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1 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
2 **IN AND FOR CARSON CITY**

3
4 MICHAEL D. ROSATI, an individual,
5 OSBERIA (“BARRY”) SMITH, an
6 individual,

7 Plaintiffs,

8 vs.

9 OUR VOTE NEVADA PAC, a Ballot
10 Advocacy Group; SHARRON ANGLE, an
11 individual; ROSS MILLER, in his official
12 capacity as Secretary of State,

13 Defendants.

Case No.

Dept. No.

14 **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

15 For their Complaint, Plaintiffs allege:

16 1. On January 29, 2014, Defendants Our Vote Nevada PAC, a Ballot Advocacy
17 Group, and Sharron Angle (together, “Proponents”) submitted the “Voter ID Initiative” (the
18 “Initiative”) to the Secretary of State that proposes to amend the Nevada Constitution to require,
19 with a very limited exception, the presentation of photographic voter identification prior to the
20 exercise of the right to vote in person. The Initiative also would require the Legislature, in turn,
21 to direct one or more State agencies to issue “voter identification cards” at “no charge” to
22 registered voters who otherwise lack qualifying identification.

23 2. The Initiative will have wide-ranging impacts on the State of Nevada, the
24 application of its laws, and the exercise of the constitutionally protected right-to-vote. The
25 Description of Effect fails to provide voters adequate notice of the material consequences of its
26 adoption or the interests it is likely to affect and is misleading.

27 3. N.R.S. § 295.009(1)(b) requires that each initiative petition set forth, in not more
28 than 200 words, a “description of the effect...of the initiative...is approved by the voters.” The

1 purpose of the DOE is to help prevent voter confusion and promote informed decisions. It cannot
2 fail to identify the material consequences of the initiative’s passage: it must be straightforward,
3 succinct, and non-argumentative and it must not be deceptive or misleading.

4 4. For purposes of clarification, Plaintiffs are not seeking a description of “each and
5 every consequence” or “every detail or effect” the Initiative may have. *See Educ. Initiative PAC*
6 *v. Comm. to Protect Nev. Jobs*, 129 Nev. Adv. Op. 5, 293 P.3d 874, 879, 881 (Nev. 2009). Nor
7 are Plaintiffs looking for a description of “hypothetical effects or consequences of the
8 Initiative.” *Id.* Instead, Plaintiffs contend that identification of the material consequences of an
9 initiative is mandated by NRS §§ 295.061(1), 295.009(1)(b) and Nevada Supreme Court
10 jurisprudence. *Educ. Initiative PAC*, supra; *Las Vegas Taxpayer Accountability Comm. v. City*
11 *Council of the City of Las Vegas*, 125 Nev. 165, 184, 208 P.3d 429, 441 (Nev. 2009) (“We agree
12 with the district court that the description of effect materially fails to accurately identify the
13 consequences of the referendum’s passage.”).

14 5. Plaintiffs bring this action pursuant to N.R.S. §§ 30.030, 33.010, and 295.061,¹
15 to challenge the validity of the Initiative.

16 6. The grounds for this challenge are that the (DOE) provided with the Initiative
17 does not meet the threshold initiative requirements imposed by N.R.S. § 295.009(1)(b).

18 7. As set forth in Counts I – IV of this Complaint, the DOE fails to identify material
19 consequences of the adoption of the proposed photo identification requirement, and it is
20 affirmatively and materially misleading.

21 8. As set forth in Count I, the DOE omits the fact that the Initiative will mandate
22 the expenditure of significant financial resources by the State. The DOE likewise omits any
23 estimate of the overall fiscal cost to the State. In addition, the wording of the DOE is
24

25
26
27 ¹ Nevada Revised Statute § 295.061(1) requires that the Court set this matter for a hearing
28 no later than 15 days after the filing of this Complaint.

1 affirmatively misleading, if not deceptive, because it reasonably could be understood to suggest
2 that the “voter identification card” procedure will come at “no cost” to the State.

3 9. As set forth in Count II, the DOE omits the fact that adoption of the Initiative
4 would necessarily require that the Legislature enact specific procedures for the issuance of voter
5 identification cards to registered voters who lack qualifying photo identification and would
6 mandate voters to bear all necessary costs associated therein. It is highly likely that such
7 legislation will place additional, undisclosed requirements upon affected voters, including, for
8 example, a requirement to appear in-person at an issuing State office or agency, and
9 requirements to provide one or more forms of supporting documentation that may not be
10 accessible or readily accessible (such as birth certificates). This likelihood is highly material to
11 making an informed decision about the petition, because meeting such conditions will require a
12 direct expenditure of a voter’s time and money when obtaining a “voter identification card” and
13 on each occasion that a voter changes his or her address. The DOE therefore makes a material
14 omission by failing to identify the likelihood that such additional conditions will be placed upon
15 obtaining voter identification cards which nominally are to be issued at “no charge” to the voter.
16 Additionally, the wording of the DOE is affirmatively misleading, if not deceptive, because it
17 reasonably could be understood to suggest that voters will be able to obtain the “voter
18 identification card” “at no cost” to the voter.
19

20 10. As set forth in Count III, the Initiative makes a material omission by failing to
21 disclose that additional conditions required to comply with the Initiative bear more heavily on
22 voters most likely to require voter identification cards, including voters of color, those in
23 poverty, seniors, women, voters with disabilities, those who are homeless, and those with a
24 religious objection to being photographed.

25 11. As set forth in Count IV, the Initiative makes a material omission by failing to
26 disclose that it is in derogation of the legislative powers currently established by Article 2,
27 Section 6 of the Nevada Constitution. Under that Section, the Legislature is charged with
28

1 determining the appropriate steps to preserve the purity of elections, and to regulate the manner
2 of holding and making returns of election.

3 12. For the reasons set forth in Counts I -IV, the DOE will lead to confusion among
4 the voters to whom the petition is circulated, and it will fail to provide the material information
5 needed for those voters to make informed decisions, in violation of the mandates of *Nevadans*
6 *for Nevada v. Beers*, 142 P.3d 339 (Nev. 2006), as reaffirmed in *Educ. Initiative PAC v.*
7 *Committee to Protect Nevada*, 293 P.3d 874, 879-880 (Nev. 2013). The Nevada Supreme Court
8 consistently has emphasized that the “description of effect” is a significant as a tool to help
9 ‘prevent voter confusion and promote informed decisions.’” *Educ. Initiative PAC*, 293 F. 3d at
10 879 (*quoting Beers*, 293 P 3d. at 939-40). Accordingly, Plaintiffs seek a declaration that the
11 Initiative is legally insufficient, void, and invalid, and an injunction prohibiting Defendant Ross
12 Miller from transmitting the Initiative to the ballot, should the requisite signatures be gathered.
13

14 **PARTIES**

15 13. Plaintiff Michael D. Rosati is a current resident of the State of Nevada and a
16 registered voter in the Clark County. He is currently a supporter of the American Civil Liberties
17 Union of Nevada. Mr. Rosati is a taxpayer and lives in Las Vegas with his wife, along with their
18 two children. Mr. Rosati is concerned that the Initiative would hinder many Nevadans civil
19 liberties and would mandate drastic changes to Nevada law.
20

21 14. Plaintiff Osberia (“Barry”) Smith has been a resident of Las Vegas, Nevada for
22 over 55 years and is a registered voter in Clark County, Nevada. He is currently unemployed
23 and is a caretaker for his older brother, who is receiving treatment for cancer. Mr. Smith is
24 concerned that if this constitutional amendment is approved, it may pave the way for other
25 additional hindrances to be instituted and will greatly inhibit his and other minority Nevadans
26 right to vote.
27
28

1 15. Defendant Our Vote Nevada PAC is named herein as a proponent of the
2 Initiative and a real party in interest. Our Vote Nevada PAC is a ballot advocacy group
3 organized and existing pursuant to Chapter 294A of the Nevada Revised Statutes.

4 16. Defendant Sharron Angle is an individual named herein as a proponent of the
5 Initiative, the registered agent of Defendant Our Vote Nevada PAC, and a real party in interest.
6 Upon information and belief, Ms. Angle, at all times relevant herein, was and is a resident of the
7 State of Nevada.

8 17. Defendant Ross Miller is named herein in his official capacity as the duly elected
9 Secretary of State of the State of Nevada. Ross Miller, in his capacity as Secretary of State, is
10 the chief elections officer of the State of Nevada, charged with administering and enforcing
11 Nevada's election laws. As a duty of the constitutional office of Secretary of State, Ross Miller
12 is responsible for qualifying initiatives for submission to the Nevada legislature and/or the
13 Nevada electorate and for disqualifying initiatives which are determined to be invalid.
14

15
16 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

17 18. On January 29, 2014, Proponents submitted the Initiative to Defendant Secretary
18 of State Miller. A copy of the Initiative is attached hereto as Exhibit 1 (hereinafter "Ex. 1").

19 19. The Initiative proposes a Constitutional Amendment which would result in
20 numerous changes to Nevada law on voter identification.

21 20. The Initiative would amend Article 2 of the Nevada Constitution, by adding a
22 new section, Section 11:

- 23 1. A registered voter who wishes to vote in person must present his
24 or her proof of identity to the applicable election board officer.
25 2. The Legislature shall direct by law one or more governmental
26 entities to issue at no charge a voter identification card to a
27 person who:
28 (a) Is registered to vote in this State; and
 (b) Does not possess proof of identity as described in subparagraph
 (1) of paragraph (b) of subsection 4.

- 1 3. A voter identification card issued to a person pursuant to
2 subsection 2:
3 (a) Must include, without limitation, the name, address, date of
4 birth, photograph and signature of the person; and
5 (b) Is valid as long as the person is registered to vote and resides at
6 the address stated on the voter identification card.

7 *See* Init. Ex. 1. to Compl. at § 1.

8 21. The Initiative defines “governmental entity” and “proof of identity” in the
9 following fashion:

10 As used in this section:

11 (a) “Government entity” means:

- 12 1. An elected or appointed officer of this State or of a political
13 subdivision of this State; or
14 2. An institution, board, commission, bureau, council, department,
15 division, authority or other unit of government of this State,
16 including, without limitation, an agency of the Executive
17 Department of the State Government, or of a political subdivision of
18 this State.

19 (b) “Proof of identity” means:

- 20 1. A document or identity card that:
21 (I) Is issued by a government entity, the United States or a
22 federally recognized Indian tribe;
23 (II) Shows a recognizable photograph of the person to whom the
24 document or identity card is issued;
25 (III) Shows the name and signature of the person to whom the
26 document or identity card is issued; and
27 (IV) Bears an expiration date that is not earlier than 4 years before
28 the date of the election for which the document or identity card is
 offered as proof of identity;
2. A voter identification card issued pursuant to subsection 2; or
3. A document provided by the administrator of a licensed medical
 facility or licensed facility for the dependent, as those terms are
 defined by statute, to a resident of the facility attesting to the
 person’s identity and that he or she is a resident of the facility.

1 *See Init., Ex. 1. to Compl. at § 1, subsection 4.*

2 22. The following Description of Effect was filed concurrently with the Initiative:

3
4 If enacted, this measure will add a new section to Article 2 of the
5 Nevada Constitution doing the following:

- 6 1. The measure requires a registered voter who wishes to vote in
7 person to present his or her proof of identity to the applicable
8 election board officer. Acceptable forms of proof of identity are:
9 (1) certain government-issued documents or identity cards that
10 show a recognizable photograph of the person to whom the
11 document or card was issued; (2) a voter identification card; or
12 (3) certain documentation from an administrator of certain
13 licensed health care facilities.
- 14 2. The measure requires the Legislature to direct by law one or
15 more government entities to issue, at no cost, voter identification
16 cards to registered voters who do not possess other types of
17 proof of identity.
- 18 3. The measure provides that a voter identification card is valid as
19 long as the person is registered to vote and resides at the address
20 stated on the voter identification card.
- 21 4. The measure requires that a voter identification card include the
22 name, address, date of birth, photograph and signature of the
23 person to whom the card is issued.
- 24 5. The measure defines the terms “government entity” and “proof
25 of identity.”

26 *See Init., Ex. 1. to Compl. at 2.*

27 23. The Initiative’s language requires one or more as-yet-unspecified government
28 entities to issue a voter ID card “at no charge”, which by its plain language and context refers to
the transaction of obtaining a voter ID card. By contrast, the DOE uses different language -- the
phrase “at no cost,” offset with commas, which could reasonably be understood to state that no
financial costs at all will be associated with issuing or obtaining voter ID cards.

1 24. Nowhere does the DOE identify the fiscal consequences to the state of Nevada
2 related to the government provision of voter identification cards, including the new
3 administrative verification structure it would necessitate. Both startup and annual ongoing costs
4 necessarily will be involved, including the training of agency officials, processing of voter
5 identification applications, issuing and producing the cards, and oversight. Equipment
6 acquisition and repair costs may also be required.

7 25. An initiative mandates expenditures when “it leaves budgeting officials no
8 discretion in appropriating or expending money mandated by the initiative – the budgeting
9 official must approve the appropriation or expenditure, regardless of any other financial
10 considerations.” *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 890, 141 P.3d 1224, 1233 (Nev.
11 2006).

12 26. States imposing photo ID requirements must expend significant resources on
13 implementation and the tasks necessary to pass constitutional muster. Cf. *Crawford v. Marion*
14 *County Election Bd.*, 553 U.S. 181, 199 (2008); *Weinschenk v. State*, 203 S.W.3d 201, 214-15
15 (Mo. Banc 2006) *Common Cause/Ga. v. Billups*, 439 F. Supp. 2d 1294, 1345 (N.D.Ga. 2006)
16 Obligations include: provision of “no cost” IDs; notification, voter education and outreach,
17 training and staffing, new equipment, additional provisional ballots. See Declaration of Joe P.
18 Garcia, Registrar of Voters for Clark County at paragraph 4; attached hereto as Exhibit 2.
19 Vishal Agraharkar, Wendy Weiser, and Adam Skaggs, *The Cost of Voter ID Laws: What the*
20 *Courts Say*, Brennan Center for Justice (2011), available at [http://www.brennancenter.org](http://www.brennancenter.org/publication/cost-voter-id-lawss-what-courts-say)
21 [/publication/cost-voter-id-lawss-what-courts-say](http://www.brennancenter.org/publication/cost-voter-id-lawss-what-courts-say). (last visited Feb. 20, 2014).

22 27. The fiscal impact upon the State is significant. States that have considered
23 similar photo ID proposals have delivered fiscal notes estimating costs in the millions of dollars.
24 For example, a State Fiscal Estimate for a Missouri bill proposing a photo ID requirement,
25 which included the provision of free IDs, indicated that the proposal would cost the state
26 \$3,741,882 for FY13; \$1,915, 211 for FY14; \$4,383,720 for FY2015; \$1,875,237 for FY16; and
27 \$3,741,882 for FY13; \$1,915, 211 for FY14; \$4,383,720 for FY2015; \$1,875,237 for FY16; and
28

1 \$2,803,758 for FY17. The analysis recognized that the state would also incur costs related to
2 voter outreach and education efforts and associated administrative efforts as a result of the
3 proposal. This amounts to a total estimate of over \$10,000,000 in expenditures over the course
4 of several fiscal years. Committee on Legislative Research: Oversight Division, *Truly Agreed to*
5 *and Finally Passed HCS No. 2 for SB3*, June 7, 2011, available at [www.moga.mo.gov](http://www.moga.mo.gov/oversight/over11/fishtm/0283-07T.org.htm)
6 [/oversight/over11/fishtm/0283-07T.org.htm](http://www.moga.mo.gov/oversight/over11/fishtm/0283-07T.org.htm) (last visited Feb. 20, 2014).

7 28. The Initiative would similarly require significant financial expenditures by the
8 State of Nevada without providing notice of this material consequence. Cost estimates
9 produced by other states implementing voter ID laws suggest that Nevada would face costs
10 ranging from \$3 to \$10 million for implementing photo ID requirements in a constitutional
11 manner, and some analyses have concluded that the fiscal burden is significantly higher. *The*
12 *Real Cost of Photo ID: An Unnecessary and Expensive and Intrusive Voter Restriction in a*
13 *Time of Fiscal Crisis*—The Voting Rights Institute, available at [http://assests.democrats.org](http://assests.democrats.org/pdfs/photoid/Dems-report-real_cost_of_voting_ID.pdf)
14 [/pdfs/photoid/Dems-report-real_cost_of_voting_ID.pdf](http://assests.democrats.org/pdfs/photoid/Dems-report-real_cost_of_voting_ID.pdf); *See also*, more specifically for
15 Minnesota, which found that voter education would cost \$2.8 million in the first year of
16 implementation, and \$1.5 million in the next election cycle, [http://www.mmb.state.mn.](http://www.mmb.state.mn.us/bis/fnts_leg/2011-12/H0089_1E.pdf)
17 [us/bis/fnts_leg/2011-12/H0089_1E.pdf](http://www.mmb.state.mn.us/bis/fnts_leg/2011-12/H0089_1E.pdf) (last visited Feb. 20, 2014). The DOE does not inform
18 voters of such costs to the State.
19

20
21 **FIRST CLAIM FOR RELIEF**
22 **(Declaratory and Injunctive Relief)**

23 **Violation of N.R.S. § 295.009(1)(b)**
24 **The Description of Effect Fails to Provide Notice of**
25 **Material Consequences and is Misleading: Significant Fiscal Expenditures**

26 Plaintiffs hereby incorporate Paragraphs 1 through 28 as though fully set forth herein.

27 29. The DOE materially fails to identify the fiscal consequences of the Initiative's
28 passage and is materially misleading with respect to such consequences. Specifically, the DOE

1 fails to notify voters of material consequences that will flow from passage of the Initiative,
2 including the significant fiscal burden the State will bear in perpetuity based on its adoption.

3 30. The DOE states that the issuance of voter identification cards will be “at no
4 cost,” and is thus misleading and deceptive to Nevada registered voters, because it is ambiguous
5 and could lead a voter to reasonably believe (incorrectly) that the issuance of a voter ID card “at
6 no cost” implies no cost to the State of Nevada. Thus, the DOE is improper because it is not a
7 straightforward, succinct presentation of the impact of the Initiative.

8 31. The Initiative is therefore legally insufficient, invalid, and prohibited under
9 N.R.S. § 295.009(1)(b).

10
11 **SECOND CLAIM FOR RELIEF**
(Declaratory and Injunctive Relief)

12
13 **Violation of N.R.S. § 295.009(1)(b)**
The Description of Effect Fails to Provide Notice of
14 **Material Consequences and is Misleading: Significant Voter Mandates and Costs to**
15 **Comply with Initiative**

16 32. Plaintiffs hereby incorporate Paragraphs 1 through 31 as though fully set forth
17 herein.

18 33. It is highly likely that any legislation adopted to implement the Initiative will
19 require registered voters who lack the required “proof of identity” to provide supporting
20 identifying documentation, at their own expense, to obtain a “voter identification card.” Almost
21 every state with photo identification laws in force requires voters to provide official
22 documentation, such as passports or birth certificates, to establish their identity, with the cost of
23 obtaining such documents to be borne by the affected voters.

24 34. It is highly likely that such supporting identifying documentation is not
25 accessible or readily accessible to some registered Nevada voters.

26 35. The DOE does not disclose to voters reviewing the petition that they, their
27 family members, or others, will bear the costs of obtaining supporting documentation every
28 time they change their names or address if they require a voter identification card.

1 36. A Brennan Center study shows that those living in poverty are less likely to have
2 driver’s licenses and therefore face greater obstacles obtaining photo IDs, due to a lack of work
3 schedule flexibility as well as a lack of access to public transportation. Keesha Gaskins and
4 Sundeep Iyer, *The Challenge of Obtaining Voter Identification*, Brennan Center for Justice, (July
5 29, 2012), available at [http://www.brennancenter.org/sites/default/files/legacy/
6 Democracy/VRE/Challenge_of_Obtaining_Voter_ID.pdf](http://www.brennancenter.org/sites/default/files/legacy/Democracy/VRE/Challenge_of_Obtaining_Voter_ID.pdf). (last visited Feb. 20, 2014).

7 37. It is highly likely that any legislation adopted to implement the Initiative will
8 require registered voters who lack the required “proof of identity” to travel in person at their
9 own expense (potentially including lost wages) to State offices to obtain a “voter identification
10 card.” Nothing in the Initiative authorizes or requires providing the “voter identification card”
11 remotely and photo identification laws in force in other states require in-person visits to obtain
12 “free” identification cards.

13 38. The Voter ID requirement will amount to a recurring cost for registered voters.
14 Many voters who lack the accepted ID, for example young, low income or renting voters, are
15 highly mobile and both the State of Nevada and the voters themselves will have to bear the
16 costs of re-issuing new ids for these voters whenever their names or addresses change.

17 39. The DOE does not disclose to voters reviewing the petition that they, their
18 family members, or others, will bear the costs of appearing in person every time they change
19 their names or address if they require a voter identification card.
20

21 40. The Initiative is therefore legally insufficient, invalid, and prohibited under N.R.S.
22 § 295.009(1)(b).

23
24 **THIRD CLAIM FOR RELIEF**
25 **(Declaratory and Injunctive Relief)**

26 **Violation of N.R.S. § 295.009(1)(b)**
27 **The Description of Effect Fails to Provide Notice of**
28 **Material Consequences: Significant Burdens on Exercise of the Franchise**

1 41. Plaintiffs hereby incorporate Paragraphs 1 through 40 as though fully set forth
2 herein.

3 42. The DOE fails to mention that adoption of the Initiative will place
4 disproportionate burdens on the exercise of the franchise by voters of color, those in poverty,
5 English as a second language speakers, seniors, voters with disabilities, those who are homeless,
6 those who lack access to transportation, and those with a religious objection to being
7 photographed.

8 43. According to 2012 U.S. Census Bureau figures Nevada’s population is
9 significantly diverse. African Americans make up 8.9% (or 245,138) of the State’s population.
10 American Indian and Alaskan Native make up 1.6% (or 44,069) of the State’s population, and
11 Latinos make up 27.3% (or 751,939) of the State’s population. *U.S. Census State and County*
12 *quick Facts*, United States Census Bureau, available at [http://quickfacts.census.gov](http://quickfacts.census.gov/qfd/states/32000.html)
13 [/qfd/states/32000.html](http://quickfacts.census.gov/qfd/states/32000.html) (last visited Feb. 20, 2014). Additionally, from 2008-2012 14.2% (or
14 391,118) of these minorities lived at or below Federal poverty guidelines. *Id.*

15 44. The burdens of photo ID laws disproportionately fall upon voters of color, who
16 are less likely to possess qualifying photo ID. For example, one widely-recognized 2006 study
17 reported that African Americans possess “drivers’ licenses at half the rate of whites,” with only
18 22% of black men aged 18-24 in possession of a valid driver’s license.” *See Policy Brief on*
19 *Voter Identification*, Brennan Center for Justice (September 12, 2006), available at
20 <http://www.brennancenter.org/analysis/policy-brief-voter-identification>. Latinos are similarly
21 affected, with a 2012 study showing that 16 percent of Latino voting age citizens (2.6 million)
22 lack valid photo ID, compared with 6% of whites. *See Jessica A. Gonzalez, New State Voting*
23 *Laws: A Barrier to the Latino Vote?*, Congressional Hispanic Caucus Institute White Paper,
24 April 15, 2012, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2060460 (last
25 visited Feb. 20, 2014).
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1 45. Another study shows that those living in poverty are less likely to have driver's
2 licenses and therefore face greater obstacles obtaining photo IDs, due to a lack of work schedule
3 flexibility as well as a lack of access to public transportation. *See* Keesha Gaskins and Sundeep
4 Iyer, *The Challenge of Obtaining Voter Identification*, Brennan Center for Justice, (July 29,
5 2012), available at [http://www.brennancenter.org/sites/default/files/legacy/
6 Democracy/VRE/Challenge_of_Obtaining_Voter_ID.pdf](http://www.brennancenter.org/sites/default/files/legacy/Democracy/VRE/Challenge_of_Obtaining_Voter_ID.pdf) (last visited Feb. 20, 2014).

7 46. The burdens of photo ID laws disproportionately affect the elderly. According to
8 the AARP, one in five seniors do not possess government issued IDs and in 2006, eight million
9 individuals over 65 did not possess IDs. *See* Marsha Mercer, *Can We Still Vote?, Without a Valid
10 photo ID, Many Older Americans Will Not Be Allowed to Vote this Year*, AARP Bulletin,
11 (August 30, 2012), available at [http://www.aarp.org/politics-society/government-elections/info-
12 01-2012/voter-id-laws-impact-older-americans.html](http://www.aarp.org/politics-society/government-elections/info-01-2012/voter-id-laws-impact-older-americans.html) (last visited Feb. 20, 2014).

13 47. Voter ID laws also have a disproportionate impact on women voters. According
14 to the National Women's Law Center, relying on U.S. Census Bureau data, women are "more
15 likely to live in poverty than men. The poverty rate among adult women over 18 was 14.6% in
16 2011, compared with 10.9% of men." *See* Summary Table: Poverty Rates Among Women, Men,
17 and Children, 2011, 2010, 2000, Sept. 17, 2012, available at
18 [http://www.nwlc.org/resource/summary-table-poverty-rates-among-women-men-and-children-
19 2011-2010-2000](http://www.nwlc.org/resource/summary-table-poverty-rates-among-women-men-and-children-2011-2010-2000), (last visited Feb. 20, 2014).

20 48. The Initiative makes no accommodation or exception for voters who object for
21 religious reasons to being photographed. The DOE makes a material omission by failing to
22 mention the absence of such an accommodation or exception in the Initiative.

23 49. The Initiative makes no accommodation or exception for voters with disabilities.
24 The DOE makes a material omission for failing to mention the absence of such an
25 accommodation or exception in the Initiative.

26 50. Art. 2, § 1 of the Nevada Constitution gives the right to vote to qualified citizens.
27 The Initiative would amend the State constitution to place significant limitations on the ability
28

1 of Nevadans to exercise that right. Accordingly the DOE requires probing scrutiny with respect
2 to its description of the impact of those limitations..

3 51. The DOE and Initiative are legally insufficient, invalid, and prohibited under
4 N.R.S. § 295.009(1)(b).

5
6 **FOURTH CLAIM FOR RELIEF**
7 **(Declaratory and Injunctive Relief)**

8 **Violation of N.R.S. § 295.009(1)(b)**
9 **Failure to Identify Affected Constitutional Provision**

10 52. Plaintiffs hereby incorporate Paragraphs 1 through 51 as though fully set forth
11 herein.

12 53. Article 2, Section 6 of the Nevada Constitution states in relevant part that:
13 “Provision shall be made by law...to preserve the purity of elections, and to regulate the manner
14 of holding and making returns of the same....”

15 54. The Legislature exercises the powers provided by Article 2, Section 6 of the
16 Nevada Constitution to enact rules providing for appropriate forms of identification at the polls,
17 which the Initiative would supersede. *See* N.R.S. § 295.277(2).

18 55. The DOE is materially misleading and materially fails to identify the
19 consequences of the Initiative’s passage. Specifically, the DOE fails to notify voters that the
20 Initiative diminishes the existing power of the Legislature, as currently set forth in Article 2,
21 Section 6 of the Nevada Constitution, to determine the appropriate steps to preserve the purity of
22 elections, and to regulate the manner of holding and making returns of election.

23 56. The Initiative is therefore legally insufficient, invalid, and prohibited under N.R.S.
24 § 295.009(1)(b).

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiffs seek judgment as follows:

3 a. A declaration that the Initiative is legally insufficient and invalid because the
4 Description of Effect is incomplete and materially misleading in violation of N.R.S. §
5 295.009(1)(b);

6 b. A permanent injunction preventing Defendant Miller from transmitting the
7 Initiative to the Legislature and placing it on the 2014 ballot;

8 c. An injunction enjoining Defendant Our Vote Nevada PAC and its proponents,
9 officers, or agents from circulating the signatures for verification pursuant to NRS
10 §§ 293.1276 to 293.1279, inclusive;

11 c. An award to Plaintiffs of their reasonable costs and attorney’s fees; and

12 d. Such other relief that the Court deems appropriate.
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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of the ACLU of Nevada and that on this
3 20th day of February 2014 I caused to be sent via United States Mail, postage prepaid, a true and
4 correct copy of the above and foregoing **PLAINTIFFS' COMPLAINT FOR**
5 **DECLARATORY AND INJUNCTIVE RELIEF** properly addressed to the following:
6
7
8

9 _____
An employee of the ACLU of Nevada