Const. art VI, cl. 2 (Supremacy Clause).

25 115. Section 20.2 of AB4 conflicts with 3 U.S.C. §1 by permitting absent ballots that  
26 have not been postmarked to be counted if they are received by 5:00 pm three days after Election  
27 Day (based on a presumption that those ballots were mailed on or before Election Day).

28 116. Absent ballots are mailed to the county clerk for the county in which the voter

1 resides.

2 117. Absent ballots are delivered by the U.S. Postal Service via First Class mail.

3 118. The estimated delivery time for First Class mail from one place in any Nevada  
4 county to another place within the same county is typically less than three days.

5 119. Section 20.2 of AB4 thus allows absent ballots to be cast after Election Day but still  
6 counted as lawfully cast votes in the 2020 general election.

7 120. Section 20.2 of AB4 is a particularly egregious violation of 3 U.S.C. §1 because it  
8 allows for absentee ballots to be *cast* after Election Day.

9 121. Federal law thus preempts Section 20.2 of AB4.

10 122. Defendant has acted and will continue to act under color of state law to violate the  
11 3 U.S.C. §1.

12 123. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable  
13 harm to their constitutional rights unless Defendant is enjoined from implementing and enforcing  
14 Section 20.2 of AB4.

## 15 **COUNT II**

### 16 **Violation of the Equal Protection Clause (42 U.S.C. §1983)**

17 124. Plaintiffs incorporate all their prior allegations.

18 125. “The right to vote is protected in more than the initial allocation of the franchise.  
19 Equal protection applies as well to the manner of its exercise. Having once granted the right to vote  
20 on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s  
21 vote over that of another. It must be remembered that the right of suffrage can be denied by a  
22 debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting  
the free exercise of the franchise.” *Bush v. Gore*, 531 U.S. 98, 104-05 (2000).

23 126. Sections 11 and 12 of AB4 violate the right to vote of rural voters by inhibiting their  
24 ability to vote in person. More specifically, Sections 11 and 12 of AB4 authorize disparate treatment  
25 of voters in rural counties with respect to the placement of polling places and vote centers for in-  
26 person voting.

27 127. Section 11 of AB4 outlines three categories of counties based upon total county  
28

1 population and directs the county clerk in each county to provide for a particular number of polling  
2 places for early voting by personal appearance.

3 a. In a county whose population is 700,000 or more, at least 35 polling places for early  
4 voting by personal appearance, which may be any combination of temporary or  
5 permanent polling places for early voting.

6 b. In a county whose population is 100,000 or more but less than 700,000, at least 15  
7 polling places for early voting by personal appearance, which may be any  
8 combination of temporary or permanent polling places for early voting.

9 c. In a county whose population is less than 100,000, at least 1 permanent polling place  
10 for early voting by personal appearance.

11 128. Section 12 of AB4 outlines three categories of counties based upon total county  
12 population and directs the county clerk in each county to establish a particular number of polling  
13 places as vote centers for the day of the election.

14 a. In a county whose population is 700,000 or more, [the county clerk] must establish  
15 at least 100 vote centers for the day of the election.

16 b. In a county whose population is 100,000 or more but less than 700,000, [the county  
17 clerk] must establish at least 25 vote centers for the day of the election.

18 c. In a county whose population is less than 100,000, [the county clerk] may establish  
19 one or more vote centers for the day of the election.

20 129. Sections 11 and 12 discriminate against voters in rural counties by authorizing more  
21 polling places and vote centers per capita in urban areas.

22 130. For example, data from the Secretary of State shows that there are 319,212  
23 registered voters in Washoe County. AB4 authorizes a minimum of 15 polling places in Washoe  
24 County, or at least 1 polling place for every 21,281 registered voters in Washoe County.

25 131. Several rural counties—where AB4 authorizes only 1 polling place each—have  
26 substantially higher numbers of registered voters per polling place. For example, Lyon County (1  
27 polling place per 40,816 registered voters) and Douglas County (1 polling place per 41,649  
28 registered voters) have approximately twice as many registered voters per polling place as Washoe



1 County. Several other rural counties have substantially higher numbers of registered voters per  
2 polling place than Washoe County: Carson City: 1 polling place per 37,624 registered voters; Elko  
3 County: 1 polling place per 29,131 registered voters; Nye County: 1 polling place per 34,431  
4 registered voters.

5 132. Similarly, AB4 authorizes a minimum of 25 vote centers in Washoe County, or at  
6 least 1 vote center for every 12,768 registered voters.

7 133. Several rural counties—where AB4 authorizes only 1 vote center each—have  
8 substantially higher numbers of people per vote center. For example, Lyon County: (1 vote center  
9 per 40,816 registered voters), Douglas County (1 vote center per 41,649 registered voters), and  
10 Carson City (1 vote center per 37,624 registered voters) all have approximately three times as many  
11 registered voters per vote center as Washoe County. Several other rural counties have substantially  
12 higher numbers of registered voters per vote center than Washoe County: Elko County: 1 vote  
13 center per 29,131 registered voters; Nye County: 1 vote center per 34,431 registered voters;  
14 Churchill County: 1 vote center per 15,987 registered voters.

15 134. By limiting their ability to cast ballots via in-person voting through reduced numbers  
16 of polling places and vote centers, Sections 11 and 12 of AB4 engage in disparate treatment with  
17 respect to rural voters.

18 135. “A citizen, a qualified voter, is no more nor no less so because he lives in the city or  
19 on the farm. This is the clear and strong command of our Constitution’s Equal Protection Clause.”  
20 *Reynolds v. Sims*, 377 U.S. 533, 568 (1964). AB4 infringes “the basic principle of equality among  
21 voters within a State ... that voters cannot be classified, constitutionally, on the basis of where they  
22 live.” *Id.* at 560.

23 136. Sections 11 and 12 of AB4 thus violate the Equal Protection Clause.

24 137. Defendant has acted and will continue to act under color of state law to violate the  
25 Equal Protection Clause of the Fourteenth Amendment.

26 138. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable  
27 harm to their constitutional rights unless Defendant is enjoined from implementing and enforcing  
28 Sections 11 and 12 of AB4.



**COUNT III**

**Violation of the Equal Protection Clause (42 U.S.C. §1983)**

1  
2 139. Plaintiffs incorporate all their prior allegations.

3 140. “The right to vote is protected in more than the initial allocation of the franchise.  
4 Equal protection applies as well to the manner of its exercise. Having once granted the right to vote  
5 on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote  
6 over that of another. It must be remembered that the right of suffrage can be denied by a debasement  
7 or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free  
8 exercise of the franchise.” *Bush v. Gore*, 531 U.S. 98, 104-05 (2000).

9 141. In particular, the Equal Protection Clause imposes a “minimum requirement for  
10 nonarbitrary treatment of voters” and forbids voting systems and practices that distribute election  
11 resources in “standardless” fashion, without “specific rules designed to ensure uniform treatment.”  
12 *Bush v. Gore*, 531 U.S. 98, 105-06 (2000); *League of Women Voters of Ohio v. Brunner*, 548 F.3d  
13 463, 477-78 (6th Cir. 2008).

14 142. The Supreme Court has instructed that the “formulation of uniform rules” is  
15 “necessary” because the “want of” such rules may lead to “unequal evaluation of ballots.” *Bush v.*  
16 *Gore*, 531 U.S. 98, 106 (2000).

17 143. Section 22 of AB4 requires each “county or city clerk” (as applicable) to “establish  
18 procedures for the processing and counting of mail ballots.”

19 144. Section 22 of AB4 provides no guidance or guardrails of any kind for the  
20 establishment of “procedures for the processing and counting of mail ballots.”

21 145. Section 22 thus violates the “minimum requirement for nonarbitrary treatment of  
22 voters” by authorizing “standardless” procedures for the processing and counting of mail ballots,  
23 without “specific rules designed to ensure uniform treatment.” *Bush v. Gore*, 531 U.S. 98, 105-06  
24 (2000).

25 146. Further, Section 22 provides no “minimal procedural safeguards” to protect against  
26 the “unequal evaluation” of mail ballots. *Bush v. Gore*, 531 U.S. 98, 109 (2000).

27 147. Section 22 of AB4 instructs each county or city clerk that they “may authorize mail  
28

1 ballots to be processed and counted by electronic means.”

2 148. Nevada’s counties thus have the option of processing and counting mail ballots by  
3 either electronic means (of any kind, apparently) or manually.

4 149. Section 22 thus expressly authorizes Nevada’s counties to “use[] varying standards  
5 to determine what [i]s a legal vote,” contrary to the Equal Protection Clause. *Bush v. Gore*, 531  
6 U.S. 98, 107 (2000).

7 150. Section 22 of AB4 thus violates the Equal Protection Clause.

8 151. Defendant has acted and will continue to act under color of state law to violate the  
9 Equal Protection Clause of the Fourteenth Amendment.

10 152. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable  
11 harm to their constitutional rights unless Defendant is enjoined from implementing and enforcing  
12 Section 22 of AB4.

13 **COUNT IV**  
14 **Violation of the Equal Protection Clause (42 U.S.C. §1983)**

15 153. Plaintiffs incorporate all their prior allegations.

16 154. “The right to vote is protected in more than the initial allocation of the franchise.  
17 Equal protection applies as well to the manner of its exercise. Having once granted the right to vote  
18 on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote  
19 over that of another. It must be remembered that the right of suffrage can be denied by a debasement  
20 or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free  
21 exercise of the franchise.” *Bush v. Gore*, 531 U.S. 98, 104-05 (2000).

22 155. In particular, the Equal Protection Clause imposes a “minimum requirement for  
23 nonarbitrary treatment of voters” and forbids voting systems and practices that distribute election  
24 resources in “standardless” fashion, without “specific rules designed to ensure uniform treatment.”  
25 *Bush v. Gore*, 531 U.S. 98, 105-06 (2000); *League of Women Voters of Ohio v. Brunner*, 548 F.3d  
26 463, 477-78 (6th Cir. 2008).

27 156. The Supreme Court has instructed that the “formulation of uniform rules” is  
28 “necessary” because the “want of” such rules may lead to “unequal evaluation of ballots.” *Bush v.*

1 *Gore*, 531 U.S. 98, 106 (2000).

2 157. Section 25 of AB4 provides that “[i]f two or more mail ballots are found folded  
3 together to present the appearance of a single envelope,” and “a majority of the inspectors are of  
4 the opinion that the mail ballots folded together were voted by one person, the mail ballots must be  
5 rejected.” §25.2.

6 158. Section 25 provides no guidance or guardrails of any kind for the establishment of  
7 standards “a majority of inspectors” should apply to determine whether “the mail ballots folded  
8 together were voted by one person.”

9 159. Section 25 thus violates the “minimum requirement for nonarbitrary treatment of  
10 voters” by authorizing “standardless” procedures for determining the validity of multiple ballots  
11 within a single envelope, without “specific rules designed to ensure uniform treatment.” *Bush v.*  
12 *Gore*, 531 U.S. 98, 105-06 (2000).

13 160. Further, Section 25 provides no “minimal procedural safeguards” to protect against  
14 the “unequal evaluation” of multiple ballots within a single envelope. *Bush v. Gore*, 531 U.S. 98,  
15 109 (2000).

16 161. Section 25 thus will result in Nevada’s counties “us[ing] varying standards to  
17 determine what [i]s a legal vote,” contrary to the Equal Protection Clause. *Bush v. Gore*, 531 U.S.  
18 98, 107 (2000).

19 162. Section 25 of AB4 thus violates the Equal Protection Clause.

20 163. Defendant has acted and will continue to act under color of state law to violate the  
21 Equal Protection Clause of the Fourteenth Amendment.

22 164. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable  
23 harm to their constitutional rights unless Defendant is enjoined from implementing and enforcing  
24 Section 25 of AB4.

25 **COUNT V**  
26 **Violation of the Right to Vote (42 U.S.C. §1983)**

27 165. Plaintiffs incorporate all their prior allegations.

28 166. AB4, which upends Nevada’s election laws and requires massive changes in

1 election procedures and processes, makes voter fraud and other ineligible voting inevitable.

2 167. AB4 requires counties to accept and count ballots received after Election Day—  
3 including ballots that may have been mailed after Election Day. §§20.1(b)(2), 20.2. It establishes a  
4 disparate number of in-person places for early voting and Election Day voting throughout Nevada  
5 based on a county's population, resulting in fewer in-person voting places for rural voters. §§11,  
6 12. It fails to establish uniform statewide standards for processing and counting ballots, §22, or for  
7 determining whether multiple ballots received in one envelope must be rejected, §25. It also  
8 authorizes ballot harvesting. §21.

9 168. The combined effect of those problematic provisions is to dilute Nevadans' honest  
10 votes. Dilution of honest votes, to any degree, by the casting of fraudulent or illegitimate votes  
11 violates the right to vote. *Reynolds*, 377 U.S. at 555; *Anderson*, 417 U.S. at 226-27; *Baker*, 369  
12 U.S. at 208.

13 169. The aspects of AB4 identified above facilitate fraud and other illegitimate voting  
14 practices for the reasons described above. Those provisions thus dilute the value of honest, lawful  
15 votes and therefore violate the Fourteenth Amendment to the U.S. Constitution.

16 170. Defendant has acted and will continue to act under color of state law to violate the  
17 Fourteenth Amendment.

18 171. Plaintiffs have no adequate remedy at law and will suffer serious and irreparable  
19 harm to their constitutional rights unless Defendant is enjoined from implementing and enforcing  
20 AB4.

21 **WHEREFORE**, Plaintiffs ask this Court to enter judgment in their favor and provide the  
22 following relief:

- 23 a. A declaratory judgment that AB4 violates 2 U.S.C. §1, 7 and 3 U.S.C. §1, the Elections  
24 Clause, the Electors Clause, the Supremacy Clause, and the Fourteenth Amendment.
- 25 b. A permanent injunction prohibiting Defendant from implementing and enforcing AB4;
- 26 c. A temporary restraining order and preliminary injunction granting the relief specified  
27 above during the pendency of this action;
- 28 d. Plaintiffs' reasonable costs and expenses, including attorneys' fees; and

1 e. All other preliminary and permanent relief that Plaintiffs are entitled to, and that the Court  
2 deems just and proper.

3  
4 Dated: August 20, 2020

Respectfully submitted,

5 /s/ J. Colby Williams

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of August, 2020 a true and correct copy of the foregoing Amended Complaint for Declaratory and Injunctive Relief was served via the United States District Court’s CM/ECF system on all parties or persons requiring such notice.

By: /s/ J. Colby Williams  
An employee of Campbell & Williams