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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CANNABIS EQUITY AND INCLUSION COMMUNITY (CEIC), a domestic nonprofit corporation; ANTOINE POOLE, an individual, Petitioners/Plaintiffs, vs. STATE OF NEVADA ex rel. BOARD OF PHARMACY, a public entity of the State of Nevada, Respondent/Defendant.	Case No.: A-22-851232-W Department: 15

PETITIONERS'/PLAINTIFFS' OPPOSITION TO RESPONDENT'S/DEFENDANT'S MOTION TO DISMISS FOR LACK OF JURISDICTION AND FAILURE TO STATE A CLAIM

The Petitioners/Plaintiffs, Cannabis Equity and Inclusion Community ("CEIC") and Antoine Poole, by and through counsel Sadmira Ramic, Esq., Christopher M. Peterson, Esq., and Sophia A. Romero, Esq., of the American Civil Liberties Union of Nevada, pursuant to EDCR 2.20, hereby submit this motion in opposition to Respondent's/Defendant's Motion to Dismiss

Petitioners/Plaintiffs' Petition for Writ of Mandamus and Complaint for Injunctive and Declaratory Relief.

I. INTRODUCTION

As a preliminary matter, the Writ portion of this matter is governed by NRS Chapter 34.[1] Under NRS 34.210 the adverse party may only show cause by filing an ***answer*** made under oath: "the party on whom the writ or notice shall have been served may show cause by answer under oath, made in the same manner as an answer to a complaint in a civil action." NRS 34.210. As such, a Motion to Dismiss is an improper responsive pleading and is not contemplated under the governing statutory scheme. Respondent in this matter has failed to file an "answer under oath" in response to Petitioners' Writ of Mandamus, therefore this Court should proceed pursuant to NRS 34.260, which states: "If no answer be made, the case shall be heard on the papers of the applicant."[2]

Petitioners' request for writ relief is based on the Board's continued failure to remove cannabis and cannabis derivatives as Schedule I substances which violates the Nevada Constitution and NRS 453.166. Pursuant to NRS 453.166, the Board may only designate a substance as a Schedule I substance if it determines that the substance "has high potential for abuse *and* has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision." In 1998, the Nevada voters made the factual determination that cannabis had medical use and required its distribution, which was codified in Article 4, Section 38 of the Constitution of the State of Nevada. This codification settled any potential factual dispute

[1] The Nevada Supreme Court has stated that "until a particular issue is actually litigated and adjudicated, parties are free to make alternative or inconsistent allegations regarding that issue." *Mallin v. Farmers Ins. Exch.*, 108 Nev. 788, 806, 839 P.2d 105, 117 (1992), which is the basis for filing both a Petition for Writ of Mandamus and, alternatively, a Complaint for Injunctive and Declaratory Relief.

[2] If an answer is filed, then the Court may order that the Petitioner file a reply (NRS 34.260), which would have been the appropriate procedure here.

as to the medical use of cannabis. The Board, which is created under and subject to the laws of the State of Nevada, cannot make any determination that contradicts state law, especially that of our most fundamental governing document, the Constitution of the State of Nevada.[3]

Because the Board is acting in direct contradiction with the Nevada Constitution and Nevada law, Petitioners are seeking a Writ from the Court that: 1) the classification of marijuana, cannabis, and cannabis derivatives as Schedule I substances violates Article 4, Section 38, of the Nevada Constitution and NRS 453.166; 2) the Board acted outside of its authority, and in direct contradiction with the Constitution of the State of Nevada and NRS 453.166 when it classified, or failed to remove, marijuana, cannabis and cannabis derivatives from the Schedule I list of substances; and 3) the Board must remove language designating marijuana, cannabis, and cannabis derivatives as Schedule I substances under NAC 453.510.

II. STANDARD OF REVIEW

A. Standing

The question of standing concerns whether the party seeking relief has a sufficient interest in the litigation.[4] The primary purpose of this standing inquiry is to ensure the litigant will vigorously and effectively present his or her case against an adverse party.[5]

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[3] In Nevada, the power to define what conduct constitutes a crime lies exclusively within the power and authority of the legislature. However, the legislature may delegate the power to determine the facts or state of things upon which the law makes its own operations depend to an administrative agency. In doing so, the Legislature must outline suitable standards that the administrative agency must follow in exercise of the delegated powers. The agency's determination of the facts is what makes the statute effective, but it can only do so within the parameters of existing law. *Sheriff, Clark County v. Luqman*, 101 Nev. 149 (1985).

[4] *See Szilagyi v. Testa*, 99 Nev. 834, 838, 673 P.2d 495, 498 (1983) (citing *Harman v. City & Cty. of San Francisco*, 7 Cal. 3d 150, 101 Cal. Rptr. 880, 496 P.2d 1248, 1254 (Cal. 1972) ("'The fundamental aspect of standing is that it focuses on the party seeking to get his complaint before a . . . court.'")).

[5] *See Harman*, 496 P.2d at 1254. *Schwartz v. Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894 (2016).

1. **Petition for Writ of Mandamus**

A writ of mandamus is available to compel a legal duty to act. NRS 34.160. When evaluating a petitioner's standing in a mandamus proceeding, state courts are not bound by federal standing principles, which derive from the case or controversy component of the United States Constitution.[6] Because the Nevada Constitution does not contain a "case or controversy" clause, the doctrine of standing is not a constitutional command but rather merely a judicially-created doctrine of convenience.[7] Nevada courts have consistently held that to establish standing in a mandamus proceeding, the petitioner must demonstrate a beneficial interest in obtaining writ relief.[8] A party has a beneficial interest sufficient to pursue a mandamus action if the petitioner will gain a direct benefit from its issuance and suffer direct detriment if it is denied.[9]

2. Complaint for Injunctive and Declaratory Relief

While "state courts do not have constitutional Article III standing, Nevada has a long history of requiring an actual justiciable controversy as a predicate to judicial relief. Thus, to pursue a legal claim, an 'injury in fact' *must exist."*[10] Specifically, there must be "an invasion of a judicially cognizable interest" that is "concrete and particularized."[11] The injury must also be "actual or imminent," rather than merely "conjectural or hypothetical."[12]

Nevada courts have held that a justiciable controversy is necessary for relief.[13] A justiciable controversy exists if: (1) there is a controversy in which a claim of right is asserted

[6] *Heller v. Legislature of Nev.*, 120 Nev. 456, 460-61, 93 P.3d 746, 749 (2004).
[7] *In re Amerco Derivative Litigation,* 127 Nev. 196, 213, 252 P.3d 681, 694 (2011).
[8] *See Heller,* 120 Nev. at 456; *State Bd. of Parole Comm'rs v. Second Judicial Dist. Court*, 451 P.3d 73.
[9] *Id*.
[10] *Bennett v. Spear,* 520 U.S. 154, 167, 117 S. Ct. 1154, 137 L. Ed. 2d 281 (1997).
[11] *Id.*
[12] *Id.*
[13] *See Kress v. Corey*, Nev. 1; *Doe v. Bryan*, 102 Nev. 523.

against one who has an interest in contesting it; (2) the controversy is between persons whose interests are

adverse; (3) the party seeking declaratory relief has a legal interest in the controversy; and (4) the issue involved in the controversy is ripe for judicial determination.[14]

B. NRCP 12(b)(5) – Failure to state a claim

1. Petition for Writ of Mandamus (NRS 34.150 – NRS 34.310)

As discussed above, a Motion to Dismiss is an improper responsive pleading to a petition for a writ of mandamus. The Writ portion of this matter is governed by NRS Chapter 34, and NRS 34.210 states that the adverse party may only show cause by filing an ***answer*** made under oath. Respondent in this matter has failed to file an "answer under oath" in response to Petitioners' Writ of Mandamus, therefore this Court should hear the case on the papers of the applicant."[15]

Assuming, arguendo, that the Court does not apply the statutory scheme of NRS 34.210, and instead entertains the Motion to Dismiss, Respondent outlined the wrong legal standard for the Court to apply when evaluating standing in a writ of mandamus proceeding.[16]

A writ of mandamus may be issued by the court "to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station; or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or person," when there is no plain, speedy, and adequate remedy in the ordinary course. [17] A writ of

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[14] *Id* at 525.

[15] If an answer is filed, then the Court may order that the Petitioner file a reply (NRS 34.260), which would have been the appropriate procedure here.

[16] Mot. to Dismiss 4:4-8.

[17] *See* NRS 34.160; NRS 34.170, "[t]he writ may be issued by … a district court or a judge of the district court, to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station; or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or person. When issued by a district court or a judge of the district court it shall be made returnable before the district court."

mandamus can require a board or official to affirmatively act in a manner which the law compels that board or official to act.[18]

Writ relief is an extraordinary remedy, and therefore, it is within the court's sound discretion whether to grant such relief.[19] "Extraordinary writ relief may be available where there is no 'plain, speedy and adequate remedy in the ordinary course of law.'"[20] Most importantly to the current matter, a writ of mandamus is available to compel the performance of an act required by law as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion.[21] The court will generally exercise its discretion to consider an extraordinary writ where an important legal issue that needs clarification is raised or to promote judicial economy and administration.[22]

2. Complaint for Preliminary Injunction and Declaratory Relief

NRCP 8(a) requires a pleading that states a claim for relief to contain:

> (1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;
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> (2) a short and plain statement of the claim showing that the pleader is entitled to relief;
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> (3) a demand for the relief sought, which may include relief in the alternative or different types of relief…. [23]

[18] *See State v. Second Jud. Dist. Ct. ex rel. Cnty. of Washoe*, 118 Nev. 609, 614, 55 P.3d 420, 423 (2002).
[19] *Segovia v. Eighth Judicial Dist. Court*, 133 Nev. 910, 911, 407 P.3d 783, 785 (2017).
[20] *Id.* (quoting NRS 34.170 and NRS 34.330).
[21] NRS 34.160; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008).
[22] *State Office of the Attorney General v. Justice Court of Las Vegas Township*, 133 Nev. 78, 80, 392 P.3d 170, 172 (2017).
[23] *See also*, *Swartz v. Adams*, 93 Nev. 240, 245, 563 P.2d 74, 77 (1977); and *Liston v. Las Vegas Metro. Police Dept.*, 111 Nev. 1575, 1579, 908 P.2d 720, 723 (1995).

A defendant is entitled to dismissal of a claim when a plaintiff "fail[s] to state a claim upon which relief can be granted."[24] A motion to dismiss a complaint for failure to state a claim should not be granted unless it appears beyond a doubt that the plaintiff can prove no set of facts that would entitle it to relief.[25] In considering the motion, the court must accept all of Plaintiff's factual allegations as true and construe them in Plaintiff's favor.[26] However, courts "are not bound to accept as true a legal conclusion couched as a factual allegation."[27]

The Nevada Supreme Court noted that, "pleadings should be liberally construed to allow issues that are fairly noticed to the adverse party."[28] Additionally, "A party may also state as many separate claims or defenses as the party has regardless of consistency and whether based on legal or on equitable grounds or on both."[29] This rule is further advanced through a litany of case law.[30]

A motion to dismiss must fail when the allegations set forth in a complaint are intelligible, specific, and adequately apprise the Defendant of the substance of Plaintiff's claims. Moreover, NRCP 8 and NRCP 10 make clear that pleading in the alternative and seeking relief of several different types is permissible. When tested by a subdivision (b)(5) motion to dismiss for failure to state a claim upon which relief can be granted, the allegations of the complaint must be accepted as true.[31]

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[24] NRCP 12(b)(5).
[25] *Pankopf v. Peterson*, 175 P.3d 910, 912, 124 Nev. Adv. Rep. 4 (2008) (*citing Vacation Village v. Hitachi America*, 110 Nev. 481, 484, 874 P.2d 744, 746 (1994)).
[26] *Buzz Stew, LLC v. City of North Las Vegas*, 181 P.3d 670, 672 (Nev. 2008); *Morris*, 110 Nev. At 1276, 886 P.2d at 456.
[27] *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (Federal decisions involving the Federal Rules of Civil Procedure provide persuasive authority when Nevada courts examine the Nevada Rules of Civil Procedure (or, as here, the substantially similar Justice Court Rules of Civil Procedure). *See, e.g., Nelson v. Heer*, 121 Nev. 832, 834, 122 P.3d 1252, 1253 (2005)).
[28] *Smith v. Eighth Judicial Dist. Court*, 113 Nev. 1343, 1348, 950 P.2d 280, 283 (1997).
[29] *Id.*
[30] See *Union P. R.R. v. Adams*, 77 Nev. 282, 284, 362 P.2d 450, 451 (1961), stating "NRCP Rule 8(e)(2) [now NRCP 8(a)(3)] allow[s] a party to set forth two or more statements of the claim in one count or separate counts."
[31] *Hynds Plumbing & Heating Co. v. Clark County Sch. Dist.*, 94 Nev. 776, 587 P.2d 1331 (1978).

III. SUMMARY OF THE ARGUMENT

The Motion to Dismiss filed by Respondent cannot be used for the Writ portion of the Petition as it is not the appropriate responsive pleading allowed under NRS Chapter 34. As such, the court should proceed with the substance of Petitioner's Writ as though no responsive pleading was filed.[32]

Plaintiffs/Petitioners have sufficient standing in this matter because Petitioners/Plaintiffs CEIC and Antoine Poole will receive a direct benefit from cannabis and cannabis derivatives being removed from the list of Schedule I substances, as will each and every Nevadan who uses cannabis products.

Respondent's Motion to Dismiss the Complaint for failure to state a claim must be denied because Nevada is a notice pleading state (*see* NRCP 8(a)) and the Complaint for Declaratory and Injunctive Relief specifically sets forth that Respondents' act (failure to remove cannabis and cannabis derivatives from the Schedule I list of substances) is in direct violation of the Constitution of the State of Nevada (Article 4, Section 38) and Nevada law (NRS 453.166), therefore writ, injunctive, or declaratory relief requiring the Board to act in a manner that conforms to Nevada law are all appropriate remedies.

Respondent's motion must be denied in its entirety because: 1) Petitioners/Plaintiffs have standing to obtain writ relief because they will receive a beneficial interest from having cannabis removed from Schedule I; 2) the Petitioners/Plaintiffs financial and personal interest will be affected by the outcome of this case, and therefore have standing to seek declaratory and injunctive relief 3) there exists no plain, speedy, and adequate remedy in the ordinary course of law, thus extraordinary writ relief is appropriate and the Petition complies with the requirements of NRS

[32] *See* NRS 34.210 and NRS 34.260.

Chapter 34; and 4) the Complaint for Injunctive and Declaratory Relief sets out clear and a clear concise statement of facts, showing that Defendant is in violation of the Nevada Constitution and Nevada state law, and asks for an appropriate remedy as required by NRCP 8(a).

IV. ARGUMENT

A. Standing – As to Writ, Declaratory, and Injunctive Relief

1. Petitioner, Antoine Poole, will gain a direct benefit if cannabis is removed as a Schedule I substance, because his conviction would be void under Nevada law, and therefore he has standing to file a Petition for Writ of Mandamus and request declaratory and injunctive relief.

Mr. Poole was adjudicated guilty in the Eighth Judicial District Court of the State of Nevada of *Possession of Controlled Substance*, pursuant to NRS 453.336 for possession of marijuana. Respondent miscategorized Mr. Poole's conviction when they stated that it was pursuant to NRS 453.336(4), which imposes criminal penalties for the possession of 1 ounce or less of marijuana not obtained lawfully pursuant to the provisions of title 56 of NRS.[33] Respondent's confusion as to the categorization of Mr. Poole's conviction, and the interplay between the Board's classification of cannabis and the criminalization of acts related to controlled substances, goes to the heart of the issues in this case.

While the Nevada Legislature made it a crime to possess Schedule I controlled substances,[34] the Board's scheduling of the substances is what makes the statute effective. Thus, when the Board schedules cannabis and cannabis derivatives as Schedule I substances, it triggers the ability for individuals to be charged with Possession of a Controlled Substance under NRS

[33] Mot. to Dismiss 4: 25-28.

[34] In 1971, the Nevada Legislature passed the Uniform Controlled Substances Act of 1971. It made it a crime to possess a Schedule I controlled substance (with no intent to sell) and it delineated the level of punishment for violating the statute.[34] At the same time, the Legislature delegated its authority to schedule controlled substances to the Nevada Board of Pharmacy. (NRS 453.146 (enacted 1971)) It outlined various factors, as it is mandated to do, which are to be taken into account by the Board when scheduling drugs as well as delineating the requirements by which a drug is classified in an appropriate schedule. (*See* NRS 453.166; NRS 453.2186; and NRS 453.146.)

453.336(1). While NRS 453.366(4) does carve out possession of one ounce or less of marijuana and prescribes a different categorical level of the offense, no such carve out exists for possession over one ounce of marijuana. Thus, those individuals are currently being charged with the felony level offense of Possession of a Controlled Substance.

Mr. Poole was charged and convicted of Possession of Controlled Substance, pursuant to NRS 453.336(1)(2), for possessing marijuana. The events giving rise to the case occurred on May 20, 2016, and he was adjudicated guilty on April 20, 2017. His adjudication came after cannabis was legalized medically in 2000 with the passage of the Nevada Medical Marijuana Act and the Nevada Constitution was amended recognizing the medical value of cannabis and requiring its distribution to individuals with certain illnesses. At the time of this Amendment, the Board should have removed cannabis and cannabis derivatives from its list of Schedule I substances because the prerequisite findings to be able to classify a substance as Schedule I i.e., that it has no medical value or that it cannot be distributed safely, directly contradicted the Nevada Constitution. Because cannabis and cannabis derivatives should have been removed from NAC 453.510 as Schedule I substances, it follows that possession of cannabis should not have been a crime under NRS 453.336(1). Thus, Mr. Poole should never have been charged and convicted of a felony under NRS 453.336(1) for possessing marijuana.

Contrary to Respondent's argument[35], removing cannabis and cannabis derivatives from the list of Schedule I controlled substances after finding that their inclusion on the list is unconstitutional is the only remedy to overturn Mr. Poole's conviction.[36] Mr. Poole was convicted

[35] Mot. to Dismiss 4-5: 28-1.

[36] In footnote 4 in Respondent's Motion to Dismiss, Respondent states that Mr. Poole failed to explain why he did not take advantage of the marijuana pre-trial diversion program under NRS 453.3363 and that this inaction somehow goes against Mr. Poole having standing in a mandamus action. This assertion is not only irrelevant to the inquiry of standing, but Respondent completely ignores that such a program must be offered by the prosecutor as part of a plea agreement, and it must be approved by the presiding judge. Even more importantly, a full reading of NRS 453.3363, shows that

using a statute that would not be applicable to his case if cannabis was not classified as a Schedule I substance. Because he was charged and convicted unconstitutionally, he has a beneficial interest in obtaining writ relief. If the writ of mandamus is issued, his conviction will be deemed unconstitutional, and it would have to be nullified. If it is denied, Mr. Poole will continue to suffer the consequences of having a felony conviction on his record. Finally, Mr. Poole is an interested party whose rights, status, or other legal relations are affected by statutes and regulations. Mr. Poole was charged and convicted of Possession of Controlled Substance, pursuant to NRS 453.336(1)(2), for possessing marijuana. The statute under which he was convicted, as discussed in detail above, is made operative and applicable to marijuana possession by the Board's scheduling of cannabis as a Schedule I substance. The fact that he was arrested, charged, and convicted under the statute is a clear legal interest in the controversy and the controversy involved is ripe for judicial determination, therefore entitling him to seek declaratory and injunctive relief regarding the Board's failure, and continued unwillingness to remove cannabis from Schedule I.[37]

2. CEIC will gain a direct benefit if cannabis is removed as a Schedule I substance, as their mission directly relates to providing support to individuals seeking to participate in Nevada's cannabis market, and therefore have standing to file a Petition for Writ of Mandamus and request declaratory and injunctive relief.

Respondent's argument that CEIC alleges a dis-jointed, two-fold mission is wrong as it incorrectly frames Petitioners' statements from the Petition for Writ of Mandamus.[38] As it is

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section 5 of the statute states: "A professional licensing board may consider a proceeding under this section in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to the applicant or licensee." If anything, Section 5 amplifies Mr. Poole's standing as even the completion of a diversion program would render him dealing with the collateral consequences of a cannabis-related felony conviction that is unconstitutional.

[37] *See Doe*, 102 Nev. 523 (ruling that appellants lacked standing to seek declaratory relief because they have never been arrested for violating the statute in question nor was there any indication that appellants faced an immediate threat of arrest for violation of the statute.); *See also Steffel v. Thompson*, 415 U.S. 452, 458-59 (1973) (United States Supreme Court declaring that an actual controversy is essential to judicial relief under the Federal Declaratory Judgment Act and that the validity of criminal statutes may be assailed only if the threat of criminal prosecution is not "imaginary or speculative.)

[38] Mot. to Dismiss 5: 12-16.

outlined in the Petition, CEIC advocates for freedom, equity, and opportunity in Nevada's cannabis market by supporting people from underrepresented communities as they apply for licenses to participate in the legal cannabis market. In forming the organization, CEIC did not intend to help individuals apply for pardons and seal their records, but rather in the course of providing support to these individuals, CEIC recognized that some were unable to apply for licenses because of cannabis related convictions. Because they could not fulfill their mission of providing support to these individuals, CEIC had to divert their resources to help the apply for pardons and/or the sealing of cannabis related records.

CEIC has a beneficial interest in obtaining writ relief. There is no doubt that the organization will benefit from the writ's issuance. For one, they will be able to cease spending money, time, and resources, initially allocated for other matters, on helping individuals obtain pardons or sealing their records. An order stating that the classification of cannabis and cannabis derivatives as Schedule I substances is unconstitutional would nullify relative cannabis-related convictions. As such, there would be no need to for these individuals to seek pardons and sealing of their records to be able to apply for cannabis licenses. Secondly, such an order would open up the number of eligible members that CEIC could help assist, given that cannabis-related convictions impact a large number of underrepresented communities.[39]

If the writ of mandamus is not issued, CEIC will suffer direct detriment not only financially, but in its ability to carry out its mission of assisting underrepresented communities.

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[39] *The War on Marijuana in Black and White*, that examined arrests from 2000 to 2010, this report reveals that the racist war on marijuana is far from over. More than six million arrests occurred between 2010 and 2018, and Black people are still more likely to be arrested for marijuana possession than white people in every state, including those that have legalized marijuana. https://www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform.

a. Organizational Standing

In *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982), the Supreme Court found that organizational standing exists if: 1) the organization's mission was frustrated and 2) the organization diverted its resources to identify or respond to a Respondent's allegedly unlawful actions. To satisfy the standing requirement, organizations must show that resources that could have otherwise been spent on the organization's goals were diverted to address the challenged policy or practice.[40]

CEIC's mission as an organization is to provide support to individuals in underrepresented communities as they apply for licenses to participate in the legal cannabis market. To carry out its mission, CEIC participates in advocacy work to promote freedom, equity, and opportunity in Nevada's cannabis market, they assist individuals in applying for licenses needed to participate in the cannabis market, and they provide information and resources to individuals in underrepresented communities. While carrying out its mission, CEIC began to see repeated patterns of individuals not qualifying for the licenses needed to participate in Nevada's cannabis market because of cannabis-related convictions. Because they could not fulfill their mission of providing support to these individuals, CEIC had to divert their resources to help assist individuals apply for pardons and/or sealing their record.

CEIC's mission was further frustrated because cannabis-related convictions disproportionally rendered underrepresented communities ineligible for licenses needed to be able to participate in Nevada's cannabis market.[41] In *East Bay Sanctuary Covenant v. Garland*, 994

[40] *Rodriguez v. City of San Jose*, 930 F.3d 1123, 1134 (9th Cir. 2019).

[41] *See* NRS 678B.200 (2) ("When determining whether to approve an application to receive a license or registration card, the Board may consider whether the applicant is:(a) A person of good character, honesty and integrity;(b) A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this State or to the effective regulation and control of cannabis, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of cannabis-related activities or in the

F.3d 962 (9th Cir. 2021), a nonprofit organization that represented and assisted asylum seekers in the United States and in Mexico brought suit in district court seeking an injunction against enforcement of a new rule by Department of Justice and the Department of Homeland Security. The rule denied asylum to aliens arriving at the U.S. border with Mexico unless they have first applied for, and have been denied, asylum in Mexico or another country through which they have traveled.[42] Plaintiffs argued that the Rule "frustrated their mission of providing legal aid to affirmative asylum applicants because it rendered 'a large number' of potential applicants categorically ineligible for asylum and thus 'significantly discourage[d]' them from applying." [43] The Ninth Circuit held that because the nonprofit organization assisted individuals in submitting applications and the administrative rule rendered a large number of potential applicants ineligible, there was a sufficient showing of frustration of the organization's mission and the organization had standing.[44] Similarly here, CEIC assists individuals in filing applications with the government seeking a legal privilege, in this case a cannabis license. Individuals with certain cannabis-related convictions are unable to obtain a license to be able to participate. Their ineligibility stems directly from convictions under statutes which are made effective by the Board's classification of cannabis as a Schedule I substance. As such, CEIC's mission is frustrated by the Board's scheduling of cannabis, and they have standing.

As outlined above, CEIC has a legal interest in the controversy and the issue involved in the controversy is ripe for determination because the organization's mission has been frustrated

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carrying on of the business and financial arrangements incidental thereto; and (c) In all other respects qualified to be issued a license or registration card consistently with the declared policy of the State"; *See also* Nevada Cannabis Compliance Regulations (NCCR) Reg. 5.015(1)(e) "In addition to the considerations in NRS 678B.200 and NRS 678B.280, the Board may consider the following in determining whether any person qualifies to receive a license under the provisions of chapter 678B of the NRS: The Board may consider any other qualifications or behavior of the person that the Board determines is inconsistent with the declared policy of the State."

[42] *Id* at 968.

[43] *East Bay Sanctuary Covenant v. Garland*, 994 F.3d 962, 974-975.

[44] *Id.*

and it diverted its resources to identify and respond to Respondent's allegedly unlawful actions. Individuals continue to be prosecuted for violating Nevada statutes which rely on the scheduling of marijuana, cannabis, and cannabis derivatives as Schedule I substances, and CEIC must continue to expend resources remedying such actions. Identical to Mr. Poole, the Board has an interest in contesting CEIC's claim of right and is an adverse party in this controversy given that they do not believe that their actions are unconstitutional and they do not want to remove cannabis and cannabis derivatives from NAC 453.510.

b. Associational standing

CEIC has associational standing in this matter because a) its members would otherwise have standing to sue in their own right; b) the interests it seeks to protect are germane to the organization's purpose; and c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.[45]

Some of CEIC's members would have standing to sue in their own right because they have been charged and convicted under cannabis-related statutes that are made operative and applicable by the Board's scheduling of cannabis as a Schedule I substance. These individuals sought to participate in Nevada's cannabis market and were unable to do obtain a license to do so because of these convictions. Additionally, their participation in the lawsuit is not necessary.

As discussed in the previous sections, the interests CEIC seeks to protect are germane to its purpose because they will be able to cease spending money, time, and resources, all initially allocated for other matters, on helping individuals obtain pardons or sealing their records, and

[45] "[W]e have recognized that an association has standing to bring suit on behalf of its members when: (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333, 343, 97 S.Ct. 2434, 53 L.Ed.2d 383 (1977). *Greater Birmingham Ministries v. Sec'y of State for State of Alabama*, 992 F.3d 1299, 1316 (11th Cir. 2021).

nullification of unconstitutional cannabis-related convictions would open up the number of eligible members that CEIC could assist.

c. In the alternative, if the Court accepts the Board's position that CEIC does not have organizational or associational standing, the organization likely has standing under the public-importance doctrine.

CEIC has organizational and associational standing as long established in Nevada jurisprudence. However, should the Court determine that it does not, the case should not be dismissed because CEIC likely has standing under the public-importance standing exception as described in *Nev. Pol'y Rsch Inst., Inc. v. Cannizzaro*, 507 P.3d 1203.

Public-importance standing traditionally applies when (1) the case presents "an issue of significant public importance," (2) the case involves "a challenge to a legislative expenditure or appropriation on the basis that it violates a specific provision of the Nevada Constitution," and (3) the plaintiff is an "appropriate" party to bring the action.[46] However, the Nevada Supreme Court has previously waived the expenditure requirement in the context of the Nevada Constitution's separation of powers clause.[47] Specifically, it did so because there were "clear threats to the essential nature of state government guaranteed to . . . citizens under their [c]onstitution—[specifically,] a government in which the three distinct departments, . . legislative, executive, and judicial, remain within the bounds of their constitutional powers."[48] Ultimately the Court found that the expenditure requirement would be waived, stating that a court "may apply the public-importance exception in cases where a party seeks to protect the essential nature of "a government in which the three distinct departments, . . . legislative, executive, and judicial, remain within the

[46] *Nev. Pol'y Rsch Inst., Inc. v. Cannizzaro*, 507 P.3d 1203, 1207.
[47] *Id.*
[48] *Id* at 1208.

bounds of their constitutional powers, as against a public official, even when this requirement is not met."[49]

While Separation of Powers provision of the Nevada constitution are not at issue here, the fundamental principles are the same: is an executive branch department acting within the bounds of its constitutional authority? The Board's position in its Motion to Dismiss that it does not need to comply with the will of the voters *even when that will is manifested in the Nevada Constitution pursuant to a lawful referendum* make clear that the Board is acting beyond its constitutional boundaries.

B. <u>Even if the Court permits the Board to avoid its obligation to file an answer pursuant to the statutory scheme of NRS Chapter 34, the Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief are plead sufficiently to survive a motion to dismiss for failure to state a claim</u>.

1. There exists no plain, speedy, and adequate remedy in the ordinary course of law and thus extraordinary writ relief is appropriate and the Petition filed herein meets the requirements of NRS Chapter 34.

Here, there is no plain, speedy and adequate remedy in the ordinary course of law. There is no other method to challenge the Board's misclassification of marijuana, cannabis, and cannabis derivatives as Schedule I substances. Additionally, the constitutionality of the Board's classification of cannabis and cannabis derivatives in the wake of Article 4, Section 38 being added to the Nevada Constitution is a matter of first impression. When a petition for extraordinary relief involves a question of first impression that arises with some frequency, the interests of sound judicial economy and administration favor consideration of the petition.[50] Given that individuals in Nevada are still being charged with cannabis-related offenses that reference the classifications

[49] *Id.*

[50] *A.J. v. Eighth Judicial District Court in and for County of Clark*, 2017, 394 P.3d 1209, 133 Nev. 202, quoting *Cote H. v. Eighth Jud. Dist. Ct. ex rel. Cty. of Clark*, 124 Nev. 36, 175 P.3d 906 (2008).

designated by the Board, it is a matter that arises far too frequently, and consideration of the petition is warranted.

In response to the Board's claim (that the Plaintiffs were obligated to contact the Board to request an amendment to the list of Schedule I substances)[51] there is no statute, case law or rule that requires Plaintiffs to file a petition with the Board of Pharmacy to review the current listing of cannabis as a Schedule I substance before seeking judicial relief. Respondent argues that because Plaintiffs may petition the Board to review the scheduling of cannabis and they have not done so, mandamus is not the proper remedy.[52] However, the mere fact that other relief ***may*** be available does not mean Petitioners are barred from seeking alternate remedies, such as a writ of mandamus.[53] While petitioning the Board to remove cannabis as a Schedule I substance may result in its removal, it would not resolve the core issue in this case which is the unconstitutionality of scheduling them as Schedule I substances. The Nevada Supreme Court decision in *State Bd. of Parole Comm'rs v. Second Judicial Dist. Court*, 451 P.3d 73, is comparable. There, the Parole Board filed a petition for a writ of mandamus challenging the district court's decision to deny their petition for modification of a parolee's sentence.[54] Respondents argued that a writ of mandamus was not proper because the Petitioners had another remedy at hand; they could file an application to the State Board of Pardons Commissioners asking them to commute the parolee's sentence and thus achieve the result that the Parole Board sought in filing its petition.[55] However, the Court held that an application to the Pardons Board does not provide a "remedy in the ordinary course of law" because the Pardons Board cannot answer the legal question presented in the matter, as that

[51] Mot. to Dismiss 11:3-5.
[52] Mot. to Dismiss 11:3-16.
[53] *State ex rel. Armstrong v. State Bd. of Examiners*, 78 Nev. 495; Mulford v. Davey, 64 Nev. 506, 186 P.2d 360, 175 A.L.R. 1255; State ex rel. Sears v. Wright, 10 Nev. 167.
[54] *State Bd. of Parole Comm'rs,* 451 P.3d at 76.
[55] *Id.*

is a matter for the courts.[56] Similarly, here, even if the Board of Pharmacy has the authority to remove cannabis from the list of Schedule I substances, it cannot answer the question of whether its failure to do so is unconstitutional. Thus, filing a petition with the Board of Pharmacy to review the current listing of cannabis as a Schedule I substance is not an adequate remedy in the course of law.

Additionally, by its own admission, the Board has regularly reviewed the list of Schedule I substances and made the decision not to remove or reschedule cannabis.[57] Requiring the Petitioners/Plaintiffs to petition the Board to review the scheduling of cannabis would be absurd considering that the Plaintiffs would be asking the Board to do what the Board claims it is already doing.

2. A declaration as to the unconstitutionality of the Board's actions and/or an injunction preventing further harm is appropriate relief, both of which are plead sufficiently to survive a motion to dismiss.

In Nevada, all one needs to survive a motion to dismiss for failure to state a claim is sufficiently to put the opposing party on notice of the claims. The Nevada Supreme Court noted that, "pleadings should be liberally construed to allow issues that are fairly noticed to the adverse party."[58] A motion to dismiss must fail when the allegations set forth in a complaint are intelligible, specific, and adequately apprise the Defendant of the substance of Plaintiff's claims. When tested by a subdivision (b)(5) motion to dismiss for failure to state a claim upon which relief can be granted, the allegations of the complaint must be accepted as true.[59]

Here there is no question that: 1) NRS 453.166 requires that, for a drug to be considered a "Schedule I" substance, there must be a high potential for abuse and no accepted medical use or

[56] *Id.*
[57] Mot. to Dismiss 11: 14-15;26-28.
[58] *Smith v. Eighth Judicial Dist. Court*, 113 Nev. 1343, 1348, 950 P.2d 280, 283 (1997).
[59] *Hynds Plumbing & Heating Co. v. Clark County Sch. Dist.*, 94 Nev. 776, 587 P.2d 1331 (1978).

no accepted safety for use in treatment under medical supervision; 2) the Nevada Constitution, specifically Article 4, Section 38, recognizes the medicinal benefits of cannabis and has done so since 2000; and 3) the Board, in the intervening 20+ years since the medical value of cannabis has been constitutionally recognized, has failed to remove cannabis and cannabis derivatives from the list of Schedule I substances. Petitioners/Plaintiffs have sufficiently plead that this failure has resulted in the Board violating the Constitution of the State of Nevada as well as NRS 453.166, that Plaintiffs/Petitioners have a vested interest in ensuring that the Board stops this illegal behavior, and have sought an appropriate remedy from this court, whether by writ, declaration, or injunction, to order that the Board ceases this continued illegal behavior.

C. <u>While this Court should not address the underlying merits of this matter when ruling on the Motion to Dismiss, Respondent's arguments related to the merits of this matter are unsupported by the plain language of the law or legislative history.</u>

When considering a Motion to Dismiss, the Court must accept the factual allegations of the Petition as true and draw all inferences in favor of Plaintiffs, thus a discussion of the underlying merits of the case is more appropriate for a Motion for Summary Judgment pursuant to NRCP 56, rather than a Motion to Dismiss. However, as Respondent/Defendant attempts to argue the underlying merits of the current matter, in an abundance of caution Petitioners/Plaintiffs respond as follows.

In its argument that "nothing in the express language of [the Nevada Medical Marijuana Initiative] compels the deletion of marijuana from NAC 453.510," Respondent at no point discusses, cites, or mentions the language of Article 4, Section 38 of the Nevada Constitution. Even more importantly, Respondent does not explain how its findings under NRS 453.166 used to schedule cannabis and cannabis derivatives as Schedule I substances does not conflict with the plain reading of Article 4, Section 38 of the Nevada Constitution. To support their argument,

Respondent cites to *Sheriff, Clark County v. Lugmanm*, 101 Nev. 149 (1985) and claims that "the Nevada Supreme Court has noted that statutes and regulations 'should be construed, if reasonably possible, so as to be in harmony with the constitution.'"[60] There are two things wrong with this argument. First, Respondent took it upon themselves to insert "regulations" within this statement when the Supreme Court of Nevada only used such a statement as it relates to statutes.[61] It goes without saying that regulations are not the same as statutes and Plaintiffs are not arguing that the statutes passed by the legislature are unconstitutional. Second, it should be emphasized that the presumption alluded to in the opinion applies "if reasonably possible." Here, there is a direct contradiction with the Nevada Constitution on its face. It is not reasonably possible to conclude that such a contradiction is in harmony with the constitution.

The Respondent next contends that no conflict exists because "the Board must consider scientific evidence, not popular opinion, when evaluating a substance's accepted medical use."[62] If Respondent is insinuating that voters in Nevada are merely stating public opinion and do not hold the power to strip the Board of its authority to regulate cannabis, they would be wrong. Nevada voters may initiate a ballot measure that is placed directly on the ballot for voters to accept or reject.[63] If it passes in two consecutive elections, it becomes law.[64] The Nevada voters have the power, whether by choosing their elected representatives or by directly amending the constitution by ballot measure, to determine the laws that govern this state. As such, Nevada voters wield just as much, if not more, power as the Legislature to take away the Board's authority. It is clear that, more than 20 years ago, Nevada voters made the factual determination that cannabis has medical

[60] Mot. To Dismiss 8:16-19.
[61] *Sheriff, Clark County*, 101 Nev. at 154.
[62] Mot. to Dismiss 8: 21-23.
[63] See NRS Chapter 295.
[64] *Id.*

value and ordered its distribution, and that determination was codified at Article 4, Section 38 of the Nevada Constitution, our highest governing document.

Petitioners/Plaintiffs' assertions regarding the nature of their claims and the specific relief being sought are clear throughout the Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief. Under NRS 453.166, the Board may only designate a substance as a Schedule I substance if it determines that the substance "has high potential for abuse *and* has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision." (Emphasis added). The Board is mandated to review the schedule annually and maintain a list of current schedules.[65] The Board has admitted to reviewing the current schedules frequently and it chose not to remove cannabis and cannabis derivatives as Schedule I substances. Article 4, Section 38, of the Nevada Constitution states that cannabis does have medical value and it requires that it be distributed. This directly contradicts the Board's findings that cannabis does not have medical value or that it lacks safety for use in treatment under medical supervision. Therefore, such action is unconstitutional.

1. **The Board exceeded its authority when it placed, or failed to remove, marijuana, cannabis, and cannabis derivatives from NAC 453.510 as Schedule I substances.**

The Board's authority to classify marijuana, cannabis, and cannabis derivatives was stripped with the passage of the *Initiative to Regulate and Tax Marijuana* in two distinct ways. First, the *Initiative* promulgated that marijuana should be "regulated in a manner similar to alcohol."[66] Under NRS 453.2186, the Board is prohibited from scheduling, and has no authority, to regulate "distilled spirits, wine, [and] malt beverages." Because the *Initiative* expressly stated that marijuana should be treated the same as alcohol, and the Legislature specifically prohibited

[65]NRS 453. 211 (1)(a): "The Board shall review the schedule annually and maintain a list of current schedules."
[66] *Initiative to Regulate and Tax Marijuana*, Nevada Secretary of State, 1 (April 23, 2014), https://www.nvsos.gov/sos/home/showdocument?id=3294.

the Board from scheduling alcohol, it should follow that the Board is also prohibited from scheduling marijuana, cannabis, and cannabis derivatives.

In interpreting this argument, Respondent incorrectly claims that Plaintiffs are connecting the language in the *Initiative* and the language in NRS 453.2186 to conclude that "descheduling marijuana was a fait accompli."[67] The two statutes in conjunction do not equate to cannabis being descheduled, but rather that the Board no longer had the authority to schedule cannabis at the time Nevada's Constitution was successfully amended. The removal of cannabis and cannabis derivatives as Schedule I substances would flow from the Board's lack of authority. Respondent counters this logical connection by arguing that such an interpretation would render Sections 4 and 6-8 of the ballot initiative meaningless and impermissibly thwart the will of the electorate.[68] However, Respondent fails to appreciate that sections 4, 6, 7, and 8 are carve outs by the Legislature specifically for cannabis and have nothing to do with the Board's ability to schedule substances or offenses that criminalize conduct relating to controlled substances. Rendering that the Board no longer has the authority to regulate or schedule cannabis would have no impact on these sections.

Looking beyond the brief reference made by Respondent to the Initiative, the enactment of Sections 4, 6, 7, and 8 of the ballot initiative[69] actually serves as more evidence that the voters and the Legislature did not intend for cannabis to remain a "controlled substance" under Board regulation. For example, while Section 4 "does not prevent the imposition of any civil, criminal, or other penalty for" certain enumerated acts (e.g. driving under the influence of marijuana, possessing marijuana in prisons, etc.), the Initiative does not require marijuana to be a "controlled

[67] Mot. To Dismiss 9: 1-5.
[68] Mot. to Dismiss 9:5-10.
[69] *See Initiative to Regulate and Tax Marijuana*, Nevada Secretary of State, 1 (April 23, 2014), https://www.nvsos.gov/sos/home/showdocument?id=3294.

substance" for the Legislature to make those enumerated actions illegal. To build upon this example, the act described in Section 4, Subsection 1(c) is illegal under NRS 212.160. NRS 212.160(3) states:

> A prisoner confined in an institution of the Department of Corrections, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, who possesses a *controlled substance without lawful authorization or marijuana or marijuana paraphernalia*, regardless of whether the person holds a valid registry identification card to engage in the medical use of cannabis pursuant to chapter 678C of NRS, is guilty of a category D felony and shall be punished as provided in NRS 193.130. (Emphasis added).

Relying on the same canon of statutory interpretation as the Respondent, plain language of NRS 212.160 indicates that the Legislature does not intend for marijuana to be a "controlled substance" under the Board's control, otherwise the language "or marijuana or marijuana paraphernalia" would be superfluous.

Second, the *Initiative* made clear that the Nevada Department of Taxation, rather than the Nevada Board of Pharmacy, has the authority to regulate cannabis in the community.[70] The Legislature later confirmed this when it transferred authority to regulate marijuana from the Department of Taxation to the Cannabis Compliance Board.[71] Despite the Respondent's belief that the two administrative agencies occupy different roles that don't overlap or conflict, the opposite is true. The Board is making findings that cannabis either has no medical value or that it cannot be distributed safely while the Cannabis Compliance Board is creating the scheme in which cannabis can be safely distributed for both medical and recreational purposes.

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[70] *Initiative to Regulate and Tax Marijuana*, Nevada Secretary of State, 1 (April 23, 2014), https://www.nvsos.gov/sos/home/showdocument?id=3294. *See also* NRS 453D.200.
[71] Nev. Legis. AB 533 Reg. Sess. 2019.

2. The fact that the Legislature has not passed an express statute descheduling cannabis and cannabis derivatives is irrelevant.

The ability for the Legislature to remove cannabis and cannabis derivatives as Schedule I substance when enacting or amending legislation, and their decision to not do so, does nothing to negate the Board's duty to abide by the Nevada Constitution when carrying out its duties. As such, it is irrelevant in the analysis for a motion to dismiss.

Furthermore, the Legislature, by enacting NRS 453.166 already set forth the requirements for the Scheduling system. Again, NRS 453.166 requires there be no medical value. There would be no need for the Legislature to specifically pass legislation removing cannabis when cannabis itself no longer fits into the already codified definition of a Schedule I substance.

3. The Board is not mandated to follow the federal schedule when classifying a controlled substance.

Respondent relies on NRS 453.2182 to argue that because cannabis is still listed as a Schedule I substance under federal law, the Board is required to follow suit. After a deeper dive into NRS 453.2182 and its purpose, one can see that such a requirement does not exist for cannabis. NRS 453. 2182 was passed in 1991 under the title, "Treatment by Board when substance is designated, rescheduled, or deleted as a controlled substance by federal law."[72] It reads:

> If a substance is designated, rescheduled or deleted as a controlled substance pursuant to federal law, the Board shall similarly treat the substance pursuant to the provisions of NRS 453.011 to 453.552, inclusive, after the expiration of 60 days from publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance or from the date of issuance of an order of temporary scheduling under Section 508 of the federal Dangerous Drug Diversion Control Act of 1984, 21 U.S.C. § 811(h), unless within the 60-day period, the Board or an interested party objects to the treatment of the substance. If no objection is made, the Board shall adopt, without making the determinations or findings required by subsections 1 to 4, inclusive, of NRS 453.146 or NRS 453.166, 453.176, 453.186, 453.196 or 453.206, a final regulation treating the substance. If an objection is made, the Board shall

[72] *See* NRS 453.2182.

> make a determination with respect to the treatment of the substance as provided by subsections 1 to 4, inclusive, of NRS 453.146. Upon receipt of an objection to the treatment by the Board, the Board shall publish notice of the receipt of the objection, and action by the Board is stayed until the Board adopts a regulation as provided by subsection 4 of NRS 453.146.

When considering the title and the full text of the statute, one can see that this statute applies to changes made to the federal schedule of controlled substances post 1991. Specifically, the statute permits the Board or any other interested party to object to the treatment of the substance within 60 days of its publication in the Federal Registrar. "Marihuana" was classified as a Schedule I substance in Nevada with the passage of the Uniform Controlled Substances Act in 1971.[73] This is decades before the passage of NRS 453.2182. This leaves no room for anyone to object as is outlined in the statute. If this statute was applicable to substances scheduled prior to 1991, the ability to object would be rendered meaningless.

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[73] Legislative History of Assembly Bill 107 from 1971. https://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1971/AB107,1971.pdf

V. CONCLUSION

Respondent's motion must be denied in its entirety because: 1) Petitioners/Plaintiffs have standing to obtain writ relief because they will receive a beneficial interest from having cannabis removed from Schedule I; 2) the Petitioners/Plaintiffs financial and personal interest will be affected by the outcome of this case, and therefore have standing to seek declaratory and injunctive relief 3) there exists no plain, speedy, and adequate remedy in the ordinary course of law and thus extraordinary writ relief is appropriate and the Petition complies with the requirements of NRS Chapter 34; and 4) the Complaint for Injunctive and Declaratory Relief sets out clear and a clear concise statement of facts, showing that Defendant is in violation of the Nevada Constitution and Nevada state law, and asks for an appropriate remedy as required by NRCP 8(a).

DATED this 21st day of June 2022.

This document does **not** contain the Social Security number of any person. Pursuant to NRS 53.045, I declare under penalty of perjury that the foregoing is true and correct.

AMERICAN CIVIL LIBERTIES UNION OF NEVADA

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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of June 2022, I caused a true and correct copy of the foregoing **PETITIONERS'/PLAINTIFFS' OPPOSITION TO RESPONDENT'S /DEFENDANT'S MOTION TO DISMISS FOR LACK OF JURISDICTION AND FAILURE TO STATE A CLAIM** to be electronically filed and served to all parties of record via the Court's electronic filing system to all parties listed on the e-service master list.

/s/Courtney Jones
An employee of ACLU of Nevada