

1 **COMP**
2 **SIGAL CHATTAH, ESQ.**
3 Nevada Bar No.: 8264
4 **CHATTAH LAW GROUP**
5 5875 S. Rainbow Blvd. #204
6 Las Vegas, Nevada 89118
7 Tel: (702) 360-6200
8 Fax: (702) 643-6292
9 Attorney for Plaintiff
10 Nevada Republican Party

REC'D & FILED
2023 MAY 26 PM 3:46
WILLIAM SCOTT HOEN
CLERK
SK. PETERSON
DEPUTY

7 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA AND**
8 **FOR CARSON CITY**

9 NEVADA REPUBLICAN PARTY,
10
11 Plaintiff,
12 vs.
13 STATE OF NEVADA; FRANCISCO
14 AGUILAR, in his official capacity as Nevada
15 Secretary of State,
16 Defendants.

23000005118
DEPT I

**Election-Related Litigation: Priority
Treatment Requested**

**ARBITRATION EXEMPTION
CLAIMED: Equitable and Extraordinary
Relief Requested (Injunctive & Declaratory)**

17 **COMPLAINT**

18 Plaintiff/Petitioner Nevada Republican Party, by and through its attorneys of record, the
19 law firm of _____, allege and complain as follows:

20 **PARTIES**

- 21 1. Plaintiff/Petitioner Nevada Republican Party ("Plaintiff" or "NV GOP") is a state
22 party political organization affiliated with the Republican Party, and is headquartered in Las
23 Vegas, NV.
24 2. Defendant State of Nevada is governmental entity headquartered in Carson City,
25 NV.

1 3. Defendant Francisco Aguilar is the current Secretary of State for the State of
2 Nevada (“NV SOS”) (State of Nevada and NV SOS, collectively “Defendants”). The Nevada
3 Secretary of State’s principal offices are located in Carson City, NV.
4

5 **VENUE AND JURISDICTION**

6 4. This Court has jurisdiction to hear Plaintiff’s claims and to grant declaratory and
7 injunctive relief pursuant to NRS 30.030, 30.040 and 33.010.
8

9 5. Venue is proper under NRS 13.020 and 13.040 because this action is against a
10 public officer, Defendants are located within the instant judicial district, the acts complained of
11 herein occurred within the instant judicial district, and the relief Plaintiff seeks would be granted
12 from within the instant judicial district.

13 **GENERAL ALLEGATIONS**

14 **A. IN PASSING SB 292, THE NEVADA LEGISLATURE RECONIZED THAT NRS**
15 **293.130 – NRS 293.163 INFRINGED UPON THE CONSTITUTIONAL RIGHT OF**
FREEDOM OF ASSOCIATION

16 6. The right to freedom of association is enshrined in the First Amendment to the
17 U.S. Constitution.

18 7. As part of the constitutionally-protected right to freedom of association,
19 individuals are able to freely associate with one another and form political parties.

20 8. Once formed, the ability of political parties to govern themselves free of state
21 intervention/interference is a critical requisite for the citizenry to enjoy the right to freedom of
22 association.
23

24 9. Nonetheless, for decades, the Nevada Legislature governed and regulated the
25 inner workings and structure of Nevada political parties, as set forth in NRS 293.130 – NRS
293.163.

1 10. During the 2021 Legislative Session, the Nevada Legislature finally came to the
2 realization that these NRS provisions were flatly unconstitutional and abridged the
3 constitutionally-protected right to freedom of association.

4 11. Senate Bill 292 (“SB 292”), passed during the 2021 Legislative Session, repealed
5 the overwhelming bulk of NRS provisions governing “Major Political Parties,” specifically all
6 provisions set forth in NRS 293.130 – NRS 293.163.

7 12. The legislative history of SB 292 demonstrates that the Nevada Legislature
8 clearly understood and intended to repeal these provisions specifically due to their
9 unconstitutionality, citing the 1981 Supreme Court Case *Democratic Party of United States v.*
10 *Wisconsin ex rel. La Follette* as one impetus for the bill’s passage.

11 13. The State Legislature further understood and recognized that the NRS was not
12 necessarily the foundation for or the chief basis of a Nevada political party’s existence. Indeed,
13 beyond generally promulgating what a “major political party” is, the Legislature, in passing SB
14 292, expressly declined to delve into or regulate the inner workings, processes, or structure of
15 political parties.

16 14. The mechanism/procedures by which a state political party votes for/chooses
17 presidential candidates (which in practice means selecting and binding delegates to a national
18 nominating convention), is expressly within the constitutionally-protected right to freedom of
19 association, and was specifically mentioned during the discussions/deliberations in passing SB
20 292.
21
22
23
24
25

1 **B. DESPITE HAVING EXPRESSLY RECOGNIZED THE RIGHT TO FREEDOM**
2 **OF ASSOCIATION, THE NEVADA LEGISLATURE SIMULTANEOUSLY INFRINGED**
3 **UPON THAT RIGHT VIA THE PASSAGE OF AB 126**

4 15. Notwithstanding the State Legislature's passage of SB 292/repeal of NRS
5 293.130 – NRS 293.163, during the very same 2021 Legislative Session, the Legislature also
6 passed Assembly Bill 126 ("AB 126").

7 16. AB 126 amended NRS 298 to expressly require that all major political parties,
8 including the NV GOP, hold a primary election as part of its nominating processes for
9 presidential candidates. *See* NRS 298.650(1).

10 17. Prior to the passage of AB 126, and with respect to recent presidential elections,
11 Nevada major political parties used caucuses for choosing and binding delegates to the national
12 convention.

13 18. AB 126 sets forth that the NV SOS, in conjunction with county clerks, will
14 oversee and conduct the primary election for the state's major political parties. AB 126
15 seemingly contemplates no role for major political parties in the primary election system beyond
16 providing a list of qualified candidates to appear on the ballot.

17 19. AB 126 is notable because it seemingly precludes a major political party such as
18 the NV GOP from opting out of the primary election process, and thus impedes its ability to
19 pursue a party-run caucus system (or other permissible method) instead.

20 20. With respect to the impending 2024 presidential nomination process, AB 126 will
21 force the NV GOP to use a state-run primary system at the possible exclusion of a party-run
22 caucus system or other permissible method of selection pursuant to its rules/bylaws.

23 21. As such, AB 126 threatens to obstruct the rights of the NV GOP and Nevada
24 citizens under the First and Fourteenth Amendments to freely associate. Indeed, individuals are
25 guaranteed the right to organize themselves into political parties, parties which are self-governed

1 and not subject to state interference/influence as to how its presidential candidates are chosen --
2 something that was expressly deemed to be unconstitutional in passing SB 292.

3 22. Given the aforementioned issues and the impending threat to the NV GOP's
4 ability to freely associate and choose how its members vote for/choose presidential nominees,
5 this Court should order and/or mandate that Defendants be barred from enforcing the provisions
6 of AB 126 concerning a presidential primary system against the NV GOP.

7 23. In conjunction with the requested injunctive relief, the NV GOP requests that this
8 Court declare that the right to freedom of association guarantees the NV GOP the ability to select
9 and bind its delegates for its national presidential nominating convention pursuant to its own
10 rules/bylaws, and not necessarily pursuant to the processes set forth in AB 126.

11 a. Although Plaintiff believes that AB 126 should be deemed completely
12 unenforceable against the NV GOP, should this Court nonetheless find that Defendants can
13 compel Plaintiff's participation in a primary election, the NV GOP requests alternative
14 declaratory relief that deems the results of said primary non-binding on how the NV GOP's
15 delegates are selected and bound with respect to its national party nominating convention. Stated
16 differently, the NV GOP should be able to use an alternative system such as a caucus or other
17 method pursuant to its bylaws/internal rules for choosing and binding its delegates,
18 notwithstanding the primary election contemplated by AB 126.
19
20

21 **FIRST CLAIM FOR RELIEF**
22 **(INJUNCTIVE RELIEF)**

23 24. Plaintiff repeats and realleges the preceding paragraphs as though fully stated
24 herein.
25

1 25. The conduct alleged herein threatens to imminently deprive Plaintiff and its
2 members of their rights with respect to freedom of association as guaranteed by the First and
3 Fourteenth Amendments of the United States Constitution.

4 26. Plaintiff and its members have no adequate remedy at law.

5 27. Without injunctive relief, Plaintiff and its members will suffer irreparable harm
6 for which compensatory damages are inadequate.

7 28. The NV GOP, its members, and the public at large have a significant interest in
8 preventing the harm that will be created in the impending presidential nomination process by
9 regulating and interfering with how political parties choose and bind its delegates for a
10 presidential nominating convention.
11

12 **SECOND CLAIM FOR RELIEF**
13 **(APPLICATION FOR WRIT OF PROHIBITION)**

14 29. Plaintiff repeats and realleges the preceding paragraphs as though fully stated
15 herein.

16 30. In furtherance of its requested injunctive relief, the NV GOP seeks a writ of
17 prohibition that bars Defendants from enforcing against the NV GOP the provisions of AB 126
18 mandating participation in a primary system.

19 31. The NV GOP has standing to seek writ relief, as it and its members are seeking to
20 protect the constitutional right of freedom of association, and the issuance of the requested writ
21 would protect said interest. *See Heller v. Legislature of State of Nev.*, 120 Nev. 456, 460-61, 93
22 P.3d 746, 749-50 (2004).

23 32. Although writ relief is normally reserved for cases in which there is no adequate
24 remedy at all, even when there is an adequate remedy at all, a court may “exercise its discretion
25 to entertain a petition for mandamus under circumstances of urgency or strong necessity, or

1 when an important issue of law needs clarification and sound judicial economy and
2 administration favor the granting of the petition.” *State v. Second Jud. Dist. Ct. ex rel. Cnty. of*
3 *Washoe*, 118 Nev. 609, 615, 55 P.3d 420, 423 (2002).

4 33. In this particular case, Nevada’s state-run primary system is set to be
5 implemented in less than a year. Given the months of planning that goes into operating a primary
6 (or caucus) system, it is imperative that this Court consider the requested injunctive relief on an
7 expedited basis. Moreover, the issues presented herein represent critical issues of law that require
8 clarification, especially in light of the fact that the Nevada Legislature expressly passed SB 292
9 to protect the constitutional right of freedom of association, only to contradict itself during the
10 same legislative session and infringe upon said right in passing AB 126,
11

12 34. Overall, this Court has the ability to prohibit the State of Nevada and the NV SOS
13 from enforcing against the NV GOP the provisions of AB 126 that require the NV GOP’s
14 participation in a state-run primary system for choosing delegates for its presidential nominating
15 convention.

16 **THIRD CLAIM FOR RELIEF**
17 **(DECLARATORY RELIEF)**

18 35. Plaintiff repeats and realleges the preceding paragraphs as though fully stated
19 herein.

20 36. In conjunction with the requested injunctive relief/writ of prohibition, the NV
21 GOP seeks declaratory relief.

22 37. This Court has the ability to declare the rights, status and other legal relations of
23 the parties herein, regardless of whether further relief is or could be claimed.

24 38. The facts and issues presented herein constitute a justiciable controversy, in which
25 the NV GOP asserts a legally-protectable interest (i.e., the freedom of association, and

1 specifically, the ability to exclusively govern how it and its members vote for/express a
2 preference for presidential candidates).

3 39. The controversy is ripe for determination as AB 126 has already been codified
4 into the NRS, and it set to be implemented in less than a year as part of the forthcoming 2024
5 presidential nomination process.

6 40. As a result of the foregoing, the NV GOP is entitled to relief pursuant to NRS
7 30.010 *et seq.*, in the form of a declaration that says:

8 a. The provisions of AB 126, to the extent that they require a major political
9 party to participate in and comply with a state-mandated and state-run primary process, are
10 unenforceable against the NV GOP, who is free to use a caucus system (or other permissible
11 method of selecting/binding delegates) in lieu of the primary system contemplated by AB 126.

12 41. In the alternative to the foregoing, and in the event this Court deems AB 126
13 constitutional and enforceable against the NV GOP, the NV GOP seeks a declaration that says:

14 a. The results of the primary conducted pursuant to AB 126 are not
15 necessarily binding on the NV GOP, who are free to use an alternative method such as a caucus
16 system or other method pursuant to its bylaws/internal rules for voting for/choosing party
17 presidential candidates.
18

19 **PRAYER FOR RELIEF**

20
21 WHEREFORE, Plaintiff respectfully requests that this Court:

22 1. Grant preliminary injunctive and permanent injunctive relief, including but not
23 limited to in the form of a writ of prohibition, prohibiting Defendants from enforcing against the
24 NV GOP provisions of AB 126 that require participation in a primary system;
25

1 2. Declaratory Relief that deems the provisions of AB 126 requiring major political
2 parties to participate in a state-run primary system unconstitutional and unenforceable against the
3 NV GOP, which is free to select and bind its delegates for its national presidential nominating
4 convention pursuant to its own rules/bylaws;

5 3. In the alternative to the above requested relief, declaratory relief that deems the
6 results of Nevada's state-run primary non-binding on how the NV GOP's delegates are selected
7 and bound for its national party's nominating convention;

8 4. For any other relief as this Court may deem just and proper.

9 Dated this 25th day of May, 2023

10
11
12 CHATTAH LAW GROUP

13 
14 SIGAL CHATTAH, ESQ.
15 Nevada Bar No.: 8264
16 5875 Rainbow Blvd. #204
17 Las Vegas, Nevada 89118
18 Tel: (702)360-6200
19 Fax: (702)643-6292
20 Attorneys for Plaintiff

21
22
23 **AFFIRMATION**

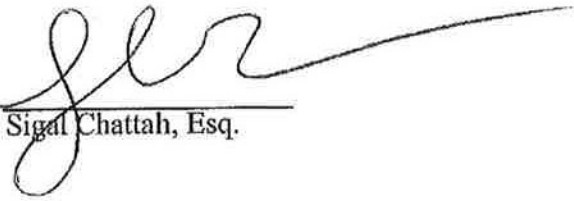
24 Pursuant to NRS 239B.030/603A.040 (Initial Appearance) The undersigned does hereby
25 affirm that the document entitled COMPLAINT does not contain "Personal Information" and
agrees that upon the filing of additional documents in the above matter, an Affirmation will be
provided ONLY if the document contains a social security number (NRS 239B.030) or "personal
information" (NRS 603A.040), which means a natural person's first name or first initial and last
name in combination with any one or more of the following data elements:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1. Social Security number.
2. Driver's license number, driver authorization card number or identification card number.
3. Account number, credit card number or debit card number, in combination with any required security code, access code or password that would permit access to the person's financial account.
4. A medical identification number or a health insurance identification number.
5. A user name, unique identifier or electronic mail address in combination with a password, access code or security question and answer that would permit access to an online account.

The term does not include publicly available information that is lawfully made available to the general public.

Dated this 25th day of May, 2023



Sigal Chattah, Esq.

The purpose of this initial affirmation is to ensure that each person who initiates a case, or upon first appearing in a case, acknowledges their understanding that no further affirmations are necessary unless a pleading which is filed contains personal information.