

1 MARC E. ELIAS, ESQ. (D.C. Bar No. 442007) (*pro hac vice*)
HENRY J. BREWSTER, ESQ. (D.C. Bar No. 1033410) (*pro hac vice*)
2 COURTNEY A. ELGART, ESQ. (D.C. Bar No. 1645065) (*pro hac vice*)

3 **PERKINS COIE LLP**
700 Thirteenth St. NW, Suite 800
4 Washington, D.C. 20005-3960
Tel: (202) 654-6200
5 melias@perkinscoie.com
hbrewster@perkinscoie.com
6 celgart@perkinscoie.com

7 ABHA KHANNA, ESQ. (Wash. Bar No. 42612) (*pro hac vice*)
8 JONATHAN P. HAWLEY, ESQ. (Cal. Bar. No. 319464) (*pro hac vice*)

9 **PERKINS COIE LLP**
1201 Third Avenue, Suite 4900
Seattle, Washington 98101-3099
10 Tel: (206) 359-8000
akhanna@perkinscoie.com
11 jhawley@perkinscoie.com

12 BRADLEY SCHRAGER, ESQ. (SBN 10217)
13 DANIEL BRAVO, ESQ. (SBN 13078)

14 **WOLF, RIFKIN, SHAPIRO,**
SCHULMAN & RABKIN, LLP
3556 E. Russell Road, Second Floor
15 Las Vegas, Nevada 89120
16 Tel: (702) 341-5200
bschrager@wrslawyers.com
17 dbravo@wrslawyers.com

18 *Attorneys for Plaintiffs Daniel Corona, Darin*
19 *Mains, Brian Melendez, Teresa Melendez,*
Omar Abdul-Rahim, Dale Ault, Lynn John,
20 *Genea Roberson, Lorenzita Santos, Nevada*
State Democratic Party, DNC Services
21 *Corporation/Democratic National Committee,*
22 *DCCC, Priorities USA, and The Native*
23 *American Caucus of the Nevada State*
Democratic Party

24
25 **FIRST JUDICIAL DISTRICT COURT**
IN AND FOR CARSON CITY, STATE OF NEVADA

26 DANIEL CORONA, DARIN MAINS, BRIAN | Case No. 20 OC 00064 1B
27 MELENDEZ, TERESA MELENDEZ, OMAR |
ABDUL-RAHIM, DALE AULT, LYNN | Dept. No.: II

1 JOHN, GENE ROBERSON, LORENZITA
2 SANTOS, NEVADA STATE DEMOCRATIC
3 PARTY, DNC SERVICES
4 CORPORATION/DEMOCRATIC
5 NATIONAL COMMITTEE, DCCC,
6 PRIORITIES USA, and THE NATIVE
7 AMERICAN CAUCUS OF THE NEVADA
8 STATE DEMOCRATIC PARTY,

9 Plaintiffs,

10 vs.

11 BARBARA CEGAVSKE, in her official
12 capacity as Nevada Secretary of State, JOSEPH
13 GLORIA, in his official capacity as Registrar
14 of Voters for Clark County, Nevada, DEANNA
15 SPIKULA, in her official capacity as Registrar
16 of Voters for Washoe County, Nevada,
17 KRISTINE JAKEMAN, in her official capacity
18 as the Elko County Clerk, and AARON FORD,
19 in his official capacity as the Attorney General
20 of the State of Nevada,

21 Defendants,

22 and

23 REPUBLICAN NATIONAL COMMITTEE
24 and NEVADA REPUBLICAN PARTY,

25 Intervenor-Defendants.
26
27
28

**AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF UNDER NEVADA REVISED
STATUTES 33.010 AND 33.030**

Plaintiffs Daniel Corona, Darin Mains, Brian Melendez, Teresa Melendez, Omar Abdul-
Rahim, Dale Ault, Lynn John, Genea Roberson, Lorenzita Santos, Nevada State Democratic
Party, DNC Services Corporation/Democratic National Committee, DCCC, Priorities USA, and
The Native American Caucus of the Nevada State Democratic Party file this Complaint for
declaratory and injunctive relief against Defendants Barbara Cegavske, in her official capacity as
the Nevada Secretary of State; Joseph Gloria, in his official capacity as the Clark County
Registrar of Voters; Deanna Spikula, in her official capacity as the Washoe County Registrar of
Voters; Kristine Jakeman, in her official capacity as the Elko County Clerk; and Aaron Ford, in

1 his official capacity as the Nevada Attorney General. This Complaint is based on the facts and
2 allegations below. Plaintiffs allege as follows:

3 **INTRODUCTION**

4 1. More Americans are voting by mail than ever before. This was true prior to the
5 coronavirus pandemic—for example, nearly one-quarter of all voters cast a mail ballot in the
6 2016 presidential election—and is even more so in the midst of it. The current public health
7 crisis has accelerated the importance of and reliance on vote by mail. Recent surveys indicate
8 that four in five Americans want the option to vote by mail in the November 3, 2020 general
9 election (the “November Election”). And Nevada’s election officials have indicated that 98
10 percent of voters voted by mail in the June 9, 2020 primary election (the “June Primary”). While
11 voting by mail is a crucial feature of the voting process, certain aspects of Nevada law
12 unnecessarily heighten the risk of disenfranchisement for those who cast mail ballots. This
13 lawsuit focuses on two especially problematic features of the vote by mail process in Nevada: the
14 Voter Assistance Ban and the Ballot Rejection Rules.

15 2. The Voter Assistance Ban, codified at Nevada Revised Statutes (“N.R.S.”)
16 293.330(4) and 293.353(4), criminalizes efforts by third parties to assist Nevada voters in
17 returning absent and mailing ballots (together, “mail ballots”). The obstacles imposed by voter
18 assistance bans have recently led several courts to strike down or enjoin similar laws. *See, e.g.,*
19 *Democratic Nat’l Comm. v. Hobbs*, 948 F.3d 989, 1032–38 (9th Cir. 2020) (en banc) (Arizona’s
20 voter assistance ban “imposes a disparate burden on American Indian, Hispanic, and African
21 American citizens”); *Driscoll v. Stapleton*, No. DV 20-408 (Mont. Dist. Ct. May 22, 2020)
22 (granting preliminary injunction against Montana’s voter assistance ban because it poses an
23 undue burden on voters who are Native American, elderly, disabled, poor, parents working low-
24 wage jobs, college students, and first-time voters); *W. Native Voice v. Stapleton*, No. DV-2020-
25 377 (Mont. Dist. Ct. May 20, 2020) (granting temporary restraining order because Montana’s
26 voter assistance ban burdens Native American voters living on rural reservations).

1 3. Nevada’s Voter Assistance Ban does not just burden voters for whom it is
2 impractical or impossible to access a polling location or post office; it also burdens the speech
3 and associational rights of organizations like Plaintiffs Nevada State Democratic Party, DNC
4 Services Corporation/Democratic National Committee, DCCC, Priorities USA, and The Native
5 American Caucus of the Nevada State Democratic Party. Courts across the country have held
6 that laws that hinder political discussion by restricting the conduct that goes hand-in-hand with
7 those discussions violate the First Amendment. *See, e.g., Buckley v. Am. Constitutional Law*
8 *Found.*, 525 U.S. 182, 186–87 (1999); *Meyer v. Grant*, 486 U.S. 414, 421–22 (1988); *Priorities*
9 *USA v. Nessel*, No. 19-13341, 2020 WL 2615766, at *11, *13 (E.D. Mich. May 22, 2020);
10 *League of Women Voters v. Hargett*, 400 F. Supp. 3d 706, 723–24 (M.D. Tenn. 2019). By
11 banning efforts to assist voters with mail voting, the Voter Assistance Ban burdens Plaintiffs’
12 ability to engage in protected speech.

13 4. Even in ordinary times, the Ban is constitutionally problematic. Under the current
14 circumstances—with a global pandemic necessitating significant expansion of vote by mail—it
15 cannot possibly survive judicial scrutiny. If left in place, the Ban will effectively disenfranchise
16 countless Nevada voters, including voters with limited mobility and voters who live in
17 communities where accessing the mail system is difficult. These voters will be forced to put
18 themselves and others at risk to personally ensure that their ballots reach election officials in
19 time to be counted.

20 5. Voters who successfully return their ballot still risk arbitrary disenfranchisement
21 under Nevada’s Ballot Rejection Rules, codified at N.R.S. 293.325 and 293.333. These Rules
22 require county election officials to evaluate ballot return envelopes to determine if the envelopes
23 were signed by the proper voters. If an envelope is not signed, or if county election officials
24 determine that there is a “reasonable question of fact” whether the signature belongs to the voter,
25 then the ballot is rejected subject to a potential cure opportunity. In the June Primary, over a
26 thousand voters had their ballots rejected. For voters like Plaintiffs Ault, Roberson, and Santos,
27 who were unable to cure their signatures, the result is disenfranchisement.

1 11. Venue in this district is proper pursuant to N.R.S. 13.020(2) and 13.040, as the
2 suit is against public officers for acts done in their official capacities and by virtue of their
3 offices, and some part of the asserted claims arose in Carson City. Defendants Cegavske and
4 Ford are public officers whose offices are required to be kept in Carson City, and the claims
5 arose from coordinated action taken between Defendants Cegavske, Gloria, Spikula, and
6 Jakeman.

7 **PARTIES**

8 12. Plaintiff Daniel Corona is a duly registered Nevada voter and resident of Elko
9 County. Mr. Corona currently serves as the mayor of West Wendover, Nevada and is on the
10 ballot as a candidate for reelection to that post in the November Election.

11 13. Plaintiff Darin Mains is a duly registered Nevada voter currently enrolled as a
12 student at the University of Nevada, Las Vegas. He resides and is registered to vote in Clark
13 County.

14 14. Plaintiffs Brian and Teresa Melendez are duly registered Nevada voters. They are
15 members of the Reno-Sparks Indian Colony and founding members of an organization that
16 promotes the participation of Nevada's Native populations in the electoral process. Mr.
17 Melendez serves as chair of The Native American Caucus of the Nevada State Democratic Party,
18 with Ms. Melendez serving as vice chair. They reside and are registered to vote in Washoe
19 County.

20 15. Plaintiff Omar Abdul-Rahim is a duly registered voter and resident of Washoe
21 County. Mr. Abdul-Rahim is 22 years old and registered to vote in Nevada shortly after moving
22 to the State in August 2019. He lives with two roommates to whom he is not related in a remote
23 development near Lake Tahoe. Although he participated in the February 2020 Democratic
24 caucuses, Mr. Abdul-Rahim's voting status was incorrectly switched to inactive, even though he
25 had not moved from the address at which he registered. As a result, he did not automatically
26 receive a ballot in the mail from the Washoe County Registrar for the June Primary. After he
27 called the registrar to correct the error in his registration, Mr. Abdul-Rahim received his mail
28

1 ballot on or about June 6, just days prior to the postmark deadline. Mr. Abdul-Rahim voted his
2 ballot and dropped it in the community mailboxes in his development on June 8. Because the
3 U.S. Postal Service only sporadically picks up the mail in these community mailboxes, Mr.
4 Abdul-Rahim's ballot was not postmarked by June 9, and his vote was not counted in the June
5 Primary. Having been disenfranchised in the June Primary by this error in mail service in his
6 community, Mr. Abdul-Rahim and his roommate would, if permitted by law, assist each other in
7 returning their ballots to the post office.

8 16. Plaintiff Dale Ault is a duly registered Nevada voter and resident of Clark County.
9 Mr. Ault is 75 years old and has severe arthritis. Mr. Ault cast a mail ballot in the June Primary
10 and signed his name on the ballot return envelope. Mr. Ault's ballot for the June Primary was
11 rejected under the Ballot Rejection Rules.

12 17. Plaintiff Lynn John is a duly registered voter and a resident of the Duck Valley
13 Indian Reservation located in northern Elko County. The Duck Valley Reservation is the most
14 remote reservation in the continental United States as measured by distance to an interstate
15 highway and is located more than 100 miles from the county seat in Elko City. Ms. John's home
16 does not have a traditional street address, and she must rely on mail service from the
17 reservation's lone post office. This post office is only open to postmark ballots from 9am to
18 3:30pm on weekdays, times when Ms. John is working, and she understands its hours will be
19 further cut in the near future because of budget issues. To date, the Elko County Clerk has not
20 provided an in-person polling location on the Duck Valley Reservation. Despite being an active
21 Nevada voter, Ms. John did not receive a mail ballot for the June Primary and was unable to
22 vote. If permitted by law, Ms. John would participate in ballot collection drives on the Duck
23 Valley Reservation so that her community's ballots would be postmarked by the appropriate
24 deadline.

25 18. Plaintiff Genea Roberson is a duly registered Nevada voter and resident of Clark
26 County. She has been a regular voter in Nevada since the age of 18. Ms. Roberson cast a mail
27 ballot in the June Primary and signed her name on the ballot return envelope. Ms. Roberson
28

1 learned from Plaintiff Nevada State Democratic Party that her ballot was rejected because Clark
2 County election officials determined that her signature did not match the exemplar in her voter
3 file. Ms. Roberson was not, to the best of her knowledge, contacted by the Clark County
4 Registrar’s office. Ms. Roberson was in California at the time she learned of her signature
5 mismatch and was unable to cure her ballot in time when she returned home to Nevada. Ms.
6 Roberson’s vote in the June Primary was not counted.

7 19. Plaintiff Lorenzita Santos is a duly registered Nevada voter and resident of
8 Washoe County. Ms. Santos is currently a student at the University of Nevada, Reno. She cast a
9 mail ballot in the June Primary and signed her name on the ballot return envelope. Ms. Santos
10 was informed by Plaintiff Nevada State Democratic Party that that her ballot was rejected
11 because Washoe County election officials determined that her signature did not match the
12 exemplar in her voter file. She contacted the Washoe County Registrar’s office, which informed
13 her that she needed to cure her ballot in person. Ms. Santos does not have a car and was
14 uncomfortable taking public transportation in light of the current COVID-19 pandemic. She was
15 therefore unable to cure her ballot in person and her vote in the June Primary was not counted.

16 20. Plaintiff Nevada State Democratic Party (“NSDP” or the “Party”) is the official
17 state party committee for the Democratic Party for the State of Nevada, and it sues on its own
18 behalf and on behalf of its member candidates and voters. The Party’s mission is to elect
19 Democratic candidates to elected positions across Nevada, up and down the ticket. The Party
20 represents a diverse group of Democrats, including elected officials, candidates for elected
21 office, state committee members, advisory caucuses, affiliate groups, grassroots activists, and
22 voters. The challenged laws and policies threaten to deprive individual members of the right to
23 vote and to have their votes counted; threaten the electoral prospects of the Party’s candidates,
24 whose supporters will face greater obstacles casting a vote and having their votes counted; and
25 make it more difficult for the Party and its members to associate to effectively further their
26 shared political purposes. In particular, the challenged laws burden the voting ability of Native
27 Americans, a core constituency of the Party, whose mobilization has played a pivotal role in
28

1 close elections across the West. The Party and its individual members regularly engage in voter
2 assistance programs and intend to do so during the November Election as well. But for the Voter
3 Assistance Ban’s criminalization of such efforts, these programs would, but do not currently,
4 include returning mail ballots for those electors for whom it is difficult or impossible to
5 participate without assistance. The criminalization of that activity effectively forecloses an
6 additional opportunity for the Party to engage in one-on-one communication with voters about
7 the importance of voting and further undermines the Party’s ability to effectively associate with
8 its members and constituents. Not only does the Voter Assistance Ban prohibit activities in
9 which the Party would otherwise engage, it also requires the Party to expend time and financial
10 resources to educate employees, volunteers, and partners on what is and is not allowed under the
11 law, and to lobby for and facilitate alternative methods for voters to cast ballots. The Party also
12 expended significant resources after the June Primary—in both time and money—to help
13 through the cure process those Nevada voters whose ballots were rejected due to signature
14 issues, to ensure that their ballots would be counted. The Party will engage in such efforts again
15 around the November Election.

16 21. Plaintiff DNC Services Corporation/Democratic National Committee (the
17 “DNC”) is the national committee of the Democratic Party, as defined by 52 U.S.C. § 30101(14),
18 and its mission is to elect local, state, and national candidates of the Democratic Party to public
19 office throughout the United States, including Nevada. The DNC works to accomplish its
20 mission by, among other things, making expenditures for, and contributions to, Democratic
21 candidates (at all levels) and assisting state parties throughout the country, including in Nevada.
22 The laws and policies at issue in this case directly harm the DNC by frustrating its mission of,
23 and efforts in, electing Democratic candidates in Nevada, whose supporters will face greater
24 obstacles casting votes and having their votes counted.

25 22. Plaintiff DCCC is the national congressional committee of the Democratic Party
26 as defined by 52 U.S.C. § 30101(14). Its mission is to elect Democrats to Congress, including to
27 Nevada’s four congressional seats. The DCCC works to accomplish its mission by, among other
28

1 things, making expenditures for, and contributions to, Democratic candidates for U.S. Congress
2 and assisting state parties throughout the country, including in Nevada. In 2018, the DCCC made
3 contributions and expenditures in the tens of millions of dollars nationwide to persuade and
4 mobilize voters to support Democratic congressional candidates, including in Nevada. The same
5 will be true in the November Election. These efforts would include returning mail ballots at the
6 request of voters if permitted under Nevada law. The laws and policies at issue in this case
7 directly harm the DCCC by frustrating its mission of electing Democratic candidates and turning
8 out Democratic voters who will face greater obstacles casting votes and having their votes
9 counted.

10 23. Plaintiff Priorities USA is a 501(c)(4) nonprofit, voter-centric progressive
11 advocacy and service organization. Priorities USA’s mission is to build a permanent
12 infrastructure to engage Americans by persuading and mobilizing citizens around issues and
13 elections that affect their lives. In furtherance of this purpose, Priorities USA expends time,
14 money, and resources to help educate, mobilize, and turn out voters across the country, including
15 in the upcoming state and federal elections in Nevada. The laws and policies at issue in this case
16 frustrate its mission of turning out voters and will require Priorities USA to divert resources from
17 other states to Nevada in order to overcome these obstacles.

18 24. Plaintiff The Native American Caucus of the Nevada State Democratic Party (the
19 “Caucus”) has a mission to “maintain an inclusive Native American Indian presence in the
20 [Democratic] party and to support the party candidates for Democratic leadership throughout the
21 State and Nation.” In furtherance of these goals, the Caucus holds workshops and other programs
22 to educate interested individuals and maintains “a relationship with the State Party and assist[s]
23 in disseminating party information to our Members.” Membership in the Caucus is limited to
24 Native American Indians who are registered Democrats or those “with an interest in developing a
25 broader understanding of issues that affect Tribal communities, inclusion in the educational
26 process of how the political system works, exchanging cultural education, political training,
27 voter outreach and participation of the Indian Nations in the Democratic Party and who support
28

1 the mission of this Caucus.” If permitted by law, the Caucus would organize ballot collection
2 drives in tribal communities in Nevada and help its own members who lack reliable access to
3 mail return their ballots before the postmark deadline.

4 25. Defendant Barbara Cegavske (“Secretary Cegavske”) is the Nevada Secretary of
5 State and is named as a Defendant in her official capacity. Secretary Cegavske is the Chief
6 Officer of Elections for the State of Nevada. *See* N.R.S. 293.124. Her responsibilities include,
7 but are not limited to, execution and enforcement of all provisions of state and federal law
8 relating to elections, and adoption of such regulations as necessary to carry out the provisions of
9 the State’s election code, including the processing of mail ballots and the Ballot Rejection Rules.
10 N.R.S. 293.247. She also oversees a statewide complaint system that allows members of the
11 public to report potential violations of the Voter Assistance Ban and other election laws. *See*
12 *Report Potential Election Law Violation in Nevada*, Nev. Sec’y of State,
13 [https://www.nvsos.gov/sos/elections/election-information/resources/report-potential-election-](https://www.nvsos.gov/sos/elections/election-information/resources/report-potential-election-law-violation)
14 [law-violation](https://www.nvsos.gov/sos/elections/election-information/resources/report-potential-election-law-violation) (last visited June 18, 2020).

15 26. Defendant Joseph Gloria is the Clark County Registrar of Voters and is named as
16 a Defendant in his official capacity. He is responsible for implementing Nevada’s election laws
17 within Clark County, and his responsibilities include, but are not limited to, overseeing the
18 election board, sending and receiving mail ballots, and implementing the Ballot Rejection Rules.
19 *See, e.g.*, N.R.S. 293.213, 293.218, 293.323, 293.325, 293.343, 293.345, 293.2733, 293.3564.¹

20 27. Defendant Deanna Spikula is the Washoe County Registrar of Voters and is
21 named as a Defendant in her official capacity. She is responsible for implementing Nevada’s
22 election laws, and her responsibilities include, but are not limited to, overseeing the election

23 _____
24 ¹ Pursuant to Clark County Code of Ordinances § 2.20.040, “[t]he registrar of voters appointed
25 pursuant to the provisions of this chapter shall assume all of the powers and duties heretofore
26 vested in, and imposed upon, the county clerk of Clark County, with respect to elections, except
27 the duties prescribed by NRS 293.393, relating to the preparation and delivery of certificates of
28 election.”

1 board, sending and receiving mail ballots, and implementing the Ballot Rejection Rules. *See,*
2 *e.g.,* N.R.S. 293.213, 293.218, 293.325, 293.343, 293.345, 293.2733, 293.3564.²

3 28. Defendant Kristine Jakeman is the Clerk of Elko County and is named as a
4 Defendant in her official capacity. She is responsible for implementing Nevada’s election laws,
5 and her responsibilities include, but are not limited to, overseeing the election board, sending and
6 receiving mail ballots, and implementing the Ballot Rejection Rules. *See, e.g.,* N.R.S. 293.213,
7 293.218, 293.325, 293.343, 293.345, 293.2733, 293.3564.

8 29. Defendant Aaron Ford serves as the Nevada Attorney General (the “Attorney
9 General”) and is named as a Defendant in his official capacity. As Nevada’s chief law
10 enforcement officer, the Attorney General is responsible for enforcing the Voter Assistance Ban,
11 including by prosecuting individuals and organizations under N.R.S. 293.330 and 293.353 for
12 returning the ballots of voters other than their immediate family members. *See* N.R.S. 228.120.
13 The Attorney General also holds supervisory powers over Nevada’s district attorneys. *Id.*

14 **FACTUAL ALLEGATIONS**

15 **I. The Voter Assistance Ban**

16 30. Nevada is one of 19 states with strict limits on ballot collection by third parties
17 (i.e., persons not related to the voter).

18 31. Recently, several courts have recognized that laws restricting ballot collection by
19 third parties, including those in Arizona and Montana, impose impermissible barriers on voting,
20 burden First Amendment rights, or both. *See, e.g., Democratic Nat’l Comm.,* 948 F.3d at 1032–
21 38; *Driscoll, supra; W. Native Voice, supra; Priorities USA,* 2020 WL 2651766, at *10–14.

24
25 ² Pursuant to Washoe County Code § 5.451, “[t]he registrar of voters shall assume all of the
26 powers and duties vested in and imposed upon the county clerk with respect to elections, except
27 the duties prescribed by N.R.S. 293.393, relating to the preparation and delivery of certificates of
28 election.”

1 32. A voter may return a mail ballot by (1) mailing it to the county clerk through the
2 U.S. Postal Service on or before election day or (2) hand delivering it to county election officials
3 on or before election day. See N.R.S. 293.317 (absent ballots), 293.353 (mailing ballots).

4 33. Voters who need help with mailing or delivering their ballots have extremely
5 limited options because of Nevada’s Voter Assistance Ban. Only a member of a voter’s family
6 may assist with returning a ballot to election officials. See N.R.S. 293.330(4) (absent ballots),
7 293.353(4) (mailing ballots). Any other person who assists a voter is guilty of a category E
8 felony punishable by a prison term of up to four years and a fine of \$5,000. See N.R.S.
9 193.130(2)(e).

10 34. On information and belief, at least one county (Washoe County) has relied on this
11 law to require any individual dropping off three or more ballots to certify that those ballots
12 belong to family members.

13 **A. The Voter Assistance Ban burdens the right to vote.**

14 35. The Voter Assistance Ban erects a barrier to voting that, for some, is
15 insurmountable.

16 36. Laws like the Voter Assistance Ban have been flagged by the Native American
17 Voting Rights Coalition (“NAVRC”) as a significant impediment to voting for Native American
18 voters living on tribal lands.

19 37. The U.S. Postal Service is ill-equipped to facilitate voting for voters living in rural
20 areas, especially on tribal lands.

21 38. Many reservations, including the Walker River Reservation and the Pyramid Lake
22 Reservation, do not have postal service at all, and many homes on tribal lands have
23 nontraditional addresses.

24 39. Voters who live on reservations that are not served by the U.S. Postal Service do
25 not receive mail service at home. Instead, they must travel, often long distances, to obtain their
26 mail from post office boxes.

1 40. Post office coverage on or near reservations in Nevada is often sparse. For
2 example, the Pyramid Lake Reservation is 742 square miles and has a *single post office* in Nixon.
3 That post office is only open from 1:30 pm to 3:30 pm during the work week and does not offer
4 weekend or after-work hours. Similarly, the Duck Valley Reservation is 450 square miles and the
5 Walker River Reservation is 507 square miles—and voters living on both reservations must
6 travel to a single post office.

7 41. Voters also cannot easily travel to non-tribal population centers to take advantage
8 of voting resources.

9 42. Tribal lands in Nevada, and across the country, are often geographically isolated
10 and located long distances from non-tribal populations. For example, the Pyramid Lake
11 Reservation must travel up to 100 miles roundtrip to get to Reno. And voters living on the
12 Walker River Reservation in Mineral County must travel 70 miles to reach the county seat,
13 Schurz.

14 43. Travel times between reservations and Nevada’s metro centers are complicated
15 not only by distance but also by rugged terrain and poor roads. Nevada has approximately 150
16 mountain ranges running north and south, increasing travel times for voters who must travel
17 around mountains to reach non-native population centers where voting resources are located.

18 44. Voting, therefore, carries significant time and resource costs for many Native
19 American voters living on tribal lands. But these voters are among the least able to absorb added
20 costs. Unemployment and poverty are markedly higher on some reservations. For example,
21 NAVRC found that the poverty rate on reservations in northern Nevada, including on the Duck
22 Valley, Yerington, Pyramid Lake, and Walker River Reservations, was twice that of the national
23 average.

24 45. Significant numbers of residents on Nevada’s rural reservations do not have
25 private transportation, or must share a car with other family members. Indeed, Native American
26 voters surveyed by NAVRC cited travel times as a significant obstacle to voting.

27
28

1 46. Ballot collection would fill this gap if permitted in Nevada because it would allow
2 Native American voters to pool resources, and for Native American voters to rely on community
3 members with whom they have longstanding relationships of trust.

4 47. In Montana, similarly situated Native American voters living on rural reservations
5 relied heavily on ballot collection to vote before it was outlawed in 2018. The resulting burden
6 on Native American voters has led two different judges to enjoin enforcement of Montana’s
7 voter assistance ban. *See Driscoll, supra; W. Native Voice, supra.*

8 48. Native American voters are not the only voters affected by the Voter Assistance
9 Ban. These same obstacles—limited mail service, bad roads, and long distances—affect rural
10 voters across Nevada.

11 49. Voters who are disabled, elderly, or college students, or who work hourly jobs,
12 are also burdened by the Ban. *See Driscoll, supra.* In states where ballot collection is legal, it has
13 played a critical role in assisting individuals in these demographics with voting.

14 50. The Voter Assistance Ban is particularly problematic given the ongoing public
15 health crisis. For example, seniors in assisted living facilities might require assistance returning
16 their ballots. But as the coronavirus outbreak continues to impact such facilities, it will become
17 more difficult for family members to visit and assist with collecting and delivering mail ballots.
18 And because the Ban only allows family members to provide assistance, any elderly voters
19 without access to family support will be effectively disenfranchised.

20 **B. The Voter Assistance Ban burdens speech and associational rights.**

21 51. The Voter Assistance Ban not only makes it more difficult for voters to cast
22 ballots, but it also prevents groups and individuals—including Plaintiffs NSDP, DNC, DCCC,
23 Priorities USA, and the Caucus (the “Organizational Plaintiffs”) as well as Plaintiffs John and
24 Abdul-Rahim—from encouraging and helping voters to participate in the political process.

25 52. It is routine for political parties, candidates for public office, and advocacy
26 organizations like the Organizational Plaintiffs to educate voters about their options to vote
27
28

1 absentee; encourage voters to engage in the voting process, including through the use of absentee
2 voting; and offer assistance to voters with absentee voting.

3 53. These activities lie at the very core of voter mobilization and effective organizing.
4 And for good reason: mail voting is a traditional and effective means to increase voter
5 participation, and thereby increase political power within a given community, because it removes
6 significant hurdles that in-person voting on election day poses to many people.

7 54. Critically, these organizing activities involve one-on-one contacts with voters in
8 which the parties are necessarily engaged in communications that are subject to the First
9 Amendment’s core protections, including communications to voters about why voting is so
10 important.

11 **II. The Ballot Rejection Rules**

12 55. Courts across the country have struck down ballot rejection laws like Nevada’s
13 because similar signature matching procedures are fraught with serious reliability issues, even
14 for highly trained experts with substantial resources and multiple samples of contemporaneous
15 signatures by the subject voter. *See, e.g., Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312,
16 1320 (11th Cir. 2019) (“[E]ven if election officials uniformly and expertly judged signatures,
17 rightful ballots still would be rejected just because of the inherent nature of signatures.”);
18 *Saucedo v. Gardner*, 335 F. Supp. 3d 202, 206 (D.N.H. 2018) (“As will become evident, this
19 signature-matching process is fundamentally flawed.”); *Martin v. Kemp*, 341 F. Supp. 3d 1326,
20 1339–40 (N.D. Ga. 2018) (enjoining signature match scheme because it violated due process
21 guarantees); *Fla. Democratic Party v. Detzner*, No. 4:16cv607-MW/CAS, 2016 WL 6090943, at
22 *7 (N.D. Fla. Oct. 16, 2016) (ballot rejection rules “ha[ve] categorically disenfranchised
23 thousands of voters arguably for no reason other than they have poor handwriting or their
24 handwriting has changed over time”); *LULAC v. Pate*, No. CVCV056403, 2019 WL 6358335, at
25 *15–17 (Iowa Dist. Ct. Sept. 30, 2019) (rejecting signature match scheme as violation of due
26 process and equal protection).

1 **B. Nevada rejects mail ballots using arbitrary standards without sufficient**
2 **safeguards.**

3 56. In Nevada, when voting a mail ballot, the voter is required to place the ballot in a
4 return envelope and sign the back of the envelope. *See* N.R.S. 293.330(1) (absent ballots),
5 293.353(1) (mailing ballots).

6 57. This signature requirement engenders three opportunities for election officials to
7 reject mail ballots cast by registered voters who are entitled to vote.

8 58. First, county election officials examine the ballot return envelope to determine if
9 it is signed. If the return envelope is not signed at all, and the voter does not cure the missing
10 signature by the means required by the county clerk and within seven days of the election, the
11 ballot is rejected. *See* N.R.S. 293.325(3), (4), 293.333(2).

12 59. Second, if the ballot return envelope is signed, county election officials compare
13 the signature on the ballot return envelope to determine if, based on their untrained and inexpert
14 judgment, the signature is authentic. “If at least two employees in the office of the county clerk
15 believe there is a *reasonable question of fact* as to whether the signature on the [mail] ballot
16 matches the signature of the voter,” using samples of past signatures in the election officials’
17 possession, it is flagged as a mismatch. N.R.S. 293.325(1)(b) (emphasis added). The ballot will
18 be rejected unless county election officials conclude, applying their own standard-less discretion,
19 that the ballot should be counted. *See* N.R.S. 293.325(1), (2).

20 60. Third, every mail ballot is reviewed *again* by the election board, this time to
21 determine if the signature on the return envelope specifically matches the signature on the voter’s
22 registration application *See* N.R.S. 293.333(1)(b). “If the board determines that the absent voter is
23 entitled to cast a ballot,” the ballot is counted. N.R.S. 293.333(1)(c). Any rejected ballots are
24 then transported back to the county clerk with “the cause of rejection . . . noted and the
25 envelope . . . signed by a majority of the election board officers.” N.R.S. 293.335.

26 61. Under this signature matching regime, Nevadans who attempt to vote by mail can
27 be denied the franchise outright based solely on an election official’s determination, during any
28

1 one of the several stages of signature review, that a voter’s signature on the ballot envelope does
2 not sufficiently resemble a signature that she provided to officials at some point in the past.

3 62. Experts in handwriting, however, have long observed that an individual’s
4 signature varies substantially for many well-documented and entirely innocuous reasons,
5 including, for example, age, illness, injury, medication, eyesight, pen type, ink, writing surface or
6 position, paper quality, or psychological factors.

7 63. Voters who are elderly, are disabled, suffer from poor health, are young, or are
8 non-native English speakers are more likely to have greater signature variability and therefore
9 especially likely to have their properly cast ballots rejected.

10 **C. The Ballot Rejection Rules disenfranchise voters.**

11 64. Nevada’s Ballot Rejection Rules are inadequate to protect against the arbitrary
12 and improper rejection of properly cast ballots.

13 65. There are two principal problems with the Ballot Rejection Rules that are highly
14 likely to lead to disenfranchisement of lawful voters: (1) the statute’s use of an ambiguous and
15 overly inclusive standard for signature matching, and (2) the lack of an adequate opportunity for
16 voters to cure perceived problems with their signatures.

17 **2. The Standard**

18 66. In the first signature match review, a ballot will be rejected if two officials agree
19 merely that there is a “reasonable question of fact” as to the authenticity of the signature. N.R.S.
20 293.325(1)(b).

21 67. The problem with the “reasonable question of fact” standard is twofold. First, the
22 standard is sufficiently vague that it invites different election officials to provide their own
23 meaning and provides no functional guidelines to channel their discretion. Second, it sets too low
24 a bar. A “reasonable question of fact” appears to invite election officials to reject a ballot on
25 something less than a preponderance of the evidence, let alone by clear and convincing evidence
26 or the beyond a reasonable doubt standard employed in some states. *See, e.g., Fla. Stat.*
27
28

1 § 101.68(c)(1)(b) (“[A]ny canvassing board finding that an elector’s signatures do not match
2 must be by majority vote and beyond a reasonable doubt.”).

3 68. For signature matching that occurs at the election board, election officials must
4 compare the signature on the envelope to a single reference signature from the voter’s
5 registration card and decide if the “voter is entitled to cast a ballot.” N.R.S. 293.333(1)(b)–(c).
6 This standard is no standard at all. It likewise invites every election board, and each member
7 thereof, to apply their own standard, “virtually guaranteeing a crazy quilt of enforcement of the
8 requirement from county to county.” *Lee*, 915 F.3d at 1320; *accord Fla. Democratic Party*, 2016
9 WL 6090943, at *7.

10 3. The Cure Period

11 69. Nevada law provides an inadequate mechanism by which voters whose ballots are
12 rejected because of a technical error or an alleged signature mismatch may challenge that
13 determination or cure their rejected ballots.

14 70. If a ballot is rejected by the election board, the statute does not provide any
15 opportunity to cure at all.

16 71. If a ballot is rejected by the county clerk’s office, the statute provides for cure
17 mechanisms on its face; but this opportunity is illusory because of the time limits imposed by the
18 statute.

19 72. The entire cure process must be completed within seven days of the election. *See*
20 N.R.S. 293.325(3), 293.333(2). After that point, ballots rejected based on a lack of signature or a
21 determination of mismatched signature may not be cured, regardless of the reason for the failure
22 to cure within seven days—meaning the voter’s ballot will not be counted.

23 73. Seven days is an insufficient period of time to provide voters a meaningful
24 opportunity to cure signature issues given the steps a voter must take.

25 74. There are three steps between when a voter drops her ballot in the mail and when
26 she receives notice that there was an issue with her ballot; each step spans several days.

1 75. First, the ballot must reach election officials. Voters are permitted to place their
2 ballots in the mail up until election day. *See* N.R.S. 293.317. The statute anticipates that it may
3 take a ballot three days to reach election officials. *See* N.R.S. 293.317(2). This timeframe reflects
4 normal postal service, uninterrupted by the novel coronavirus, increased mail volume, or
5 impending budget shortfalls. Mail service in Nevada’s rural areas takes even longer.

6 76. Nevada has only two mail processing plants in the State, one in Reno and one in
7 Las Vegas. Some mail—for example, mail to Elko County residents—is processed out of state,
8 in Salt Lake City, Utah. Thus, even under ordinary circumstances, ballots might not be received
9 by election officials until several days into the cure period.

10 77. Second, county election officials must notify voters that they are required to cure
11 issues with their ballots. There is no deadline prescribed by the statute or implementing
12 regulations for when county officials are required to notify voters, and the statute does not
13 require election officials to notify voters by any particular method. In many cases, the only
14 method available for the county officials to contact voters is through the postal system, which
15 risks the same delays described above.

16 78. Third, the voter must take steps to cure the issue with their ballots. The statute
17 does not provide any guidance on the options counties must offer to voters to cure issues with
18 their signatures. The statute does not require the counties to give voters the option to affirm their
19 ballot by phone or email. Instead, counties are permitted to, and on information and belief do,
20 require voters to come into the office to cure their ballots—thereby unwinding the primary
21 benefit of voting by mail—or otherwise to mail documents back to the county clerk’s office (an
22 option which, again, requires time, access to office equipment, and relies on the vagaries of the
23 postal system).

24 **4. Inadequate Safeguards**

25 79. The Ballot Rejection Rules are even more problematic given the lack of adequate
26 safeguards built into the signature process to ensure that ballots cast by qualified voters are not
27
28

1 discarded. Indeed, signature matching schemes such as Nevada’s are prone to resulting in the
2 rejection of properly voted ballots.

3 80. First, Nevada law does not require county election officials to have expertise in
4 signature matching, or even to undergo any training whatsoever in signature or handwriting
5 analysis that would allow them to distinguish accurately between normal variations in authentic
6 signatures and forgeries. In conducting signature matching, lay persons are more likely to flag a
7 genuine signature as a mismatch.

8 81. Second, Nevada law only requires that election officials use the signatures
9 available in the voter’s registration files. Even experts require multiple, contemporaneous
10 signatures made under similar circumstances to the signature at issue in order to accurately verify
11 a signature. Nevada law also allows the use of digital signatures as reference samples, which are
12 a poor basis against which to compare wet-ink signatures, like those provided by voters on their
13 ballot return envelopes.

14 82. Third, Nevada law does not require that officials conducting signature matching
15 be screened for their ability to accurately match signatures.

16 83. Fourth, Nevada law does not require that officials conducting signature matching
17 be provided with adequate equipment such as magnification and lighting equipment.

18 84. Fifth, Nevada law does not require that officials conducting signature matching
19 spend the minimum required time—approximately two hours—to accurately authenticate a
20 signature.

21 **III. The Current Public Health Crisis**

22 85. COVID-19, the severe and sometimes deadly disease caused by the novel
23 coronavirus, has been spreading through Nevada for several months.

24 86. To date, 12,486 people have tested positive for the novel coronavirus in the State,
25 and 478 people have died from COVID-19 according to official statistics. Although Nevada has
26 started loosening some stay-at-home restrictions, many Nevadans are still engaging in social
27 distancing to protect their health and slow the spread of the virus.

1 87. The federal government is preparing for the COVID-19 crisis to last 18 months
2 and has warned that the pandemic could come in “multiple waves.”

3 88. The White House’s coronavirus advisor and the Director of the National Institute
4 of Allergy and Infectious Diseases, Dr. Anthony Fauci, was asked at a White House press
5 conference whether the United States was “prepared for [coronavirus] to strike again, say, in the
6 fall.” Dr. Fauci responded, “In fact I would anticipate that that would actually happen because of
7 the degree of transmissibility.”

8 89. The Director of the Centers for Disease Control and Prevention (“CDC”) recently
9 warned that the country may encounter a second, more deadly wave of COVID-19 in the fall,
10 which will “be even more difficult than the one we just went through.”

11 90. Similarly, the Director of the National Center for Immunization and Respiratory
12 Diseases at the CDC, Dr. Nancy Messonnier, said on March 10, 2020 that she expected the virus
13 to continue spreading in the United States through next year.

14 91. These sentiments are also shared by scientists outside the United States
15 government. The COVID-19 Response Team at the Imperial College of London has estimated
16 that social distancing and other preventative measures will be required until a vaccine is
17 developed and distributed widely, which they predict could take “18 months or more.”

18 92. There is thus little question that the spread of COVID-19 in Nevada will continue
19 this fall and, in particular, during the November Election.

20 93. Even if Nevada has already passed its peak by the November Election, CDC
21 guidelines recommend that individuals still take meaningful social distancing measures even if
22 the threat of community transmission of COVID-19 in the area is only “minimal.”

23 94. This guidance is necessitated by the reality that asymptomatic carriers appear to
24 be contributing significantly to community spread, and until there is a vaccine or “herd
25 immunity” (i.e., at least 60 percent of the population has been infected and recovered),
26 Americans will remain at serious risk of contracting the virus.

1 95. The CDC, anticipating difficulties in conducting elections during the COVID-19
2 crisis, has now recommended that jurisdictions encourage voting by mail.

3 96. Other federal, state, and local officials have increasingly come to the same
4 realization. Congress, for example, recently authorized \$400 million to help states transition to
5 vote by mail.

6 97. The inherent challenges to voting in person during this pandemic led to a
7 significant expansion of mail voting in Nevada during the June Primary. Given that the pandemic
8 will not cease—and will likely intensify—in the fall, the increased need and demand for voting
9 opportunities will remain for the November Election.

10 98. This increased need and demand for mail voting will exacerbate the
11 disenfranchising effects of the Voter Assistance Ban and the Ballot Rejection Rules.

12 99. Nevadans’ need for assistance in returning ballots will increase as more voters
13 rely on mail voting in order to protect themselves and their family members from the risks of in-
14 person voting. The Ban will significantly reduce the extent to which these voters can receive
15 assistance.

16 100. Homebound voters, for example, will have even less access to resources—
17 including family members—than normal due to COVID-19 restrictions. The same is true for
18 elderly people in nursing homes, where the risks of the coronavirus are particularly pronounced,
19 as well as Nevadans who are sick or immunocompromised and voters do not have access to mail.
20 If these voters do not have family members who can provide assistance, then they will be
21 without options due to the Ban.

22 101. As a result of the sudden increase in mail voting, many Nevadans will be voting
23 by mail for the first time, and will likely be unaware of the signature requirements in general and
24 the Ballot Rejection Rules in particular. As a result, the number of ballot rejections for signature-
25 related issues will spike.

26 102. The June Primary demonstrated a significant increase in rejected ballots as a
27 result of the increase in mail voting. During the June 2018 primary election in Clark County, for
28

1 example, fewer than a dozen ballots were rejected due to a signature mismatch. For the 2020
2 June Primary, this number skyrocketed to more than one thousand.

3 103. The rate of rejection was also disparate across counties for the June Primary. For
4 example, in Douglas County, where 18,297 people voted, 1,097 voters—6 percent of all voters
5 who cast a ballot—had their ballots initially rejected for signature issues and, ultimately, 365
6 were unable to cure the issue and were disenfranchised. By contrast, 11,114 people voted in Nye
7 County, and 99 ballots—or .8 percent of ballots cast—were flagged for signature issues and 24
8 were ultimately rejected.

9 104. Moreover, because mail service will be impacted, the opportunity to cure
10 signature issues during the allotted seven-day window will be interrupted and reduced. And due
11 to the risks of public exposure, voters will be less likely to perform the steps necessary to cure
12 their signature issues, such as photocopying their IDs or curing in person at election offices. For
13 example, due to the continued risk posed by COVID-19, voters like Plaintiff Santos will be
14 unable to travel on public transportation to cure their ballots in person.

15 105. The Voter Assistance Ban and the Ballot Rejection Rules are problematic and
16 unconstitutional at any time, but the burdens they impose on Nevada voters have significantly
17 increased as a result of the current pandemic and the corresponding reliance on mail voting.
18 These obstacles will continue through the November Election, and Nevada voters will face an
19 increased risk of disenfranchisement.

20 **IV. Alternative Protections for Vote by Mail**

21 106. The Voter Assistance Ban and the Ballot Rejection Rules are overbroad
22 restrictions that are not fairly calculated to serve a legitimate government interest.

23 107. Voting fraud is very rare in Nevada, and Nevada law can and does address more
24 directly the activities that these laws are aimed at preventing.

25 108. For example, it is a felony under Nevada law “fraudulently to request an absent
26 ballot in the name of another person.” N.R.S. 293.313(4).

1 109. It is a felony to vote or attempt to vote using the name of another person. N.R.S.
2 293.775(2).

3 110. It is a felony to threaten, intimidate, coerce, or exercise undue influence on any
4 voter. N.R.S. 293.710(a)–(c).

5 111. And it is a felony to impede or prevent a voter from voting. N.R.S. 293.710(1)(d).

6 112. Accordingly, neither the Voter Assistance Ban nor the Ballot Rejection Rules are
7 necessary to preserve the integrity of Nevada’s elections.

8 **CLAIMS FOR RELIEF**

9 **FIRST CLAIM FOR RELIEF**

10 **Nev. Const. art. II, § 1; N.R.S. 33.010, 33.030**

11 **The Voter Assistance Ban Violates the Right to Suffrage Guaranteed by Article 2, Section 1**
12 **of the Nevada Constitution**

13 113. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
14 Complaint and the paragraphs below as though fully set forth herein.

15 114. Article 2, Section 1 of the Nevada Constitution provides broad protection for the
16 right of every qualified voter to cast a ballot. *See* Nev. Const. art. II, § 1 (“All [qualified voters]
17 shall be entitled to vote for all officers that now or hereafter may be elected by the people, and
18 upon all questions submitted to the electors at such election.”); *cf. State ex rel. McMillan v.*
19 *Sadler*, 25 Nev. 131, 170, 58 P. 284, 288 (1899) (“The right to vote for all officers, from
20 governor to and including all assemblymen and state senators, could not be given in stronger or
21 broader language.”).

22 115. As the Nevada Supreme Court has explained, “[t]he right of voting, and, of
23 course, of having the vote counted, is one of most transcendent importance,—the highest under
24 our form of government.” *Buckner*, 22 Nev. at 438, 41 P. at 764.

25 116. Restrictions on the right to vote or the right to have one’s vote counted must be
26 strictly scrutinized and cannot stand if they result in any qualified voter’s disenfranchisement.
27 *See id.*, 41 P. at 764 (“That one entitled to vote shall not be deprived of his privilege by action of
28

1 the authorities is a fundamental principle.” (quoting Thomas M. Cooley, *A Treatise on the*
2 *Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American*
3 *Union* 680 (2d ed. 1871)); *Davies v. McKeeby*, 5 Nev. 369, 371 (1870) (“The form of the law by
4 which an individual is deprived of a constitutional right is immaterial. The test of its
5 constitutionality is, whether it operates to deprive any person of a right guaranteed or given to
6 him by the Constitution. If it does, it is a nullity—whatever may be its form.”); *accord Simmons*
7 *v. McDaniel*, 680 P.2d 977, 980 (N.M. 1984) (“[W]e are [] committed to examine ‘most
8 carefully, and rather unsympathetically’ any challenge to a voter’s right to participate in an
9 election, and will not deny that right ‘absent bad faith, fraud or reasonable opportunity for
10 fraud.’” (quoting *Valdez v. Herrera*, 145 P.2d 864, 869 (N.M. 1944))); *see generally* Joshua A.
11 Douglas, *The Right to Vote Under State Constitutions*, 67 Vand. L. Rev. 89, 110–29 (2014)
12 (explaining that states with an enumerated right to vote should and do apply closer scrutiny than
13 cases under the federal constitution, which lacks an enumerated right to vote).

14 117. The Voter Assistance Ban will effectively disenfranchise any voters who require
15 assistance returning their mail ballots but lack access to family members who can provide it. This
16 includes elderly voters who live alone and are isolated from family members due to health
17 concerns and therefore cannot receive assistance in returning their mail ballots.

18 118. Allowing assisted hand delivery for vote by mail will ease strain on the postal
19 system, ensure that ballots are timely delivered, and assist those who are voting by mail for the
20 first time transition to the new form of voting.

21 119. Absent relief from this Court, the Voter Assistance Ban will impede the exercise
22 of the franchise for many more voters in the November Election, in violation of Article 2,
23 Section 1 of the Nevada Constitution.

24
25
26
27
28

1 **SECOND CLAIM FOR RELIEF**

2 **Nev. Const. art. I, §§ 8–9, art. IV, § 21; U.S. Const. amends. 1, 14;**
3 **N.R.S. 33.010, 33.030; 42 U.S.C. § 1983**

4 **The Voter Assistance Ban Unduly Burdens the Right to Vote Under *Anderson-Burdick***

5 120. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
6 Complaint and the paragraphs below as though fully set forth herein.

7 121. The Voter Assistance Ban imposes a severe burden on the right to vote
8 guaranteed by the First and Fourteenth Amendment to the U.S. Constitution and the coextensive
9 guarantees of Article 1, Sections 8 and 9 and Article 4, Section 21 of the Nevada Constitution.
10 *See Hernandez v. Bennett-Haron*, 128 Nev. 580, 587, 287 P.3d 305, 310 (2012); *Univ. & Cmty.*
11 *Coll. Sys. v. Nevadans for Sound Gov’t*, 120 Nev. 712, 722, 100 P.3d 179, 187 (2004); *see also*
12 *Armijo v. State*, 111 Nev. 1303, 1304, 904 P.2d 1028, 1029 (1995) (per curiam).

13 122. These constitutional provisions, collectively, prohibit election officials from
14 erecting undue burdens on the fundamental right to vote. Federal and Nevada courts evaluating
15 challenges to laws that regulate the election process apply the framework derived from the U.S.
16 Supreme Court cases *Anderson v. Celebrezze*, 460 U.S. 780 (1983), and *Burdick v. Takushi*, 504
17 U.S. 428 (1992). *See Strickland v. Waymire*, 126 Nev. 230, 242, 235 P.3d 605, 613 (2010); *Nev.*
18 *Judges Ass’n v. Lau*, 112 Nev. 51, 54, 910 P.2d 898, 900 (1996). Under *Anderson-Burdick*, a
19 reviewing court considers “(1) the nature of the asserted injury to the protected rights; (2) the
20 interests put forward by the state as justification for that injury; and (3) the necessity for
21 imposing the burden on the petitioners’ rights rather than some less restrictive alternative.” *Lau*,
22 112 Nev. at 54–55, 910 P.2d at 900.

23 123. The Voter Assistance Ban imposes a severe burden on voters for whom mail
24 service is unreliable—including those living in rural Nevada and on tribal lands—as well as
25 voters with limited mobility including, among others, elderly voters living alone. This burden is
26 only magnified by the ongoing public health crisis. Because of the risk of the novel coronavirus,
27 voters are less able to rely on public transportation, ride-share companies, and other shared
28

1 transportation to bring their ballots to the post office or hand deliver ballots to county election
2 officials. And persons living alone are more isolated than ever from their family members.

3 124. The State’s interest in enforcing the Voter Assistance Ban does not justify the
4 burden it imposes on Nevada’s voters. Nevada laws already criminalize any exercise of undue
5 influence or voting fraud that the Voter Assistance Ban is intended to capture.

6 125. Absent relief from this Court, the Voter Assistance Ban will impose undue
7 burdens on the right to vote and the right to equal protection of the laws, in violation of the
8 Nevada and U.S. Constitutions.

9 **THIRD CLAIM FOR RELIEF**

10 **Nev. Const. art. I, § 9; U.S. Const. amends. 1, 14;**
11 **N.R.S. 33.010, 33.030; 42 U.S.C. § 1983**

12 **The Voter Assistance Ban Violates the Right to Free Speech Guaranteed by the Nevada
and U.S. Constitutions**

13 126. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
14 Complaint and the paragraphs below as though fully set forth herein.

15 127. Article 1, Section 9 of the Nevada Constitution states that “[e]very citizen may
16 freely speak, write and publish his sentiments on all subjects being responsible for the abuse of
17 that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press.”
18 Its protections are coextensive with the First Amendment to the U.S. Constitution. *See Nevadans*
19 *for Sound Gov’t*, 120 Nev. at 722, 100 P.3d at 187.

20 128. The Voter Assistance Ban violates the free speech guarantees of the Nevada and
21 U.S. Constitutions.

22 129. The Voter Assistance Ban prohibits core political expression. Efforts to encourage
23 and aid Nevada voters in voting by mail are “the type of interactive communication concerning
24 political change that is appropriately described as ‘core political speech.’” *Meyer*, 486 U.S. at
25 421–22; *see also Buckley*, 525 U.S. at 199 (striking down restrictions on petition circulation
26 because “[t]hat endeavor . . . ‘of necessity involves both the expression of a desire for political
27 change and a discussion of the merits of the proposed change’” (quoting *Meyer*, 486 U.S. at
28

1 421)); *NAACP v. Button*, 371 U.S. 415, 437 (1963) (“‘Free trade in ideas’ means free trade in the
2 opportunity to persuade to action.” (quoting *Thomas v. Collins*, 323 U.S. 516, 537 (1945)));
3 *League of Women Voters of Fla. v. Browning*, 863 F. Supp. 2d 1155, 1158–59, 1167 (N.D. Fla.
4 2012) (enjoining voter registration restrictions because “encouraging others to register to
5 vote is core First Amendment activity” and “[t]ogether speech and voting are constitutional
6 rights of special significance”); *Project Vote v. Blackwell*, 455 F. Supp. 2d 694, 700 (N.D. Ohio
7 2006) (“[P]articipation in voter registration implicates a number of both expressive and
8 associational rights which are protected by the First Amendment. These rights belong to—and
9 may be invoked by—not just the voters seeking to register, but by third parties who encourage
10 participation in the political process through increasing voter registration rolls.” (citing *Williams*
11 *v. Rhodes*, 393 U.S. 23, 30 (1968))).

12 130. The Voter Assistance Ban is subject to strict or exacting scrutiny because it
13 prohibits groups and individuals who are not related to a voter from engaging in core political
14 expression. *See Priorities USA*, 2020 WL 2615766, at *11. Strict scrutiny applies to a ban on
15 such activity where (1) the law regulates expressive conduct based on the identity of the speaker,
16 and (2) the law bans and not just regulates political expression. *See Citizens United v. FEC*, 558
17 U.S. 310, 340–41, 366–67 (2010). Strict scrutiny requires that a law be narrowly tailored to serve
18 a compelling government interest. *Id.* at 340. Otherwise, laws that regulate political expression
19 are subject to exacting scrutiny, which requires a substantial relationship between the law and a
20 sufficiently important government interest. *See id.* at 366; *Hargett*, 400 F. Supp. 3d at 719–33
21 (applying exacting scrutiny to voter registration restrictions).

22 131. The Voter Assistance Ban cannot survive strict or exacting scrutiny, or any level
23 of scrutiny for that matter, because it is not fairly calculated to prevent the evils it is aimed to
24 address. Other Nevada laws already criminalize any exercise of undue influence or voting fraud
25 that the Voter Assistance Ban is intended to capture.

26 132. Absent relief from this Court, the Voter Assistance Ban will prevent Plaintiffs
27 from engaging in constitutionally protected conduct in anticipation of the November Election, in
28

1 violation of Article 1, Section 9 of the Nevada Constitution and the First and Fourteenth
2 Amendments to the U.S. Constitution.

3 **FOURTH CLAIM FOR RELIEF**

4 **Nev. Const. art. I, § 10; N.R.S. 33.010, 33.030**

5 **The Voter Assistance Ban Violates the Right to Assembly Guaranteed by the Nevada**
6 **Constitution**

7 133. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
8 Complaint and the paragraphs below as though fully set forth herein.

9 134. Article 1, Section 10 of the Nevada Constitution states that “[t]he people shall
10 have the right freely to assemble together to consult for the common good, to instruct their
11 representatives and to petition the Legislature for redress of Grievances.”

12 135. The Voter Assistance Ban violates Article 1, Section 10 on its face because it
13 prohibits group action to affect political change.

14 136. Absent relief from this Court, the Voter Assistance Ban will prevent Plaintiffs
15 from engaging in constitutionally protected conduct in anticipation of the November Election, in
16 violation of Article 1, Section 10 of the Nevada Constitution.

17 **FIFTH CLAIM FOR RELIEF**

18 **Nev. Const. art. II, § 1; N.R.S. 33.010, 33.030**

19 **The Ballot Rejection Rules Violate the Right to Suffrage Guaranteed by the Nevada**
20 **Constitution**

21 137. Plaintiffs reallege and incorporate by reference all prior paragraphs of this
22 Complaint and the paragraphs below as though fully set forth herein.

23 138. The Ballot Rejection Rules, as written and as applied, violate the right to vote
24 guaranteed by Article 2, Section 1 of the Nevada Constitution.

25 139. The Ballot Rejection Rules have and will result in the disenfranchisement of
26 qualified voters who have cast a ballot because of either (1) a technical error that could, with an
27
28

1 adequate cure period, be corrected, or (2) the untrained and unguided judgment of election
2 officials.

3 140. For voters adversely affected by the Ballot Rejection Rules, the consequence is
4 outright disenfranchisement. Because voters who are entitled to vote will have their votes
5 rejected, the Ballot Rejection Rules violate the Nevada Constitution. *See Buckner*, 22 Nev. at
6 438, 41 P. at 764 (“That one entitled to vote shall not be deprived of his privilege by action of the
7 authorities is a fundamental principle.” (quoting *Cooley*, *supra*, at 680)); *Davies*, 5 Nev. at 371
8 (“The form of the law by which an individual is deprived of a constitutional right is immaterial.
9 The test of its constitutionality is, whether it operates to deprive any person of a right guaranteed
10 or given to him by the Constitution.”).

11 141. Because untrained laypersons will apply a vague, overinclusive standard in the
12 first signature match review, and no standard at all in the second, voters’ ballots will be
13 arbitrarily rejected even if they were properly cast. Thus, the Ballot Rejection Rules violate the
14 principle that election laws be “reasonable, uniform, and impartial.” *State v. Findley*, 20 Nev.
15 198, 202, 19 P. 241, 243 (1888); *see also State ex rel. Boyle v. Bd. of Exam’rs*, 21 Nev. 67, 71,
16 24 P. 614, 616 (1890).

17 142. Absent relief from this Court, the Ballot Rejection Rules will disenfranchise many
18 more voters in the November Election, in violation of Article 2, Section 1 of the Nevada
19 Constitution.

20 **SIXTH CLAIM FOR RELIEF**

21 **Nev. Const. art. I, §§ 8–9, art. IV, § 21; U.S. Const. amends. 1, 14;**
22 **N.R.S. 33.010, 33.030; 42 U.S.C. § 1983**

23 **The Ballot Rejection Rules Unduly Burden the Right to Vote Under *Anderson-Burdick***

24 143. Plaintiffs reallege and incorporates by reference all prior paragraphs of this
25 Complaint and the paragraphs below as though fully set forth herein.

26 144. “There is more to the right to vote than the right to mark a piece of paper and drop
27 it in a box or the right to pull a lever in a voting booth. The right to vote includes the right to
28

1 have the ballot counted.” *Reynolds v. Sims*, 377 U.S. 533, 555 n.29 (1964) (quoting *South v.*
2 *Peters*, 339 U.S. 276, 279 (1950) (Douglas, J., dissenting)); accord *Lee*, 915 F.3d at 1315
3 (“‘Voting is the beating heart of democracy.’ . . . But, of course, voting alone is not enough to
4 keep democracy’s heart beating. Legitimately cast votes must then be counted.” (quoting *League*
5 *of Women Voters of Fla. v. Detzner*, 314 F. Supp. 3d 1205, 1215 (N.D. Fla. 2018))). Because the
6 Ballot Rejection Rules deny Nevadans the right to have their votes counted both as written and
7 as applied, they violate the due process clauses of the Nevada and U.S. Constitutions.

8 145. The Ballot Rejection Rules violate these constitutional safeguards by arbitrarily
9 disenfranchising lawful, qualified voters. See *LULAC*, 2019 WL 6358335, at *16 (“There are
10 potentially myriad different, arbitrary classifications of voters including, but not limited to,
11 which of the 99 counties a voter lives in; the training of a county auditor or staff; the availability,
12 type, age and quality of any signatures ‘on record’ for a voter.”). When a ballot is rejected
13 because of the flawed use of signature matching, or because a voter was not provided an
14 adequate opportunity to cure, the result is outright disenfranchisement, a severe burden on the
15 right to vote. See *Fla. Democratic Party*, 2016 WL 6090943, at *6 (“If disenfranchising
16 thousands of eligible voters does not amount to a severe burden on the right to vote, then this
17 Court is at a loss as to what does.”); *Saucedo*, 335 F. Supp. 3d at 218 (“It cannot be emphasized
18 enough that the consequence of [the election official’s] decision—disenfranchisement—is
19 irremediable.”). Given this burden, courts across the country have struck down signature
20 matching laws. See, e.g., *Lee*, 915 F.3d at 1319–20, 1324 (affirming preliminary injunction
21 against signature match law pursuant to *Anderson-Burdick* claim); *Saucedo*, 335 F. Supp. 3d at
22 222 (granting summary judgment for plaintiffs that signature match law violated procedural due
23 process); *Martin*, 341 F. Supp. 3d at 1339–40 (enjoining signature match law pursuant to a due
24 process claim); *Fla. Democratic Party*, 2016 WL 6090943, at *8 (enjoining signature match law
25 pursuant to *Anderson-Burdick* claim); *LULAC*, 2019 WL 6358335, at *17 (enjoining signature
26 match law pursuant to equal protection and due process claims).

1 146. The disenfranchising effects of the Ballot Rejection Rules have been exacerbated
2 by the sudden reliance on mail voting necessitated by the ongoing pandemic. First-time mail
3 voters who are unfamiliar with the signature requirements are at a greater risk of ballot rejection,
4 either because they fail to sign or provide a signature that is deemed a mismatch by untrained
5 election officials. Consequently, county registrars have reported that the number of signature
6 issues skyrocketed in the June Primary compared to previous elections.

7 147. The ongoing pandemic also makes it more difficult for voters to cure their ballots.
8 For example, Plaintiff Santos was instructed that she needed to appear in person in order to cure
9 her ballot, and was unable to do so because she would have had to rely on public transportation,
10 an unacceptable risk given the threat of exposure to coronavirus.

11 148. The severe burden on the right to vote is not justified by the State’s interest in
12 imposing a signature matching regime. *See Lee*, 915 F.3d at 1322 (rejecting fraud prevention and
13 efficient administration of elections as an adequate justification for signature match law);
14 *Saucedo*, 335 F. Supp. 3d at 220 (rejecting fraud prevention as an adequate justification for
15 signature match law); *Fla. Democratic Party*, 2016 WL 6090943, at *7 (same); *LULAC*, 2019
16 WL 6358335, at *16 (same). As discussed at Part III.C *supra*, state officials have myriad other
17 tools for preserving the integrity of Nevada’s elections. The disenfranchisement of qualified
18 voters is certainly not justified by the State’s interest in imposing *this* signature matching regime.
19 Having chosen to implement signature matching, a highly suspect method for verifying identity
20 in the best of circumstances, Nevada is required to articulate a sufficiently specific and rigorous
21 standard to ensure that properly cast ballots are not rejected, and Defendants are required to
22 adopt adequate safeguards and a cure process to ensure that qualified voters have their ballots
23 counted.

24 149. Absent relief from this Court, the Ballot Rejection Rules will disenfranchise many
25 more voters in the November Election, in violation of the Nevada and U.S. Constitutions.

26 ///

27 ///

28

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiffs respectfully request that this Court:

3 A. declare, under the authority granted to this Court by N.R.S. 33.030, that the Voter
4 Assistance Ban and the Ballot Rejection Rules are unconstitutional under the Nevada and U.S.
5 Constitutions;

6 B. preliminarily and permanently enjoin, under the authority granted to this Court by
7 N.R.S. 33.010, Defendants, their respective agents, officers, employees, and successors, and all
8 persons acting in concert with each or any of them, from implementing, enforcing, or giving any
9 effect to the Voter Assistance Ban and the Ballot Rejection Rules;

10 C. award Plaintiffs their costs, disbursements, and reasonable attorneys' fees
11 incurred in bringing this action; and

12 D. grant such other or further relief as the Court deems just and proper.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Dated: June 19, 2020.

John Gumbly (SBN 10828)
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP

2 By: _____

3 Marc E. Elias*
4 Henry J. Brewster*
5 Courtney A. Elgart*
6 **PERKINS COIE LLP**
7 700 Thirteenth Street, N.W., Suite 800
8 Washington, D.C. 20005-3960

9 Abha Khanna*
10 Jonathan P. Hawley*
11 **PERKINS COIE LLP**
12 1201 Third Avenue, Suite 4900
13 Seattle, Washington 98101-3099

14 Bradley S. Schragar
15 Daniel Bravo
16 **WOLF RIFKIN SHAPIRO SCHULMAN**
17 **& RABKIN, LLP**
18 3556 East Russell Road, Second Floor
19 Las Vegas, Nevada 89120

20 *Attorneys for Plaintiffs Daniel Corona, Darin*
21 *Mains, Brian Melendez, Teresa Melendez,*
22 *Omar Abdul-Rahim, Dale Ault, Lynn John,*
23 *Genea Roberson, Lorenzita Santos, Nevada*
24 *State Democratic Party, DNC Services*
25 *Corporation/Democratic National Committee,*
26 *DCCC, Priorities USA, and The Native*
27 *American Caucus of the Nevada State*
28 *Democratic Party*

*Admitted Pro Hac Vice