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12
13 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
14 IN AND FOR CARSON CITY

15 EMMILY BRISTOL; MINDY HSU RPh.;
16 WILLIAM RAMOS, M.D.;

17 Plaintiffs,

18 vs.

19 PERSONHOOD NEVADA, a Ballot
Advocacy Group; RICHARD ZISER; OLAF
20 VANCURA; and KENNETH WILSON,
individuals; ROSS MILLER, in his official
21 capacity as Secretary of State of Nevada,

22 Defendants.

23 **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

24 For their Complaint, Plaintiffs allege:

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2009 NOV 12 PM 4:00
ALAN GLOVER
BY ~~M. KAFFE~~ CLERK
DEPUTY

Case No. D9 OC 00506 1B
Dept. No. I

1 4. Plaintiff Mindy Hsu, RPh., Pharm.D., is a resident and registered voter in Sparks,
2 Nevada. Dr. Hsu practices as a registered pharmacist in Reno and Sparks, Nevada.

3 5. Plaintiff William Douglas Ramos, M.D., is a resident and registered voter in Las
4 Vegas, Nevada. Dr. Ramos has been a board-certified obstetrician-gynecologist for over thirty
5 years and is licensed to practice medicine in Nevada.

6 6. Defendant Personhood Nevada is named herein as a proponent of the initiative
7 petition. Upon information and belief, Personhood Nevada is a ballot advocacy group organized
8 and existing pursuant to Chapter 294A of the Nevada Revised Statutes. Upon information and
9 belief, Personhood Nevada is a member of Personhood USA.

10 7. Defendant Richard Ziser is named herein as a proponent of the initiative petition.
11 Upon information and belief, Richard Ziser is an individual, and at all times relevant herein, was
12 and is a resident of the State of Nevada. Upon information and belief, Richard Ziser is a board
13 member, the campaign manager, and the resident agent of Personhood Nevada.

14 8. Defendant Olaf Vancura is named herein as a proponent of the initiative petition.
15 Upon information and belief, Olaf Vancura is an individual, and at all times relevant herein, was
16 and is a resident of the State of Nevada. Upon information and belief, Olaf Vancura is an officer
17 of and the president of Personhood Nevada.

18 9. Defendant Kenneth Wilson is named herein as a proponent of the initiative
19 petition. Upon information and belief, Kenneth Wilson is an officer of Personhood Nevada and
20 the president of Personhood USA.

21 10. Defendant Ross Miller is named herein in his official capacity as the duly elected
22 Secretary of State of the State of Nevada. Ross Miller, in his capacity as Secretary of State, is
23 the chief elections officer of the State of Nevada, charged with administering and enforcing
24 Nevada's election laws. As a duty of the constitutional office of Secretary of State, Ross Miller

1 is responsible for qualifying initiatives for submission to the Nevada legislature and/or the
2 Nevada electorate and for disqualifying initiatives which are determined to be invalid.

3 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

4 11. On October 21, 2009, Defendants Personhood Nevada, Ziser, Vancura, and
5 Wilson (“proponents”) submitted the initiative petition to Defendant Secretary of State through
6 their resident agent Richard Ziser. A copy of the initiative petition is attached hereto as Exhibit 1
7 (hereinafter “Ex. 1”).

8 12. The initiative proposes to add “a new section designated Section 23” to “Article 1
9 of the Constitution of the State of Nevada” that, in its entirety, would read as follows: “In the
10 great state of Nevada, the term ‘person’ applies to every human being.” *See* Ex. 1.

11 13. Filed concurrently with the initiative is the following description of effect:

12 The Nevada constitution states, “No person shall be deprived of life, liberty or
13 property without due process of law.” Currently, some Nevadans are deprived of
14 their inalienable civil rights, specifically their fundamental right to live, due to an
15 arbitrary and discriminatory distinction between person and human being.

16 While the state has no authority to grant Inalienable rights, it has the obligation to
17 protect them.

18 This amendment therefore applies the term “person” to every human being.
19 “Human being” includes everyone possessing a human genome specific for an
20 individual member of the human species, from the beginning of his or her
21 biological development, without discrimination as to age, health, reproduction
22 method, function, physical or mental dependency, or cognitive ability.

23 This amendment benefits all Nevadans by guaranteeing, as envisioned by our
24 founding fathers, that no one shall be deprived of life, liberty or property without
due process of law. It eliminates discrimination against Nevadans at the
beginning of life and prohibits state intrusion in end of life decisions.

 This amendment codifies the inalienable right to life for everyone, young or old,
healthy or ill, conscious or unconscious, born or unborn. It assures protection and
dignity to our children, our infirmed, and our seniors.

See Ex. 1.

 14. The text of the initiative does not define the term “human being.”

1 general subject of, and of the interests likely to be affected by, the proposed initiative.” The
2 purpose of this requirement is to promote informed decisions and prevent the enactment of
3 unpopular provisions by attaching them to or concealing them in more popular measures.

4 20. If the understanding of “human being,” set forth in the description of effect is
5 applied to the initiative, the initiative would extend a multitude of unrelated constitutional and
6 statutory laws to newly-recognized “persons”: fertilized eggs, embryos, and fetuses. Under this
7 scenario, the initiative violates the single-subject requirements by proposing multiple changes to
8 the Nevada Constitution and other areas of Nevada law that are not functionally related and
9 germane to each other or the primary purpose or subject of the initiative in a way that provides
10 sufficient notice of the subjects addressed in the initiative and the many interests likely to be
11 affected by it.

12 21. The initiative amends multiple constitutional provisions including, *inter alia*, the
13 inalienable rights clause, the rights of victims of crime clause, the due process clause, and the
14 unreasonable search and seizure clause, as well as Nevada laws covering a multitude of subjects,
15 including criminal law, tort law, family law, eligibility for government benefits, and even traffic
16 law. Most of these multiple changes proposed by the initiative are not functionally related and
17 germane to each other, nor to any of the alleged purposes or subjects of the initiative.

18 22. The initiative fails to give sufficient notice to the voters about these diverse
19 subjects. Likewise, the initiative fails to notify voters that it seeks to curtail existing
20 constitutional rights and protections, it seeks to ban abortion and a whole host of forms of
21 contraception, and it could ban treatment for ectopic pregnancy, miscarriage, and infertility; and
22 stem-cell research.

23 23. The initiative violates the single-subject requirement.

24 /./././

1 **SECOND CLAIM FOR RELIEF**

2 **(Declaratory and Injunctive Relief – Impermissible Use of the Initiative Process)**

3 24. Plaintiffs hereby incorporate Paragraphs 1 through 23 as though fully set forth
4 herein.

5 25. The Nevada Constitution distinguishes between constitutional “amendments,”
6 which can be proposed by initiative, and “revisions,” which cannot.

7 26. Constitutional revisions may only be initiated by the legislature. Article 16,
8 Section 2 of the Nevada Constitution states that to “cause a revision of th[e] entire Constitution”
9 the legislature must first by a vote of two-thirds in each house “recommend to the electors at the
10 next election for Members of the Legislature, to vote for or against a convention”

11 27. Article 19, Section 2, of the Nevada Constitution, which reserves the power to
12 propose a constitutional amendment by initiative petition, does not additionally permit
13 constitutional revision through the citizen initiative petition process.

14 28. The initiative petition proposes sweeping changes to core provisions of the
15 Nevada Constitution – including the inalienable rights clause, the due process clause, the liberty
16 of speech and conscience clauses, the right to assemble clause, and the unreasonable search and
17 seizure clause. This amounts to a wholesale “revision,” rather than an “amendment,” of the
18 Nevada Constitution.

19 29. The initiative petition is thus unauthorized under Article 16, and constitutes an
20 impermissible use of the Article 19 initiative process, which is limited to constitutional
21 amendments.

22 ///

23 ///

24 ///

1 **THIRD CLAIM FOR RELIEF**

2 **(Declaratory and Injunctive Relief –**

3 **Violation of Nev. Rev. Stat. § 295.009(1)(b) – Description of Effect)**

4 30. Plaintiffs hereby incorporate Paragraphs 1 through 29 as though fully set forth
5 herein.

6 31. Nevada Revised Statutes Section 295.009(1)(b) requires that an initiative petition
7 set forth, in not more than 200 words, a “description of the effect of the initiative . . . if the
8 initiative . . . is approved by the voters.” The purpose of the description of effect is to help
9 prevent voter confusion and promote informed decisions. It cannot be materially misleading, it
10 cannot materially fail to identify the consequences of the initiative’s passage, and it must be
11 straightforward, succinct, and nonargumentative.

12 32. The description of effect is materially misleading and materially fails to identify
13 the consequences of the initiative’s passage in multiple ways.

14 33. First, the description of effect describes the term “human being” in a confusing
15 manner and in a way that is not consistent with its commonly, or legally, understood meaning.

16 34. Second, the description of effect fails to explain that the initiative would amend
17 multiple provisions of the Nevada Constitution and of Nevada law.

18 35. Third, the description of effect fails to advise voters that it seeks to take away
19 existing legal rights under the federal and state constitutions and Nevada law, including a prior
20 voter referendum regulating abortion. Specifically, it fails to advise voters of material
21 consequences that could flow from passage of the initiative including banning all abortions;
22 banning common forms of birth control; and banning treatments for ectopic pregnancy,
23 miscarriage, and infertility – as well as prohibiting stem-cell and other biomedical research.

24 // // //

INDEX TO EXHIBITS

Exhibit Number	Description	No. of Pages
1	Initiative Petition	2

EXHIBIT 1

EXHIBIT 1

ROSS MILLER
 SECRETARY OF STATE

2009 OCT 21 PM 2:11

Initiative Petition State of Nevada

The People of the State of Nevada do enact as follows:

RESOLVED, That a new section designated Section 23 be added to Article 1 of the Constitution of the State of Nevada to read as follows:

"In the great state of Nevada, the term 'person' applies to every human being."

DESCRIPTION OF EFFECT

The Nevada constitution states, "No person shall be deprived of life, liberty or property, without due process of law". Currently, some Nevadans are deprived of their inalienable civil rights, specifically their fundamental right to live, due to an arbitrary and discriminatory distinction between person and human being.

While the state has no authority to grant inalienable rights, it has the obligation to protect them.

This amendment therefore applies the term "person" to every human being. "Human being" includes everyone possessing a human genome specific for an individual member of the human species, from the beginning of his or her biological development, without discrimination as to age, health, reproduction method, function, physical or mental dependency, or cognitive ability.

This amendment benefits all Nevadans by guaranteeing, as envisioned by our founding fathers, that no one shall be deprived of life, liberty or property without due process of law. It eliminates discrimination against Nevadans at the beginning of life and prohibits state intrusion in end of life decisions.

This amendment codifies the inalienable right to life for everyone, young or old, healthy or ill, conscious or unconscious, born or unborn. It assures protection and dignity to our children, our infirmed and our seniors.

County of _____ (Only registered voters of this county may sign below)

		Petition District	
1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	CITY	COUNTY
	DATE / /	RESIDENCE ADDRESS ONLY	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	CITY	COUNTY
	DATE / /	RESIDENCE ADDRESS ONLY	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	CITY	COUNTY
	DATE / /	RESIDENCE ADDRESS ONLY	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	CITY	COUNTY
	DATE / /	RESIDENCE ADDRESS ONLY	
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	CITY	COUNTY
	DATE / /	RESIDENCE ADDRESS ONLY	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	CITY	COUNTY
	DATE / /	RESIDENCE ADDRESS ONLY	
7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE	CITY	COUNTY
	DATE / /	RESIDENCE ADDRESS ONLY	

Initiative Petition

State of Nevada

DESCRIPTION OF EFFECT

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	YOUR SIGNATURE	DATE / /	CITY	COUNTY	
12	PRINT YOUR NAME (first name, initial, last name)		RESIDENCE ADDRESS ONLY		
	YOUR SIGNATURE	DATE / /	CITY	COUNTY	

THE FOLLOWING AFFIDAVIT MUST BE COMPLETED AND SIGNED.

AFFIDAVIT OF CIRCULATOR
(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA _____
COUNTY OF _____

I, _____, being first duly sworn or having affirmed under penalty of perjury, depose and say: (1) that I reside at _____ (print name, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that I believe each person who signed was at the time of signing a registered voter in the county residence; (6) the number of signatures thereon is _____; and (7) that each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

Subscribed and sworn to or affirmed before me this _____ day of _____, by _____
Signature of Circulator

Notary Public or person authorized to administer oath