



1 **OPPM**

2 Joseph C. Reynolds (8630)
3 Ariel C. Johnson (13357)
4 Alex R. Velto (14961)
5 HUTCHISON & STEFFEN, PLLC
6 5371 Kietzke Lane
7 Reno, NV 89511
8 (775) 853-8746 tel
9 (775) 201-9611 fax
10 jreynolds@hutchlegal.com
11 ajohnson@hutchlegal.com
12 avelto@hutchlegal.com

13 *Attorneys for Plaintiffs*
14 *Greater Las Vegas Short Term Rental Association*
15 *and Jacqueline Flores, President and Director*

16 **EIGHTH JUDICIAL DISTRICT COURT**
17 **STATE OF NEVADA**

18 GREATER LAS VEGAS SHORT TERM
19 RENTAL ASSOCIATION, a non-profit
20 Nevada corporation; JACQUELINE FLORES,
21 President and Director,

22 Plaintiffs,

23 vs.

24 CLARK COUNTY and the BOARD OF
CLARK COUNTY COMMISSIONERS, a
political subdivision of the State of Nevada;
and the STATE OF NEVADA,

Defendants.

Case No. A-22-856311-P
Dept. No. 8

**OPPOSITION IN PART AND
RESPONSE TO CLARK COUNTY'S
NRCP 12(e) MOTION FOR A MORE
DEFINITE STATEMENT**

19 Come now, the Greater Las Vegas Short Term Rental Association, a non-profit Nevada
20 corporation, and Jacqueline Flores, President and Director (Rental Association), by and
21 through their legal counsel, Joseph C. Reynolds and Esq., Ariel C. Johnson, Esq., and Alex R.
22 Velto of HUTCHISON & STEFFEN, PLLC, and hereby responds to and opposes in part the
23 Motion for a More Definite Statement that was filed by Clark County and the Clark County
24 Board of Commissioners (Clark County) on September 21, 2022.

1 ARGUMENT

2 Certainly, the filing of a complaint commences a civil action.¹ Yet, what Clark County
3 overlooks in its NRCP 12(e) Motion for a More Definite Statement is established precedent that
4 Nevada is a notice pleading jurisdiction, whereby any pleading is sufficient to commence a civil
5 action when it contains facts sufficient to place the defending party on “adequate notice of the
6 nature of the claim and the relief sought.”² Nowhere in its Motion does Clark County cite to this
7 well-established law.

8 I. THE RENTAL ASSOCIATION’S PETITION SATISFIES NRCP 4

9 Nomenclature given to a particular pleading through its title, whether it is labeled a
10 ‘petition’ or ‘complaint’ is by no means determinative of the nature of a civil action.³ Rather, it
11 is the substance and the nature of a pleading that controls, not the label given to the document.⁴
12 The Nevada Supreme Court has repeatedly emphasized that under Nevada’s notice pleading
13 standards pleadings are to be ‘liberally construed.’⁵ Contrary to assertions by Clark County, the
14 title of the pleading filed by the Rental Association in this case is akin to those that have been
15 accepted as proper not only in Nevada,⁶ but in other jurisdictions as well.⁷ It is not the anomaly
16 Clark County postures it to be.

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18 ¹ See NRCP 4.

19 ² *Harris v. State*, 138 Nev. Ad. Op. 40, ___, 510 P.3d 802, 807 (2022); see *Breliant v. Preferred Equites Corp.*, 109
20 Nev. 842, 845, 858 P.2d 1258, 1260 (1993); *Chavez v. Roberson Steel Company*, 94 Nev. 597, 599, 584 P.2d 159,
160 (1978).

21 ³ See *Northern Nevada Association of Injured Workers v. Nevada State Industrial Insurance System*, 107 Nev. 108,
115 n.13, 107 P.3d 728, 732 n.13 (1991).

22 ⁴ *Id.*

23 ⁵ *Harris*, 138 Nev. Ad. Op. 40 at ___, 510 P.3d at 807.

24 ⁶ See *Carson-Tahoe Hospital v. Building & Consulting Trades Consulting of Northern Nevada*, 122 Nev. 218, 128
P.3d 1065 (2006) (reviewing a ‘Petition for Declaratory Judgment’).

1 Whether labeled and styled as a ‘petition’ or ‘complaint’ it complies with NRCP 4 and
2 sufficiently explains the Rental Association’s position and claims. Moreover, NRCP 65
3 contemplates that an action for a preliminary injunction may be consolidated with a trial on the
4 merits, as a Court’s decision on an injunction is often dispositive of the merits underlying the
5 action and consolidation promotes efficiency. The Rental Association’s First Amended Petition
6 is consistent with this policy, and Clark County’s request for a more definite statement is flawed.

7 Here, the Rental Association’s First Amended Petition was given a case number; the
8 pleading was assigned to a department; the pleading clearly identify the parties; the pleading
9 contains a statement of jurisdiction; the pleading contains a statement regarding legal standing;
10 the pleading cites to supporting legal authority and facts; the pleading pinpoint cites to the
11 Nevada Constitution and United States Constitution provisions being violated by the Ordinance;
12 the pleading pinpoint cites to the Sections of the Ordinance that violate those constitutional
13 provisions; and the pleading expressly requests that this Court declare the Ordinance enacted by
14 Clark County on June 21, 2022, in violation of the Nevada Constitution and the United States
15 Constitution and to enjoin its enforcement. Given these considerations, the Rental Association’s
16 pleading sufficient to satisfy the admittedly low threshold in a notice pleading state. As such,
17 the First Amended Petition filed by the Rental Association is a proper pleading to commence a
18 civil action pursuant to NRCP 4. Accordingly, the Rental Association should not be required to
19 amend or refile its pleading, and it does not concede that its pleading was defective in any manner.
20 This action was properly commenced.

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24 ⁷ See, e.g., *Public Service Company of New Mexico v. City of Albuquerque*, 755 F.Supp. 1494 (D. N.M. 1991)
(reviewing ‘Petition for Declaratory Judgment’); *OAIC Commercial Assets, LLC v. Stonegate Village, L.P.*, 2006
WL 2788644 (D. Ariz. September 20, 2006) (reviewing ‘Petition for Declaratory Judgment’).

1 To the extent there is a perceived defect in the pleading, this Court has the inherent
2 authority to disregard it where it does not affect the substantial rights of the parties.⁸ The
3 touchstone inquiry is whether a complaint contains a short and plain statement showing that the
4 plaintiff is entitled to relief and a demand for the relief sought.⁹ The Rental Association has
5 satisfied this standard. The Rental Association’s pleading and allegations are more than
6 sufficient for Clark County to have responded on the merits, even if it is not styled according to
7 their typical conventions or preferences.

8 **II. CLARK COUNTY HAS SUFFICIENT NOTICE OF THE CLAIMS AGAINST IT**

9 The Rental Association filed in this Court and properly served Clark County with a
10 Summons and Amended Petition for Preliminary Injunction and Declaratory Relief on August 3,
11 2022. A First Amended Petition was filed on August 24, 2022, incorporating newly published
12 authority relevant to this case.¹⁰ In short, Clark County was served with notice of this action
13 nearly eight weeks ago and stipulated, pursuant to outreach by counsel for the Rental Association,
14 to a briefing and hearing schedule to ensure this matter was fairly and expeditiously handled in
15 a manner becoming of its importance. Despite voluntarily entering into a stipulation, at no time
16 did Clark County raise any concern or objection to the nature or form of any pleading.

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19 ⁸ *Hunt v. Johnson*, 51 Nev. 1, 1, 266 P. 916, 917 (1928) (holding that a court “shall, in every stage of an action,
20 disregard any error or defect in the pleadings or proceedings, which shall not affect the substantial rights of the
parties; and no judgment shall be reversed or affected by reason of such error or defect”).

21 ⁹ *See Mays v. Eighth Judicial District Court*, 105 Nev. 60, 62, 878 P.2d 877, 878 (1989).

22 ¹⁰ Clark County appears to fault the Rental Association for filing amended pleadings. This is misguided. The first
23 amendment was to simply correct a non-substantive administrative typo. The second was to add a new claim. This
24 is its right to which it should not be faulted. See NRCP 15(a). Indeed, even while the instant matter has been pending,
courts throughout the nation continue to review and decide these issues. A robust and rapidly evolving area of law,
whereby decisions from jurisdictions throughout the nation are being issued. *See, e.g., Morgan v. City of Chicago*,
2022 WL4181783 (N.D. Ill. 2022) (issued September 12, 2022); *Hignell-Stark v. City of New Orleans*, 2022
WL3584037 (5th Cir. 2022) (issued August 22, 2022); *Nekrilov v. City of New Jersey*, 2022 WL 3366430 (3rd Cir.
August 16, 2022).

1 Clark County stipulated to a briefing schedule and hearing date days before it filed its
2 instant NRC 12(e) Motion—filing it near midnight on its due date—knowing all-the-while that
3 the Rental Association’s motivation for entering into the stipulation was to have the merits of
4 this matter heard and ruled upon by this Court as quickly as possible. Clark County’s assertion
5 that it has not been sufficiently placed on notice regarding the nature of the claims and relief
6 being sought by the Rental Association is difficult to comprehend.

7 Moreover, Clark County’s heavy reliance on and citation to the Nevada Court of
8 Appeal’s *unpublished* decision on *Polk v. Department of Corrections* 479 P.3d 1006 (Nev. Ct.
9 App. 2021) to support its argument before this Court is improper and violates express and
10 unequivocal rules promulgated by the Nevada Supreme Court. *See* Clark County’s Motion for
11 a More Definite Statement (dated September 21, 2022). Specifically, Supreme Court Rule (SCR)
12 36(c)(3) provides that “unpublished dispositions issues by the Court of Appeals *may not be cited*
13 *by in any Nevada court for any purpose*” (emphasis added).¹¹ Clark County’s reliance on this
14 unpublished decision is therefore improper, and this Court is precluded from considering it or
15 any arguments based on it.

16 **III. THIS COURT SHOULD HEAR THE MERITS EXPEDITIOUSLY**

17 Time remains of the essence.

18 To cure any perceived defect Clark County complains of in its motion (and to avoid any
19 further procedural delay), the Rental Association will be filing and serving a revised Second
20 Amended Complaint for Declaratory and Injunctive Relief *and* a separate Motion for Preliminary
21 Injunction contemporaneously with this Opposition In Part and Response to Clark County’s
22 NRC 12(e) Motion for A More Definite Statement. This is not a concession that the initial

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24 ¹¹ *See* Nevada Supreme Court Order issuing ADKT 0504 (September 12, 2017); NRAP 36(c)(3) (providing that
“unpublished dispositions issued by the Court of Appeals may not be cited in any Nevada court for any purpose”).

1 pleading was defective. Rather, it is the Rental Association’s desire to move this matter to
2 resolution as expeditiously as possible—as the Rental Association clearly and repeatedly
3 conveyed to counsel for Clark County. Clark County has been on notice of the claims against it
4 for multiple weeks. Clark County must provide a timely response to the constitutional violations
5 raised in this case without delay.

6 IV. CLARK COUNTY’S MOTION IS MOOT

7 As the Rental Association has responded to Clark County’s Motion for a More Definite
8 Statement and revised its initial pleading, the Rental Association respectfully submits that Clark
9 County’s Motion should be resolved and no longer the subject of further debate. Clark County’s
10 NRCP 12(e) Motion is now moot.¹²

11 Respectfully submitted, this 3rd day of October, 2022.

12 HUTCHISON & STEFFEN, PLLC

13 /s/ Joseph C. Reynolds

14 Joseph C. Reynolds (8630)

15 Ariel C. Johnson (13357)

16 Alex R. Velto (14961)

17 5371 Kietzke Lane

18 Reno, NV 89511

19 *Attorneys for Plaintiffs*

20 *Greater Las Vegas Short Term Rental Association*
21 *and Jacqueline Flores, President and Director*

22
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24 ¹² Counsel for Clark County has represented to counsel for the Rental Association that it will accept service of the Second Amended Complaint through this Court’s e-filing system and will not object to its filing.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Hutchison & Steffen, PLLC and that on this 3rd day of October, 2022, I caused the above and foregoing document, entitled **OPPOSITION IN PART AND RESPONSE TO CLARK COUNTY’S NRCP 12(e) MOTION FOR A MORE DEFINITE STATEMENT** to be served as follows:

- by placing the same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- to be sent electronically via the Court’s electronic service system; the date and time of this electronic service is in place of the date and in place of deposit in the mail; and/or
- to be served through Formal Service of Process (Proof of Service to follow)

to the parties or attorney(s) listed below at the address and/or facsimile number indicated below:

James B. Gibson, Chair Board of Clark County Commissioners 500 S. Grand Central Pkwy 6 th Floor Las Vegas, NV 89155 DistrictG@clarkcountynv.gov	Yolanda T. King, County Manager Clark County 500 S. Grand Central Parkway 6 th Floor Las Vegas, NV 89155
Aaron D. Ford, Attorney General Office of the Nevada Attorney General 100 N. Carson St Carson City, NV 89701	Steve B. Wolfson, District Attorney Office of the Clark County District Attorney steven.wolfson@clarkcountyda.com (courtesy copy)
Jeff Rogan, Deputy District Attorney Civil Division, Clark County District Attorney jeffrey.rogan@clarkcountyda.com (courtesy copy)	

/s/ Madelyn B. Carnate-Peralta
An Employee of Hutchison & Steffen, PLLC