

No. _____

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
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FRANCISCO V. AGUILAR, in his official capacity as NEVADA SECRETARY
OF STATE,

Petitioner,

vs.

WASHOE COUNTY BOARD OF COUNTY COMMISSIONERS, CLARA
ANDRIOLA, in her official Capacity as WASHOE COUNTY COMMISSIONER,
MICHAEL CLARK, in his official Capacity as WASHOE COUNTY
COMMISSIONER, and JEANNE HERMAN, in her official Capacity as
WASHOE COUNTY COMMISSIONER,

Respondents.

PETITION FOR WRIT OF MANDAMUS

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ROUTING STATEMENT

This case is presumptively retained by the Supreme Court under NRAP 17(a)(2) because it involves a ballot or election issue. *See* NRAP 17(a)(2). It is therefore appropriate for this Court to resolve this case. Petitioner requests relief by no later than **August 22, 2024**. Petitioner acknowledges that, because relief is not requested within 14 days, this Petition technically is not an emergency petition subject to NRAP 21(a)(6). However, the legal and broader policy impacts of Respondents' decision not to canvass election results are severe, and there is no reason to delay a decision by this Court, given the ministerial nature of Respondents' election duties at issue. *See* NRS 293.387; NAC 293.365. These factors, alone, warrant swift resolution by this Court.

INTRODUCTION

Yesterday, on July 9, 2024, in an unprecedented 3-2 vote, the Washoe County Board of Commissioners (the “Board”) unlawfully refused to canvass the results of two recounts in the June 2024 Primary Election (the “Primary Election”).¹ Critically, the Board’s decision is unlawful, and besieges core tenets of fair elections in our State. Nevada law makes canvassing election results – including recount results – by a certain date a *mandatory* legal duty for the Board, which it has absolutely no discretion to refuse or otherwise fail to perform. *See* NRS 293.387; NAC 293.365.

The Board appears to have departed from its mandatory duty based on vague, unsubstantiated allegations that Washoe County’s own election and recount processes were not trustworthy. These false allegations ignore clear statutory procedures that have long governed recounts and continue to ensure consistency, accuracy, and finality in Nevada’s elections. The Board’s refusal to canvass threatens to harm the impacted candidates, the County’s voters, and public trust in

¹ *See* Tabitha Mueller, Washoe County commissioners vote not to certify primary election recounts, *The Nevada Independent* (Jul. 9, 2024, 5:08pm), <https://thenevadaindependent.com/article/washoe-county-commissioners-vote-not-to-certify-primary-election-recounts>; Washoe County, Nev., Board of County Commissioners Special Meeting, YouTube (July 9, 2024), <https://www.youtube.com/watch?v=ardUI-NfHiU&t=15864s>.

The three commissioners who voted not to certify the recount results—Clara Andriola, Mike Clark, and Jeanne Herman—are also named in their official capacity as Respondents in this Petition.

our State's elections and the dedicated workers and volunteers who make them possible.

Today, July 10, 2024, is the last day for the Board to canvass the recount results as required under NAC 293.365 and NRS 293.387. But the Board has failed and refused to do its duty. Petitioner Francisco V. Aguilar, in his official capacity as Nevada's Secretary of State and "Chief Officer of Elections," NRS 293.124, has a significant interest in ensuring that the Board performs its mandatory election duties in compliance with Nevada law by timely canvassing the Primary Election recount results. The Board's continued refusal to certify the recount results erodes public confidence in elections daily and threatens to thwart the Secretary's ability to faithfully execute and enforce election laws in this State.

Accordingly, the Court should issue a writ of mandamus and order Respondents to canvass the County's Primary Election recount results as soon as possible, but not later than August 22, 2024, the date by which the canvass of the primary must be complete to permit an election contest to go forward and the contents of general election ballots to be finalized in accordance with Nevada law.

ISSUE PRESENTED

Does the Washoe County Board of Commissioners' failure to canvass and certify the results of two recounts in Washoe County's 2024 Primary Election by the deadline of Wednesday, July 10, 2024, violate its mandatory duty prescribed by NRS 293.387 and NAC 293.365?

STATEMENT OF FACTS

On Tuesday, June 11, 2024, Washoe County (the "County") held the Primary Election in accordance with NRS 293.175.² After the County's Registrar of Voters counted the Primary Election results, the Board met on June 21, 2024. The Board considered an agenda item regarding a "Declaration of Canvass of Vote and Order for [the] 2024 Primary Election held on June 11, 2024,"³ and ultimately certified the canvass of the Primary Election results.⁴

On June 25, 2024, three unsuccessful candidates—Mark A. Lawson (a candidate for the Washoe County Board of Commissioners, in District 4), Paul D. White (a candidate for Washoe County School Board Trustee, in District G), and Lillith Baran (a candidate for Reno City Council, in Ward 1)—each filed written

² See NRS 293.175(1) ("The primary election must be held on the second Tuesday in June of each even-numbered year.").

³ See Ex. A (Agenda for the June 21, 2024 meeting of the Washoe County Board of Commissioners).

⁴ See Decl. of Mark Wlaschin at ¶ 4.

requests to have their races recounted in accordance with NRS 293.403.⁵

Over the next two days, on June 26 and 27, 2024, all three candidates also commenced litigation, filing complaints in the Second Judicial District Court against the Washoe County Registrar of Voters and various other elected officials, seeking preliminary injunctions to require the recounts to be conducted by hand. The three unsuccessful candidates also filed applications for temporary restraining orders attempting to prevent the Washoe County Registrar from completing a recount of the votes using machines.⁶

The recounts of all three races commenced on Sunday, June 30, 2024, consistent with NRS 293.405's obligation to commence a given recount within five days after a candidate's demand for a recount. Although Ms. Baran ultimately withdrew her request for a recount on June 30 in accordance with NAC 293.371, the County completed the recounts of the White and Lawson races on Tuesday, July 2, 2024.⁷

⁵ See *id.* at ¶ 5.

⁶ See *White v. Burgess et al.*, Case No. CV24-01442 (Second Jud. Dist. Ct. filed June 27, 2024); *Lawson v. Burgess et al.*, Case No. CV24-01438 (Second Jud. Dist. Ct., filed June 26, 2024); *Baran v. Burgess et al.*, Case No. CV24-01437 (Second Jud. Dist. Ct., filed June 26, 2024).

⁷ See Decl. of Mark Wlaschin at ¶ 11; Mark Robison, Primary recount: Washoe County results show almost no change for Mark Lawson, Paul White, The Reno Gazette Journal (July 3, 2024, 7:42am), <https://www.rgj.com/story/news/politics/elections/2024/07/03/washoe-primary-recount-for-white-lawson-show-almost-no-change/74290651007/>.

NAC 293.365 mandates the Board to canvass the results of any recount within five working days after the recount's completion.⁸ Under NAC 293.365, the Board's deadline is today, July 10—five working days after July 2.

On July 3, the Second Judicial District Court held oral argument on Mr. White's motion for preliminary injunction, and then on July 9 denied Mr. White's request for a preliminary injunction.⁹ Also on July 9, the Board held a public meeting in which it agendized a "Declaration of canvass of recount vote for Mr. Lawson and Mr. White."¹⁰ At the July 9 meeting, the Board declined to canvass the results of these two recounts.¹¹ The Board voted 3-2 against canvassing the Primary Election recount results, with Respondent Commissioners Andriola, Clark, and Hermann voting against the canvass.¹²

⁸ NAC 293.365(1) ("The results of a recount of any election demanded pursuant to NRS 293.403 must be canvassed within 5 working days after the completion of the recount."), (3) ("If the recount concerns a candidate or ballot question that was voted on in one county, the board of county commissioners shall conduct the canvass in the manner prescribed in subsections 2 and 3 of NRS 293.387").

⁹ Order Den. Mot. for Prelim. Inj. on Order Shortening Time, *White v. Burgess et al.*, Case No. CV24-01442 (Second Jud. Dist. Ct., July 9, 2024).

¹⁰ See Ex. B (Agenda for the July 9, 2024, meeting of the Washoe County Board of Commissioners).

¹¹ See Decl. of Mark Wlaschin at ¶ 13; Washoe County, Nev., Board of County Commissioners Special Meeting, YouTube (July 9, 2024), <https://www.youtube.com/watch?v=ardUI-NfHiU&t=15864s>.

¹² See Decl. of Mark Wlaschin at ¶ 14; Washoe County, Nev., Board of County Commissioners Special Meeting, YouTube (July 9, 2024), <https://www.youtube.com/watch?v=ardUI-NfHiU&t=15864s>.

The failure to canvass the recount results violates NAC 293.365 and the Board's statutory obligation to canvass election results under NRS 293.387. The Board's decision not to canvass implicates the November 2024 general election because it impacts which candidates appear on the general election ballot. The last possible date for election officials to make changes to the general election ballots is September 6, 2024.¹³ NRS 293.413(1) affords all candidates whose races were subject to a recall 5 days to file an election contest. Subsection 2 further requires that courts give election contests priority and that they schedule them not less than 5 and not more than 10 days after the filing of a statement of contest. To protect the rights of the candidates to the races to contest the election, the canvass of the recounts at issue here must occur a minimum of 15 days prior to the September 6, 2024 deadline. Thus, the latest canvass of the recounts here can occur without impacting the rights of candidates and assuming a district court is prepared to rule on any election contest from the bench, is not later than August 22, 2024.

¹³ See Decl. of Mark Wlaschin at ¶ 15.

ARGUMENT

I. Mandamus Standard

A writ of mandamus may issue to compel an official to perform a legally required act.¹⁴ The writ may issue “in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law.”¹⁵ A writ of mandamus is an extraordinary remedy that is within this Court’s sound discretion to consider and issue.¹⁶

Even if a plain, speedy, and adequate legal remedy is available, the Court may still choose to consider an original writ petition when it “raises an issue that presents

¹⁴ Nev. Const. art. 6, § 4 (conferring jurisdiction upon this Court to consider and issue writs of mandamus); NRS 34.160 (“The writ may be issued by the Supreme Court, the Court of Appeals, 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. . . .”); *see also Sw. Gas Corp. v. Pub. Serv. Comm’n of Nev.*, 92 Nev. 48, 54, 546 P.2d 219, 222 (1976) (“Performance of a duty, enjoined upon an officer by law, without leaving him any discretion in its performance, may be compelled by mandamus, if there be no other adequate remedy.” (quoting *Teeter v. Dist. Ct.*, 64 Nev. 256, 263, 180 P.2d 590, 594 (1947))).

¹⁵ NRS 34.170.

¹⁶ *See We the People Nev. v. Miller*, 124 Nev. 874, 880, 192 P.3d 1166, 1170 (2008) (per curiam) (exercising discretion to consider, and ultimately grant, petition for writ of mandamus raising election-related “issues of significant magnitude”); *accord Am. C.L. Union v. Cnty. of Nye (ACLU)*, Case No. 85507, 2022 WL 14285458, at *2 (Nev. Oct. 21, 2022) (unpublished order) (granting in part emergency, original petition for writ of mandamus against county commissioners on election issues).

an ‘urgency and necessity of sufficient magnitude’” potentially impacting a general election,¹⁷ or “when principles of judicial economy and public policy weigh in favor of considering the petition.”¹⁸ Either way, “[e]ach case must be individually examined, and where circumstances reveal urgency or strong necessity, extraordinary relief may be granted.”¹⁹

II. This Court Should Grant a Writ of Mandamus Compelling Respondents to Canvass the Primary Election Recount Results.

a. The Secretary of State has Standing to Seek a Writ of Mandamus.

“To establish standing in a mandamus proceeding, the petitioner must demonstrate a ‘beneficial interest’ in obtaining writ relief.”²⁰ As Nevada’s Chief Elections Officer, the Secretary of State (the “Secretary” or “Secretary Aguilar”) has a clear duty to “uphold Nevada’s Constitution, execute and enforce Nevada’s

¹⁷ See *We the People Nev.*, 124 Nev. at 880, 192 P.3d at 1170 (quoting *Jeep Corp. v. Second Jud. Dist. Ct.*, 98 Nev. 440, 443, 652 P.2d 1183, 1185 (1982)); see also *LaPorta v. Broadbent*, 91 Nev. 27, 29, 530 P.2d 1404, 1405-06 (Nev. 1975) (exercising discretion to consider and grant original writ petition involving an election question “because the public interest requires an early determination of the issue”).

¹⁸ *Lorton v. Jones*, 130 Nev. 51, 54-55, 322 P.3d 1051, 1053 (2014) (citing *Salaiscooper v. Eighth Jud. Dist. Ct.*, 117 Nev. 892, 901-02, 34 P.3d 509, 515-16 (2001)); *Walker v. Eighth Jud. Dist. Ct.*, 120 Nev. 815, 819, 101 P.3d 787, 790 (2004.)

¹⁹ *Jeep Corp. v. Second Jud. Dist. Ct.*, 98 Nev. 440, 443, 652 P.2d 1183, 1186 (1982) (citing *Shelton v. Dist. Ct.*, 64 Nev. 487, 185 P.2d 320 (1947)).

²⁰ *Heller v. Legis. of State of Nev.*, 120 Nev. 456, 460-61, 93 P.3d 746, 749 (2004) (per curiam) (quoting NRS 34.170) (internal footnote omitted).

election statutes, and administer Nevada’s election process.”²¹ Relevant here, NRS 293.247 requires the Secretary to adopt regulations governing the conduct of primary elections in all Nevada cities and counties, which includes “[t]he disposition of election returns” and “[t]he procedures to be used for canvasses, ties, recounts and contests[.]”²² More specifically, the Secretary duly regulates the recount canvassing process through NAC 293.365. These duties to regulate elections, including recounts, confers upon the Secretary a “beneficial interest” (*i.e.*, standing) in this effort to compel the Board to canvass and certify the recount results at issue.²³ Accordingly, since Secretary Aguilar is “beneficially interested”²⁴ in having Respondents comply with NRS 293.387 and NAC 293.365’s canvass requirements, he has standing to seek a writ of mandamus compelling them to perform their mandatory duty to canvass.

b. Respondents have a Mandatory Legal Duty to Canvass the Recount Results.

A writ of mandamus is appropriate here because the Board has a non-discretionary duty to canvass and certify the recount results under Nevada law, yet

²¹ *Miller v. Burk*, 124 Nev. 579, 588, 188 P.3d 1112, 1118 (2008) (citing Nev. Const., art. 15, § 2; NRS 293.124; *Heller*, 120 Nev. at 461, 93 P.3d at 750).

²² NRS 293.247(1), (3)(c)-(d).

²³ *Heller*, 120 Nev. at 461, 93 P.3d at 750 (“A public officer’s capacity to sue is incident to the duties of the office.”) (internal citation omitted); *see also id.* (noting that the Nevada Legislature appears to have intended that the Secretary “have standing to seek enforcement of the state’s election laws”).

²⁴ NRS 34.170.

has failed to do so by its deadline of July 10, 2024.

i. Legal Framework Governing Canvass of Recount Results

After the County properly conducts a recount—a process prescribed by NRS 293.403 through 293.405, inclusive—the results of that recount “must be canvassed within 5 working days after the completion of the recount.”²⁵ “If the recount concerns a candidate or ballot question that was voted on in one county, the board of county commissioners shall conduct the canvass in the manner prescribed in subsections 2 and 3 of NRS 293.387.”²⁶

NRS 293.387 mandates that “[a]s soon as the returns from all the precincts and districts in any county have been received,” each board of county commissioners “shall meet and canvass the returns” of an election and follow a prescribed process in doing so.²⁷ Specifically, NRS 293.387 requires county commissioners to meet and canvass election returns, including recount results under NAC 293.365. Under

²⁵ NAC 293.365(1); *see also Kassebaum v. Dep’t of Corr.*, 139 Nev. Adv. Op. 34, 535 P.3d 651, 656 (2023) (recognizing that, “when administrative regulations are mandated by the Legislature and adopted in accordance with statutory procedures, . . . they have the force and effect of law”) (cleaned up and citations omitted).

²⁶ NAC 293.365(3).

²⁷ NRS 293.387(1), (2) (emphasis added); *see also State of Nev. Emps. Ass’n, Inc. v. Daines*, 108 Nev. 15, 19, 824 P.2d 276, 278 (1992) (“[I]n statutes, ‘may’ is permissive and ‘shall’ is mandatory unless the statute demands a different construction to carry out the clear intent of the legislature.”); *High Noon at Arlington Ranch Homeowners Ass’n v. Eighth Jud. Dist. Ct.*, 133 Nev. 500, 506, 402 P.3d 639, 645 (2017) (“When a statute is facially clear, we will give effect to the statute’s plain meaning.”).

NRS 293.387, commissioners normally must complete their canvass no later than “the 10th day following the election.”²⁸

However, the recounts requested by Mr. Lawson and Mr. White triggered additional canvassing obligations for Respondents under NAC 293.365. Because the recounts were completed on July 2, the Board must therefore complete the canvass of the recount results no later than five working days later, on Wednesday, July 10, 2024.²⁹ After canvassing the recount results, the Board “*shall* cause the county clerk to certify the [results]” and “transmit them to the Secretary of State” by the recount canvass deadline.³⁰

If, as Respondents have done here, a county fails to carry out the statutorily prescribed canvass, grave consequences loom. For example, the candidates requesting the recount are deprived of their statutory ability to have the results of the recount adopted pursuant to NRS 293.403. Additionally, the County’s voters are left without the final results of the Primary Election, to which they are entitled under Nevada law.³¹ With these interests at stake, the Nevada Legislature has made clear

²⁸ NRS 293.387(1); *see also* NRS 293.393 (duty to canvass votes for general elections or any other elections involving votes cast for federal and statewide offices).

²⁹ *See* Decl. of Mark Wlaschin at ¶ 11; *see also* NAC 293.365(1).

³⁰ NRS 293.387(3) (emphasis added); NAC 293.365 (1), (3).

³¹ Nevada’s election statutes (and corresponding regulations) do not explicitly contemplate the potential consequences of a county’s failure to timely complete its canvass. *See generally* NRS Chapter 293; NAC Chapter 293; Secretary of State,

that our State’s election laws “must be liberally construed,” such that “the real will of the electors is not defeated by any informality or by failure substantially to comply with [Title 24] with respect to the giving of any notice or the conducting of an election or *certifying the results thereof*.”³²

ii. The Canvass is a Purely Ministerial act Subject to Mandamus.

Respondents’ duty to canvass the Primary Election recount results is mandatory and thus purely ministerial. This is clear from the relevant statutory and regulatory text: the Board “shall” canvass the recount results “as soon as the returns” are received.³³ And as this Court has long recognized, county commissioners “shall jointly and individually perform [their] duties as may be prescribed by law”; they simply cannot exercise powers beyond such limits.³⁴

2024 Election Procedures Manual (May 13, 2024), <https://www.nvsos.gov/sos/home/showpublisheddocument/10552/638072259445070000>.

³² NRS 293.127 (emphasis added); *see also Clark Cnty. v. S. Nev. Health Dist.*, 128 Nev. 651, 656, 289 P.3d 212, 215 (2012) (“If the Legislature’s intention is apparent from the face of the statute, there is no room for construction, and this court will give the statute its plain meaning.”).

³³ NRS 293.387(1); NAC 293.365(3); *see also Daines*, 108 Nev. at 19, 824 P.2d at 278; *High Noon*, 133 Nev. at 506, 402 P.3d at 645; *Kassebaum v. Dep’t of Corr.*, 139 Nev. Adv. Op. 34, 535 P.3d 651, 656 (2023) (recognizing that, “when administrative regulations are mandated by the Legislature and adopted in accordance with statutory procedures, . . . they have the force and effect of law”) (cleaned up and citations omitted).

³⁴ Nev. Const. art. 4, § 26; *see State v. Shaughnessy*, 47 Nev. 129, 217 P. 581, 584 (1923) (“County commissioners are administrative agencies of the state. They are required by the organic law to perform such duties as may be prescribed by law.”)

The ministerial nature of the Board’s duty is confirmed by the fact that the statute and regulation contemplate only a single type of review of the returns by the Board: to correct “clerical errors.”³⁵ Such clerical corrections are, themselves, ministerial. They entail no exercise of discretion. And there are no circumstances in the statute or regulation under which the Board may simply decline to canvass.

As in *Las Vegas Taxpayer Accountability Committee v. City Council of City of Las Vegas*, 125 Nev. 165, 175, 208 P.3d 429, 436 (2009), the Board cannot ignore a mandatory duty based on purported substantive concerns; the proper forum for resolution of those concerns is the courts. Indeed, the concerns that appear to have animated the Board here are the subject of litigation — and, in that litigation, they have been preliminarily rejected.³⁶ Nevada law does not allow the Board to take this judicial function into its own hands or execute this end-run around Nevada’s judicial process.³⁷ Accordingly, the Board has no legal basis to skirt its mandatory duty to

(citing Nev. Const. art. 4, § 26)); *State v. Gallagher*, 22 Nev. 80, 35 P. 485, 486 (1894) (recognizing that county commissioners “ha[ve] no right or authority to adopt any other mode than that provided for and pointed out by the statute,” and that “[t]he statute is its guide, and a strict adherence to it[] is essential”).

³⁵ NRS 293.387(2); NAC 293.365(3).

³⁶ Order Den. Mot. for Prelim. Inj. on Order Shortening Time, *White v. Burgess et al.*, Case No. CV24-01442, 5 (Second Jud. Dist. Ct., filed July 9, 2024) (Plaintiff “fails to show that he enjoys a likelihood of success on the merits of his Complaint.”).

³⁷ See *Lewis v. Marshall Cnty. Comm’rs*, 16 Kan. 102, 105 (1876) (Kansas Supreme Court issuing a writ of mandamus against canvassing board and holding that, because the board has a “ministerial” duty and cannot “overestimate its

complete the canvass, and therefore should be compelled to perform a canvass of the recount results.³⁸

c. The Court Should Grant a Writ of Mandamus to Protect the Compelling Interests of Washoe County Voters.

Beyond statutory text and longstanding precedent, compelling Respondents to complete the canvass advances salient public policy that buttresses Nevada’s election laws. With respect to county commissioners’ performance of their election duties – an urgent and necessary issue “of significant magnitude”³⁹ – this Court recently recognized that “[v]oters have a compelling interest in the way elections are run,” as well as “a constitutional right ‘[t]o have complaints about elections and election contests resolved fairly, accurately and efficiently as provided by law.’”⁴⁰

powers,” “[q]uestions of illegal voting, and fraudulent practices, are to be passed upon by another tribunal”).

³⁸ Since at least the 1870s, various state courts have similarly compelled canvassing boards to perform their ministerial canvassing duties. *See, e.g.*, Minute Order, *Ariz. All. of Ret. Ams. v. Crosby*, Case Nos. CV202200552, CV202200553 (Consolidated), at 2-3 (Ariz. Super. Ct., Dec. 1, 2022) (ordering the Cochise County Board of Supervisors to meet and canvass the county election); Writ of Mandamus, *Toulouse Oliver v. Otero Cnty. Comm’n*, Case No. S-1-SC-39426, 2 (N.M. June 15, 2022) (ordering Otero County Commission to meet and approve the canvass of the returns and declare the results); *Lehman v. Pettingell*, 39 Colo. 258, 263 (1907) (holding of canvassing boards that “[t]he board can be compelled by mandamus to reconvene to make a canvass of the returns . . . whenever it appears by proper petition that they have failed to do so.”); *Lewis*, 16 Kan. at 105.

³⁹ *See We the People Nev.*, 124 Nev. at 880, 192 P.3d at 1170 (internal citation and quotation marks omitted).

⁴⁰ *ACLU*, 2022 WL 14285458, at *2 (quoting Nev. Const. art. 2, § 1A(11); citing *State of N.M. ex rel. League of Women Voters v. Herrera*, 145 N.M. 563, 566, 203 P.3d 94, 97 (2009)) (internal footnote omitted).

Granting a writ of mandamus in this action is the only way to realize the constitutional rights of Washoe County voters.

Here, Washoe County voters are beneficially interested in this petition because, as Nevada citizens, without a canvass of the recount results, they are left without the final results of the election. The stakes could not be higher. If permitted to refuse to canvass results, a Board action like the one at issue might even raise questions as to the winner of the races at issue, and uncertainty regarding whom to place on the general election ballot—or, in the general election, the content of a certificate of election or ascertainment. As noted above, such a Board action also threatens profound disruption to Nevada’s judicial process for settling election disputes. By failing to complete the canvass and, in turn, certify the results of the two requested Primary Election recounts, Respondents have failed to carry out their non-discretionary, mandatory legal duties in violation of NRS 293.387 and NAC 293.365. Amidst Respondents’ flagrant statutory and constitutional violations, this Court is well-positioned to compel their “performance of an act which the law especially enjoins as a duty resulting from an office, trust or station[.]”⁴¹

This Court should therefore order Respondents to immediately canvass and certify the results of the two requested recounts of the County’s Primary Election results as required by NRS 293.387, NAC 293.365, and Article 2, Section 1A of the

⁴¹ NRS 34.160.

Nevada Constitution, and by no later than August 22, 2024 – the latest a canvass of the recounts here can occur without impacting the rights of candidates and finalization of the contents of general election ballots under Nevada law.

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CONCLUSION

For these reasons, the Secretary of State requests that this Court GRANT his
Petition for a Writ of Mandamus.

RESPECTFULLY SUBMITTED this 10th Day of July 2024.

AARON D. FORD
Attorney General

By: /s/ Laena St-Jules
LAENA ST-JULES
Senior Deputy Attorney General
DEVIN A. OLIVER
Deputy Attorney General
GREGORY D. OTT
Chief Deputy Attorney General

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DECLARATION OF MARK WLASCHIN IN SUPPORT

I, MARK WLASCHIN, declare as follows:

1. I currently serve as the Deputy Secretary of State for Elections for the Nevada Secretary of State and Petitioner, Francisco V. Aguilar.
2. I am over the age of twenty-one (21) and competent to testify to the facts in this Declaration.
3. The Board of County Commissioners for Washoe County met on June 21, 2024, to consider a canvass of the results of the Washoe County Primary Election held on June 11, 2024. A true and correct copy of the agenda for the meeting is attached as Exhibit A.
4. At its June 21, 2024 meeting, the Board of County Commissioners for Washoe County voted to certify the canvass of the June 11, 2024 Washoe County Primary Election.
5. On June 25, 2024, the Office of the Secretary of State learned that recounts had been requested by Mark A. Lawson, Lillith Baran, and Paul D. White.
6. Mark A. Lawson was a candidate for Washoe County Commission in District 4.
7. Lillith Baran was a candidate for Ward 1 of the Reno City Council.
8. Paul D. White was a candidate for School Board Trustee in District G.
9. On June 30, 2024, Washoe County commenced its recount of the races of

Mark A. Lawson, Lilith Baran, and Paul D. White.

10. On June 30, 2024, Lilith Baran withdrew her request for a recount.

11. On July 2, 2024, Washoe County completed its recount in the races of Paul D. White and Mark A. Lawson.

12. The Board of County Commissioners for Washoe County met on July 9, 2024, to consider a canvass of the results of the recount of Washoe County Primary Election races of Mark A. Lawson and Paul D. White. A true and correct copy of the agenda for the meeting is attached as Exhibit B.

13. At its July 9, 2024 meeting, the Board of County Commissioners for Washoe County voted against certifying the canvass of results of the recounts of the Washoe County Primary Election races of Mark A. Lawson and Paul D. White, by a margin of 3-2.

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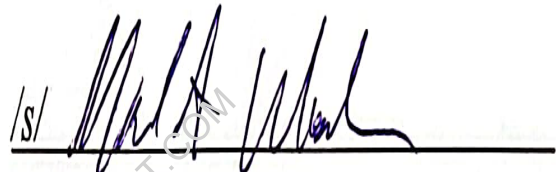
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14. Vice Chair Jeanne Herman, Commissioner Clara Andriola, and Commissioner Michael Clark voted against certification.

15. To finalize ballots for the 2024 General Election, the results of all races must be known and certain not later than September 6, 2024.

Executed this 10th Day of July 2024 in Carson City, Nevada.

A handwritten signature in blue ink, appearing to read 'Mark Wlaschin', is written over a solid black horizontal line. To the left of the signature, the letters '/s/' are written in blue ink.

MARK WLASCHIN
Deputy Secretary of State for
Elections, Nevada Secretary of State

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type-style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 10 in 14-point Times New Roman font.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more, and contains 5,690 words.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular, Rule 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

///

RESPECTFULLY SUBMITTED this 10th Day of July 2024.

AARON D. FORD
Attorney General

By: /s/ Laena St-Jules
LAENA ST-JULES
Senior Deputy Attorney General
DEVIN A. OLIVER
Deputy Attorney General
GREGORY D. OTT
Chief Deputy Attorney General

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing in accordance with this Court's electronic filing system and consistent with NEFCR 9 on July 10, 2024.

Participants in the case who are registered with this Court's electronic filing system will receive notice that the document has been filed and is available on the court's electronic filing system.

I further certify that any of the participants in the case that are not registered as electronic users will be mailed the foregoing document by First-Class Mail, postage prepaid, and sent the foregoing document by electronic mail.

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