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20 **IN THE FIRST JUDICIAL DISTRICT COURT**
21 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

22 FRED KRAUS, an individual registered voter in
23 Clark County, Nevada; DONALD J. TRUMP
24 FOR PRESIDENT, INC.; the NEVADA
25 REPUBLICAN PARTY,

26 Petitioners,

27 v.

28 BARBARA CEGAVSKE, in her official
capacity as Nevada Secretary of State; JOSEPH
P. GLORIA, in his official capacity as Registrar
of Voters for Clark County, Nevada,

Respondents,

and

DEMOCRATIC NATIONAL COMMITTEE
and NEVADA STATE DEMOCRATIC
PARTY,

Intervenor-Respondents.

Case No. 20 OC 00142 1B

Dept. No.: 2

INTERVENOR-RESPONDENTS’
ANSWER TO EMERGENCY PETITION
FOR WRIT OF MANDAMUS, OR IN
THE ALTERNATIVE, WRIT OF
PROHIBITION

1 The COVID-19 pandemic has required election officials throughout the country,
2 including in Nevada, to take extraordinary measures and to engage in unprecedented planning to
3 ensure that citizens are able to vote in the November election and to have their votes counted. In
4 Nevada, these measures have included mailing ballots to all registered voters and permitting
5 county election officials to begin counting mail ballots 15 days before Election Day. As of today,
6 nearly 365,000 mail ballots have been cast by Nevadans, and election officials have been
7 verifying and counting those ballots for nearly a week. In Clark County, Nevada's most populous
8 county, election officials have already received tens of thousands of mail ballots, and clerks have
9 been working diligently and effectively for days to process those ballots. Now, nearly half-way
10 through this herculean effort, Petitioners are requesting this Court to insert itself into this process
11 and to substitute its judgment on election procedures for that of Clark County's election officials.
12 The Court should reject this improper request, which falls far short of satisfying the stringent
13 standards Petitioners must meet to obtain extraordinary relief in the form of a writ of mandamus
14 or a writ of prohibition.

15 To meet their heavy burden, Petitioners must demonstrate that the relief they are seeking
16 is required by law and that defendants are violating their duties as election officials by not
17 following the election procedures Petitioners seek to impose. In other words, Petitioners must
18 show that Nevada law *requires* videotaping and audio recording of the activities of Clark County
19 election workers, providing the general public with access to the computer screens of election
20 workers, making confidential information voter information available to the public, and allowing
21 anyone who so desires to enter specific rooms, unescorted, where election personnel are
22 performing their work. Of course, none of these intrusive demands, each of which would
23 interfere with the ability of election workers to do their jobs in this final critical week of the
24 election, is required by Nevada election laws. On the contrary, Petitioners' requests are
25 prohibited by Nevada privacy laws, state laws protecting the confidentiality of voter information,
26 and the Equal Protection Clause of the U.S. Constitution, which prohibits singling out Clark
27 County and its voters for this disparate treatment. The lack of any *requirement* in Nevada law for
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1 Clark County election officials to implement Petitioners’ demands is fatal to their request for a
2 writ of mandamus or prohibition, for these rarely granted, extraordinary forms of relief require a
3 showing that the election officials are disregarding the law in dereliction of their duties, a
4 showing that has not and cannot be made here.

5 The reality is that over the past week, Clark County officials and election workers have
6 been processing and counting mail ballots without any problems and in full view of members of
7 the public—including representatives of Petitioners—in compliance with Nevada election laws
8 demanding public observation. In fact, the County has structured its operations and observation
9 rules so that the public can see not only the counting of mail ballots, which is all that the law
10 requires, but also the mail processing procedures that election workers undertake prior to ballot
11 tabulation. There is no legal or factual basis for requiring the County to do more or for the Court
12 to interfere with the exercise of the discretion that Nevada election laws give to the county’s
13 registrar. Nor is there any legitimate reason to single out Clark County, and no other county in
14 the State, for purposes of imposing new intrusive requirements that interfere with the ongoing
15 work of the County’s highly professional elections staff.

16 Finally, Petitioners’ request that the Court issue an extraordinary writ relating to the
17 constitutionality of Nevada’s statutory scheme for challenging the eligibility of voters, set forth
18 in NRS 293.303, is procedurally improper and wrong on the merits. In addition to being far too
19 late in the election process to bring a facial challenge to the constitutionality of this long-
20 standing election law, such a challenge must be brought as an action at law, not through a
21 petition for mandamus. For the same reason, Petitioners cannot rely on their mandamus petition
22 to support their untimely claim that the technology Clark County is using to verify voter
23 signatures violates the Equal Protection Clause.

24 For these reasons and those that follow, the Court should deny Petitioners’ request for
25 relief.

26 **PROCEDURAL POSTURE**

27 The expertise of election officials has never been more important than now. The COVID-
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1 19 pandemic has fundamentally altered how people are voting in Nevada and across the country.
2 Absentee voting is surging, and those who choose to vote in-person must comply with safety
3 protocols that are essential to protect against spread of the virus. Nevada officials have
4 responded to this uncharted territory through a series of changes to its election procedures. On
5 March 24, Secretary of State Barbara Cegavske (“Secretary Cegavske” or “the Secretary”)
6 announced that, in coordination with the State’s 17 counties, she would mail ballots to all active
7 registered Nevada voters for the June 9, 2020 primary and operate limited in-person polling
8 places in each county. And in a special session this past summer, the Nevada legislature enacted
9 Assembly Bill 4 (“AB 4”), creating a category of “affected elections” during emergency periods
10 for which the State would similarly mail ballots to voters. To allow for timely processing of the
11 new influx of mail ballots, AB 4 allowed each county’s central counting board to “begin
12 counting the received mail ballots 15 days before the day of the election.” AB 4, § 25(1). “The
13 counting procedure must be public.” *Id.*

14 As proscribed by the new law, Clark County could begin processing mail ballots on
15 Monday, October 19. Clark County Registrar of Voters, Joe Gloria, permitted poll watchers of
16 any party to be present in the County’s ballot processing centers and to stand in a designated
17 public viewing area to observe election workers in their review of ballots. This early access to
18 ballot processing as opposed to ballot counting, goes beyond what is required by Nevada law.
19 Observers are permitted to be as close as 25 feet to the election workers—a distance that
20 balances the interest in public observation with Clark County’s legal obligation to preserve the
21 confidentiality of voter information and also its obligation to protect its workers from COVID-
22 19. Representatives of Petitioners have been regularly observing the process since county
23 personnel began their work last week.

24 The Nevada Republican Party (the “Nevada GOP”) wrote to Clark County on October 19
25 and to Secretary Cegavske on October 20 to complain that they should be permitted closer access
26 to election workers and should be allowed to view all aspects of the process, including
27 apparently looking over the shoulders of election officials while they view voter confidential
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1 information and perform signature matching. Unsatisfied with the already expanded access Clark
2 County has granted them, the Nevada GOP demanded that the Registrar permit it to install GOP-
3 financed and controlled video cameras and audio equipment to monitor the work of election
4 workers and, apparently, to view the voter information displayed on their computer screens. The
5 Nevada GOP has made this audacious request only of Clark County and not of the dozens of
6 other counties in the State that are engaged in substantially the same process of verifying and
7 counting mail ballots.

8 Two days after making these requests, the Nevada GOP, joined by Donald J. Trump for
9 President, Inc. and Fred Kraus (“Petitioners”), an individual Nevada voter, petitioned this Court
10 for the writs of mandamus or prohibition that are the subject of this opposition while also asking
11 the Court to issue a temporary restraining order that would have stopped the ballot-counting
12 process in this critical pre-election period. The Court held a hearing that same day at which the
13 Nevada State Democratic Party and the Democratic National Committee (“Respondent
14 Intervenors”) appeared and were granted intervention into the case. The Court denied
15 Petitioners’ request for emergency injunctive relief, while ordering the parties to submit briefing
16 on Petitioners’ request for a writ of mandamus or prohibition on an expedited basis ahead of an
17 evidentiary hearing on October 28.

18 LEGAL STANDARD

19 Petitioners’ burden to establish that the Court must issue a writ of mandamus is “a heavy
20 one.” *Poulos v. Eighth Judicial Dist. Court of State of Nev. In & For Clark Cty.*, 98 Nev. 453,
21 455, 652 P.2d 1177, 1178 (1982). “Mandamus is an extraordinary remedy, and the decision as to
22 whether a petition will be entertained lies within the discretion of” the deciding court. *State ex*
23 *rel. Dep’t of Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983); *Kussman v.*
24 *Eighth Judicial Dist. Court In & For Clark Cty.*, 96 Nev. 544, 545, 612 P.2d 679 (1980).

25 The remedy of mandamus is only appropriate when the officer’s “duty to perform such
26 act is clear” under the law. *Gill v. State ex rel. Booher*, 75 Nev. 448, 451, 345 P.2d 421, 422
27 (1959). “Mandamus will not issue unless *a clear legal right to the relief sought is shown.*” *State*

1 *ex rel. Conklin v. Buckingham*, 58 Nev. 450, 83 P.2d 462, 463 (1938) (emphasis added); *In re*
2 *Manhattan W. Mech.'s Lien Litig.*, 131 Nev. 702, 708, 359 P.3d 125, 129 (2015) (“A writ of
3 mandamus is available to compel the performance of an act *that the law requires* as a duty
4 resulting from an office, trust, or station.”) (emphasis added) (quoting *Int’l Game Tech., Inc. v.*
5 *Second Judicial Dist. Court ex rel. Cty. of Washoe*, 124 Nev. 193, 197, 179 P.3d 556, 558
6 (2008)).

7 “The writ of prohibition is the counterpart of the writ of mandate. It arrests the
8 proceedings of any tribunal, corporation, board or person exercising judicial functions, when
9 such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board
10 or person.” NRS 34.320. “A writ of prohibition is available to halt proceedings occurring in
11 excess of a court’s jurisdiction.” *State v. Eighth Jud. Dist. Ct. (Logan D.)*, 129 Nev. 492, 497,
12 306 P.3d 369, 373 (2013). A writ of prohibition is purely discretionary and will not issue where
13 the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law. *See Sweat*
14 *v. Eighth Judicial Dist. Court in & for Cty. of Clark*, 133 Nev. 602, 603–04, 403 P.3d 353, 356
15 (2017). Here, because Clark County election officials are not engaged in actions that in any way
16 resemble a judicial proceeding, Petitioners’ request for a writ of prohibition is plainly improper,
17 both procedurally and on the merits.

18 ARGUMENT

19 I. THE CLARK COUNTY REGISTRAR HAS COMPLIED WITH NEVADA’S 20 ELECTION CODE.

21 Petitioners are requesting that the Court take control of the procedures Clark County’s
22 election officials have carefully developed and implemented to ensure lawful, accurate validation
23 and processing of mail ballots. At a time when the expertise of election officials has never been
24 more important, county officials developed procedures that carefully balance the novel factors
25 that are in play while conducting an election during a pandemic. These include ensuring the
26 safety of election workers, protecting the confidentiality of voter information, giving the public
27 the opportunity to observe the ballot-counting process, and ensuring that all lawfully cast ballots
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1 are accepted and counted. Petitioners have not cited any legal authority to support the remarkable
2 proposition that the Court should substitute its judgment on how to balance these factors for that
3 of the County’s election officials. Indeed, there is no legal authority to countenance this absurd
4 result, which would inject chaos and confusion into the election only days before Election Day.

5 Petitioners specifically request that the Court impose four specific demands: (1) that
6 Respondent Gloria submit an observation plan that he already recently sent to the Secretary;
7 (2) that Gloria provide the public with carte blanche access to every corner of the County’s
8 election facilities; (3) that Gloria allow the Nevada GOP to install GOP-financed video and audio
9 monitoring devices to allow monitoring of the work of county election officials; and (4) that
10 Gloria modify the procedures by which ballots are removed from their envelopes. Because none
11 of these demands are required by Nevada’s election code, the Court must reject them and deny
12 the petition.

13 **A. Clark County has complied with Nevada’s election code requiring public**
14 **access to the counting of ballots.**

15 There is a wide chasm between what Nevada election law requires of Respondent Gloria
16 and the demands Petitioners ask this Court to impose. The Nevada election code requires only
17 that “[t]he counting procedure” implemented by the mail ballot central counting board “be made
18 public.” AB 4, § 25(1).¹ The exact contours of that observation are left to the discretion of the
19 county clerks or registrars. Thus, there is no requirement in the election code for a county to
20 allow videotaping and audio recording of election workers; no requirement to allow members of
21 the public to be in close enough proximity to election workers to view their computer screens;

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23 ¹ Petitioners’ citations to NRS 293B.353 and 293B.354 are misguided. Chapter 293B primarily
24 deals with the handling and counting of ballots that are delivered from a polling place to a
25 “central counting place.” See NRS 293B.330 (“Secure all mechanical recording devices against
26 further voting.”); 293B.335 (“At least two members of the election board shall deliver the sealed
27 container to a receiving center or to the central counting place, as directed by the county clerk”).
28 The legislature’s comprehensive statement of mail voting rules for the 2020 general election,
which specifies (1) the distinct process for receiving, processing and delivering ballots to the
mail ballot counting board and (2) the public’s rights in those processes, is the correct source of
authority here.

1 and no requirement to allow representatives of a political party to roam election offices
2 unescorted. Indeed, there is no requirement that Petitioners be allowed to monitor ballot
3 processing, as opposed to the counting, at all.

4 Petitioners do not contend that the ballot counting process is being conducted in secret.
5 By their own admission, Respondent Gloria has granted extended public access to, and
6 observation of, the processing and counting of ballots in the lead up to the 2020 general election.
7 In several places in his declaration, Petitioner Kraus relates his experience being granted access
8 to observe processing at Clark County’s voting centers on multiple occasions in the last several
9 weeks. Kraus Decl. ¶ 6 (access granted to Flamingo Road facility on October 15, 2020); *id.* ¶ 11
10 (access granted on October 16, 2020); *id.* ¶ 14 (same on October 17, 2020); *id.* ¶ 18 (access
11 granted to North Las Vegas facility on October 20, 2020). The same is true for declarant Robert
12 Thomas. Thomas Decl. ¶ 6 (access granted to North Las Vegas facility on October 19, 2020); *id.*
13 ¶ 14 (access granted to same facility on October 21, 2020). In other words, there is no need for
14 this Court to mandate anything; Respondent Gloria and his office are already in compliance by
15 facilitating public access to the process.

16 Petitioners attempt to fill the statutory void underlying their intrusive demands by
17 asserting that counties have an obligation to provide “meaningful observation” and then force-
18 fitting their various demands into that undefined standard. That standard, however, appears
19 nowhere in the Nevada election code. Instead, it is apparently derived from an Election
20 Observation Handbook published by the Organization for Security and Co-operation in Europe
21 that, by Petitioners’ own admission, “is generally targeted toward burgeoning nations.” Pet. at 5
22 n.3. The standard has no applicability here and, in any event, the public observation Clark
23 County allows for the counting of ballots and election workers’ processing of mail ballots is
24 meaningful observation under any reasonable definition of the term.

25 Finally, Gloria has complied with the requirement to submit an observation plan to the
26 Secretary. NRS 293B.354(1) requires the County to “submit to the Secretary of State for
27 approval a written plan for the accommodation of members of the general public who observe
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1 the delivery, counting, handling and processing of ballots at a polling place, receiving center or
2 central counting place.” NRS 293B.354; *see* Pet. at 4-8. As discussed at the October 23 hearing
3 in this case, Gloria submitted his plan to Secretary Cegavske on October 20, which the Secretary
4 approved on October 22. In addition to granting access to the counting of mail ballots as required
5 by Nevada’s election code, Gloria has also granted public observation of the mail ballot
6 processing procedures, which is not required by law. For purposes of Petitioners’ request for
7 issuance of a writ of mandamus or prohibition, it is of no moment that the plan was submitted
8 after the deadline for counties to submit such plans. The relevant inquiry is only whether Clark
9 County is complying with the requirement to allow public observation while the counting of
10 ballots is taking place. Because the County is, that ends the inquiry.

11 Indeed, Gloria’s submission of a plan and Clark County’s compliance with the
12 observation protocols in the plan preclude the extraordinary judicial act of issuing a writ of
13 mandamus, which, as discussed, is only appropriate when a public official refuses to comply
14 with explicit tenets of the law. *Buckingham*, 58 Nev. 450, 83 P.2d at 463 (“[M]andamus against
15 an officer is an appropriate remedy only *where he refuses to perform a definite present duty*
16 *imposed upon him by law.*”) (emphasis added).

17 **B. Clark County is not required to allow Petitioners to install cameras.**

18 The overreaching nature of Petitioners’ demands and mandamus petition are best
19 demonstrated by Petitioners’ request that Clark County install GOP-owned and financed
20 surveillance cameras and audio equipment that would allow them to monitor election workers
21 and observe confidential voter information on the workers’ computer screens. Pet. at 7. As
22 discussed, there is no Nevada statute that entitles Petitioners’ to surveil county election workers
23 or requires Clark County to provide telegraphic or video access to the counting of ballots. The
24 only statute Petitioners cite in support of this demand is NRS 293B.353(2)-(3), which allows (but
25 does not mandate) the clerk (and not the public) to photograph or otherwise record the counting
26 of ballots. Pet. at 7 n.13. And while Nevada’s election code invites the public to observe voting
27 and ballot processing, it prohibits, in several instances, recording of voting activities by the
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1 public. *E.g.*, NRS 293.274(2) (“A member of the general public, shall not photograph the
2 conduct of voting at a polling place or record the conduct of voting on audiotape or any other
3 means of sound or video reproduction.”); NRS 293C.269(2) (same). Petitioners’ request to
4 furnish and operate its own cameras inside the Clark County facilities falls far outside the kind of
5 public observation afforded by Nevada’s election code.

6 Additionally, requiring Clark County to allow Petitioners to monitor the activities and
7 communications in the election through constant audio and video recording would violate
8 Nevada’s privacy laws. NRS 200.620(1) prohibits interception of any wire communication
9 unless (a) one party to the communication provided prior consent and (b) “[a]n emergency
10 situation exists and it is impractical to obtain a court order as required by” Nevada law before the
11 interception.² An emergency situation exists when law enforcement is investigating a crime—
12 not when state employees are performing ordinary duties such as tabulating and verifying ballots.
13 *See, e.g., Evans v. State*, No. 69275, 2016 WL 3586687, at *2 (Nev. App. June 20, 2016).

14 **C. Clark County’s handling of ballots does not violate ballot secrecy rules.**

15 Petitioners’ final claim regarding ballot secrecy invites this Court to dictate the intricacies
16 of ballot processing to Clark County instead of affording it the discretion to ensure ballot secrecy
17 that the law contemplates. *See* AB 4, § 27 (“The clerk shall develop a procedure to ensure that
18 each mail ballot is kept secret.”). The suggestion that Clark County’s procedures are troublesome
19 is based on an unsupported premise that county officials will only process ballots that comport
20 with their own political views. This mere speculation, bereft of current or historical evidence,
21 does not support the issuance of an extraordinary writ. Moreover, there are reasons to question
22 the accuracy of the Petitioners’ description of the process by which ballots are removed from
23 their envelopes, which further cautions against the Court’s intervention into this area.

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26 ² NRS 200.620(1)(a)-(b); NRS 200.610(2) (defining “Wire communication” to mean
27 “transmission of writing, signs, signals, pictures and sounds of all kinds by wire, cable, or other
28 similar connection between the points of origin and reception of such transmission”).

1 **II. PETITIONERS’ CLAIM THAT NEVADA’S CHALLENGE STATUTE**
2 **VIOLATES THE EQUAL PROTECTION CLAUSE DOES NOT SUPPORT**
3 **MANDAMUS.**

4 Nevada’s challenge statute, NRS 293.303, provides a mechanism for challenging voters
5 who vote in person at polling locations but not for voters who vote by mail. Petitioners argue that
6 this differential treatment of in-person and mail voters violates the Equal Protection Clause of the
7 Fourteenth Amendment and request that this Court “mandate the same ballot challenge
8 procedures apply to all classes of voters, whether in-person or vote by mail.” Pet. at 8-10. This
9 claim fails for multiple reasons: Petitioners lack standing to bring it; the claim fails as a matter of
10 law because it is improperly before the Court as a mandamus petition; and the claim fails on the
11 merits because Petitioners have not provided evidence of the supposed “voter dilution” that they
12 assert results from the challenge statute.

12 **A. Petitioners lack standing to bring this claim.**

13 At the outset, Petitioners lack standing to assert an Equal Protection Clause violation
14 because they have not shown that NRS 293.303 has or will injure them. “Nevada has a long
15 history of requiring an actual justiciable controversy as a predicate to judicial relief.” *Doe v.*
16 *Bryan*, 102 Nev. 523, 525, 728 P.2d 443, 444 (1986). For such a controversy to exist, parties
17 “must show a personal injury and not merely a general interest that is common to all members of
18 the public.” *Schwartz v. Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894 (2016). The burden of
19 demonstrating a particularized injury to establish standing falls on the parties bringing the suit.
20 *Id.* Petitioners have not alleged that they currently seek to challenge any particular voter who
21 has voted by mail, and that they are unable to do so because Nevada’s election code does not
22 provide them such an avenue. Instead, Petitioners allege that they might someday wish to
23 challenge a mail voter. This “injury” is all the more speculative because Nevada uniquely
24 requires that those challenging voters must do so based on the challengers’ personal knowledge
25 of the voter they are challenging. *See* NRS 293.303.³ Petitioners have provided no evidence of

26 _____
27 ³ Four states and the District of Columbia have raised the evidentiary burdens that polling
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1 personal knowledge relating to any particular voter.

2 Petitioners’ alleged vote dilution injury is similarly speculative. Petitioners argue that
3 legitimate votes will be “diluted” by the casting of fraudulent or illegitimate votes in the absence
4 of a challenge process. Pet. at 8-9. Courts have consistently held that the purported injury of vote
5 dilution from the threat of potential voter fraud is far too speculative to confer standing. *See, e.g.,*
6 *Donald J. Trump for President, Inc. v. Way*, Case No. 20-10753 (MAS) (ZNQ), 2020 WL
7 6204477, at *6 (D. N.J. Oct. 22, 2020) (concluding that Petitioners “highly speculative fear” of
8 vote dilution did not provide a basis for standing because “Petitioners ha[d] alleged nothing more
9 than the possibility of a future injury to their members.”); *Donald J. Trump for President, Inc. v.*
10 *Boockvar*, No. 2:20-CV-966, 2020 WL 5997680, at *59 (W.D. Pa. Oct. 10, 2020) (in
11 determining that Petitioners lacked standing, holding “Petitioners have not presented a concrete
12 injury to warrant federal-court review. All of Petitioners’ remaining claims have the same theory
13 of injury—one of ‘vote dilution.’ . . . While Petitioners may not need to prove actual voter fraud,
14 they must at least prove that such fraud is ‘certainly impending.’”); *Donald J. Trump for*
15 *President, Inc. v. Cegavske*, Case No. 2:20-CV-1445 JCM (VCF), 2020 WL 5626974 at *4 (D.
16 Nev., Sept. 18, 2020) (in concluding that Petitioners lacked standing, stating “[e]ven if accepted
17 as true, Plaintiffs’ pleadings allude to vote dilution that is impermissibly generalized. The alleged
18 injuries are speculative as well, but their key defect is generality.”) (citation omitted); *Am. Civil*
19 *Rights Union v. Martinez-Rivera*, 166 F. Supp. 3d 779, 789 (W.D. Tex. 2015) (“[T]he risk of
20 vote dilution [is] speculative and, as such, [is] more akin to a generalized grievance about the
21 government than an injury in fact.”). Indeed, in April, the U.S. District Court for the District of
22 Nevada found no standing when confronted with a similar challenge to the Secretary’s plans for
23 the June Primary. *See Paher v. Cegavske*, No. 3:20-cv-00243-MMD-WGC, 2020 WL 2089813,
24 at * 5 (D. Nev. Apr. 30, 2020) (rejecting standing premised on theory that primary plan “will
25 place challengers must satisfy. Nevada imposed the “personal knowledge” requirement in 2007.
26 *See Nicholas Riley, Voter Challenges*, Brennan Center for Justice, available at
27 https://www.brennancenter.org/sites/default/files/legacy/publications/Voter_Challengers.pdf (last
28 visited October 24, 2020).

1 lead to an increase in illegal votes thereby harming them as rightful voters by diluting the vote”);
2 *Paher v. Cegavske*, 457 F. Supp. 3d 919 (D. Nev. May 27, 2020) (no standing where “Petitioners
3 fail to show a nexus between the alleged violations and their claimed injury” because they “fail
4 to more than speculatively connect the specific conduct they challenge . . . and the claimed injury
5 [of] vote dilution”). Indeed, these specific litigants have argued vote dilution by fraud as a basis
6 for standing in several states including Nevada and have been rejected. *Way*, 2020 WL 6204477
7 at *11; *Boockvar*, 2020 WL 5997680 at *59; *Cegavske*, 2020 WL 5626974 at *7. Without an
8 injury to redress or the imminent threat of an injury, Petitioners lack standing. *See Fondo v.*
9 *State*, No. 65277, 2016 WL 207611, at *4 (Nev. Jan. 15, 2016) (finding appellant lacked
10 standing where he “failed to demonstrate that . . . a favorable ruling would redress any injury”
11 (citing *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992))).

12 Petitioners also lack standing to represent the interest of in-person voters, who they claim
13 are being treated disparately from mail voters. “The proposition that Petitioners must seek relief
14 that actually improves their position is a well-established principle.” *Townley v. Miller*, 722 F.3d
15 1128, 1134 (9th Cir. 2013) (holding plaintiff voters failed to establish standing where the
16 requested relief “would worsen the position of voters”). Further, Petitioners do not appear to ask
17 this Court to strike down challenge procedures for voters who vote in-person; they ask the Court
18 to *impose* them on mail voters. Making it harder for mail voters to vote, however, does not
19 redress any purported injury to in-person voters. Petitioners cite nothing to support their
20 proposition that, if there is an equal protection violation at hand, the remedy is to rewrite
21 Nevada’s election code to impose challenge procedures on voters who vote by mail, rather than
22 forbid the challenging of in-person voters. If, in fact, the challenge procedure imposes
23 unconstitutional burdens on in-person voters, then that is the proper remedy; it is not to impose
24 burdens on more voters.

25 Petitioners also ignore that, as an elections administration matter, it is not unusual for
26 states to subject voting in person and voting by mail to different procedures. Equal protection
27 does not demand the imposition of “mechanical compartments of law all exactly alike.” *Jackman*
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1 *v. Rosenbaum Co.*, 260 U.S. 22, 31, 43 S.Ct. 9, 67 L.Ed. 107 (1922). “[T]he Constitution is
2 sufficiently flexible to permit its requirements to be considered in relation to the ... contexts in
3 which they are invoked.” *Merchants Nat’l Bank of Mobile v. Dredge Gen. G. L. Gillespie*, 663
4 F.2d 1338, 1343 (5th Cir. 1981). If Petitioners’ theory were correct that the mere application of
5 different procedures to mail-in voting versus in-person voting established an equal protection
6 violation, than any number of differential requirements would offend the constitution. But this is
7 not the law. *See, e.g., Boockvar*, 2020 WL 5997680 at *52 (rejecting Trump Campaign’s and
8 Republican Committees’ equal protection claims that rested on differential treatment of in-
9 person ballots versus mail-in ballots and granting summary judgment for the Commonwealth of
10 Pennsylvania on those claims).

11 **B. Petitioners’ claim fails on the merits.**

12 Petitioners assert two different, half-formed theories of an equal protection violation: (1)
13 that the challenge statute treats in person voters and mail voters disparately, and (2) that the lack
14 of challenges will lead to vote dilution by fraud. Neither has merit.

15 **1. Petitioners have not established a disparate treatment claim.**

16 Even if mandamus were the proper avenue to remedy Petitioners’ claims, the claim fails
17 on the merits. As discussed *supra* at II.A, there is simply no precedent to support Petitioners’
18 assertion that a state is required to treat in person and mail voters exactly the same. In the equal-
19 protection context, the plaintiff “must present evidence that s/he has been treated differently from
20 persons who are similarly situated.” *Renchenski v. Williams*, 622 F.3d 315, 337 (3d Cir. 2010)
21 (cleaned up). In person voters and mail voters are not similarly situated. *See Nordlinger v. Hahn*,
22 505 U.S. 1, 10, 112 S.Ct. 2326, 2331, 120 L. Ed. 2d 1 (1992) (“The Equal Protection Clause does
23 not forbid classifications. It simply keeps governmental decisionmakers from treating differently
24 persons who are in all relevant respects alike.”); *Plyler v. Doe*, 457 U.S. 202, 216, 102 S.Ct.
25 2382, 2394, 72 L. Ed. 2d 786 (1982) (“[t]he Constitution does not require things which are
26 different in fact or opinion to be treated in law as though they were the same.”). Absentee ballots
27 have distinct procedural safeguards in place. For example, an absentee ballot will only be mailed
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1 to the registration address on file for the voter and each ballot is bar coded.⁴

2 And not just any differential treatment amounts to an equal protection violation.
3 Differences in treatment raise equal-protection concerns, and may necessitate heightened
4 scrutiny of governmental interests, only if they burden a fundamental right (such as the right to
5 vote) or involve a suspect classification based on a protected class. *See Obama for Am. v.*
6 *Husted*, 697 F.3d 423, 429 (6th Cir. 2012) (“If a plaintiff alleges only that a state treated him or
7 her differently than similarly situated voters, without a corresponding burden on the fundamental
8 right to vote, a straightforward rational basis standard of review should be used.”). Petitioners
9 have not alleged or offered proof that the challenge process burdens the right of voters to vote.
10 *See Boockvar*, 2020 WL 5997680, at *48 (concluding that Petitioners “scant evidence” of vote
11 dilution “demonstrate[d], at most, an increased risk of some election irregularities—which, as
12 many courts have held, does not impose a meaningful burden” on voters). Therefore, Nevada’s
13 challenge statute is subject to rational basis review. *Id.*; *Short v. Brown*, 893 F.3d 671, 679 (9th
14 Cir. 2018) (applying rational basis review “given that the burden [wa]s so slight” on voters); *see*
15 *also Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 205, 128 S. Ct. 1610, 1624-25, 1070
16 L. Ed. 2d 574, 574 (2008) (Scalia, J. concurring) (Petitioners “have to identify a burden before
17 we can weigh it.”). Under rational basis review, “[t]he distinctions drawn by a challenged
18 statute must bear some rational relationship to a legitimate state end and will be set aside as
19 violative of the Equal Protection Clause only if based on reasons totally unrelated to the pursuit
20 of that goal.” *McDonald v. Bd. of Election Comm’rs of Chicago*, 394 U.S. 802, 809, 89 S.Ct.
21 1404, 1408 (1969). Nevada’s election code does not contemplate citizens acting as supervisors of
22 election officials, with good reason. Even as mere observers of the election process during this
23 Election, Petitioners have already been obstructive of the election process. Pet., Ex. 3 (Email
24 from Respondent Gloria’s counsel to the NV GOP’s counsel stating, “The observers have [been]

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26 ⁴ Nevada Secretary of State, *Facts v. Myths: 2020 Nevada General Election*, at 4, available at:
27 <https://www.nvsos.gov/sos/home/showdocument?id=8842>.

1 very disruptive to our operations, and we will continue to accommodate their presence as long as
2 possible.”). Therefore, Nevada’s challenge statute survives rational basis review.

3 **2. Petitioners have not established a vote dilution claim.**

4 To the extent that Petitioners rely on a theory of vote dilution by fraud to support this
5 claim, Pet. at 8-9 (“Even if this dissimilar treatment does not wholly prohibit any citizen’s free
6 exercise of the franchise, the dissimilar treatment does debase or dilute the right to vote of those
7 voters who choose to vote in person.”), it has been universally rejected. Vote dilution is a viable
8 basis for equal protection claims in certain contexts, such as when laws are crafted that
9 structurally devalue one community’s votes over another’s. *See, e.g., Republican Party of Pa. v.*
10 *Cortés*, 218 F. Supp. 3d 396, 406–07 (E.D. Pa. 2016); *see also Reynolds v. Sims*, 377 U.S. 533,
11 568, 84 S.Ct. 1362, 1385, 12 L. Ed. 2d 506 (1964) (“Simply stated, an individual’s right to vote
12 for state legislators is unconstitutionally impaired when its weight is in a substantial fashion
13 diluted when compared with votes of citizens living in other parts of the State.”). In these unique
14 cases, plaintiffs alleged that their votes are devalued as compared to similarly situated voters in
15 other parts of the state. *See Reynolds*, 377 U.S. at 567–68. Petitioners here, by contrast, have not
16 alleged an equal protection claim suggesting that the challenge statute more heavily weighs some
17 other group of votes over their own, and so they have failed at the most basic step of pleading an
18 equal protection claim.

19 Ultimately, “[t]he Constitution is not an election fraud statute.” *Minn. Voters All. v.*
20 *Ritchie*, 720 F.3d 1029, 1031 (8th Cir. 2013) (quoting *Bodine v. Elkhart Cty. Election Bd.*, 788
21 F.2d 1270, 1271 (7th Cir. 1986)). There is simply no authority for converting the vote dilution
22 line of cases into a weapon that voters may use to rewrite election codes based entirely on
23 unfounded and speculative fears of voter fraud. In fact, courts have routinely rejected such
24 efforts. *See Minn. Voters All.*, 720 F.3d at 1031–32 (affirming Rule 12(b)(6) dismissal of vote
25 dilution claim); *see also Cortés*, 218 F. Supp. 3d at 406–07 (rejecting claim of vote dilution
26 “based on speculation that fraudulent voters may be casting ballots elsewhere in the” state on
27 motion for preliminary injunction); *Boockvar*, 2020 WL 5997680 at *76 (entering judgment
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1 against Petitioners’ claims based on vote dilution); *Donald J. Trump for President, Inc. v.*
2 *Bullock*, No. CV 20-66-H-DLC, 2020 WL 5810556, at *12 (D. Mont. Sept. 30, 2020) (“The
3 parties have focused their argument on whether a claim for vote dilution rooted in the United
4 States Constitution is cognizable. The Court finds such an analysis to be unnecessary because,
5 even assuming such a claim exists, Petitioners have not even attempted to introduce the requisite
6 evidence necessary to prevail.”). Because Petitioners have failed to allege facts that give rise to a
7 plausible claim for relief, or even alleged a cognizable legal theory, Petitioners vote dilution
8 claims should be dismissed.

9 If the Court could reach the merits of Petitioners’ vote dilution claim, Petitioners have not
10 put forth even a modicum of persuasive explanation—let alone evidence—to support their
11 conclusory allegation that absent their ability to challenge vote by mail ballots, Clark County’s
12 election will be replete with fraud. Petitioners have therefore failed to meet the “heavy” burden
13 to establish that this Court should take the extraordinary action they request. *Poulos*, 98 Nev. at
14 455; *see also Boockvar*, 2020 WL 5997680, at *48, *59 (in rejecting Petitioners’ equal
15 protection claims, finding that Petitioners’ evidence of vote dilution was “scant” and that
16 “plaintiffs relied on hypotheticals, rather than actual events.”). Absentee voters in no way have
17 any “advantage” over those who vote in person. In fact, voters who vote absentee are much more
18 likely to have their legitimately cast ballots rejected, in large part due to measures like signature
19 match laws. *See* Ex. A, (Secretary of State data showing that as of October 24, 2020, more than
20 4,500 ballots were already in need of signature cure).

21 **C. The balance of equities weighs strongly against granting mandamus relief.**

22 The Equal Protection Clause “commands that no State shall ‘deny to any person within
23 its jurisdiction the equal protection of the laws,’ which is essentially a direction that all persons
24 similarly situated should be treated alike.” *City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473
25 U.S. 432, 439, 105 S.Ct. 3249, 3254, 87 L. Ed. 2d 313 (1985) (quoting *Plyler v. Doe*, 457 U.S.
26 202, 216, 102 S.Ct. 2382, 2394, 72 L.Ed.2d 786 (1982)). In an election context, it prohibits a
27 state from imposing voting standards and procedures that vary from one county to another and
28

1 that burden some voters but not others. *Obama for Am. v. Husted*, 697 F.3d 423, 428 (6th Cir.
2 2012) (“The Equal Protection Clause applies when a state either classifies voters in disparate
3 way, or places restrictions on the right to vote.”). That is precisely what would occur if the Court
4 were to impose Petitioners’ requested relief on Clark County but impose no similar requirements
5 on, for example, other counties that Petitioners do not currently view as problematic with respect
6 to these issues. Petitioners have not brought this claim against any of Nevada’s other 16 counties.
7 Thus, if Petitioners’ requested relief were granted, only mail voters in Clark County would be
8 subject to a challenge process, *creating*, not alleviating an equal protection violation. This makes
9 the distinction between Petitioners’ Equal Protection Clause claim and the one that would occur
10 if this Court granted Petitioners’ relief an important one: Petitioners’ Equal Protection Clause
11 challenge does not implicate similarly situated voters, but their requested relief would burden
12 similarly situated voters. As explained, the Equal Protection Clause does not require that
13 differently situated people be treated the same, *Plyler*, 457 U.S. at 216, and in-person voters and
14 absentee voters are not similarly situated. *See supra* at II.B.1; *see also Nordlinger*, 505 U.S. at
15 10. However, if the Court imposed Petitioners’ requested relief, only mail voters in Clark County
16 would be subject to a challenge process, while a similarly situated mail voter from Washoe
17 County would not be subject to a challenge process. This is the clearest form of an equal
18 protection violation.

19 Moreover, as stated, Nevada’s election code does not contemplate citizens acting as
20 supervisors of election officials. Even as mere observers of the election process during this
21 Election, Clark County has stated that Petitioners have already been obstructive of the election
22 process. Petitioners assert this attack on Nevada’s challenge statute eight days before Election
23 Day, despite that it has existed for 60 years and despite not presenting or identifying an actual
24 voter they wish to challenge. “Mandamus is an extraordinary remedy,” *State ex rel. Dep’t of*
25 *Transp.*, 99 Nev. at 360, but this is not an extraordinary case. The Court should decline to
26 exercise its discretion to grant mandamus relief to Petitioners’ equal protection clause claim
27 against Nevada’s challenge statute.

1 **III. PETITIONERS' CLAIM THAT CLARK COUNTY'S USE OF ITS BALLOT**
2 **SORTING SYSTEM VIOLATES THE EQUAL PROTECTION CLAUSE DOES**
3 **NOT SUPPORT MANDAMUS.**

4 Petitioners lodge an equal protection challenge to Clark County's use of an Agilis
5 machine to sort ballots and to conduct a first pass in matching the signature on a ballot return
6 envelope with the signature on file in Clark County's records. Petitioners assert that all Nevada
7 counties, except for Clark County, visually match signatures on the ballot envelope to the
8 signature on file and that Clark County's use of a ballot sorting system (the "Agilis") violates the
9 Equal Protection Clause. Pet. at 8-9. Petitioners allege that "Gloria has intentionally lowered the
10 tolerance number [of the Agilis] in order to decrease the number of ballots rejected by the
11 machine for improper signatures." Pet. at 9. This claim fails at every conceivable level:
12 Petitioners claims are barred by laches; Petitioners lack standing to bring this claim; Petitioners
13 claim fails as a matter of law because it is improperly before the Court as a mandamus action and
14 lacks legal support; and Petitioners claim fails on the merits because they have failed to set forth
15 any evidence to support their baseless vote dilution concerns.

16 **A. Petitioners' claims are barred by laches and equitable estoppel.**

17 Petitioners' relief is barred by the equitable doctrine of laches and equitable estoppel. *See*
18 *Carson City v. Price*, 113 Nev. 409, 412, 934 P.2d 1042, 1043 (1997) (recognizing that the
19 laches doctrine is an equitable doctrine that is invoked to deny relief to a party who worked to
20 the disadvantage of the other and caused a change in circumstances); *Nevada State Bank v.*
21 *Jamison Partnership*, 106 Nev. 792, 799, 801 P.2d 1377, 1382 (1990) ("Equitable estoppel
22 [prevents] a party from asserting legal rights that, in equity and good conscience, they should not
23 be allowed to assert because of their conduct."). Clark County began using the Agilis sorting
24 machine to conduct signature matching in the June 2020 Primary. Petitioners' counsel, the
25 Republican National Committee, and the Nevada GOP were all privy to detailed discovery
26 describing the Agilis machine in a prior litigation over Nevada's signature match laws, and even
27 sat in a deposition of Respondent Gloria as he described in detail how Clark County used the
28 Agilis machine and chose its calibration settings. Ex. B, Dep. Tr. J. Gloria in *Corona et al. v.*

1 *Cegavske et al.*, No. 20-OC-00064 1B, (Dist. Ct. Carson City 2020), at 43:14-44:13, 45:16-47:7,
2 68:7-69:19 (describing use and operation of Agilis machine in June primary); Ex. C, *Corona*
3 Interrog. Responses from J. Gloria, at 2 (“The process begins with the Agilis ballot sorting
4 machine”). Yet, Petitioners waited until 10 days before Election Day to bring an emergency
5 action that would fundamentally alter the way Clark County sorts ballots, threatening to delay
6 election results in Nevada’s largest county for weeks. Petitioners could have brought this claim
7 at an earlier juncture, particularly considering that they very recently brought similar challenges
8 to Nevada’s election laws in federal court. *Donald J. Trump for President et al., v. Ceagvske et*
9 *al.*, Case No: 2:20-cv-01445 (D. Nev. 2020). Clark County has been processing general election
10 ballots using the Agilis for more than a week. Changing its ballot sorting procedure only 8 days
11 before Election Day would severely burden the County.

12 **B. Petitioners lack standing to bring this claim.**

13 Petitioners lack standing to bring their Equal Protection Clause challenge against Clark
14 County’s use of its ballot sorting system. The only “injury” asserted by Petitioners is an
15 unsupported allegation that legitimate votes will be diluted by fraudulent votes because Clark
16 County’s use of the Agilis “mak[es] it harder for Clark County officials to catch improper or
17 fraudulent mail in ballots as opposed to the rest of Nevada.” Pet. at 9. However, courts have
18 routinely rejected unsupported vote dilution by fraud as a basis for standing. *See supra* at II.A.
19 To the extent Petitioners are bringing this claim on behalf of voters in other counties, they still do
20 not have standing because they have not sought relief that would redress those voters’ injuries.
21 *See supra* at II.A.

22 **C. A mandamus petition is improper for the relief sought.**

23 Mandamus relief is not an appropriate vehicle for this Court to micromanage election
24 officials down to the specific settings used on ballot sorting machinery. Mandamus relief is
25 generally unavailable to challenge discretionary actions. *Round Hill*, 97 Nev. 601, 604, 637 P.2d
26 534, 536 (1981) (general rule that mandamus may not be used to control a discretionary action).
27 Nevada’s election code grants a great deal of election administration power to county election
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1 officials.⁵ In a court filing from earlier this year, the Secretary of State’s Office noted that
2 “enforce[ment] of statutory election-integrity safeguards is entrusted to the discretion of state and
3 local elections officials and law enforcement agencies.” Ex. D, Defs.’ Opp. to Mot. Prelim.
4 Injunction in *Corona*, at 3. Therefore, the settings used on ballot sorting equipment is
5 undoubtedly the kind of discretionary action that is inappropriate for mandamus review.

6 **D. Petitioners’ claim fails on the merits.**

7 Petitioners’ claim fails on the merits. Petitioners argue that Clark County’s use of an
8 Agilis machine where other counties do not use one, and their calibration of the machine,
9 violates the principles announced in *Bush v. Gore*, 531 U.S. 98, 104 (2000). Petitioners’
10 reliance on *Bush* is misplaced. In *Bush*, the U.S. Supreme Court considered “whether the use of
11 standardless manual recounts” by some, but not all, Florida counties in the aftermath of the 2000
12 presidential election violated the Equal Protection Clause of the U.S. Constitution. 531 U.S. at
13 103. The Court specifically clarified that it was not deciding “whether local entities, in the
14 exercise of their expertise, may develop different systems for implementing elections.” *Id.* at
15 109. Instead, it was addressing a situation where the counting of ballots lacked even “minimal
16 procedural safeguards.” *Id.* Equal protection does not demand the imposition of “mechanical
17 compartments of law all exactly alike.” *Jackman v. Rosenbaum Co.*, 260 U.S. 22, 31, 43 S.Ct. 9,
18 67 L.Ed. 107 (1922). “[F]ew (if any) electoral systems could survive constitutional scrutiny if
19 the use of different voting mechanisms by counties offended the Equal Protection Clause.”
20 *Boockvar*, 2020 WL 5997680, at *45 (citing *Bullock*, 2020 WL 5810556, at *14)). Clark County,
21 the most populous county in Nevada, has an interest in processing ballots in a different manner

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23 ⁵ *E.g.*, NRS 293.213 (power to establish mailing precincts); NRS 293.218 (power to
24 recommend chairs of county election boards); NRS 293.323 (power to send and process absent
25 ballots); NRS 293.325 (power to conduct signature matching and begin ballot cure process);
26 NRS 293.343 (power to establish in-person polling locations); NRS 293.345 (power to mail
27 regular and sample ballots to registered voters); NRS 293.2733 (power to, upon request, establish
28 a polling place within the boundaries of a Native American reservation); NRS 293.3564 (power
to establish permanent polling locations for early voting); NRS 244.164 (describing the election
“powers and duties vested in and imposed upon the county clerk with respect to elections” that a
county with a population of more than 100,000 can delegate to registrars of voters).

1 than other counties to ensure it is able to process the larger amount of ballots it will receive.
2 *Paher v. Cegavske*, No. 20-243, 2020 WL 2748301, at *9 (D. Nev. May 27, 2020) (“[I]t cannot
3 be contested that Clark County, which contains most of Nevada's population—and likewise
4 voters (69% of all registered voters)—is differently situated than other counties.”).

5 Petitioners do not put forth any evidence that the Agilis machine is inaccurate, or likely to
6 “mak[e] it harder for Clark County officials to catch improper or fraudulent mail ballots as
7 opposed to the rest of Nevada.” Pet. at 9. Instead, Clark County has calibrated the Agilis machine
8 to what it believes will cause Agilis to accept all obvious signature matches.⁶ So far, the Agilis
9 system has accepted roughly 30 percent of mail ballot return envelopes. That means the other 70
10 percent have gone through a manual verification process. And, ultimately, Clark County goes
11 through the very same process as any other county before rejecting a ballot for counting: “[i]f at
12 least two employees in the office of the county clerk believe there is a reasonable question of fact
13 as to whether the signature on the absent ballot matches the signature of the voter, the county
14 clerk shall contact the voter and ask the voter to confirm whether the signature on the absent
15 ballot belongs to the voter.” NRS 293.325. Petitioners have therefore failed to meet the “heavy”
16 burden to establish that this Court should take the extraordinary action they request. *Poulos*, 98
17 Nev. at 455. Petitioners may disagree with Clark County’s standards, but the Equal Protection
18 Clause does not provide an avenue for them to micromanage the County where they have not
19 provided any evidence that voters are being arbitrarily disenfranchised.

20 **IV. PETITIONERS ARE NOT ENTITLED TO A WRIT OF PROHIBITION.**

21 Petitioners’ alternative request for a writ of prohibition is equally flawed. The writ of
22 prohibition “arrests the proceedings of any tribunal, corporation, board, or person exercising

23 _____
24 ⁶ Petitioners also take issue with how Clark County has calibrated the machine, arguing that
25 the County is not using the manufacturer’s recommended setting for Agilis. But there is no
26 recommended setting. Riley Snyder & Jackie Valley, *Judge denies temporary restraining order*
27 *request by Trump campaign, Nevada Republicans to stop Clark County mail vote counting*, The
28 Nevada Independent, Oct. 23, 2020, available at:
<https://thenevadaindependent.com/article/trump-campaign-nevada-republicans-sue-to-stop-clark-county-mail-vote-counting-until-proper-procedures-in-place>.

1 judicial functions, when such proceedings are without or in excess of the jurisdiction of the
2 tribunal, corporation, board, or person.” NRS 34.320. Unlike the writ of mandamus statute, the
3 plain text of the writ of prohibition statute limits its application to courts, as well as corporations,
4 boards, and persons “exercising judicial functions.” See NRS 34.150 (a writ of mandate may be
5 issued “to compel the performance of an act which the law especially enjoins as a duty resulting
6 from an office, trust or station”); see also *Goicoechea v. Fourth Judicial Dist. Court*, 96 Nev.
7 287, 289, 607 P.2d 1140, 1141 (1980) (holding that a writ of prohibition “will not issue if the
8 court sought to be restrained had jurisdiction to hear and determine the matter under
9 consideration.”). Intervenor-Respondents are unaware of any case where a Nevada court has
10 utilized writ of prohibition against a person not exercising judicial functions, like a county clerk
11 or the Secretary of State.⁷ It is therefore unavailable as relief in this action.

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23 ⁷ A quick review of the writ of prohibition cases makes it clear that the vast majority of these
24 cases are brought against lower courts. See e.g., *Sweat v. Eighth Judicial Dist. Court in & for*
25 *Cty. of Clark*, 133 Nev. 602, 603, 403 P.3d 353, 355 (2017) *Daane v. Eighth Judicial Dist. Court*
26 *of State ex rel. Cty. of Clark*, 127 Nev. 654, 654, 261 P.3d 1086, 1087 (2011); *Cote H. v. Eighth*
27 *Judicial Dist. Court ex rel. Cty. of Clark*, 124 Nev. 36, 39, 175 P.3d 906, 908 (2008); *State v.*
28 *Justice Court of Las Vegas Twp., Clark Cty.*, 112 Nev. 803, 805, 919 P.2d 401, 402 (1996);
Greene v. Eighth Judicial Dist. Court of Nevada ex rel. Cty. of Clark, 115 Nev. 391, 393, 990
P.2d 184, 185 (1999).

1 **CONCLUSION**

2 For these reasons, Intervenor-Respondents respectfully request that this Court deny
3 Petitioners’ request for a writ of mandamus or prohibition.

4 **AFFIRMATION**

5 The undersigned does hereby affirm that the preceding document does not contain the
6 Social Security number of any person.

7 DATED this 26th day of October, 2020.

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 26th day of October, 2020, a true and correct copy of the
3 **INTERVENOR-RESPONDENTS’ ANSWER TO EMERGENCY PETITION FOR WRIT**
4 **OF MANDAMUS, OR IN THE ALTERATIVE, WRIT OF PROHIBITION** was served upon
5 all parties via electronic mailing and via U.S. Mail, First Class postage prepaid, at Las Vegas,
6 Nevada and via electronic mail to the following:

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