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REC'D & FILED  
2010 NOV 15 PM 3:37  
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BY DEPUTY

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

12 DIANE DAVIS; JASON LEE ENOX;  
JEREMY LEE IGOU; AND JON  
13 WESLEY TURNER II on behalf of  
themselves and all others similarly  
14 situated,

15 Plaintiffs,

16 vs.

17 STATE OF NEVADA; BRIAN  
SANDOVAL, in his capacity of Governor  
18 of the State of Nevada,

19 Defendants.

Case No. 170C02271B

Dept. No. II

DEFENDANTS' ANSWER TO  
FIRST AMENDED CLASS  
ACTION COMPLAINT AND  
FOR DECLARATORY RELIEF

[JURY DEMAND]

20 Defendants, State of Nevada and Brian Sandoval, in his capacity as Governor of the  
21 State of Nevada, by and through their counsel, the Office of the Nevada Attorney General,  
22 hereby answer Plaintiffs' Complaint as follows:

23 1. Paragraph 1 states legal conclusions to which no response is required.<sup>1</sup> To the  
24 extent any factual averment is made, it is denied.

25  
26  
27 <sup>1</sup> See *Khepera-Bey v. Santander Consumer USA, Inc.*, No. CIV. WDQ-11-1269, 2012  
28 WL 1965444, at \*5 (D. Md. May 30, 2012) ("No response is required' to legal conclusions in  
a complaint; a defendant is only required to respond to factual allegations. Santander has  
denied legal conclusions to the extent they were deemed factual allegations.").

1           2.     Paragraph 2 states legal conclusions to which no response is required. To the  
2 extent any factual averment is made, it is denied.

3           3.     Paragraph 3 states legal conclusions to which no response is required. To the  
4 extent any factual averment is made, it is denied.

5           4.     Defendants deny that "[t]he State of Nevada is failing, on a systemic level, to  
6 meet its foundational obligations under *Gideon* to indigent defendants in its rural  
7 counties." The remaining allegations in Paragraph 4 state legal conclusions to which no  
8 response is required. To the extent any additional factual averment is made, it is denied.

9           5.     Defendants deny the allegations in Paragraph 5.

10          6.     Upon information and belief, Defendants admit that some rural counties use  
11 contract attorneys to provide indigent defense services. Defendants deny the remaining  
12 allegations in Paragraph 6.

13          7.     Defendants deny the allegations in Paragraph 7.

14          8.     Defendants deny the allegations in Paragraph 8, including each of its  
15 subparts.

16          9.     Defendants deny the allegations in Paragraph 9.

17          10.    Defendants are without knowledge or information sufficient to form a belief  
18 as to the truth of the averments in Paragraph 10 and therefore deny the same.

19          11.    Defendants are without knowledge or information sufficient to form a belief  
20 as to the truth of the averments in Paragraph 11 and therefore deny the same.

21          12.    Defendants are without knowledge or information sufficient to form a belief  
22 as to the truth of the averments in Paragraph 12 and therefore deny the same.

23          13.    Paragraph 13 states legal conclusions to which no response is required. To the  
24 extent any factual averment is made, it is denied.

25          14.    Defendants are without knowledge or information sufficient to form a belief  
26 as to the truth of the averments in Paragraph 14 and therefore deny the same.

27          15.    Defendants admit that the Supreme Court Indigent Defense Commission  
28 commissioned a 2007 report; Defendants are without knowledge or information sufficient

1 to form a belief as to the truth of the remaining averments in Paragraph 15 and therefore  
2 deny the same.

3 16. Defendants admit that the Sixth Amendment Center, on behalf of Nevada's  
4 Right to Counsel Commission published a detailed report entitled "The Right to Counsel in  
5 Rural Nevada." The remainder of paragraph 16 states legal conclusions to which no  
6 response is required. To the extent any factual averment is made, it is denied.

7 17. Defendants are without knowledge or information sufficient to form a belief  
8 as to the truth of the averments in Paragraph 17 and therefore deny the same.

9 18. The Defendants are without knowledge or information sufficient to form a  
10 belief as to the truth of the averments in Paragraph 17 and therefore deny the same.

11 19. The documents attached to the Complaint speak for themselves.<sup>2</sup> Defendants  
12 deny the remaining allegations in Paragraph 19.

13 20. Defendants deny the allegations in Paragraph 20.

14 21. The documents attached to the Complaint speak for themselves. Defendants  
15 deny the remaining allegations in Paragraph 21."

16 22. Defendants are without knowledge or information sufficient to form a belief  
17 as to the truth of the averments in Paragraph 22 and therefore deny the same.

18 23. The documents attached to the Complaint speak for themselves." Defendants  
19 are without knowledge or information sufficient to form a belief as to the truth of the  
20 remaining averments in Paragraph 23 and therefore deny the same

21 24. The documents attached to the Complaint speak for themselves. Paragraph  
22 24 also states legal conclusions to which no response is required. To the extent any factual  
23 averment is made, it is denied

24 25. Defendants deny the allegations in Paragraph 25  
25

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26 <sup>2</sup> See *Khepera-Bey*, 2012 WL 1965444, at \*5 ("That the terms of documents attached  
27 to the amended complaint 'speak for themselves,' is an acceptable response—it means that  
28 Santander admits that the attachments contain the information that they appear to  
contain.") (internal citation omitted). Defendants do not admit that the information  
contained within the attachments is true or accurate. See *id.*

1           26. Defendants admit Paragraph 26.

2           27. Defendants admit the allegations in Paragraph 27 as to venue, except  
3 Defendants deny the statement (and its underlying premise) that "the decisions that have  
4 caused the failures of Nevada's indigent defense system were made in Carson City."

5           28. Defendants are without knowledge or information sufficient to form a belief  
6 as to the truth of the averments in Paragraph 28 and therefore deny the same.

7           29. Defendants are without knowledge or information sufficient to form a belief  
8 as to the truth of the averments in Paragraph 29 and therefore deny the same.

9           30. Defendants are without knowledge or information sufficient to form a belief  
10 as to the truth of the averments in Paragraph 30 and therefore deny the same.

11           31. ADKT Order 411 speaks for itself. As to the remainder of the paragraph,  
12 Defendants are without knowledge or information sufficient to form a belief as to the truth  
13 of the averments in Paragraph 31 and therefore deny the same.

14           32. Defendants are without knowledge or information sufficient to form a belief  
15 as to the truth of the averments in Paragraph 32 and therefore deny the same.

16           33. Defendants are without knowledge or information sufficient to form a belief  
17 as to the truth of the averments in Paragraph 33 and therefore deny the same.

18           34. Defendants are without knowledge or information sufficient to form a belief  
19 as to the truth of the averments in Paragraph 34 and therefore deny the same.

20           35. Defendants are without knowledge or information sufficient to form a belief  
21 as to the truth of the averments in Paragraph 35 and therefore deny the same.

22           36. Defendants are without knowledge or information sufficient to form a belief  
23 as to the truth of the averments in Paragraph 36 and therefore deny the same.

24           37. Defendants are without knowledge or information sufficient to form a belief  
25 as to the truth of the averments in Paragraph 37 and therefore deny the same.

26           38. Defendants are without knowledge or information sufficient to form a belief  
27 as to the truth of the averments in Paragraph 38 and therefore deny the same.

28

39. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 39 and therefore deny the same.

40. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 40 and therefore deny the same.

41. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 41 and therefore deny the same.

42. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 42 and therefore deny the same.

43. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 43 and therefore deny the same.

44. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 44 and therefore deny the same.

45. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 45 and therefore deny the same.

46. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 46 and therefore deny the same.

47. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 47 and therefore deny the same.

48. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 48 and therefore deny the same. To the extent this Paragraph refers to an exhibit to the Complaint, the documents attached to the complaint speak for themselves.

49. The documents attached to the Complaint speak for themselves. Defendants deny the remaining allegations in Paragraph 49.

50. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 50 and therefore deny the same.

51. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 51 and therefore deny the same.

1           52. Defendants are without knowledge or information sufficient to form a belief  
2 as to the truth of the averments in Paragraph 52 and therefore deny the same.

3           53. Defendants are without knowledge or information sufficient to form a belief  
4 as to the truth of the averments in Paragraph 53 and therefore deny the same.

5           54. Defendants are without knowledge or information sufficient to form a belief  
6 as to the truth of the averments in Paragraph 54 and therefore deny the same.

7           55. Defendants are without knowledge or information sufficient to form a belief  
8 as to the truth of the averments in Paragraph 55 and therefore deny the same.

9           56. Defendants are without knowledge or information sufficient to form a belief  
10 as to the truth of the averments in Paragraph 56 and therefore deny the same.

11          57. Defendants are without knowledge or information sufficient to form a belief  
12 as to the truth of the averments in Paragraph 57 and therefore deny the same.

13          58. Defendants are without knowledge or information sufficient to form a belief  
14 as to the truth of the averments in Paragraph 58 and therefore deny the same.

15          59. Defendants are without knowledge or information sufficient to form a belief  
16 as to the truth of the averments in Paragraph 59 and therefore deny the same.

17          60. Defendants are without knowledge or information sufficient to form a belief  
18 as to the truth of the averments in Paragraph 60 and therefore deny the same.

19          61. Defendants are without knowledge or information sufficient to form a belief  
20 as to the truth of the averments in Paragraph 61 and therefore deny the same.

21          62. Defendants are without knowledge or information sufficient to form a belief  
22 as to the truth of the averments in Paragraph 62 and therefore deny the same.

23          63. Defendants are without knowledge or information sufficient to form a belief  
24 as to the truth of the averments in Paragraph 63 and therefore deny the same.

25          64. Defendants are without knowledge or information sufficient to form a belief  
26 as to the truth of the averments in Paragraph 64 and therefore deny the same.

27          65. Defendants are without knowledge or information sufficient to form a belief  
28 as to the truth of the averments in Paragraph 65 and therefore deny the same.

1           66. Defendants are without knowledge or information sufficient to form a belief  
2 as to the truth of the averments in Paragraph 66 and therefore deny the same.

3           67. Defendants are without knowledge or information sufficient to form a belief  
4 as to the truth of the averments in Paragraph 67 and therefore deny the same.

5           68. Defendants are without knowledge or information sufficient to form a belief  
6 as to the truth of the averments in Paragraph 68 and therefore deny the same.

7           69. Defendants are without knowledge or information sufficient to form a belief  
8 as to the truth of the averments in Paragraph 69 and therefore deny the same.

9           70. Defendants are without knowledge or information sufficient to form a belief  
10 as to the truth of the averments in Paragraph 70 and therefore deny the same.

11          71. Defendants are without knowledge or information sufficient to form a belief  
12 as to the truth of the averments in Paragraph 71 and therefore deny the same.

13          72. Defendants are without knowledge or information sufficient to form a belief  
14 as to the truth of the averments in Paragraph 72 and therefore deny the same.

15          73. Defendants are without knowledge or information sufficient to form a belief  
16 as to the truth of the averments in Paragraph 73 and therefore deny the same.

17          74. Defendants are without knowledge or information sufficient to form a belief  
18 as to the truth of the averments in Paragraph 74 and therefore deny the same.

19          75. Defendants are without knowledge or information sufficient to form a belief  
20 as to the truth of the averments in Paragraph 75 and therefore deny the same.

21          76. Defendants are without knowledge or information sufficient to form a belief  
22 as to the truth of the averments in Paragraph 76 and therefore deny the same.

23          77. Defendants are without knowledge or information sufficient to form a belief  
24 as to the truth of the averments in Paragraph 77 and therefore deny the same.

25          78. Defendants are without knowledge or information sufficient to form a belief  
26 as to the truth of the averments in Paragraph 78 and therefore deny the same.

27          79. Defendants are without knowledge or information sufficient to form a belief  
28 as to the truth of the averments in Paragraph 79 and therefore deny the same.

1           80. Defendants are without knowledge or information sufficient to form a belief  
2 as to the truth of the averments in Paragraph 80 and therefore deny the same.

3           81. Defendants are without knowledge or information sufficient to form a belief  
4 as to the truth of the averments in Paragraph 81 and therefore deny the same.

5           82. Defendants are without knowledge or information sufficient to form a belief  
6 as to the truth of the averments in Paragraph 82 and therefore deny the same.

7           83. Defendants are without knowledge or information sufficient to form a belief  
8 as to the truth of the averments in Paragraph 83 and therefore deny the same.

9           84. Defendants are without knowledge or information sufficient to form a belief  
10 as to the truth of the averments in Paragraph 84 and therefore deny the same.

11          85. Defendants are without knowledge or information sufficient to form a belief  
12 as to the truth of the averments in Paragraph 85 and therefore deny the same.

13          86. Defendants are without knowledge or information sufficient to form a belief  
14 as to the truth of the averments in Paragraph 86 and therefore deny the same.

15          87. Defendants are without knowledge or information sufficient to form a belief  
16 as to the truth of the averments in Paragraph 87 and therefore deny the same.

17          88. Defendants are without knowledge or information sufficient to form a belief  
18 as to the truth of the averments in Paragraph 88 and therefore deny the same.

19          89. Defendants are without knowledge or information sufficient to form a belief  
20 as to the truth of the averments in Paragraph 89 and therefore deny the same.

21          90. Defendants are without knowledge or information sufficient to form a belief  
22 as to the truth of the averments in Paragraph 90 and therefore deny the same.

23          91. Defendants are without knowledge or information sufficient to form a belief  
24 as to the truth of the averments in Paragraph 91 and therefore deny the same.

25          92. Defendants are without knowledge or information sufficient to form a belief  
26 as to the truth of the averments in Paragraph 92 and therefore deny the same.

27          93. Defendants are without knowledge or information sufficient to form a belief  
28 as to the truth of the averments in Paragraph 93 and therefore deny the same.



1           94. Defendants are without knowledge or information sufficient to form a belief  
2 as to the truth of the averments in Paragraph 94 and therefore deny the same.

3           95. Defendants are without knowledge or information sufficient to form a belief  
4 as to the truth of the averments in Paragraph 95 and therefore deny the same.

5           96. Defendants are without knowledge or information sufficient to form a belief  
6 as to the truth of the averments in Paragraph 96 and therefore deny the same.

7           97. Defendants are without knowledge or information sufficient to form a belief  
8 as to the truth of the averments in Paragraph 97 and therefore deny the same.

9           98. Defendants are without knowledge or information sufficient to form a belief  
10 as to the truth of the averments in Paragraph 98 and therefore deny the same.

11           99. Defendants are without knowledge or information sufficient to form a belief  
12 as to the truth of the averments in Paragraph 99 and therefore deny the same.

13           100. Defendants admit that the State Capital is in Carson City. Defendants deny  
14 the remaining allegations in Paragraph 100.

15           101. Defendants admit that Governor Sandoval, in his official capacity, is the  
16 State's chief executive. Defendants deny the remaining allegations in Paragraph 101,  
17 including to the extent they state a legal conclusion to which no response is required.

18           102. Defendants incorporate by reference all previous and following responses to  
19 the allegations contained in the Amended Complaint as if fully laid out here.

20           103. Defendants admit that Plaintiffs have filed a "Class Action Complaint for  
21 Injunctive and Declaratory Relief" and seek certification of the class described in the  
22 Complaint. Defendants deny the remaining allegations in Paragraph 103.

23           104. Defendants are without knowledge or information sufficient to form a belief  
24 as to the truth of the averments in Paragraph 104 and therefore deny the same.

25           105. Defendants deny the allegations in Paragraph 105. Paragraph 105 also states  
26 legal conclusions to which no response is required.

27           106. Defendants deny the allegations in Paragraph 106, including each of its  
28 subparts.

1        107. Defendants deny the allegations in Paragraph 107, including each of tis  
2 subparts.

3        108. Defendants are without knowledge or information sufficient to form a belief  
4 as to the truth of the first sentence in Paragraph 89 and therefore deny the same. The  
5 documents attached to the Complaint speak for themselves. Defendants deny that "[t]he  
6 Constitution was approved on September 1, 1864." The Nevada Constitution became  
7 effective on October 31, 1864 when President Lincoln declared Nevada to be a state. Hence,  
8 Nevada Day is celebrated each year on the last Friday in October. To the extent any  
9 additional factual averment is made in Paragraph 89, it is denied.

10       109. The documents attached to the Complaint speak for themselves. Defendants  
11 are without knowledge or information sufficient to form a belief as to the truth of the  
12 remaining averments in Paragraph 90 and therefore deny the same.

13       110. The 1875 Assembly Bill No. 122 is a codified Bill that is a matter of public; it  
14 speaks for itself. Paragraph 110 also states legal conclusions to which no response is  
15 required.

16       111. Paragraph 111 states legal conclusions to which no response is required. To  
17 the extent any factual averment is made, it is denied.

18       112. Paragraph 112 states legal conclusions to which no response is required. To  
19 the extent any factual averment is made, it is denied.

20       113. Paragraph 113 states legal conclusions to which no response is required. To  
21 the extent any factual averment is made, it is denied.

22       114. Paragraph 114 states legal conclusions to which no response is required. To  
23 the extent any factual averment is made, it is denied.

24       115. Paragraph 96 states legal conclusions to which no response is required. To the  
25 extent any factual averment is made, it is denied.

26       116. Defendants deny the allegations in Paragraph 97.

27       117. Nev. Rev. Stat. §260.010 is a codified statute that speaks for itself.  
28 Defendants admit that Clark and Washoe County have over 100,000 residents. Defendants

1 admit that §260.010 permits counties with fewer than 100,000 residents to establish a  
2 county public defender's office or use the services of the Nevada State Public Defender.  
3 Defendants are without knowledge or information sufficient to form a belief as to the truth  
4 of the last sentence in Paragraph 117 and therefore deny the same. To the extent any  
5 additional factual averment is made, it is denied.

6 118. Defendants are without knowledge or information sufficient to form a belief  
7 as to the truth of the averments in Paragraph 118 and therefore deny the same.

8 119. Paragraph 119 states legal conclusions to which no response is required.  
9 Defendants admit that "it is permissible for a state to delegate its indigent defense  
10 obligations." To the extent any additional factual averment is made, it is denied.

11 120. The documents attached to the Complaint speak for themselves. To the extent  
12 any factual averment is made in Paragraph 120, it is denied.

13 121. The documents attached to the Complaint speak for themselves. Defendants  
14 deny that the "ABA Ten Principles of a Public Defense Delivery System" necessarily reflect  
15 the constitutional standards imposed by the Nevada and United States Constitutions. To  
16 the extent any additional factual averment is made in Paragraph 121, it is denied.

17 122. The documents attached to the Complaint speak for themselves. Defendants  
18 deny that there "remains a pervasive constitutional violation throughout the State of  
19 Nevada" or that any "identified problems..."still have not been solved a decade later." To  
20 the extent any additional factual averment is made in Paragraph 122, it is denied.

21 123. Defendants admit that the Indigent Defense commission issued a report in  
22 November 2007. Defendants are without knowledge or information sufficient to form a  
23 belief as to the truth of the averments in Paragraph 123 and therefore deny the same.

24 124. The documents attached to the Complaint speak for themselves. Defendants  
25 are without knowledge or information sufficient to form a belief as to the truth of the  
26 remaining averments in Paragraph 124, including its subparts, and therefore deny the  
27 same.

28 125. Defendants deny the allegation in Paragraph 125.

1           126. Defendants are without knowledge or information sufficient to form a belief  
2 as to the truth of the averments in Paragraph 126 and therefore deny the same. The  
3 documents attached to the Complaint speak for themselves. To the extent any additional  
4 factual averment in Paragraph 107 is made, it is denied.

5           127. The documents attached to the Complaint speak for themselves. To the extent  
6 any factual averment is made in Paragraph 127, it is denied.

7           128. The documents attached to the Complaint speak for themselves. To the extent  
8 any factual averment is made in Paragraph 128, it is denied.

9           129. Defendants are without knowledge or information sufficient to form a belief  
10 as to the truth of the averments in Paragraph 129 and therefore deny the same.

11           130. The documents attached to the Complaint speak for themselves. Defendants  
12 are without knowledge or information sufficient to form a belief as to the truth of the  
13 remaining averments in Paragraph 130 and therefore deny the same.

14           131. Defendants admit that Governor Sandoval signed into law Senate Bill 377 in  
15 June 2017 and created the Nevada Right to Counsel Commission. Defendants deny that  
16 "[i]n the coming two years, the same problems will likely be observed and diagnosed yet  
17 again." The documents attached to the Complaint speak for themselves. The remaining  
18 allegations in Paragraph 131 state legal conclusions to which no response is required. To  
19 the extent any additional factual averment is made, it is denied.

20           132. Defendants are without knowledge or information sufficient to form a belief  
21 as to the truth of the averments in Paragraph 123 and therefore deny the same.

22           133. Paragraph 114 states legal conclusions to which no response is required. To  
23 the extent any factual averment is made, it is denied.

24           134. The Sixth Amendment Center Report speaks for itself. The Defendants deny  
25 the allegations and the remaining subparts.

26           135. Defendants are without knowledge or information sufficient to form a belief  
27 as to the truth of the averments in Paragraph 135 and therefore deny the same.  
28

1           136. Defendants are without knowledge or information sufficient to form a belief  
2 as to the truth of the averments in Paragraph 136 and therefore deny the same.

3           137. Defendants are without knowledge or information sufficient to form a belief  
4 as to the truth of the averments in Paragraph 137 and therefore deny the same

5           138. The document referenced in the Complaint speaks for itself. Defendants deny  
6 the remaining allegations in Paragraph 138, including that the ABA sets the constitutional  
7 standard.

8           139. Defendants deny the allegations in Paragraph 139.

9           140. Defendants deny the allegations in Paragraph 140.

10          141. Defendants deny the allegations in Paragraph 141.

11          142. Defendants deny the allegations in Paragraph 142.

12          143. Defendants are without knowledge or information sufficient to form a belief  
13 as to the truth of the averments in Paragraph 143 and therefore deny the same.

14          144. Defendants are without knowledge or information sufficient to form a belief  
15 as to the truth of the averments in Paragraph 144 and therefore deny the same.

16          145. Defendants are without knowledge or information sufficient to form a belief  
17 as to the truth of the averments in Paragraph 145 and therefore deny the same.

18          146. Defendants are without knowledge or information sufficient to form a belief  
19 as to the truth of the averments in Paragraph 146 and therefore deny the same.

20          147. Defendants are without knowledge or information sufficient to form a belief  
21 as to the truth of the averments in Paragraph 147 and therefore deny the same.

22          148. Defendants are without knowledge or information sufficient to form a belief  
23 as to the truth of the averments in Paragraph 148 and therefore deny the same.

24          149. Nev. Rev. Stat. §260.040(4) is a codified statute that speaks for itself.  
25 Defendants are without knowledge or information sufficient to form a belief as to the truth  
26 of the remaining averments in Paragraph 149 and therefore deny the same.

27          150. Defendants are without knowledge or information sufficient to form a belief  
28 as to the truth of the averments in Paragraph 150 and therefore deny the same.

1           151. Defendants are without knowledge or information sufficient to form a belief  
2 as to the truth of the averments in Paragraph 152 and therefore deny the same.

3           152. Defendants deny the allegations in Paragraph 124. The Nevada Supreme  
4 Court's July 23, 2015 Order in ADKT 0411 states that "[i]f counties use the contract counsel  
5 method, they shall not use a totally flat fee contract, but execute contracts that allow for  
6 modification of fees for extraordinary cases, and allow for investigative fees and expert  
7 witness fees." Defendants deny Plaintiffs' use and definition of "*de facto* flat-fee contracts"  
8 in this paragraph and all others.

9           153. Defendants admit that Nye County has courthouses in Beatty and Tonopah.  
10 Defendants are without knowledge or information sufficient to form a belief as to the truth  
11 of the remaining averments in Paragraph 153 and therefore deny the same.

12           154. Defendants deny the allegations in Paragraph 154.

13           155. Defendants are without knowledge or information sufficient to form a belief  
14 as to the truth of the averments in Paragraph 155 and therefore deny the same.

15           156. Defendants are without knowledge or information sufficient to form a belief  
16 as to the truth of the averments in Paragraph 157 and therefore deny the same.

17           157. The documents attached to the amended complaint speak for themselves.  
18 Defendants are without knowledge or information sufficient to form a belief as to the truth  
19 of the remaining averments in Paragraph 157 and therefore deny the same.

20           158. The documents attached to the amended complaint speak for themselves.  
21 Defendants are without knowledge or information sufficient to form a belief as to the truth  
22 of the remaining averments in Paragraph 158 and therefore deny the same.

23           159. The documents attached to the amended complaint speak for themselves.  
24 Defendants are without knowledge or information sufficient to form a belief as to the truth  
25 of the remaining averments in Paragraph 159 and therefore deny the same.

26           160. The documents attached to the amended complaint speak for themselves.  
27 Defendants are without knowledge or information sufficient to form a belief as to the truth  
28 of the remaining averments in Paragraph 160 and therefore deny the same.

1           161. Defendants are without knowledge or information sufficient to form a belief  
2 as to the truth of the remaining averments in Paragraph 161 and therefore deny the same.

3           162. Nev. Rev. Stat. § 260.030 is a codified statute that speaks for itself.  
4 Additionally, documents attached to the complaint speak for themselves. Defendants  
5 are without knowledge or information sufficient to form a belief as to the truth of the  
6 averments in Paragraph 162 and therefore deny the same.

7           163. Defendants are without knowledge or information sufficient to form a belief  
8 as to the truth of the averments in Paragraph 163 and therefore deny the same.

9           164. Defendants are without knowledge or information sufficient to form a belief  
10 as to the truth of the averments in Paragraph 164 and therefore deny the same.

11           165. Defendants are without knowledge or information sufficient to form a belief  
12 as to the truth of the averments in Paragraph 165 and therefore deny the same.

13           166. Paragraph 166 states legal conclusions to which no response is required.  
14 Defendants are without knowledge or information sufficient to form a belief as to the truth  
15 of the remaining averments in Paragraph 166 and therefore deny the same.

16           167. Defendants are without knowledge or information sufficient to form a belief  
17 as to the truth of the averments in Paragraph 167 and therefore deny the same.

18           168. Defendants are without knowledge or information sufficient to form a belief  
19 as to the truth of the averments in Paragraph 168 and therefore deny the same.

20           169. The document attached to the amended complaint speaks for itself.  
21 Defendants are without knowledge or information sufficient to form a belief as to the truth  
22 of the remaining averments in Paragraph 169 and therefore deny the same.

23           170. The documents referenced or attached to the Complaint speak for themselves.  
24 Defendants deny the remaining allegations in Paragraph 170, including that the ABA sets  
25 the constitutional standard.

26           171. Defendants are without knowledge or information sufficient to form a belief  
27 as to the truth of the averments in Paragraph 171 and therefore deny the same.  
28

1           172. The document attached to the complaint speaks for itself. Defendants are  
2 without knowledge or information sufficient to form a belief as to the truth of the averments  
3 in Paragraph 172 and therefore deny the same.

4           173. Defendants are without knowledge or information sufficient to form a belief  
5 as to the truth of the averments in Paragraph 173 and therefore deny the same.

6           174. Defendants are without knowledge or information sufficient to form a belief  
7 as to the truth of the averments in Paragraph 174 and therefore deny the same.

8           175. Defendants are without knowledge or information sufficient to form a belief  
9 as to the truth of the averments in Paragraph 175 and therefore deny the same.

10          176. Defendants are without knowledge or information sufficient to form a belief  
11 as to the truth of the averments in Paragraph 176 and therefore deny the same.

12          177. Paragraph 177 states legal conclusions to which no response is required.  
13 Defendants are without knowledge or information sufficient to form a belief as to the truth  
14 of the remaining averments in Paragraph 177 and therefore deny the same.

15          178. Defendants deny the allegations in Paragraph 178.

16          179. Paragraph 179 states legal conclusions to which no response is required.  
17 Defendants are without knowledge or information sufficient to form a belief as to the  
18 truth of the remaining averments in Paragraph 179 and therefore deny the same.

19          180. The documents referenced or attached to the Complaint speak for themselves.  
20 Defendants deny the remaining allegations in Paragraph 180.

21          181. Defendants are without knowledge or information sufficient to form a belief  
22 as to the truth of the averments in Paragraph 181 and therefore deny the same.

23          182. Defendants are without knowledge or information sufficient to form a belief  
24 as to the truth of the averments in Paragraph 182 and therefore deny the same.

25          183. Defendants are without knowledge or information sufficient to form a belief  
26 as to the truth of the averments in Paragraph 183 and therefore deny the same.

27          184. Defendants are without knowledge or information sufficient to form a belief  
28 as to the truth of the averments in Paragraph 184 and therefore deny the same.



1           185. The documents referenced or attached to the Complaint speak for  
2 themselves. Defendants deny the remaining allegations in Paragraph 185.

3           186. Defendants are without knowledge or information sufficient to form a belief  
4 as to the truth of the averments in Paragraph 186 and therefore deny the same.

5           187. Defendants are without knowledge or information sufficient to form a belief  
6 as to the truth of the averments in Paragraph 187 and therefore deny the same.

7           188. Defendants are without knowledge or information sufficient to form a belief  
8 as to the truth of the averments in Paragraph 188 and therefore deny the same.

9           189. The documents referenced or attached to the Complaint speak for  
10 themselves. Defendants deny the remaining allegations in Paragraph 189.

11           190. The documents referenced or attached to the Complaint speak for  
12 themselves. Defendants deny the remaining allegations in Paragraph 190.

13           191. The documents referenced or attached to the Complaint speak for  
14 themselves. Defendants deny the remaining allegations in Paragraph 191.

15           192. Defendants are without knowledge or information sufficient to form a belief  
16 as to the truth of the averments in Paragraph 192 and therefore deny the same.

17           193. Defendants are without knowledge or information sufficient to form a belief  
18 as to the truth of the averments in Paragraph 193 and therefore deny the same.

19           194. Defendants are without knowledge or information sufficient to form a belief  
20 as to the truth of the averments in Paragraph 194 and therefore deny the same.

21           195. The documents attached to the amended complaint speak to itself. Paragraph  
22 195 states legal conclusions to which no response is required. Defendants are without  
23 knowledge or information sufficient to form a belief as to the truth of the remaining  
24 averments in Paragraph 195 and therefore deny the same.

25           196. Defendants are without knowledge or information sufficient to form a belief  
26 as to the truth of the averments in Paragraph 196 and therefore deny the same.

27           197. Defendants are without knowledge or information sufficient to form a belief  
28 as to the truth of the averments in Paragraph 197 and therefore deny the same.

1        198. Defendants are without knowledge or information sufficient to form a belief  
2 as to the truth of the averments in Paragraph 198 and therefore deny the same.

3        199. Defendants are without knowledge or information sufficient to form a belief  
4 as to the truth of the averments in Paragraph 199 and therefore deny the same.

5        200. Defendants are without knowledge or information sufficient to form a belief  
6 as to the truth of the averments in Paragraph 200 and therefore deny the same.

7        201. Defendants are without knowledge or information sufficient to form a belief  
8 as to the truth of the averments in Paragraph 201 and therefore deny the same.

9        202. Defendants are without knowledge or information sufficient to form a belief  
10 as to the truth of the averments in Paragraph 202 and therefore deny the same.

11       203. Defendants are without knowledge or information sufficient to form a belief  
12 as to the truth of the averments in Paragraph 203 and therefore deny the same.

13       204. Defendants are without knowledge or information sufficient to form a belief  
14 as to the truth of the averments in Paragraph 204 and therefore deny the same.

15       205. Paragraph 205 states legal conclusions to which no response is required.  
16 Defendants are without knowledge or information sufficient to form a belief as to the truth  
17 of the remaining averments in Paragraph 205 and therefore deny the same.

18       206. The Nevada Constitution speaks for itself. To the extent that paragraph 206  
19 states legal conclusions to which no response is required. Defendants are without  
20 knowledge or information sufficient to form a belief as to the truth of the remaining  
21 averments in Paragraph 206 and therefore deny the same.

22       207. Defendants deny the allegations in paragraph 207

23       208. Defendants deny the allegations in paragraph 208.

24       209. Defendants deny the allegations in paragraph 209.

25       210. Defendants are without knowledge or information sufficient to form a belief  
26 as to the truth of the averments in Paragraph 210 and therefore deny the same.

27       211. Defendants are without knowledge or information sufficient to form a belief  
28 as to the truth of the averments in Paragraph 211 and therefore deny the same.

1           212. Defendants are without knowledge or information sufficient to form a belief  
2 as to the truth of the averments in Paragraph 212 and therefore deny the same.

3           213. Defendants are without knowledge or information sufficient to form a belief  
4 as to the truth of the averments in Paragraph 202 and therefore deny the same.

5                                   **CLAIMS FOR RELIEF**

6                                   **First Claim for Relief**

7                   **Violation of the Sixth and Fourteenth Amendments to the United States**  
8                   **Constitution (Right to Counsel) and 42 U.S.C. § 1983 – All Plaintiffs and the**  
9                   **Class Against All Defendants**

10           214. Defendants allege and incorporate by reference as if fully set forth herein the  
11 responses contained in all preceding paragraphs of this Answer.

12           215. Paragraph 215 states a legal conclusion to which no response is required. To  
13 the extent any factual averment is made, it is denied.

14           216. Defendants deny the allegations in Paragraph 216.

15           217. Defendants deny the allegations in Paragraph 217.

16                                   **Second Claim for Relief**

17                   **Violation of Article 1, Section 8, of the Nevada Constitution (Right to**  
18                   **Counsel) – All Plaintiffs and the Class Against All Defendants**

19           218. Defendants allege and incorporate by reference as if fully set forth herein the  
20 responses contained in all preceding paragraphs of this Answer.

21           219. Paragraph 219 states a legal conclusion to which no response is required.  
22 Defendants deny “Plaintiffs[] assert[ion] that Nevada’s right to counsel guarantees a  
23 higher level of representation than the Sixth Amendment requires, notwithstanding  
24 *McKague v. Whitley*, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996).” To the extent any factual  
25 averment is made, it is denied.

26           220. Defendants deny the allegations in Paragraph 220.

27

28

1                                   **Third Claim for Relief**  
2       **Violation of the Fourteenth Amendment to the United States Constitution**  
3       **(Due Process) and 42 U.S.C. § 1983 – All Plaintiffs and the Class Against All**  
4                                   **Defendants**

5           221. Defendants allege and incorporate by reference as if fully set forth herein the  
6 responses contained in all preceding paragraphs of this Answer.

7           222. Paragraph 222 states a legal conclusion to which no response is required. To  
8 the extent any factual averment is made, it is denied.

9           223. Defendants deny the allegations in Paragraph 223.

10          224. Defendants deny the allegations in Paragraph 224.

11                                   **Fourth Claim for Relief**  
12       **Violation of Article 1, Section 8, of the Nevada Constitution (Due Process)**  
13       **– All Plaintiffs and the Class Against All Defendants**

14          225. Defendants allege and incorporate by reference as if fully set forth herein the  
15 responses contained in all preceding paragraphs of this Answer.

16          226. Paragraph 226 states a legal conclusion to which no response is required. To  
17 the extent any factual averment is made, it is denied.

18          227. Defendants deny the allegations in Paragraph 227.

19                                   **AFFIRMATIVE DEFENSES**

- 20           1. Plaintiffs have failed to state a claim upon which relief can be granted.
- 21           2. Plaintiffs have failed to join indispensable parties under NRCP 19.
- 22           3. Plaintiffs' claims are barred by the statute of limitations.
- 23           4. Plaintiffs' claims are barred by the doctrine of laches.
- 24           5. Plaintiffs' claims are barred by the doctrine of estoppel.
- 25           6. Plaintiffs' claims are barred by the doctrine of waiver.
- 26           7. Plaintiffs' claims are barred by the doctrine of res judicata (both claim and  
27 issue preclusion).
- 28           8. Plaintiffs' claims are barred by the doctrine of waiver.
9. Plaintiffs' claims are barred by the doctrine of release.

10. Defendants are entitled to absolute immunity.
11. Defendants are entitled to sovereign and/or governmental immunity.
12. Defendants are entitled to qualified immunity.
13. Defendants are entitled to discretionary immunity.
14. Defendants are entitled to immunity under NRS Chapter 41.
15. Defendants are not liable because they owed no duty to Plaintiffs.
16. Defendants are not liable because they did not breach a duty (if any) owed to Plaintiffs.
17. Defendants are not liable because Defendants are not the proximate or legal cause of Plaintiffs' injuries and damages, if any.
18. Defendants' actions and omissions (if any) were taken in good faith.
19. Defendants acted without malice and with legal justification and upon reasonable grounds.
20. Plaintiffs' injuries and damages, if any, were caused by the Plaintiffs' themselves.
21. Plaintiffs assumed the risk of their injuries and damages, if any.
22. Plaintiffs' claims are barred to the extent they consented to the acts and injuries alleged in the Complaint.
23. Plaintiffs' injuries and damages, if any, were caused by third parties over whom Defendants have no control or authority.
24. Plaintiffs have failed to mitigate their damages, if any.
25. Plaintiffs' damages, attorneys' fees, and costs (if any) are barred or capped by applicable law.
26. Plaintiffs' have failed to name and serve the proper parties.
27. Plaintiffs' claims are barred due to the failure of a condition precedent or condition subsequent.
28. Plaintiffs' claims are barred because they failed to exhaust administrative remedies.

1           29.   Plaintiffs' claims are barred by the doctrine of unclean hands and are barred  
2 by equity from recovery.

3           30.   Plaintiffs lack standing.

4           31.   Plaintiffs' claims are not ripe.

5           32.   Plaintiffs' claims are moot.

6           33.   Plaintiffs' claims are not justiciable.

7           34.   Plaintiffs' claims are barred by the political question doctrine.

8           35.   Plaintiffs' claims and requested remedies violate the separation of powers.

9           36.   Plaintiffs have not been deprived of any right, privilege, or immunity secured  
10 to them by the United States Constitution, Nevada Constitution, or any statute or  
11 regulation.

12          37.   Plaintiffs do not, and cannot, meet the requirements of NRCP 23 and thus  
13 this action cannot be certified as a class action.

14          38.   Pursuant to NRCP 11, all possible affirmative defenses may not have been  
15 alleged herein because sufficient facts are not yet available after reasonable inquiry. Some  
16 affirmative defenses asserted above have been advanced out of an abundance of caution.  
17 Defendants expressly reserve the right to amend this Answer to (a) rely upon such other  
18 affirmative defenses as may be support by facts learned through full and complete  
19 discovery and (b) voluntarily withdraw any affirmative defense.

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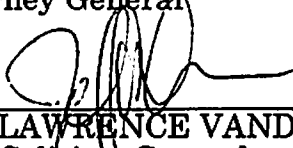
1 WHEREFORE, Defendants pray as follows:

- 2 1. That Plaintiffs take nothing by virtue of their Complaint;
- 3 2. That judgment be entered in favor of Defendants and against Plaintiffs;
- 4 3. That Defendants be awarded their full and proper attorneys' fees and costs, to
- 5 the extent they are entitled to them; and
- 6 4. That Jury Demand is made in the event of trial.
- 7 5. For such other and further relief as the Court deems just and proper.

8 DATED: November 2018

ADAM PAUL LAXALT  
Attorney General

9

10 By:  # 11543

11 For: LAWRENCE VANDYKE (Bar No. 13643)

12 Solicitor General

13 JORDAN SMITH (Bar. No. 12097)

14 Assistant Solicitor General

15 STEVE SHEVORSKI (Bar No. 8256)

16 Head of Complex Litigation

17

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*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 15th of November 2018, I served a true and correct copy of the foregoing **DEFENDANTS' ANSWER TO AMENDED COMPLAINT** by placing said document in the U.S. Mail, postage prepaid, addressed to:

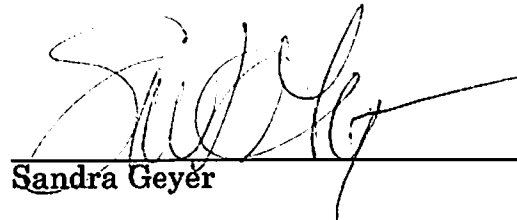
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