

IN THE SUPREME COURT OF THE STATE OF NEVADA

REV. LEONARD JACKSON,

Appellant,

vs.

FAIR MAPS NEVADA PAC;
AND BARBARA K. CEGAVSKE,
In her Official Capacity as NEVADA
SECRETARY OF STATE

Respondents.

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Elizabeth A. Brown
Clerk of Supreme Court

CASE NO. 80563

Dist. Court No. 19OC002091B

**RESPONDENT SECRETARY OF STATE'S JOINDER
IN SUPPORT OF MOTION TO DISMISS APPEAL**

Barbara K. Cegavske in her official capacity as Nevada Secretary of State (Secretary of State), by and through counsel, Aaron D. Ford, Nevada Attorney General, and Gregory L. Zunino, Deputy Solicitor General, hereby joins Fair Maps Nevada PAC (Fair PAC) in its request for a dismissal of the above-captioned appeal as set forth in Section III of its Motion to Dismiss and for Sanctions filed on February 18, 2020 (Motion). Secretary Cegavske takes no position on Fair PAC's request for sanctions as set forth in Section IV of the Motion.

Dated this 26 day of February 2020.

AARON D. FORD

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ARGUMENT

In response to a challenge by the opponent of a petition for initiative, the district court may order that the petition's description of effect be amended in a way that reasonably addresses the opponent's objections to the text of the description. NRS 295.061. When, as here, the challenge is successful, the proponents of the petition must file with the Secretary of State a true and correct copy of description of effect, as amended pursuant to the court's order, before circulating the petition. *See Nevadans for Nevada v. Beers*, 122 Nev. 930, 943-50, 142 P.3d 339, 348-52 (2006).

Consequently, it is imperative that any challenge to a petition for initiative be resolved expeditiously so that the petition, once amended, may be properly evaluated by potential signatories. For this reason, the Legislature has erected a jurisdictional bar to any subsequent challenge to the petition once the petition has been successfully challenged, amended, and then refiled with the Secretary of State. *See* NRS 295.061(3).

Moreover, the right to challenge a petition for initiative is a statutory remedy with no common law equivalent. *See Beers*, 122 Nev. at 939. Having created the remedy, the Legislature was well within its power to limit the scope of the remedy by erecting a jurisdictional bar to a subsequent or renewed challenge by way of the appellate process. "If a statute expressly provides a remedy, courts should be

cautious in reading other remedies into the statute.” *Builders Ass’n of Northern Nevada v. City of Reno*, 105 Nev. 368, 370, 776 P.2d 1234, 1235 (1989)(internal citations omitted). Here, the Legislature not only provided a remedy, but expressly limited the scope of that remedy to a single successful challenge before the district court. Accordingly, this appeal should be dismissed on the ground that this Court lacks subject matter jurisdiction over the underlying claims.

Dated this 26 day of February 2020.

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this opening 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 opening brief has been prepared in a proportionally spaced typeface using Microsoft Word 10 in 14 pitch Times New Roman

2. I further certify that this opening brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the opening brief exempted by NRAP 32(a)(7)(C), it is either proportionately spaced, has a typeface of 14 points or more, and contains 843 words.

3. Finally, I hereby certify that I have read this opening 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 opening brief complies with all applicable Nevada Rules of Appellate Procedure, in particular, NRAP 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 opening brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 26 day of February 2020.

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the Nevada Supreme Court by using the appellate CM/ECF system on February 26, 2020.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

 /s/ Sandra Geyer

Sandra Geyer

Legal Office Manager