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

9  
10  
11 REV. LEONARD JACKSON,  
12 Plaintiff,  
13 v.  
14 FAIR MAPS NEVADA PAC, and  
BARBARA CEGAVSKE, in her official  
15 capacity as Nevada Secretary of State,  
16 Defendants.  
17

Case No.: 19 DC 00209 B  
Dept. No.: II

**COMPLAINT FOR  
DECLARATORY RELIEF**

**Priority Claimed: NRS 295.061(1)**

**Arbitration Exemption:  
Request for Declaratory and Injunctive  
Relief.**

18  
19 Plaintiff, Rev. Leonard Jackson, by and through counsel, Kevin Benson, Esq. of BENSON  
20 LAW, LLC, seeks declaratory and injunctive relief against Defendants that the Redistricting  
21 Commission Initiative Petition does not comply with the requirements of state law and therefore  
22 cannot appear on the general election ballot for 2020. Plaintiff alleges and complains as follows:

23 **I. JURISDICTION**

24 1. This Court has jurisdiction pursuant to Nev. Const. Art. 6, § 6 and NRS 295.061(1).

25 **II. PARTIES**

26 2. Plaintiff Rev. Leonard Jackson is citizen of Nevada and a registered voter.

27 3. Defendant Fair Maps Nevada PAC is a proponent of a constitutional initiative petition  
28 designated as #C-02-2019 by the Secretary of State. The initiative petition seeks to amend the

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1 Nevada Constitution to require that redistricting be performed by a commission rather than by the  
2 Legislature (“the Petition”).

3 4. Defendant Barbara Cegavske is Nevada’s duly elected Secretary of State. She is sued  
4 in her official capacity only. The Secretary’s duties include certifying the number of signatures on an  
5 initiative petition and other processing necessary to place an initiative petition on the ballot.

6 **III. GENERAL ALLEGATIONS**

7 5. On November 4, 2019, Sondra Cosgrove, in connection with Defendant FAIR MAPS  
8 NEVADA PAC, filed with the Secretary of State a Notice of Intent to Circulate Petition and a copy  
9 of the Petition.

10 6. The Petition proposes to add a new Section 5A to Article 4, Section 5 of the Nevada  
11 Constitution, which would be titled: “Apportionment; Creation of Independent Redistricting  
12 Commission.”

13 7. The Petition would create the “Independent Redistricting Commission”  
14 (“Commission”) within the legislative branch of state government. Starting in the year 2023, the  
15 Commission would apportion the number of Senators and Assemblymen among the state legislative  
16 districts and would apportion the number of representatives to the United States House of  
17 Representatives among the congressional districts.

18 8. The Commission would consist of seven members. The Senate Majority Leader,  
19 Senate Minority Leader, Speaker of the Assembly, and Assembly Minority Leader each appoint one  
20 commissioner. These four commissioners appoint three additional commissioners, each of whom has  
21 not been registered or affiliated with either of the two largest political parties in the State within the  
22 last four years, and is not registered or affiliated with the same political party as another  
23 commissioner.

24 9. The commissioners cannot, within the four years preceding appointment and during  
25 their term on the Commission, be a registered lobbyist, a candidate for partisan office, an elected  
26 official to a partisan office, an officer or member of the governing body of a political party, a paid  
27 consultant or employee of a partisan elected official, candidate, PAC, or caucus, an employee of the  
28 Legislature or the State of Nevada, except the judicial branch, the armed forces, or a state institution

1 of higher education. Nor may a commissioner be related within the third degree of consanguinity or  
2 affinity to any such individual.

3 10. All meetings of the Commission must be open to the public and the Commission shall  
4 ensure that the public has the opportunity to view, present testimony, and participate in the hearings  
5 before the Commission. All Commission materials shall be public records.

6 11. The Commission shall adopt a redistricting plan not later than July 1, 2023, and  
7 thereafter not later than 180 from the release of the decennial census.

8 12. A final plan requires five affirmative votes, including votes from at least one  
9 commissioner from each of the two largest political parties and one commissioner not registered or  
10 affiliated with either of those parties.

11 13. The Commission must draw districts according to certain criteria, and must apply  
12 those criteria in the order listed in the Petition. These criteria include ensuring that, on a statewide  
13 basis, the districts “do not unduly advantage or disadvantage a political party.” The last criteria is that  
14 the Commission may consider the number of politically competitive districts.

15 14. The Description of Effect of the Petition states in full:

16 This measure will amend the Nevada Constitution to establish an Independent Redistricting  
17 Commission to oversee the mapping of fair and competitive electoral districts for the  
18 Nevada Senate, Nevada Assembly, and U.S. House of Representatives.

19 The Commission will consist of seven Nevada voters, four who will be appointed by the  
20 leadership of the Nevada Legislature, and three who are unaffiliated with the two largest  
21 political parties who will be appointed by the other four commissioners. Commissioners  
22 may not be partisan candidates, lobbyists, or certain relatives of such individuals. All  
23 meetings of the Commission shall be open to the public who shall have opportunities to  
24 participate in hearings before the Commission.

25 The Commission will ensure, to the extent possible, that the electoral districts comply with  
26 the United States Constitution, have an approximately equal number of inhabitants, are  
27 geographically compact and contiguous, provide equal opportunities for racial and  
28 language minorities to participate in the political process, respect areas with recognized  
similarities of interests, including racial, ethnic, economic, social, cultural, geographic, or  
historic identities, do not unduly advantage or disadvantage a political party, and are  
politically competitive.

This amendment will require redistricting by the Commission beginning in 2023 and  
thereafter following each federal census.

1 **FIRST CAUSE OF ACTION**

2 **(Misleading Description of Effect: “Independent”)**

3 15. The Petition’s Description of Effect is materially misleading and fails to comply with  
4 NRS 295.009(1)(b) because the Description of Effect describes the Commission as an “independent”  
5 redistricting commission when in fact the Commission is not independent.

6 16. The Commission is not independent because a majority of commissioners are directly  
7 appointed by the legislative leadership of the two major political parties. Those commissioners in turn  
8 appoint the remaining three commissioners. Thus there is no mechanism to ensure that any of the  
9 commissioners are in fact independent of the legislative leadership of the two major parties.

10 17. Redistricting is an expensive and difficult process that requires substantial technical  
11 expertise, specialized software, and personnel with knowledge and experience in the field. Moreover,  
12 the Commission will need administrative assistance to manage its materials and to schedule, notice,  
13 and hold public meetings.

14 18. The Commission is part of the legislative branch, but the Petition does not provide for  
15 any funding or funding mechanism for the Commission. It does not require the Legislature to fund  
16 the Commission at all. Therefore the Commission is not independent of the Legislature because the  
17 Legislature can control its funding.

18 19. The Petition does not prohibit the commissioners from being appointed to or  
19 becoming a candidate for any partisan office or government employment immediately after  
20 approving a redistricting plan.

21 20. The ordinary definition of “independent” is: “free from outside control; not subject to  
22 another’s authority.” Oxford English Dictionary (<https://www.lexico.com/en/definition/independent>,  
23 last visited: Nov. 12, 2019).

24 21. Because the Commission is not independent of the Legislature, voters will be  
25 materially misled by the Description of Effect’s statement that the Petition “will amend the Nevada  
26 Constitution to establish an **Independent** Redistricting Commission...” (emphasis added).

27 22. The Petition’s Description of Effect therefore violates NRS 295.009(1)(b) and cannot  
28 appear on the 2020 general election ballot.

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**SECOND CAUSE OF ACTION**

**(Misleading Description of Effect: “Fair and competitive maps”)**

23. The Petition’s Description of Effect is materially misleading because it claims that the Commission will oversee “the mapping of fair and competitive electoral districts,” but the Petition in fact requires neither fairness nor competitiveness.

24. The criteria to be used in drawing maps adhere to the general requirements for redistricting that are required under federal law to satisfy the Voting Rights Act and the one-person, one-vote doctrine.

25. Beyond this, the Petition requires that the districts “do not unduly advantage or disadvantage a political party.” The use of the word “unduly” indicates that the Petition is actually designed and intended to tolerate *un*fairness as between the political parties, but to what degree is unknown. The Petition sets forth no criteria for determining when a party is “unduly” advantaged or disadvantaged. There will obviously be disagreement on that question and the lack of any guidelines leaves the potential for every plan to be challenged through litigation.

26. Further, competitiveness is the very *last* of the criteria that the Commission is to consider when drawing maps, and it is expressly subordinate to all the other criteria. The Commission is only required to consider competitiveness “to the extent practicable.” Thus the Petition does not in fact require that the Commission create, or even attempt to create, competitive districts.

27. Voters will be materially misled by the Description of Effect’s assertion that the Commission will create “fair and competitive” maps, because the Petition does not require either.

28. The Petition’s Description of Effect therefore violates NRS 295.009(1)(b) and the Petition cannot appear on the 2020 general election ballot.

**THIRD CAUSE OF ACTION**

**(Misleading Description of Effect: Practical and Fiscal Impacts)**

29. The Petition’s Description of Effect is deceptive and misleading because it fails to inform voters of the practical ramifications of the Petition.

30. The Petition’s Description of Effect recites the language of the Petition stating that the proposed Commission would draw new maps beginning in 2023, but it fails to inform voters of the

1 practical effects. It fails to inform voters that the Legislature will have just drawn maps in 2021,  
2 which will be effective for only the 2022 election. It fails to inform voters that the Commission will  
3 “undo” those maps and create new maps in 2023, thus potentially doubling the resources that would  
4 otherwise be spent on redistricting following the 2020 census.

5 31. By failing to describe these material practical consequences, the Description of Effect  
6 is deceptive. The Petition and therefore violates NRS 295.009(1)(b) and cannot appear on the 2020  
7 general election ballot.

8 WHEREFORE, the Plaintiff Rev. Jackson respectfully requests that the Court enter an order:

- 9 1. Declaring that the Petition does not comply with NRS 295.009(1)(b) and is therefore  
10 invalid;
- 11 2. Prohibiting the Secretary of State from placing the Petition on any ballot; and,
- 12 3. Granting any other relief the Court deems just.

13  
14 Dated this 26<sup>th</sup> day of November, 2019.

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18 By: 

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