

1 Shana D. Weir
WEIR LAW GROUP, LLC
2 Nevada Bar No. 9468
6220 Stevenson Way
3 Las Vegas, Nevada 89120
(702) 509-4567
4 Email: sweir@weirlawgroup.com
Attorneys for the Contestants

5
6 Jesse R. Binnall (*pro hac vice* application forthcoming)
HARVEY & BINNALL, PLLC
7 717 King Street, Suite 200
Alexandria, Virginia 22314
8 (703) 888-1943
(703) 888-1930 (facsimile)
9 Email: jbinnall@harveybinnall.com
Attorneys for the Contestants

10
11 **IN THE FIRST JUDICIAL DISTRICT COURT**
CARSON CITY, NEVADA

12 Jesse Law, an individual; Michael
13 McDonald; an individual; James
DeGraffenreid III, an individual;
14 Durward James Hindle III, an
individual; Eileen Rice, an individual;
15 Shawn Meehan, an individual, as
candidates for presidential electors on
16 behalf of Donald J. Trump,

17 Contestants,

18 vs.

19 Judith Whitmer, an individual; Sarah
Mahler, an individual; Joseph
20 Throneberry, an individual; Artemesia
Blanco, an individual; Gabrielle D'Ayr,
21 an individual; and Yvanna Cancela, an
individual, as candidates for
22 presidential electors on behalf of Joseph
R. Biden, Jr.,

23 Defendants.
24

Case No. 20 OC 001631B
Dept. I

EX-PARTE MOTION FOR LEAVE TO
IMMEDIATELY SET DEPOSITIONS
ON SHORTENED NOTICE AND
EXCEED THE TEN DEPOSITION
LIMIT PROSCRIBED IN NRCP
30(a)(2)(A)(i)

25 COMES NOW Jesse Law, Michael McDonald, James DeGraffenreid III,
26 Durward James Hindle III, Eileen Rice and Shawn Meehan, as candidates for
27 presidential electors on behalf of Donald J. Trump (collectively "Contestants"), by and
28

1 their attorney of record Shana D. Weir, Esq. and Jesse R. Binnall, Esq. (*pro hac vice*
2 application forthcoming), and hereby submit this Ex-Parte Motion for Leave to
3 Immediately Set Depositions on Shortened Notice and Exceed the Ten Deposition
4 Limit Proscribed in NRCPC 30(a)(2)(A)(i) (“Motion”). Good cause exists to grant
5 Contestants the relief sought herein in light of the shortened and expedited nature of
6 election contest proceedings pursuant to NRS 293.410, and Contestants consequent
7 inability to comply with the notice requirements set forth in NRCPC 30(b)(1) or NRCPC
8 45(a)(4)(A). Pursuant to Local Rule 3.19, counsel for Contestants provided notice of
9 the instant Motion to counsel for Defendants on November 20, 2020. *See Exhibit A*
10 attached to the Declaration of Shana D. Weir, filed herewith. This Motion is based
11 upon the pleadings and papers on file with the Court and any argument entertained
12 by the Court.

13 **I. INTRODUCTION**

14 As this Court is aware, Contestants have an extremely limited timeframe to
15 present evidence to this Court to challenge the results of the 2020 Presidential
16 Election (the “Election”). The trial must be completed in time to allow review by the
17 Nevada Supreme Court prior to the December 8, 2020 Federal statutory deadline (3
18 U.S. Code Section 5) for Nevada to settle all election contests and determine its
19 electors, ahead of the December 14, 2020 deadline for Nevada’s six (6) electors to
20 attend the United States Electoral College.

21 As a result, the relief requested herein is necessary to ensure that Contestants
22 have a full and fair opportunity to take all necessary depositions and prepare for trial.
23 Contestants respectfully request that this Court allow Contestants to: (1) immediately
24 notice depositions on forty-eight hours’ notice; and (2) exceed the ten deposition limit
25 set forth in NRCPC 30(a)(2)(A)(i).

26 **II. LEGAL STANDARD**

27 Separate and apart from the rules of civil procedure, this Court has the inherent
28 authority to manage the judicial process so as to achieve the fair, orderly, and

1 expeditious disposition of cases. See 136 Nev. Adv. Op. 72 (quoting *Chambers v.*
2 *NASCO, Inc.* 501 U.S. 32, 43, 111 S. Ct. 2123, 115 L. Ed.2d 27 (1991); *Silvestri v. Gen.*
3 *Motors Corp.*, 271 F.3d 583, 590 (4th Cir. 2001). Among other things, this Court’s
4 authority encompasses powers “reasonable and necessary” for the administration of
5 court procedure and management of judicial affairs. *Halverson v. Hardcastle*, 123
6 Nev. 234, 261, 163 P.3d 428, 440 (2007) (quoting *Borger v. Dist. Ct.*, 120 Nev. 1021,
7 1029, 102 P.3d 600 (2004)).

8 As a result, this Court has the inherent authority to grant Contestants the relief
9 sought herein.

10 **III. CONTESTANTS SHOULD BE GIVEN RELIEF FROM THE NOTICE**
11 **REQUIREMENTS SET FORTH IN NRCP 30(b)(1) OR NRCP 45(a)(4)(A) IN**
12 **LIGHT OF THE EXPEDITED NATURE OF ELECTION CONTEST**
13 **PROCEEDINGS AND THE PENDING STATUTORY DEADLINES.**

14 Good cause exists to grant Contestants the relief sought herein given the
15 extremely limited timeframe Contestants have to conduct discovery and present
16 evidence to the Court in support of their claims. Because election contests are
17 expedited statutory proceedings that do not comport with traditional litigation
18 timelines, Contestants should be given relief from complying with the standard notice
19 requirements set forth in NRCP 30(b)(1) or NRCP 45(a)(4)(A).

20 The Court’s November 19, 2020 Order To Set Hearing and For Service (the
21 “Order”) set an initial hearing for December 1, 2020. NRCP 30(b)(1) requires “a party
22 who wants to depose a person by oral questions” to provide “not less than 14 days’
23 written notice to every other party.” Even if Contestants are allowed to take
24 depositions following the December 1, 2020 hearing, it will be an impossibility to
25 depose witnesses with statutory notice under NRCP 30(b)(1) or NRCP 45(a)(4)(A)
26 before December 8, 2020.

27 Similarly, NRCP 45(a)(4)(A) requires a subpoena that commands the
28 production of documents to be served on all parties at least 7 days before it is served

1 on the person to whom it is directed. If Contestants are forced to wait until December
2 1, 2020 to provide the requisite 7-day notice to all parties, then Contestants could not
3 even serve the subpoena on the person to whom it was directed until after December
4 8, 2020.

5 Forcing Contestants to wait until December 1, 2020 to notice depositions would
6 be unduly prejudicial and contrary to interests of justice and fairness. Given the
7 gravamen of the issues at stake in this action, and the limited days Contestants have
8 to gather and present evidence to the Court, Contestants would face irreparable harm
9 if they were forced to wait until December 1, 2020 to conduct discovery. As the party
10 bearing the burden of proof, Contestants should be afforded a full a fair opportunity
11 to conduct discovery and present evidence in support of their claims. This inherently
12 includes taking all necessary depositions as soon as possible.

13 **IV. CONTESTANTS SHOULD BE GIVEN LEAVE TO TAKE MORE THAN TEN**
14 **DEPOSITIONS IN THIS ACTION.**

15 NRCP 30(a)(2)(A)(i) requires a party to obtain leave of court if taking a
16 deposition would “result in more than 10 depositions being taken.” Contestants should
17 be given leave to exceed the ten deposition limit given the plain language of NRS
18 293.415 that not only allows Contestants to “take the deposition of any witness” but
19 states that “the matter shall be tried and submitted so far as may be possible upon
20 depositions.” The statute underscores the importance of deposition testimony.
21 Contestants should be allowed to “take the deposition of any witness” they deem
22 necessary and should not be constrained by the ten deposition limit set forth NRCP
23 30(a)(2)(A)(i).

24 For the reasons set forth herein, Contestants respectfully request that the
25 Court allow them to: (1) immediately notice depositions on forty-eight hours’ notice;
26 and (2) exceed the ten deposition limit set forth in NRCP 30(a)(2)(A)(i).

27 ///

28 ///

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
26
27
28

AFFIRMATION

The undersigned attorney does hereby affirm, pursuant to NRS 239B.030, that this document and any attachments do not contain personal information as defined in NRS 603.040 about any persons.

Dated: this 20TH day of November, 2020 WEIR LAW GROUP, LLC

BY: _____
SHANA D. WEIR, ESQ. SBN 9468
6220 Stevenson Way
Las Vegas, Nevada 89120
(702) 509-4567
Email: sweir@weirlawgroup.com

1 DECLARATION OF SHANA WEIR

2 I, Shana D. Weir, hereby declare as follows:

3 1. I am an attorney duly licensed to practice law in the State of Nevada
4 and am the principal of Weir Law Group, LLC, counsel of record for the Contestants
5 in the above-captioned action. The matters stated herein are true of my own
6 personal knowledge and if called upon as a witness, I could and would competently
7 testify thereto under oath.

8 2. On November 20, 2020, I e-mailed counsel for Defendants, Mr. Bradley
9 Schrager, a copy of the foregoing Ex Parte Motion for Leave to Immediately Set
10 Depositions on Shortened Notice and Exceed the Ten Deposition Limit Proscribed in
11 NRCPC 30(a)(2)(A)(i) (“Motion”) and advised counsel of my intent to file same. A true
12 and correct copy of the aforementioned e-mail is attached hereto as “Exhibit A.”

13 I declare under the penalty of perjury under the laws of the State of Nevada
14 that the foregoing is true and correct.

15 Executed this 20th day of November 2020 in Clark County, Nevada.

16
17 _____
18 SHANA D. WEIR
19
20
21
22
23
24
25
26
27
28

1 CERTIFICATE OF SERVICE

2 I hereby certify that the foregoing **EX-PARTE MOTION FOR LEAVE TO**
3 **IMMEDIATELY SET DEPOSITIONS ON SHORTENED NOTICE AND EXCEED**
4 **THE TEN DEPOSITION LIMIT PROSCRIBED IN NRCP 30(a)(2)(A)(i)** was
5 submitted for filing and/or services with the First Judicial District Court on the 20th
6 day of November, 2020. Service of the foregoing documents was made by electronic
7 mail addressed to:

8 Bradley S. Schrage, Esq.
9 Daniel Bravo, Esq.
10 3556 East Russell Road, 2nd Floor
11 Las Vegas, NV 89120
12 Email: bschrager@wrslawyers.com
13 Attorneys for Defendants

14 _____
15 An Employee of Weir Law Group, LLC
16
17
18
19
20
21
22
23
24
25
26
27
28