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Adam Hosmer-Henner, Esq. (NSBN 12779)
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*Attorneys for Defendant
Fair Maps Nevada PAC*

REC'D & FILED
2020 FEB 18 PM 4:49
AUDREY ROWLATT
Clerk
BY *Elizabeth A. Brown*
Electronically Filed
Feb 21 2020 03:06 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

* * *

REV. LEONARD JACKSON,

Plaintiff,

vs.

FAIR MAPS NEVADA PAC, and
BARBARA CEGAVSKE, in her official
capacity as Nevada Secretary of State,

Defendants.

Case No. 19 OC 00209 1B
Dept. No. I

NOTICE OF CROSS-APPEAL

On February 5, 2020, Plaintiff Rev. Leonard Jackson filed a Notice of Appeal regarding the First Judicial District Court's Order filed January 2, 2020. Defendant Fair Maps Nevada PAC, a registered Nevada political action committee ("Fair Maps"), by and through its attorneys Adam Hosmer-Henner, Esq. and Lucas Foletta, Esq. of MCDONALD CARANO LLP, hereby provide notice that it cross-appeals to the Nevada Supreme Court from the District Court regarding the following order attached as Exhibit 1:

(1) Order filed January 2, 2020.

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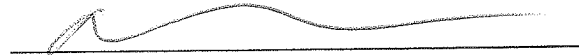
AFFIRMATION

The undersigned does hereby affirm that pursuant to NRS 239B.030, the preceding document does not contain the social security number of any person.

Dated: February 18, 2020

MCDONALD CARANO LLP

By:



Adam Hosmer-Henner, Esq. (NSBN 12779)
Lucas Foletta, Esq. (NSBN 12154)
MCDONALD CARANO
100 West Liberty Street, 10th Floor
Reno, NV 89501

Attorneys for Defendant Fair Maps PAC

MCDONALD CARANO
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of McDONALD CARANO LLP and that on February 18, 2020, I served the foregoing on the parties in said case by placing a true copy of the foregoing **NOTICE OF CROSS-APPEAL** in the United States Post Office mail at 100 West Liberty Street, Tenth Floor, Reno, NV 89501 addressed as follows:

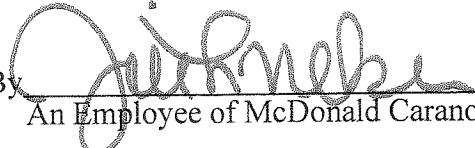
Kevin Benson, Esq.
Benson Law, LLC
123 Nye Lane, Suite #487
Carson City, NV 89706

Greg Zunino, Esq.
State of Nevada, Office of the Attorney General
100 N. Carson Street
Carson City, NV 89701

I am familiar with the firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. The envelope addressed to the parties were sealed and placed for collection by the firm's messengers and will be deposited today with the United States Postal Service in the ordinary course of business.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 18, 2020 at Reno, Nevada.

By 
An Employee of McDonald Carano LLP

McDONALD CARANO
100 WEST LIBERTY STREET, TENTH FLOOR • RENO, NEVADA 89501
PHONE 775.788.2000 • FAX 775.788.2020

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INDEX OF EXHIBITS

EXHIBIT #	DESCRIPTION	NUMBER OF PAGES
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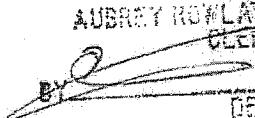
Exhibit 1

Exhibit 1

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*Attorneys for Defendant
Fair Maps Nevada PAC*

REC'D & FILED
2020 JAN -2 PM 12: 15
AUBREY ROWLATT
CLERK
BY  DEPUTY

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

* * *

REV. LEONARD JACKSON,

Plaintiff,

vs.

FAIR MAPS NEVADA PAC, and
BARBARA CEGAVSKE, in her official
capacity as Nevada Secretary of State,

Defendants.

Case No. 19 OC 00209 1B
Dept. No. I
[PROPOSED] ORDER

ORDER

This matter having come before this Court pursuant to Plaintiff Reverend Leonard Jackson's Complaint for Declaratory Relief ("Complaint") and Plaintiff's Opening Brief in Support of Complaint for Declaratory and Injunctive Relief ("Opening Brief"), and having considered Defendant Fair Maps Nevada PAC's ("Fair Maps") Answer and Answering Brief in Response to Plaintiff's Opening Brief in Support of Complaint for Declaratory and Injunctive Relief ("Answering Brief") and Plaintiff's Reply Brief in Support of Complaint for Declaratory Relief ("Reply Brief") as well as the arguments of counsel at the hearing held December 23, 2019, the Court finds as follows:

//
//

PROCEDURAL BACKGROUND

1
2 Fair Maps filed Initiative Petition #C-02-2019 (“Petition”) on November 4, 2019 to
3 amend the Nevada Constitution by adding a new section to the Nevada Constitution to establish
4 a redistricting commission to map electoral districts for members of the Nevada Senate, Nevada
5 Assembly, and Nevada’s delegation to the U.S. House of Representatives. The Petition includes
6 the following description of effect:

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

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

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

25 This amendment will require redistricting by the Commission beginning in
26 2023 and thereafter following each federal census.

27 Plaintiff filed his Complaint and the Opening Brief on November 26, 2019, in which he
28 argues that the Petition’s description of effect fails to comply with NRS 295.009(1)(b). More
specifically, he contends that description of the commission as independent and the description
of effect’s statement that the commission will oversee “the mapping of fair and competitive
electoral districts,” are materially misleading statements. Compl. ¶¶ 15 & 23. He also asserts
that the description of effect is deceptive and misleading because it fails to inform voters of a
specific practical effect of passage of the Petition—that the redistricting commission will “undo”
electoral maps generated by the Legislature in 2021 “thus potentially doubling the resources that
would otherwise be spent on redistricting following the 2020 census.” *Id.* at ¶¶ 30. Plaintiff’s
Complaint is limited to his challenge to the description of effect.

1 Fair Maps contends that the use of the term independent and the characterization of the
2 commission’s objective of creating fair and competitive electoral districts is neither deceptive
3 nor misleading and amount to attacks on the policy reflected in the Petition and not the
4 description of effect. Ans. Br. 6-8. Fair Maps also contends that Plaintiff’s claim that there will
5 be additional redistricting costs as a result of Petition is speculative and hypothetical and
6 therefore need not be addressed in the description of effect. *Id.* at 8-10.

7 **LEGAL STANDARDS**

8 Article 19, Section 2 of the Nevada Constitution enshrines the people’s right to amend
9 the Nevada Constitution by initiative petition. Specifically it states that “the people reserve to
10 themselves the power to propose, by initiative petition, . . . amendments to this Constitution.”
11 Nev. Const. art. 19, § 2(1). The Nevada Constitution further provides that the Legislature “may
12 provide by law for procedures to *facilitate* the operation thereof.” *Id.* art. 19, § 5 (emphasis
13 added). In interpreting such laws, the courts “must make every effort to sustain and preserve the
14 people’s constitutional right to amend their constitution through the initiative process.”
15 *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 912, 141 P.3d 1235, 1247
16 (2006).

17 NRS 295.009(1)(b) provides that a petition must “[s]et forth, in not more than 200
18 words, a description of the effect of the initiative . . . if the initiative . . . is approved by the
19 voters.” NRS 295.009(1)(b). The Nevada Supreme Court has noted that “[a] description of effect
20 serves a limited purpose to facilitate the initiative process,” and that a description of effect
21 should be reviewed with an eye toward that limited purpose. *Educ. Initiative PAC v. Comm. to*
22 *Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013). Thus, while a description of
23 effect need not “delineate every effect that an initiative will have,” it must be “a straightforward,
24 succinct, and nonargumentative statement of what the initiative will accomplish and how it will
25 achieve those goals.” *Id.* at 38, 293 P.3d at 876. A description of effect cannot “be deceptive or
26 misleading.” *Id.* at 42, 293 P.3d at 879.

27 In reviewing a description of effect, “it is inappropriate to parse the meanings of the
28 words and phrases used in a description of effect” as closely as a reviewing court would a

1 statutory text. *Id.* at 48, 293 P.3d at 883. Such an approach “comes at too high a price in that it
2 carries the risk of depriving the people of Nevada of their constitutional right to propose laws by
3 initiative.” *Id.* Thus, a reviewing court “must take a holistic approach” to the required analysis.
4 *Id.* “The opponent of a ballot initiative bears the burden of showing that the initiative’s
5 description of effect fails to satisfy this standard.” *Id.* at 42, 293 P.3d at 879.

6 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

7 In this case, the description of effect for the Petition does not meet the requirements of
8 NRS 295.009(1)(b). The description of effect could be argumentative or confusing or
9 misleading to voters as currently written. The description of effect does not adequately explain
10 to voters what is meant by the term “independent” or the phrase “fair and competitive.” The
11 Court further finds that the description of effect is inadequate in that it does not provide potential
12 signatories with enough information about the cost consequences of the Petition—specifically,
13 that it will result in the expenditure of state funds. *See, e.g., Nev. Judges Ass’n v. Lau*, 112 Nev.
14 51,59 (1996). The Petition also does not adequately inform voters that the Petition would result
15 in redistricting in 2023 after the Legislature has already drawn electoral districts after the 2020
16 Census.

17 The Court finds that the above-referenced deficiencies may be cured through the revised
18 description of effect provided herein. NRS 295.061(3) provides that “[i]f a description of the
19 effect of an initiative or referendum required pursuant to NRS 295.009 is challenged
20 successfully . . . and such description is amended in compliance with the order of the court, the
21 amended description may not be challenged.” NRS 295.061(3). Thus, the Court, in consultation
22 with the parties, identifies a new description of effect that satisfies the legal standard required by
23 NRS 295.061(3). This revised description of effect states:

24
25 “This measure will amend the Nevada Constitution to establish a redistricting
26 commission to map electoral districts for the Nevada Senate, Assembly, and U.S. House of
Representatives.

27 The Commission will have seven members, four who will be appointed by the leadership
28 of the Legislature, and three who are unaffiliated with the two largest political parties who will
be appointed by the other four commissioners. Commissioners may not be partisan candidates,

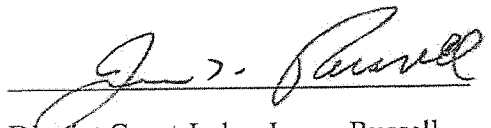
1 lobbyists, or certain relatives of such individuals. Commission meetings shall be open to the
2 public who shall have opportunities to participate in hearings.

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

9 This amendment requires redistricting after each federal census, beginning in 2023,
10 which could replace maps drawn by the Legislature after the 2020 census, and will result in the
11 expenditure of state funds to fund the Commission.”

12 **IT IS THEREFORE ORDERED** and declared that the description of effect filed with
13 the Secretary of State on November 4, 2019 failed to satisfy the requirements of NRS
14 295.009(1)(b). Thus, any signatures collected on the Petition containing the description of effect
15 are invalid. However, Defendant Fair Maps may re-file an amended petition with the revised
16 description of effect as set forth by this Order, which cures all deficiencies raised by Plaintiff
17 and identified by the Court. Upon re-filing, the description of effect will have been amended in
18 compliance with this Order and be accorded the finality set forth in NRS 295.061(3) and shall
19 not be subject to further challenge. NRS 295.061(3).

20 Dated this 2 day of ^{January} ~~December~~, ²⁰²⁰ ~~2019~~.

21 
22 District Court Judge James Russell

23 Respectfully submitted by:
24 MCDONALD CARANO LLP

25 By: /s/ Adam Hosmer-Henner
26 Adam Hosmer-Henner, Esq. (NSBN 12779)
27 Lucas Foletta, Esq. (NSBN 12154)
28 MCDONALD CARANO
100 West Liberty Street, 10th Floor
Reno, NV 89501
Attorneys for Defendant Fair Maps PAC

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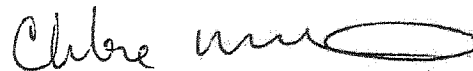
CERTIFICATE OF MAILING

Pursuant to NRCF 5(b), I certify that I am an employee of the First Judicial District Court, and that on this 2 day of January 2020 I deposited for mailing, postage paid, at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

Kevin K. Benson, Esq.
123 West Nye Lane, Suite 487
Carson City, NV 89706

Adam Hosmer-Henner, Esq.
Lucas Foletta, Esq.
MCDONALD CARANO
100 West Liberty Street, 10th Floor
Reno, NV 89501

Gregory L. Zunino, Esq.
100 N Carson Street
Carson City, NV 89701



Chloe McClintick, Esq.
Law Clerk, Dept. 1

1 Adam Hosmer-Henner, Esq. (NSBN 12779)
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4 ahosmerhenner@mcdonalddcarano.com
lfoletta@mcdonalddcarano.com

5 *Attorneys for Defendant*
6 *Fair Maps Nevada PAC*

REC'D & FILED
2020 FEB 18 PM 4:49
AUBREY ROWLATT
CLERK
BY _____ DEPUTY

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

9 * * *

10 REV. LEONARD JACKSON,

11 Plaintiff,

12 vs.

13 FAIR MAPS NEVADA PAC, and
14 BARBARA CEGAVSKE, in her official
capacity as Nevada Secretary of State,

15 Defendants.

Case No. 19 OC 00209 1B

Dept. No. I

16
17 **CASE APPEAL STATEMENT**

18 Defendant Fair Maps Nevada PAC submits the following Case Appeal Statement pursuant
19 to Nevada Rule of Appellate Procedure 3(f):

20 **1. Name of appellants filing this case appeal statement:**

21 Fair Maps Nevada PAC

22 **2. Identify the judge issuing the decision, judgment, or order appealed from:**

23 The Honorable James T. Russell, Jr., Department 1, First Judicial District Court, Carson
24 City, Nevada.

25 //

26 //

27 //

28 //

1 **3. Identify each appellant and the name and address of counsel for each appellant:**

2 Respondent/Cross-Appellant

3 Adam Hosmer-Henner, Esq. (NSBN 12779)
4 Lucas Foletta, Esq. (NSBN 12154)
5 MCDONALD CARANO
6 100 West Liberty Street, 10th Floor
7 Reno, NV 89501
8 (775) 788-2000
9 ahosmerhenner@mcdonaldcarano.com
10 lfoletta@mcdonaldcarano.com

11 **4. Identify each respondent and the name and address of appellate counsel, if known,
12 for each respondent (if the name of a respondent's appellate counsel is unknown,
13 indicate as much and provide the name and address of that respondent's trial
14 counsel):**

15 Appellant/Cross-Respondent:
16 Rev. Leonard Jackson

17 Appellant/Cross-Respondent's Counsel:
18 Kevin Benson
19 Benson Law Nevada
20 123 W. Nye Lane, Suite 487, Carson City NV 89706

21 Additional Party Below:
22 BARBARA CEGAVSKE

23 GREG ZUNINO, ESQ.
24 Chief Deputy Attorney General
25 100 N. Carson St.
26 Carson City, NV 89701

27 **5. Indicate whether any attorney identified above in response to question 3 or 4 is not
28 licensed to practice law in Nevada and, if so, whether the district court granted that
attorney permission to appear under SCR 42 (attach a copy of any district court order
granting such permission):**

Not applicable.

**6. Indicate whether appellant was represented by appointed or retained counsel in the
district court:**

Retained.

1 7. **Indicate whether appellant is represented by appointed or retained counsel on**
2 **appeal:**

3 Retained.

4 8. **Indicate whether appellant was granted leave to proceed in forma pauperis and the**
5 **date of entry of the district court order granting such leave:**

6 Not applicable.

7 9. **Indicate the date the proceedings commenced in the district court:**

8 Appellant/Cross-Respondent filed his Complaint on November 26, 2019.

9 10. **Provide a brief description of the nature of the action and result in the district court,**
10 **including the type of judgment or order being appealed and the relief granted by the**
11 **district court:**

12 This cross-appeal, involving a ballot question under NRS 295.009, is from the District
13 Court's Order granting full relief in favor of Appellant/Cross-Respondent's challenge to
14 the description of effect of the petition in question.

15 11. **Indicate whether the case has previously been the subject of an appeal to or original**
16 **writ proceedings in the Supreme Court and, if so, the caption and Supreme Court**
17 **docket number of the prior proceeding:**

18 Not applicable.

19 12. **Indicate whether this appeal involves child custody or visitation:**

20 Not applicable.

21 13. **If this is a civil case, indicate whether this appeal involves the possibility of**
22 **settlement:**

23 This appeal has already been exempted from the Supreme Court settlement program and
24 should be placed on an expedited briefing schedule. Respondent/Cross-Appellant has
25 attempted to amicably resolve this litigation with Appellant/Cross-Respondent, who has
26 failed to respond to each inquiry.

27 //

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AFFIRMATION

The undersigned hereby affirms pursuant to NRS 239B.030, that the preceding document does not contain the social security number of any person.

Dated: February 18, 2020

McDONALD CARANO LLP

By:  _____

Adam Hosmer-Henner, Esq. (NSBN 12779)
Lucas Foletta, Esq. (NSBN 12154)
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Reno, NV 89501
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lfoletta@mcdonaldcarano.com

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of McDONALD CARANO LLP and that on February 18, 2020, I served the foregoing on the parties in said case by placing a true copy of the foregoing **CASE APPEAL STATEMENT** in the United States Post Office mail at 100 West Liberty Street, Tenth Floor, Reno, NV 89501 addressed as follows:

Kevin Benson, Esq.
Benson Law, LLC
123 Nye Lane, Suite #487
Carson City, NV 89706

Greg Zunino, Esq.
State of Nevada, Office of the Attorney General
100 N. Carson Street
Carson City, NV 89701

I am familiar with the firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. The envelope addressed to the parties were sealed and placed for collection by the firm's messengers and will be deposited today with the United States Postal Service in the ordinary course of business.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 18, 2020 at Reno, Nevada.

By 
An Employee of McDonald Carano LLP

Judge: RUSSELL, JUDGE JAMES Case No. 19 OC 00209 1B
TODD

Ticket No.
CTN:

JACKSON, REV LEONARD By:

-vs-

CEGAVSKE, BARBARA DRSPND By: ATTORNEY GENERAL OFFICE
HEROE'S MEMORIAL BLDG.
CAPITOL COMPLEX
CARSON CITY, NV 89710

Dob: Sex:
Lic: Sid:
FAIR MAPS NEVADA PAC DRSPND

By:

Dob: Sex:
Lic: Sid:

Plate#: Make:
Year: Accident:
Type:
Venue:
Location:

JACKSON, REV LEONARD PLNTPET Bond: Set:
Type: Posted:

Charges:

Ct. Offense Dt: Cvr:
Arrest Dt:
Comments:

Ct. Offense Dt: Cvr:
Arrest Dt:
Comments:

Sentencing:

No.	Filed	Action	Operator	Fine/Cost	Due
1	02/19/20	RECEIPT	1BCCOOPER	0.00	0.00
2	02/19/20	APPEAL BOND DEPOSIT Receipt: 64243 Date: 02/19/2020	1BCCOOPER	500.00	0.00
3	02/18/20	CASE APPEAL STATEMENT	1BCCOOPER	0.00	0.00
4	02/18/20	NOTICE OF CROSS-APPEAL Receipt: 64243 Date: 02/19/2020	1BCCOOPER	24.00	0.00
5	02/05/20	CASE APPEAL STATEMENT	1BCCOOPER	0.00	0.00
6	02/05/20	NOTICE OF APPEAL Receipt: 64083 Date: 02/05/2020	1BCCOOPER	24.00	0.00
7	01/07/20	SUMMARY JUDGMENT	1BSBARAJAS	0.00	0.00
8	01/06/20	NOTICE OF ENTRY OF ORDER	1BSBARAJAS	0.00	0.00
9	01/06/20	STIPULATED DISMISSAL	1BSBARAJAS	0.00	0.00
10	01/02/20	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BSBARAJAS	0.00	0.00
11	01/02/20	ORDER	1BSBARAJAS	0.00	0.00
12	12/23/19	HEARING HELD: The following event: PETITION HEARING scheduled for 12/23/2019 at 2:30 pm has been resulted as follows: Result: HEARING HELD Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BJHIGGINS	0.00	0.00
13	12/20/19	REQUEST FOR SUBMISSION	1BJHIGGINS	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
14	12/20/19	REPLY BRIEF IN SUPPORT OF COMPLAINT FOR DECLARATORY RELIEF	1BJHIGGINS	0.00	0.00
15	12/20/19	WAIVER OF SERVICE	1BJHIGGINS	0.00	0.00
16	12/20/19	NOTICE OF APPEARANCE AS COUNSEL OF RECORD	1BJHIGGINS	0.00	0.00
17	12/18/19	DEFENDANT FAIR MAPS NEVADA PAC'S ANSWERING BRIEF IN RESPONSE TO PLAINTIFF'S OPENING BRIEF IN SUPPORT OF COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF	1BJULIEH	0.00	0.00
18	12/16/19	ORDER SETTING HEARING	1BVANESSA	0.00	0.00
19	12/13/19	ANSWER TO COMPLAINT FOR DECLARATORY RELIEF	DATA2	0.00	0.00
20	12/13/19	ACCEPTANCE AND WAIVER OF SERVICE	DATA2	0.00	0.00
21	12/10/19	ORDER TO SET FOR HEARING	1BJULIEH	0.00	0.00
22	12/06/19	RECEIPT	1BJULIEH	0.00	0.00
23	12/05/19	NOTICE OF ASSIGNMENT BY CLERK	1BCCOOPER	0.00	0.00
24	12/04/19	PEREMPTORY CHALLENGE OF JUDGE	1BCCOOPER	0.00	0.00
25	12/04/19	NOTICE OF APPEARANCE Receipt: 63163 Date: 12/05/2019	1BCCOOPER	218.00	0.00
26	12/02/19	ISSUING SUMMONS & ADD'L SUMMONS	1BCCOOPER	0.00	0.00
27	11/26/19	OPENING BRIEF IN SUPPORT OF COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF	1BCCOOPER	0.00	0.00
28	11/26/19	COMPLAINT FOR DECLARATORY RELIEF Receipt: 63081 Date: 11/27/2019	1BCCOOPER	265.00	0.00
			Total:	1,031.00	0.00
Totals By: COST				531.00	0.00
HOLDING				500.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

MCDONALD CARANO
100 WEST LIBERTY STREET, TENTH FLOOR • RENO, NEVADA 89501
PHONE 775.788.2000 • FAX 775.788.2020

1 Adam Hosmer-Henner, Esq. (NSBN 12779)
Lucas Foletta, Esq. (NSBN 12154)
2 MCDONALD CARANO
100 West Liberty Street, 10th Floor
3 Reno, NV 89501
(775) 788-2000
4 ahosmerhenner@mcdonaldcarano.com
lfoletta@mcdonaldcarano.com

5 *Attorneys for Defendant*
6 *Fair Maps Nevada PAC*

REC'D & FILED ✓

2020 JAN -2 PM 12: 15

AUBREY ROWLATT
CLERK


DEPUTY

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

9 * * *

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

Case No. 19 OC 00209 1B
Dept. No. I

[PROPOSED] ORDER

17 **ORDER**

18 This matter having come before this Court pursuant to Plaintiff Reverend Leonard
19 Jackson's Complaint for Declaratory Relief ("Complaint") and Plaintiff's Opening Brief in
20 Support of Complaint for Declaratory and Injunctive Relief ("Opening Brief"), and having
21 considered Defendant Fair Maps Nevada PAC's ("Fair Maps") Answer and Answering Brief in
22 Response to Plaintiff's Opening Brief in Support of Complaint for Declaratory and Injunctive
23 Relief ("Answering Brief") and Plaintiff's Reply Brief in Support of Complaint for Declaratory
24 Relief ("Reply Brief") as well as the arguments of counsel at the hearing held December 23,
25 2019, the Court finds as follows:

26 //
27 //

28

1 PROCEDURAL BACKGROUND

2 Fair Maps filed Initiative Petition #C-02-2019 (“Petition”) on November 4, 2019 to
3 amend the Nevada Constitution by adding a new section to the Nevada Constitution to establish
4 a redistricting commission to map electoral districts for members of the Nevada Senate, Nevada
5 Assembly, and Nevada’s delegation to the U.S. House of Representatives. The Petition includes
6 the following description of effect:

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

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

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

25 This amendment will require redistricting by the Commission beginning in
26 2023 and thereafter following each federal census.

27 Plaintiff filed his Complaint and the Opening Brief on November 26, 2019, in which he
28 argues that the Petition’s description of effect fails to comply with NRS 295.009(1)(b). More
specifically, he contends that description of the commission as independent and the description
of effect’s statement that the commission will oversee “the mapping of fair and competitive
electoral districts,” are materially misleading statements. Compl. ¶¶ 15 & 23. He also asserts
that the description of effect is deceptive and misleading because it fails to inform voters of a
specific practical effect of passage of the Petition—that the redistricting commission will “undo”
electoral maps generated by the Legislature in 2021 “thus potentially doubling the resources that
would otherwise be spent on redistricting following the 2020 census.” *Id.* at ¶¶ 30. Plaintiff’s
Complaint is limited to his challenge to the description of effect.

1 Fair Maps contends that the use of the term independent and the characterization of the
2 commission's objective of creating fair and competitive electoral districts is neither deceptive
3 nor misleading and amount to attacks on the policy reflected in the Petition and not the
4 description of effect. Ans. Br. 6-8. Fair Maps also contends that Plaintiff's claim that there will
5 be additional redistricting costs as a result of Petition is speculative and hypothetical and
6 therefore need not be addressed in the description of effect. *Id.* at 8-10.

7 **LEGAL STANDARDS**

8 Article 19, Section 2 of the Nevada Constitution enshrines the people's right to amend
9 the Nevada Constitution by initiative petition. Specifically it states that "the people reserve to
10 themselves the power to propose, by initiative petition, . . . amendments to this Constitution."
11 Nev. Const. art. 19, § 2(1). The Nevada Constitution further provides that the Legislature "may
12 provide by law for procedures to *facilitate* the operation thereof." *Id.* art. 19, § 5 (emphasis
13 added). In interpreting such laws, the courts "must make every effort to sustain and preserve the
14 people's constitutional right to amend their constitution through the initiative process."
15 *Nevadans for the Prot. of Prop. Rights, Inc. v. Heller*, 122 Nev. 894, 912, 141 P.3d 1235, 1247
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17 NRS 295.009(1)(b) provides that a petition must "[s]et forth, in not more than 200
18 words, a description of the effect of the initiative . . . if the initiative . . . is approved by the
19 voters." NRS 295.009(1)(b). The Nevada Supreme Court has noted that "[a] description of effect
20 serves a limited purpose to facilitate the initiative process," and that a description of effect
21 should be reviewed with an eye toward that limited purpose. *Educ. Initiative PAC v. Comm. to*
22 *Protect Nev. Jobs*, 129 Nev. 35, 37, 293 P.3d 874, 876 (2013). Thus, while a description of
23 effect need not "delineate every effect that an initiative will have," it must be "a straightforward,
24 succinct, and nonargumentative statement of what the initiative will accomplish and how it will
25 achieve those goals." *Id.* at 38, 293 P.3d at 876. A description of effect cannot "be deceptive or
26 misleading." *Id.* at 42, 293 P.3d at 879.

27 In reviewing a description of effect, "it is inappropriate to parse the meanings of the
28 words and phrases used in a description of effect" as closely as a reviewing court would a

1 statutory text. *Id.* at 48, 293 P.3d at 883. Such an approach “comes at too high a price in that it
2 carries the risk of depriving the people of Nevada of their constitutional right to propose laws by
3 initiative.” *Id.* Thus, a reviewing court “must take a holistic approach” to the required analysis.
4 *Id.* “The opponent of a ballot initiative bears the burden of showing that the initiative’s
5 description of effect fails to satisfy this standard.” *Id.* at 42, 293 P.3d at 879.

6 FINDINGS OF FACT AND CONCLUSIONS OF LAW

7 In this case, the description of effect for the Petition does not meet the requirements of
8 NRS 295.009(1)(b). The description of effect could be argumentative or confusing or
9 misleading to voters as currently written. The description of effect does not adequately explain
10 to voters what is meant by the term “independent” or the phrase “fair and competitive.” The
11 Court further finds that the description of effect is inadequate in that it does not provide potential
12 signatories with enough information about the cost consequences of the Petition—specifically,
13 that it will result in the expenditure of state funds. *See, e.g., Nev. Judges Ass’n v. Lau*, 112 Nev.
14 51,59 (1996). The Petition also does not adequately inform voters that the Petition would result
15 in redistricting in 2023 after the Legislature has already drawn electoral districts after the 2020
16 Census.

17 The Court finds that the above-referenced deficiencies may be cured through the revised
18 description of effect provided herein. NRS 295.061(3) provides that “[i]f a description of the
19 effect of an initiative or referendum required pursuant to NRS 295.009 is challenged
20 successfully . . . and such description is amended in compliance with the order of the court, the
21 amended description may not be challenged.” NRS 295.061(3). Thus, the Court, in consultation
22 with the parties, identifies a new description of effect that satisfies the legal standard required by
23 NRS 295.061(3). This revised description of effect states:

24
25 “This measure will amend the Nevada Constitution to establish a redistricting
26 commission to map electoral districts for the Nevada Senate, Assembly, and U.S. House of
Representatives.

27 The Commission will have seven members, four who will be appointed by the leadership
28 of the Legislature, and three who are unaffiliated with the two largest political parties who will
be appointed by the other four commissioners. Commissioners may not be partisan candidates,

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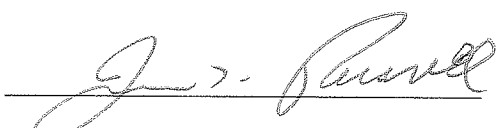
1 lobbyists, or certain relatives of such individuals. Commission meetings shall be open to the
public who shall have opportunities to participate in hearings.

2 The Commission will ensure, to the extent possible, that the districts comply with the
3 U.S. Constitution, have an approximately equal number of inhabitants, are geographically
compact and contiguous, provide equal opportunities for racial and language minorities to
4 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.

5 This amendment requires redistricting after each federal census, beginning in 2023,
6 which could replace maps drawn by the Legislature after the 2020 census, and will result in the
expenditure of state funds to fund the Commission.”

7
8 **IT IS THEREFORE ORDERED** and declared that the description of effect filed with
9 the Secretary of State on November 4, 2019 failed to satisfy the requirements of NRS
10 295.009(1)(b). Thus, any signatures collected on the Petition containing the description of effect
11 are invalid. However, Defendant Fair Maps may re-file an amended petition with the revised
12 description of effect as set forth by this Order, which cures all deficiencies raised by Plaintiff
13 and identified by the Court. Upon re-filing, the description of effect will have been amended in
14 compliance with this Order and be accorded the finality set forth in NRS 295.061(3) and shall
15 not be subject to further challenge. NRS 295.061(3).

16 Dated this 2 day of ~~December~~ ^{January} 2020, 2019.

17
18 
19 District Court Judge James Russell

20
21 Respectfully submitted by:
22 MCDONALD CARANO LLP

23 By: _____/s/ Adam Hosmer-Henner
24 Adam Hosmer-Henner, Esq. (NSBN 12779)
25 Lucas Foletta, Esq. (NSBN 12154)
26 MCDONALD CARANO
100 West Liberty Street, 10th Floor
Reno, NV 89501
27 *Attorneys for Defendant Fair Maps PAC*

1 CERTIFICATE OF MAILING

2 Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District
3 Court, and that on this 2 day of January 2020 I deposited for mailing, postage paid, at
4 Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

5 Kevin K. Benson, Esq.
6 123 West Nye Lane, Suite 487
7 Carson City, NV 89706

8 Adam Hosmer-Henner, Esq.
9 Lucas Foletta, Esq.
10 McDONALD CARANO
11 100 West Liberty Street, 10th Floor
12 Reno, NV 89501

13 Gregory L. Zunino, Esq.
14 100 N Carson Street
15 Carson City, NV 89701



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Chloe McClintick, Esq.
Law Clerk, Dept. 1

1 Adam Hosmer-Henner, Esq. (NSBN 12779)
2 Lucas Foletta, Esq. (NSBN 12154)
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6 (775) 788-2000
7 ahosmerhenner@mcdonaldcarano.com
8 lfoletta@mcdonaldcarano.com

9 *Attorneys for Defendant*
10 *Fair Maps Nevada PAC*

REC'D & FILED ✓
2020 JAN -6 PM 3:25
AUBREY ROWLATT
CLERK
BY *[Signature]*
DEPUTY

11 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

12 **IN AND FOR CARSON CITY**

13 * * *

14 REV. LEONARD JACKSON,

15 Plaintiff,

16 vs.

17 FAIR MAPS NEVADA PAC, and
18 BARBARA CEGAVSKE, in her official
19 capacity as Nevada Secretary of State,

20 Defendants.

Case No. 19 OC 00209 1B

Dept. No. I

21 **NOTICE OF ENTRY OF ORDER**

22 PLEASE TAKE NOTICE that on January 2, 2020, the above-entitled Court entered its
23 Order. A true and correct copy of that Order is attached hereto.

24 Dated: January 6, 2020

25 McDONALD CARANO LLP

26 By: *[Signature]*

27 Adam Hosmer-Henner, Esq. (NSBN 12779)
28 Lucas Foletta, Esq. (NSBN 12154)
McDONALD CARANO
100 West Liberty Street, 10th Floor
Reno, NV 89501

Attorneys for Defendant Fair Maps PAC

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of McDONALD CARANO LLP and that on January 6, 2020, I served the foregoing on the parties in said case by placing a true copy thereof in the United States Post Office mail at 100 West Liberty Street, Tenth Floor, Reno, NV 89501 addressed as follows:

Kevin Benson, Esq.
Benson Law, LLC
123 Nye Lane, Suite #487
Carson City, NV 89706

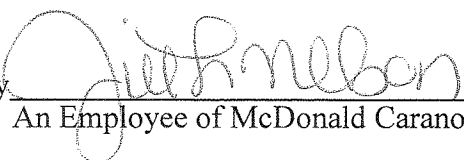
Greg Zunino, Esq.
State of Nevada, Office of the Attorney General
100 N. Carson Street
Carson City, NV 89701

Barbara Cegasvke, Nevada Secretary of State
202 N. Carson Street
Carson City, NV 89701

I am familiar with the firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. The envelope addressed to the parties were sealed and placed for collection by the firm's messengers and will be deposited today with the United States Postal Service in the ordinary course of business.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 6, 2020 at Reno, Nevada.

By 
An Employee of McDonald Carano LLP

McDONALD CARANO
100 WEST LIBERTY STREET, TENTH FLOOR • RENO, NEVADA 89501
PHONE 775.788.2000 • FAX 775.788.2020

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lfoletta@mcdonaldcarano.com

5 *Attorneys for Defendant*
6 *Fair Maps Nevada PAC*

REC'D & FILED

2020 JAN -2 PM 12: 15

AUBREY ROWLATT
CLERK

BY  DEPUTY

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

9 * * *

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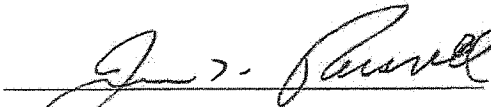
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10 which could replace maps drawn by the Legislature after the 2020 census, and will result in the
11 expenditure of state funds to fund the Commission.”

12 **IT IS THEREFORE ORDERED** and declared that the description of effect filed with
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17 and identified by the Court. Upon re-filing, the description of effect will have been amended in
18 compliance with this Order and be accorded the finality set forth in NRS 295.061(3) and shall
19 not be subject to further challenge. NRS 295.061(3).

20 Dated this 2 day of ~~December~~ ^{January}, 2020.

21 
22 District Court Judge James Russell

23 Respectfully submitted by:

24 MCDONALD CARANO LLP

25 By: _____/s/ Adam Hosmer-Henner
26 Adam Hosmer-Henner, Esq. (NSBN 12779)
27 Lucas Foletta, Esq. (NSBN 12154)
MCDONALD CARANO
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Attorneys for Defendant Fair Maps PAC

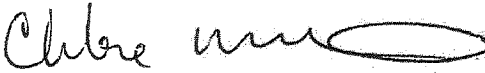
CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on this 2 day of January 2020 I deposited for mailing, postage paid, at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

Kevin K. Benson, Esq.
123 West Nye Lane, Suite 487
Carson City, NV 89706

Adam Hosmer-Henner, Esq.
Lucas Foletta, Esq.
MCDONALD CARANO
100 West Liberty Street, 10th Floor
Reno, NV 89501

Gregory L. Zunino, Esq.
100 N Carson Street
Carson City, NV 89701


Chloe McClintick, Esq.
Law Clerk, Dept. 1

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 19 OC 00209 1B

TITLE: REV. LEONARD JACKSON VS FAIR
MAPS NEVADA PAC, AND BARBARA
CEGAVSKE, IN HER OFFICIAL
CAPACITY AS NEVADA SECRETARY
OF STATE

12/23/19 – DEPT. I – HONORABLE JAMES T. RUSSELL
J. Higgins, Clerk – Not Reported

PETITION FOR DECLARATORY RELIEF

Present: Kevin Benson, counsel for Petitioner; Adam Hosmer-Henner, counsel for Fair Maps;
Gregory Zunino, Deputy A.G.

Statements were made by Court.

Benson and Hosmer-Henner present arguments.

Statements were made by Court.

COURT ORDERED: It likes alternative number two with the following change. It doesn't like the word "independent", it is removing that. It also likes the fact to remove "fair and competitive" because it doesn't know how these districts are going to come about and where they are going to end up. The balance of number two it likes except the end of it "this amendment will require redistricting beginning in 2023", it can't do much about that. It likes the language "which will result in the expenses of state funds to fund the commission".

Statements were made by Court and Zunino.

COURT ORDERED: Benson and Hosmer-Henner to prepare Orders for the Court and provide them to the Court within 10 days.

Statements were made by Court and Benson who clarified that the Court is not requiring that it include the language that it is going to undo what was done in 2021.

COURT ORDERED: No, it doesn't know how they are going to fix that, 2023 is going to be what it is.

Hosmer-Henner indicated they could include a statement that it would require a redistricting in 2023 which could replace the legislative maps in 2021.

COURT ORDERED: You can add that if you want, that clarifies it.

Statements were made by Court.

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

DISTRICT COURT CIVIL COVER SHEET

Carson City County, Nevada

Case No. 19DC00309 JB
(Assigned by Clerk's Office)

REC'D & FILED
2019 NOV 26 PM 3:43

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Rev. Leonard Jackson	Defendant(s) (name/address/phone): Fair Maps Nevada PO Box 751271 Las Vegas, NV 89136
Attorney (name/address/phone): Kevin Benson - 123 W. Nye Lane, #487 Carson City, NV 89706 (775) 884-0838	Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types

<p>Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Foreclosure Mediation Assistance <input type="checkbox"/> Other Title to Property <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<p>Negligence</p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p>Malpractice</p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<p>Torts</p> <p>Other Torts</p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<p>Probate</p> <p>Probate (select case type and estate value)</p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Surviving Spouse <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p>Estate Value</p> <input type="checkbox"/> Greater than \$300,000 <input type="checkbox"/> \$200,000-\$300,000 <input type="checkbox"/> \$100,001-\$199,999 <input type="checkbox"/> \$25,001-\$100,000 <input type="checkbox"/> \$20,001-\$25,000 <input type="checkbox"/> \$2,501-20,000 <input type="checkbox"/> \$2,500 or less	<p>Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p>Contract Case</p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<p>Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p>Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p>Appeal Other</p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<p>Civil Writ</p> <p>Civil Writ</p> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant		<p>Other Civil Filing</p> <p>Other Civil Filing</p> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

11/26/2019

Date

Signature of initiating party or representative

See other side for family-related case filings.