

### REGISTER OF ACTIONS

CASE NO. A-13-678359-W

**John Bonaventura, Plaintiff(s) vs. Board of County Commissioners, Defendant(s)**

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Case Type: **Civil Writ**  
 Subtype: **Other Special Proceedings**  
 Date Filed: **03/14/2013**  
 Location: **Department 32**  
 Conversion Case Number: **A678359**

**PARTY INFORMATION**

		<b>Lead Attorneys</b>
<b>Defendant</b>	<b>Board of County Commissioners</b>	
<b>Plaintiff</b>	<b>Bonaventura, John</b>	<b>Kenneth G. Frizzell</b> <i>Retained</i> 702-366-1230(W)
<b>Plaintiff</b>	<b>Las Vegas Township Constable</b>	<b>Kenneth G. Frizzell</b> <i>Retained</i> 702-366-1230(W)

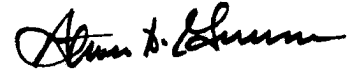
**EVENTS & ORDERS OF THE COURT**

03/15/2013 **Minute Order** (2:22 PM) (Judicial Officer Bare, Rob)  
*Plaintiff s Ex Parte Motion for Temporary Restraining Order*

**Minutes**  
 03/15/2013 2:22 PM

- Court noted having examined Plaintiff s Ex Parte Motion for Temporary Restraining Order, the Court hereby finds: Plaintiff has failed to comply with NRCP 65(b)(2) which states in relevant part: A temporary restraining order may be granted without written or oral notice to the adverse party or that party's attorney only if the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required. Therefore, COURT ORDERS, PARTIES ARE TO APPEAR in District Court, 200 Lewis Avenue, Department 32, on Monday, March 18, 2013 at 1:30 p.m. for a hearing on this matter. COURT FURTHER ORDERS, Plaintiff shall personally serve Defendant with the Complaint and Motion for Temporary Restraining Order. 3/18/13 1:30 PM PLTF'S EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER

[Return to Register of Actions](#)



CLERK OF THE COURT

1 **COMP**  
2 **KENNETH G. FRIZZELL, III, ESQ.**  
3 Nevada Bar No. 006303  
4 **LAW OFFICE OF KENNETH G. FRIZZELL, III**  
5 509 South Sixth Street  
6 Las Vegas, NV 89101  
7 (702) 366-1230  
8 *Attorney for Plaintiff*

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 JOHN BONAVENTURA, individually, and in  
12 his capacity as an elected official LAS  
13 VEGAS TOWNSHIP CONSTABLE,

CASE NO. **A- 13- 678359- W**  
DEPT NO. **XXXX I**

14 Plaintiff,

**COMPLAINT FOR TEMPORARY  
RESTRAINING ORDER, FOR  
PRELIMINARY AND PERMANENT  
INJUNCTION AND FOR  
DECLARATORY RELIEF**

15 vs.

16 BOARD OF COUNTY COMMISSIONERS,  
17 CLARK COUNTY, a political subdivision of  
18 the State of Nevada; JOHN and JANE DOES,  
19 1-10, and ROE BUSINESS ENTITIES and  
20 CORPORATIONS, 1-10, and BLACK AND  
21 WHITE COMPANIES, 1-10, et al.,

[ARBITRATION EXEMPTION CLAIMED  
WITH INJUNCTIVE AND DECLARATORY  
RELIEF REQUESTED]

22 Defendants.

23 Plaintiff, JOHN BONAVENTURA, individually, and in capacity as an elected official LAS  
24 VEGAS TOWNSHIP CONSTABLE, by and through his attorney, KENNETH G. FRIZZELL, III,  
25 ESQ., of the LAW OFFICE OF KENNETH G. FRIZZELL, III, states, alleges, and complains for  
26 relief as follows:

27 **NATURE OF THE CASE**

28 1. Plaintiff is the elected Constable of the Las Vegas Township. The office is self-  
supporting. In 2012, the office conducted more than 75,000 separate actions involving civil  
process, vehicle compliance and Fair Share enforcement involving millions of dollars in revenue  
to Clark County.

2. Since Plaintiff defeated the incumbent in the 2010 primary election and took office  
in 2011, the Defendant Board of County Commissions has subjected the Plaintiff to a pattern of  
questionable acts, including but not limited to the taking of \$2,000,000 from Las Vegas Township  
Constable funds by the Defendant Board of County Commissioners without public notice, agenda  
or vote, refusal to pay reasonable and necessary expenses and compensation, and refusal to enforce

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1 the territorial integrity of the office.

2 3. On March 19, 2013, the Defendant Board of County Commissioners intend to  
3 proceed on a proposed ordinance to amend Title 2 of the Clark County Code by adding a new  
4 chapter 2.14 abolishing the Office of the Constable for the Las Vegas Township.

5 4. Plaintiff seeks to challenge the constitutionality of NRS 258.010 and of subsequent  
6 actions by the Defendant Board of County Commissioners for Clark County, Nevada in furtherance  
7 of their interpretation of the statute.

8 5. For relief, and cumulative to all remedies otherwise available, Plaintiff seeks to  
9 enjoin the Defendant Board of County Commissioners of Clark County from proceeding on an  
10 ordinance to amend Title 2 of the Clark County Code by adding a new chapter 2.14 abolishing the  
11 Office of the Constable for the Las Vegas Township.

12 6. Plaintiff will ask leave of this Court to amend this Complaint to add causes of  
13 action when the same have been ascertained by the Plaintiff, together with appropriate factual  
14 allegations.

15 **PARTIES**

16 **Plaintiff**

17 7. Plaintiff, JOHN BONAVENTURA, at all times relevant hereto, was and is a person  
18 residing in the State of Nevada, County of Clark, and appears individually and in his official  
19 capacity as the elected Constable of the Las Vegas Township.

20 **Defendants**

21 8. Defendant Board of County Commissioners, Clark County, Nevada, are elected  
22 officials exercising political office in Clark County, Nevada.

23 9. At all times relevant hereto, JOHN and JANE DOES, 1-10, and ROE BUSINESS  
24 ENTITIES and CORPORATIONS, 1-10, and BLACK AND WHITE COMPANIES, 1-10, are  
25 named as the Plaintiff is unaware of the true names, official capacities, and/or degree of  
26 involvement of said Defendants. Plaintiff therefor sues said Defendants by such fictitious names.

27 10. Plaintiff is informed and does believe, and thereupon alleges, that each of the  
28

1 Defendants designated herein as DOE and/or ROE and/or BLACK AND WHITE is responsible  
2 in some manner for the events and happenings herein referred to; that Plaintiff will ask leave of  
3 this Court to amend this Complaint as to causes of action and the true names, official capacities,  
4 and/or degree of involvement of said Defendants when said information becomes known or  
5 discovered through due diligence.

6 11. At all times mentioned herein, each of the Defendants was the agent, alter ego,  
7 servant or employee of the remaining Defendants, and each was acting within the course and scope  
8 of such agency/employment relationship and with knowledge and consent of remaining  
9 Defendants; and therefore, all Defendants are jointly and severally liable for damages suffered by  
10 Plaintiff.

#### 11 JURISDICTION AND VENUE

12 12. The conduct of the Defendant Board of County Commissioners occurred in Clark  
13 County, State of Nevada and gives rise to the Plaintiff's injuries and claims which arose in Clark  
14 County, Nevada.

15 13. As of the date of this Complaint, the Plaintiff has suffered actual injury and is  
16 continually exposed to threatened injury, as set forth below.

17 14. Personal and subject matter jurisdiction over the Plaintiff's claims in this Court is  
18 proper and predicted upon Article III of the United States Constitution; Article 1 and Article 6 of  
19 the Nevada Constitution.

20 15. Venue over the Plaintiff and Defendants is proper and predicated on NRS Chapters  
21 13 and 14, et seq.

#### 22 GENERAL FACTUAL ALLEGATIONS

23 16. In 1979, the Nevada Legislature, addressing problems occurring in Clark County,  
24 Nevada, enacted 1979 A.B. 358 as a special law designed to regulate the business of the Office of  
25 Constable of Las Vegas Township in Clark County and to inhibit the ability of the Board of County  
26 Commissioners to abolish the office.

27  
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1           17.    1979 A.B. 358 became NRS 258.010.<sup>1</sup>

2           18.    In 1995, after the 1994 the abolition of the office of the Las Vegas Constable by the  
3 Board of County Commissioners, the Nevada Legislature again intervened and introduced 1995  
4 A.B. 198 and 1995 A.B. 341.

5           19.    On June 28, 1995, subsequent to negotiations between Clark County and the  
6 Nevada Legislature, an ordinance was drafted to reestablish the Office of the Constable of Las  
7 Vegas Township.

8           20.    On July 1, 1995, 1995 A.B. 198 was indefinitely held in a committee, and on July  
9 5, 1995, the Board of County Commissioners reestablished the Office of the Constable for Las  
10 Vegas Township.

11          21.    In 2010, following the primary loss by the Plaintiff's predecessor, an effort was  
12 launched by the Defendant Board of County Commissioners led by Commissioners Tom Collins  
13 and Chris Giunchigliani to again abolish the office.

14          22.    Defendants thereafter engaged in a pattern and practice of harassment, including  
15 but not limited to, the taking of monies from funds without public notice, agenda or vote, refusal  
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17 <sup>1</sup> NRS 258.010 has remained essentially unchanged except for amendments to address the population growth of  
18 Clark County.

19 NRS 258.010 Election; appointment of sheriff to serve ex officio; term of office; abolition of office.

20 1. Except as otherwise provided in subsections 2 and 3:

21 (a) Constables must be elected by the qualified electors of their respective townships.

22 (b) The constables of the several townships of the State must be chosen at the general election of 1966, and  
23 shall enter upon the duties of their offices on the first Monday of January next succeeding their election, and hold  
24 their offices for the term of 4 years thereafter, until their successors are elected and qualified.

25 (c) Constables must receive certificates of election from the boards of county commissioners of their  
26 respective counties.

27 2. In a county which includes only one township, the board of county commissioners may, by resolution, appoint  
28 the sheriff ex officio constable to serve without additional compensation. The resolution must not become  
effective until the completion of the term of office for which a constable may have been elected.

3. In a county whose population:

(a) Is less than 700,000, if the board of county commissioners determines that the office of constable is not  
necessary in one or more townships within the county, it may, by ordinance, abolish the office of constable in  
those townships.

(b) Is 700,000 or more, if the board of county commissioners determines that the office of constable is not  
necessary in one or more townships within the county, it may, by ordinance, abolish the office in those townships,  
but the abolition does not become effective as to a particular township until the constable incumbent on May 28,  
1979, does not seek, or is defeated for, reelection.

1 to cooperate on matters involving compliance with the statutory mandate of the office; refusal to  
2 authorize the creation of new deputy constable positions, and refusal to authorize the payment of  
3 reasonable and necessary legal services rendered to the Constable and Office of the Las Vegas  
4 Township.

5 23. The acts of the Defendant Board of County Commissioners refusing to pay for  
6 approved budget line item services jeopardized the integrity of the office and the public trust by  
7 chilling the ability of the Plaintiff to seek access to the judicial process to redress substantial issues  
8 affecting the financial health of the office.

9 24. To protect the integrity of the office and the public trust in the Office of the  
10 Constable of Las Vegas Township, Plaintiff was required to seek Legislative assistance to protect  
11 the Enterprise Fund; to file Case A-12-663876-C successfully seeking injunctive relief addressing  
12 the territorial boundaries and jurisdiction of the office;<sup>2</sup> and to establish an account for  
13 compensation for reasonable and necessary services and duties under NRS 258.060(2)-(3);  
14 Commissioners refused to allow the release of any funds for bond or attorney's fees.

15 25. In January 2012, an Audit requested by the Plaintiff was completed. There was no  
16 Audit finding of overlap of services. There was no finding of mismanagement. There was no  
17 recommendation the Office of the Las Vegas Township Constable be abolished. Of the seven (7)  
18 Audit findings and recommendations, six (6) findings were attributable to outdated Courtview  
19 software and the failure to maintain the computer system by the Defendant Board of  
20 Commissioners' government I.T. division.

21 26. The Audit sole finding not attributable to the software concerned payroll, which was  
22 a procedure left over from the Plaintiff's predecessor (an earlier audit of which had supported the  
23 practice), and which was addressed by the Plaintiff implementing the account under NRS  
24 258.060(2)-(3).

25 27. On February 19, 2013, Commissioner Chris Giunchigliani introduced an Agenda  
26 item to abolish the Office of the Las Vegas Constable. The proposed county ordinance was

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28 <sup>2</sup> 2013 A.B. 223 was recently introduced in the Nevada legislature addressing this issue.

1 introduced in violation of the substantive due process rights of the Plaintiff as it relied on the  
2 “Board of County Commissioners having made a finding . . .” in secret and outside of a public  
3 agenda, without affording the Plaintiff the meaningful opportunity to be noticed of the finding and  
4 to question its accuracy and validity. Const. Amend. V, XIV. Nev. Const. Art. I, Sec. 8.

5 28. On March 5, 2013, Commissioner Chris Giunchigliani again introduced the  
6 Agenda Item to abolish the Office of the Las Vegas Constable. The proposed county ordinance was  
7 again introduced in violation of the substantive due process rights of the Plaintiff as it relied on the  
8 “Board of County Commissioners having made a finding . . .” in secret and outside of a public  
9 agenda, without affording the Plaintiff the meaningful opportunity to be noticed of the finding and  
10 to question its accuracy and validity. Const. Amend. V, XIV. Nev. Const. Art. I, Sec. 8.

11 29. The Agenda item was forwarded without vote to place the item on March 19, 2013  
12 Agenda.

### 13 CAUSES OF ACTION

#### 14 FIRST CAUSE OF ACTION

15 {Declaratory and Injunctive Relief}

16 30. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1  
17 through 29 as though fully set forth at this point and incorporates the same herein by reference.

18 31. An actual controversy exists by and between the Plaintiff and the Defendant as to  
19 the nature and extent of their legal relationship and corresponding obligations, duties and  
20 responsibilities as defined by the Constitution of the United States, the Nevada Constitution, and  
21 the Nevada Revised Statutes.

22 32. All of the rights and obligations of the Plaintiff and Defendant hereto arose of a  
23 series of undisputed material facts which may be determined by a judgment in this one action.

24 33. A declaration of the rights, duties, responsibilities and obligations between the  
25 Plaintiff and the Defendants hereto regarding their legal relationship is a justiciable controversy  
26 of adverse legal interests, which is ripe for review and declaration by the district court as a court  
27 of competent jurisdiction.

28

1 34. Plaintiff requests that the district court declare the nature and extent of the legal  
2 relationship as follows:

3 (a) That the Parties are subject to the protections and prohibitions of the  
4 Constitution of the United States, the Nevada Constitution and the Nevada Revised Statutes.

5 (b) That NRS 258.010 is unconstitutional.

6 (c) That the proposed ordinance is unconstitutional.

7 (d) That the proposed ordinance was introduced in violation of the Open  
8 Meeting Law and void.

9 (e) That Defendant has engaged in a policy, pattern, and practice which has  
10 violated the substantive Due Process rights of the Plaintiff and constitutes oppression.

11 (f) That Defendant has violated, and continues to violate, those protections  
12 entitled the Plaintiff to establish standing to seek declaratory and injunctive relief.

13 35. For relief, and cumulative to all other remedies, Plaintiff seeks to enjoin the  
14 Defendant Board of County Commissioners of Clark County from proceeding on an ordinance to  
15 amend Title 2 of the Clark County Code by adding a new chapter 2.14 abolishing the Office of the  
16 Constable for the Las Vegas Township.

17 36. By reason of Defendant's actions, Plaintiff has been forced to retain the services  
18 of an attorney to prosecute this action, and Plaintiff is entitled to reasonable attorneys' fees and  
19 costs therefor.

20 **SECOND CAUSE OF ACTION**

21 {Violation of Open Meeting Law}

22 37. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1  
23 through 36 as though fully set forth at this point and incorporates the same herein by reference.

24 38. The introduction of the proposed ordinance by the Defendant based on a finding  
25 made in secret and outside of a public agenda, violates the Nevada Open Meeting Law.

26 39. For Relief, and cumulative to all other remedies, Plaintiff seeks to have the actions  
27 of the Defendant Board of County Commissioners of Clark County pertaining to the proposed  
28



1 ordinance to amend Title 2 of the Clark County Code by adding a new chapter 2.14 abolishing the  
2 Office of the Constable for the Las Vegas Township declared void.

3 40. By reason of Defendant's actions, Plaintiff has been forced to retain the services  
4 of an attorney to prosecute this action, and Plaintiff is entitled to reasonable attorneys' fees and  
5 costs therefor.

6 **THIRD CAUSE OF ACTION**

7 {Violation of Due Process}

8 41. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1  
9 through 40 as though fully set forth at this point and incorporates the same herein by reference.

10 42. The introduction of the proposed ordinance by the Defendant based on a finding  
11 made in secret and outside of a public agenda, violates the Nevada Open Meeting Law.

12 43. For Relief, and cumulative to all other remedies, Plaintiff, on behalf of the office,  
13 reserves the right to seek damages, instead seeking the return of funds taken by the Defendant  
14 without public notice, agenda or vote, and reimbursement of the office for reasonable and  
15 necessary expenses previously denied.

16 44. By reason of Defendant's actions, Plaintiff has been forced to retain the services  
17 of an attorney to prosecute this action, and Plaintiff will be entitled to reasonable attorneys' fees  
18 and costs therefor.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays judgment against the Defendants, and each of them, as  
21 follows:

22 45. For a temporary restraining order restraining Defendant Board of County  
23 Commissioners of Clark County from proceeding on an ordinance to amend Title 2 of the Clark  
24 County Code by adding a new chapter 2.14 abolishing the Office of the Constable for the Las  
25 Vegas Township until after a hearing on Plaintiffs' Motion for Preliminary Injunction;

26 46. For a Preliminary Injunction enjoining Defendant Board of County Commissioners  
27 of Clark County from proceeding on an ordinance to amend Title 2 of the Clark County Code by  
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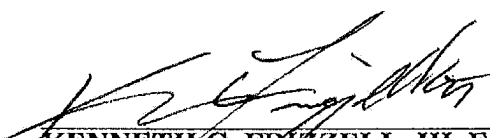
1 adding a new chapter 2.14 abolishing the Office of the Constable for the Las Vegas Township until  
2 after a hearing on Plaintiffs' Motion for Preliminary Injunction for the pendency of the case;

3 47. On final hearing, for finding of unconstitutionality and/or violation of Due Process  
4 and Open Meeting Law, and for a peremptory injunction permanently enjoining Defendant Board  
5 of County Commissioners of Clark County from proceeding on an ordinance to amend Title 2 of  
6 the Clark County Code by adding a new chapter 2.14 abolishing the Office of the Constable for  
7 the Las Vegas Township;

8 48. For attorneys' fees and reasonable costs of suit; and

9 49. For other and further relief deemed requisite and necessary.

10 DATED this 13 day of March, 2013.

11   
12 **KENNETH G. FRIZZELL, III, ESQ.**  
13 Nevada Bar No. 006303  
14 509 South Sixth Street  
15 Las Vegas, NV 89101  
16 (702) 366-1230

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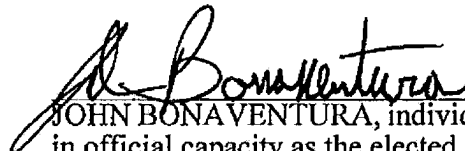
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VERIFICATION

STATE OF NEVADA,         )  
  : ss;  
COUNTY OF CLARK.     )

The Undersigned states and declares under penalty of perjury that: I am the Plaintiff named herein; that I have read the Complaint; that I understand the contents thereof; that as to the facts and allegations contained therein, I state that they are true with exception as to allegations based on information and belief; that as for such allegations based on information, I sincerely believe them to be true.

DATED this 13 day of March, 2013.

  
JOHN BONAVENTURA, individually and in official capacity as the elected Constable of Las Vegas Township

SUBSCRIBED and SWORN TO before me this 13 day of March, 2013.

  
NOTARY PUBLIC in and for said COUNTY and STATE

