

No. _____

In The
Supreme Court of the United States

AARON ABADI,
Petitioner,

v.

CAESARS ENTERTAINMENT, INC.,
Respondent.

APPENDIX

For the PETITION FOR WRIT OF CERTIORARI

Petitioner:

Aaron Abadi (Pro se)
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APPENDIX TABLE OF CONTENTS

	Page
ABADI v. CAESARS 3 rd Circuit Appeal Denied as Frivolous.....	1a
ABADI v. CAESARS 3 rd Circuit Motion to Reconsider denied.....	2a
ABADI v. CAESARS District Court Dismissal.....	3a
State of Nevada issued Directive 024	8a
State of Nevada issued Directive 047.....	14a
The ADA and Face Mask Policies	17a
Doctor's Letter Re Disability.....	40a
Medical Chart.....	41a
Neurologists Affidavit	46a
CDC - Reinfection with COVID-19 is Rare.....	49a
CDC – No Conclusive Evidence re: Masks.....	51a
ABADI v. Caesars Magistrate's Report & Recommendation.....	54a
414 Cases of Pro Se Litigants Dumped by Third Circuit.....	58a
The Hon. Richard A, Posner Resigns Due to Pro Se Mistreatment.....	196a

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 10 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

AARON ABADI,

Plaintiff-Appellant,

v.

CAESARS ENTERTAINMENT, INC.,

Defendant-Appellee.

No. 22-16353

D.C. No. 2:22-cv-00285-CDS-NJK
District of Nevada,
Las Vegas

ORDER

Before: McKEOWN, WARDLAW, and W. FLETCHER, Circuit Judges.

Upon a review of the record and the response to the court's October 21, 2022 order, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 3), *see* 28 U.S.C. § 1915(a), and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

DISMISSED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 6 2023

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No. 22-16353

D.C. No. 2:22-cv-00285-CDS-NJK
District of Nevada,
Las Vegas

ORDER

Before: McKEOWN, WARDLAW, and W. FLETCHER, Circuit Judges.

Appellant's motion for clarification or reconsideration (Docket Entry No. 8)
is denied. *See* 9th Cir. R. 27-10.

No further filings will be entertained in this closed case.

1
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA
4

5 Aaron Abadi,

6 Plaintiff,

7 v.

8 Caesars Entertainment, Inc., et al.,

9 Defendants.
10

Case No.: 2:22-cv-00285-CDS-NJK

Order Adopting Report and
Recommendation

[ECF No. 10]

11 Before the Court is the Report and Recommendation (R&R) of United States Magistrate
12 Judge Nancy J. Koppe, issued on August 1, 2022, wherein she recommends dismissal of this case
13 without prejudice because Plaintiff Aaron Abadi has failed to meet his burden to proceed *in*
14 *forma pauperis*. ECF No. 10. Abadi filed timely objections to the R&R. ECF No. 11. For the reasons
15 explained below, I overrule Abadi's objections and adopt Magistrate Judge Koppe's R&R.

16 I. Relevant Factual Background

17 On February 14, 2022, Abadi filed an application to proceed *in forma pauperis*. ECF No. 1.
18 After finding inconsistencies between the information in Abadi's application and his complaint,
19 Magistrate Judge Koppe issued an order to show cause for Abadi to explain those
20 inconsistencies. *See generally* ECF No. 4 (finding that (1) Plaintiff possessed "money for gambling"
21 yet attested that he had no money or income and (2) Plaintiff represented himself to be
22 unemployed yet attached emails to his filing identifying himself as the CEO of a company).
23 Abadi filed a response indicating that, *inter alia*, (1) his gambling and travel expenses are comped
24 by the casinos or are minimal, ECF No. 5 at 3, and (2) Abadi has no income as CEO of his

1 company. *Id.* at 2. Magistrate Judge Koppe ultimately denied Abadi's application and ordered
2 that he either pay the filing fee or file a "long-form" application to proceed *in forma pauperis*,
3 declarations about his gambling in the past 12 months, and win/loss statements for all casinos
4 visited in 2021 and 2022. ECF No. 7 at 4.

5 Abadi filed a renewed application to proceed *in forma pauperis* on June 22, 2022, ECF No.
6 8, and a declaration in support of his application on July 10, 2022. ECF No. 9. On August 1, 2022,
7 Magistrate Judge Koppe recommended that the court dismiss Abadi's action. ECF No. 10.
8 Plaintiff Abadi, proceeding *pro se*, timely filed a response. ECF No. 11. I therefore review *de novo*
9 the portion of Magistrate Judge Koppe's findings and recommendations to which Abadi objects
10 pursuant to 28 U.S.C. § 636(b)(1)(C).

11 II. Legal Standard

12 A district court's review of a magistrate judge's report and recommendation is governed
13 by 28 U.S.C. § 636. Magistrate judges are authorized to resolve pretrial matters subject to
14 district court review under a "clearly erroneous or contrary to law" standard. 28 U.S.C. §
15 636(b)(1)(A); *see also* Fed. R. Civ. P. 72(a); LR IB 3-1(a) ("A district judge may reconsider any
16 pretrial matter referred to a magistrate judge in a civil or criminal case pursuant to LR IB 1-3,
17 where it has been shown that the magistrate judge's ruling is clearly erroneous or contrary to
18 law."). A Magistrate Judge's order is "clearly erroneous" if the court has "a definite and firm
19 conviction that a mistake has been committed." *See United States v. U.S. Gypsum Co.*, 333 U.S. 364,
20 395 (1948); *Burdick v. Comm'r IRS*, 979 F.2d 1369, 1370 (9th Cir. 1992). "An order is contrary to law
21 when it fails to apply or misapplies relevant statutes, case law or rules of procedure." *United*
22 *Health Grp., Inc. v. United Healthcare, Inc.*, 2014 WL 4635882, at *1 (D. Nev. Sept. 16, 2014). Further,
23 under this statute, a district court must review *de novo* "those portions of the report or specified
24 proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C).

1 Rule 72(b)(2) requires “specific written objections to the proposed findings and
2 recommendations.” Fed. R. Civ. P. 72(2) (emphasis added).

3 III. Discussion

4 i. *The Report and Recommendation*

5 In the R&R, Magistrate Judge Koppe addressed concerns regarding Abadi’s allegations
6 about his monetary resources by citing contradictions in Abadi’s applications. *See generally* ECF
7 No. 10. For example, Abadi alleged in his application that he had no source of income and that
8 his monthly expenses exceeded his monthly income, yet he saved at least \$313.27 in his checking
9 account and an additional \$60.00 in cash. *See id.* at 2:26-28 (comparing ECF No. 1 at 1-2 and ECF
10 No. 8 at 3). Abadi attempted to minimize the amount of money he spends on gambling,
11 submitting that he would “not lose to the casino on an ongoing basis.” *Id.* at 3:7-10. This
12 submission is contradicted by the record, which contains win/loss statements demonstrating
13 only casino losses. *Id.* at 3:10-11. Furthermore, by Abadi’s own admissions, he expends resources
14 traveling and gambling. ECF No. 7 at 3. As a result, Magistrate Judge Koppe recommended
15 dismissal of the complaint, finding that Abadi is concealing income to gain access to the Court
16 without having to prepay filing fees, which constitutes action taken in bad faith. *Id.* at 4.

17 ii. *Abadi’s Objections to the Report and Recommendation*

18 Abadi’s objections are vague, lack specificity, and are generally non-responsive to the
19 R&R. *See generally* ECF No. 11. When a specific objection is made to a portion of a magistrate
20 judge’s report and recommendation, the Court subjects that portion of the report and
21 recommendation to a *de novo* review. *Lucio v. Nevada*, 2022 WL 3211544, at *3 (D. Nev. Aug. 9,
22 2022) (citing Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1)(C)). To be ‘specific,’ the objection
23 must, with particularity, identify the portions of the proposed findings, recommendations, or
24 report to which it objects and state the basis for the objection. *Kenniston v. McDonald*, 2019 WL

1 2579965, at *7 (citing *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002)). Further,
2 “vague accusations and convoluted demands don’t satisfy complainant’s obligation to provide
3 objective evidence of misconduct.” *In re Complaint of Judicial Misconduct*, 584 F.3d 1230, 1231 (9th
4 Cir. 2009).

5 Abadi’s objections, construed generously,¹ construct a narrative that “[t]he Magistrate
6 Judge seems to have gotten the wrong idea” based on Abadi’s story as to “why [he] ended up in
7 Vegas in June of this year.” ECF No. 11 at 2, 5. Despite my findings regarding the vagueness of
8 Abadi’s objections, I reviewed the Report and Recommendation *de novo* pursuant to 28 U.S.C. §
9 636(b)(1). *See Mendez v. Paul*, 2020 WL 563941, at *1 (D. Minn. Feb. 5, 2020) (finding plaintiff’s
10 objections largely “frivolous or irrelevant,” but conducting a *de novo* review regardless).

11 In Abadi’s first objection, he alleges that the R&R is erroneous because the report
12 showing his casino losses “is a pure mistake” and that “[Caesar’s] win/loss statements are often
13 very inaccurate,” ECF No. 11 at 2, without providing any evidence of the alleged inaccuracies or
14 how they render the R&R clearly erroneous or contrary to the law.

15 Abadi’s second objection suffers from the same defect as the first. Abadi alleges he
16 “misspoke or wasn’t clear enough” about traveling to gamble. *Id.* at 3. Specifically, Abadi
17 contends that any money he used for gambling or travel was gifted by others. *Id.* at 3-6. Abadi
18 only offers unsubstantiated statements to support his claims, but even if his statements are true,
19 he cannot demonstrate how they indicate that Judge Koppe’s R&R is clearly erroneous or
20 contrary to the law.

21 Finally, Abadi also raises unsupported allegations of bias by the Magistrate Judge, namely
22 that personal experience “with a compulsive gambler who was possibly a family member is
23

24 ¹ Courts must liberally construe documents filed by pro se litigants and afford them the benefit of
any doubt. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam).

1 clouding her judgment.” *Id.* at 4. I find these assertions baseless. Abadi’s claims are simply too
2 conclusory and unsupportable by evidence before this Court. Furthermore, even if I read Abadi’s
3 claims with some presumption of validity, they do not establish that the actions of the
4 Magistrate Judge were either clearly erroneous or contrary to the law. Accordingly, I disregard
5 the unsupported allegations.

6 Thus, for the reasons stated above, I find that the Magistrate Judge’s R&R is not clearly
7 erroneous or contrary to the law and overrule Abadi’s objections.

8 IV. Conclusion

9 For the reasons set forth herein,

10 IT IS HEREBY ORDERED that Plaintiff’s Objections to the Report and
11 Recommendation (ECF No. 11) are OVERRULED.

12 IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 10) is
13 AFFIRMED and ADOPTED in its entirety. Accordingly, the Plaintiff’s complaint is DISMISSED.

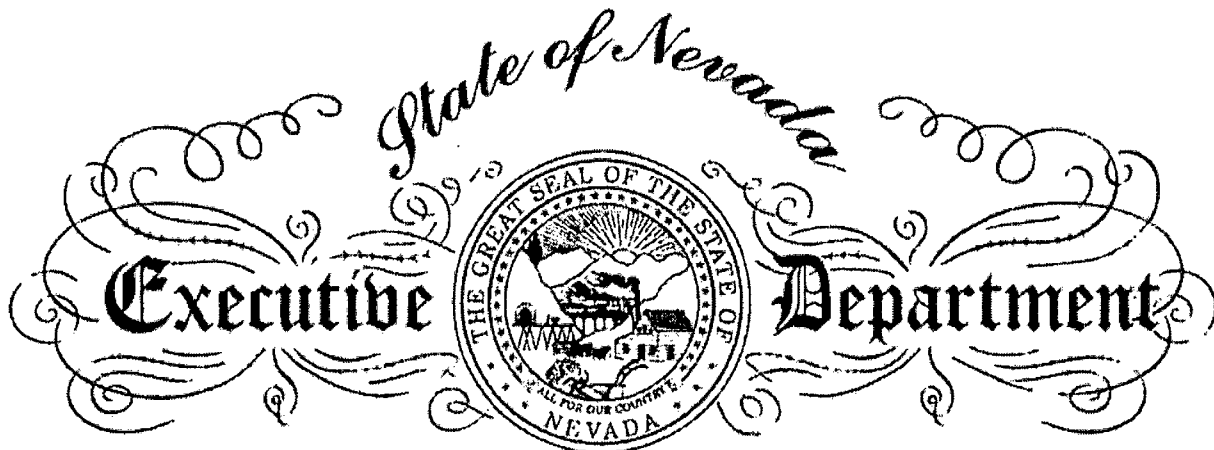
14 IT IS FURTHER ORDERED that Plaintiff’s application to proceed *in forma pauperis* (ECF
15 No. 1) is DENIED as moot.

16 IT IS FURTHER ORDERED that The Clerk of Court shall enter judgment accordingly
17 and close the case.

18 DATED August 30, 2022.

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20
21

Cristina D. Silva
22 United States District Judge
23
24



DECLARATION OF EMERGENCY

DIRECTIVE 024

WHEREAS, in late 2019, the United States Centers for Disease Control and Prevention began monitoring an outbreak of respiratory illness caused by a novel coronavirus first identified in Wuhan, Hubei Province, China; and

WHEREAS, on February 11, 2020, the International Committee on Taxonomy of Viruses named this novel coronavirus "severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)," and

WHEREAS, on February 11, 2020, the World Health Organization named the disease caused by SARS-CoV-2, "COVID-19;" and

WHEREAS, the World Health Organization advises that the novel coronavirus that causes COVID-19 virus is highly contagious, and spreads through respiratory transmission, and direct and indirect contact with infected persons and surfaces; and

WHEREAS, the World Health Organization advises that respiratory transmission occurs through both droplet and airborne transmission, where droplet transmission occurs when a person is within 6 feet of someone who has respiratory symptoms like coughing or sneezing, and airborne transmission may occur when aerosolized particles remain suspended in the air and is inhaled; and

WHEREAS, the World Health Organization advises that contact transmission occurs by direct contact with infected people or indirect contact with surfaces contaminated by the novel coronavirus; and

WHEREAS, some persons with COVID-19 may exhibit no symptoms but remain highly infectious; and

WHEREAS, on March 5, 2020, Clark County and Washoe County both reported the first known cases of COVID-19 in the State of Nevada; and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a pandemic; and

WHEREAS, on March 12, 2020, I, Steve Sisolak, Governor of the State of Nevada issued a Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic; and

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States declared a nationwide emergency pursuant to Sec. 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 14, 2020, I formed a medical advisory team to provide medical guidance and scientifically based recommendations on measures Nevada could implement to better contain and mitigate the spread of COVID-19; and

WHEREAS, infectious disease and public health experts advised that minimizing interpersonal contact slows the rate at which the disease spreads, and is necessary to avoid overwhelming healthcare systems, commonly referred to as "flattening the curve"; and

WHEREAS, since the March 12, 2020 Declaration of Emergency, I have issued 23 Directives pursuant to that order to provide for the safety, wellbeing, and public health of Nevadans and the administration of the State of Nevada; and

WHEREAS, these Directives were promulgated to reduce interpersonal contact and promote social distancing to flatten the curve; and

WHEREAS, data showed that Nevada was one of the top five states in the United States for social distancing; and

WHEREAS, Nevada's medical experts indicate that the rate at which COVID-19 is spreading in the State of Nevada has effectively slowed to a level that does not jeopardize the state's healthcare system due, in part, to Nevadans following strict social distancing measures individually and pursuant to Directives I issued pursuant to the March 12, 2020, Declaration of Emergency; and

WHEREAS, although the danger to Nevadans from the COVID-19 disease has abated, the disease has not been eliminated and measures that protect safety, wellbeing, and public health of Nevadans must remain in effect; and

WHEREAS, on April 21, 2020, the National Governors Association issued guidance for a staged reopening that protects the public's health while laying a strong foundation for long-term economic recovery; and

WHEREAS, on April 30, 2020, I introduced the *Nevada United: Roadmap to Recovery* plan that outlined a phased approach to reopening Nevada businesses and industry; and

WHEREAS, the *Nevada United: Roadmap to Recovery* plan set forth a collaborative partnership between state and local governments that included the formation of the Local Empowerment Advisory Panel ("LEAP") to serve as a resource to local governments and local communities; and

WHEREAS, on May 9, 2020, the State of Nevada entered Phase One of the *Nevada United: Roadmap to Recovery* plan; and

WHEREAS, on May 29, 2020, the State of Nevada entered Phase Two of the *Nevada United: Roadmap to Recovery* plan; and

WHEREAS, prior to entering Phase Two, Nevada experienced a consistent and sustainable downward trajectory in the percentage of positive COVID-19 cases, a decrease in the trend of COVID-19 hospitalizations, and a decline in our cumulative test positivity rate from a maximum rate of 12.2% on April 24, 2020 to 6.3% on May 27, 2020 with a 33-day downward trend; and

WHEREAS, as of June 22, 2020, the seven-day average of daily new COVID-19 cases in the United States has increased over 30 percent versus one week prior; and

WHEREAS, the State of Nevada is experiencing an increase in both its cumulative test positivity rate and its seven-day moving average of daily new COVID-19 cases; and

WHEREAS, the State of Nevada is experiencing an increasing trend of hospitalizations for confirmed COVID-19 cases since May 31, 2020; and

WHEREAS, infection diseases scientists and experts advise that “masks indisputably protect individuals against airborne transmission of respiratory diseases;” and

WHEREAS, infection diseases scientists and experts advise that “universal masking at 80% adoption [] flattens the curve significantly more than maintaining a strict lock-down,” and “masking at only 50% adoption [] is not sufficient to prevent continued spread” of COVID-19; and

WHEREAS, the Governor’s COVID-19 Medical Advisory Team advises that “a mouth-and-nose lockdown is far more sustainable than a full-body lockdown;” and

WHEREAS, NRS 414.060 outlines powers and duties delegated to the Governor during the existence of a state of emergency, including without limitation, directing and controlling the conduct of the general public and the movement and cessation of movement of pedestrians and vehicular traffic during, before and after exercises or an emergency or disaster, public meetings or gatherings; and

WHEREAS, NRS 414.070 outlines additional powers delegated to the Governor during the existence of a state of emergency, including without limitation, enforcing all laws and regulations relating to emergency management and assuming direct operational control of any or all forces, including, without limitation, volunteers and auxiliary staff for emergency management in the State; providing for and compelling the evacuation of all or part of the population from any stricken or threatened area or areas within the State and to take such steps as are necessary for the receipt and care of those persons; and performing and exercising such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, the Nevada Attorney General opined in Opinion Number 95-03 that in times of emergency when the Governor’s authority under Nevada Revised Statutes Chapter 414 is in effect, the powers of political subdivisions to control business activity is limited; and

WHEREAS, NRS 414.060(3)(f) provides that the administrative authority vested to the Governor in times of emergency may be delegated; and

WHEREAS, Article 5, Section 1 of the Nevada Constitution provides: “The supreme executive power of this State, shall be vested in a Chief Magistrate who shall be Governor of the State of Nevada;” and

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of Nevada and the United States, and pursuant to the March 12, 2020, Emergency Declaration,

IT IS HEREBY ORDERED THAT:

SECTION 1: To the extent this Directive conflicts with earlier Directives or regulations promulgated pursuant to the March 12, 2020 Declaration of Emergency, the provisions of this Directive shall prevail. Provisions of all other effective Directives not in conflict with this Directive shall remain in effect.

SECTION 2: Consistent with the *Nevada United: Roadmap to Recovery* plan for a federally supported, state managed, and locally executed reopening approach, county governments and local municipalities are hereby delegated the authority to impose additional COVID-19 related restrictions on businesses and public activities. Restrictions imposed by county government or local municipalities may exceed the standards imposed by Declaration of Emergency Directives or set forth under the LEAP guidelines, but in no case shall county-guidelines be more permissive than the provisions of this Directive.

SECTION 3: Businesses may adopt practices that exceed the standards imposed by Declaration of Emergency Directives, guidelines promulgated by the Nevada State Occupational Safety and Health Administration (NV OSHA) or LEAP guidelines, but in no case shall business practices be more permissive than the provisions of this Directive or those imposed by NV OSHA and the LEAP.

SECTION 4: For the purposes of this Directive, “face covering” is defined as covering that fully covers a person’s nose and mouth, including without limitation, cloth face masks, surgical masks, towels, scarves, and bandanas. This Directive shall not be construed to require the public to wear medical-grade masks, including masks rated N95, KN95, and their equivalent or better.

SECTION 5: Individuals not exempted by this Directive or guidance issued by the Nevada Health Response shall be required to cover their nose and mouth with a mask or face covering when in a public space, whether publicly owned or privately owned where the public has access by right or invitation, express or implied, whether by payment of money or not.

SECTION 6: Businesses operating during Phase Two of the *Nevada United: Roadmap to Recovery* plan shall ensure that all patrons, customers, patients, or clients utilize face coverings, subject to the guidelines that shall be promulgated pursuant to this Directive, including prohibiting persons without face coverings from entering the premises.

SECTION 7: The mandatory provisions of this Directive shall not apply to:

- (1) Children who are nine years of age, or younger. Children who are two to nine years of age are strongly encouraged to wear face coverings in public spaces.
- (2) Individuals experiencing homelessness. Such individuals are encouraged to take protective measures to the greatest extent practicable.
- (3) Individuals who cannot wear a face covering due to a medical condition or disability, or who are unable to remove a mask without assistance. Persons exempted under this provision should wear a non-restrictive alternative, such as a face shield. Persons exempted under this provision shall not be required to produce documentation verifying the condition.
- (4) Individuals for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.
- (5) Individuals who are obtaining a service involving the nose or face for which the temporary removal of the face covering is necessary to perform that service.
- (6) Individuals who are seated at a restaurant or other establishment that offers food or beverage services, while they are eating or drinking, provided that they are able to maintain a distance of at least six feet away from persons who are not members of the same household or residence.
- (7) Individuals who are engaged in outdoor work or recreation such as swimming, walking, hiking, bicycling, or running, when alone or with household members, and when they are able to maintain a distance of at least six feet from others.
- (8) Individuals who are incarcerated. Prisons and jails, as part of their mitigation plans, will have specific guidance on the wearing of face coverings or masks for both inmates and staff.

SECTION 8: NV OSHA shall enforce all violations of its guidelines, protocols, and regulations promulgated pursuant to this Directive. State licensing boards are hereby directed to enforce all provisions of this Directive against licensees and establishments within their purview and impose disciplinary measures against licensees who violate this Directive.

SECTION 9: Any individual who does not comply with Section 5 of this Directive, after receiving notice from law enforcement, may be subject to criminal prosecution and civil penalties under NRS 199.280, NRS 202.450, and any other applicable statute, regulation, or ordinance. All law enforcement agencies in the State of Nevada are authorized to enforce this Directive. The Office of the Attorney General is given concurrent jurisdiction to prosecute violations of this Directive.

SECTION 10: Pursuant to NRS 414.060(3)(f), I hereby authorize all local, city, and county governments, and state agencies to enforce this Directive and regulations promulgated thereunder, including but not limited to, suspending licenses, revoking licenses, or issuing penalties for violating business, professional, liquor, tobacco, or gaming licenses issued by the local jurisdiction for actions that jeopardize the health, safety, or welfare of the public; conduct which may injuriously affect the public health, safety, or welfare; conduct that may be detrimental to the public peace, health, or morals; or any other applicable ordinance or requirement for such a license.

SECTION 11: The State of Nevada shall retain all authority vested in the Governor pursuant to NRS Chapter 414.

SECTION 12: This Directive is effective at 11:59 p.m. on Thursday, June 25, 2020 and shall remain in effect until terminated by a subsequent Directive promulgated pursuant to the March 12, 2020 Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City, this 24th day of June, in the year two thousand twenty.



Governor of the State of Nevada

Barbara K. Cegansky

Secretary of State

Deputy Secretary of State



DECLARATION OF EMERGENCY

DIRECTIVE 047

WHEREAS, on March 12, 2020, I, Steve Sisolak, Governor of the State of Nevada, issued a Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic; and

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, declared a nationwide emergency pursuant to Sec. 501(6) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

WHEREAS, the World Health Organization advises that the novel coronavirus that causes COVID-19 virus is highly contagious, and spreads through respiratory transmission, and direct and indirect contact with infected persons and surfaces; and

WHEREAS, the World Health Organization advises that transmission occurs through both droplet and airborne transmission, where droplet transmission occurs when a person is in close proximity to someone who is infected with COVID-19; and

WHEREAS, the World Health Organization advises that contact transmission occurs by direct contact with infected people or indirect contact with surfaces contaminated by the novel coronavirus; and

WHEREAS, on March 14, 2020, I formed a COVID-19 Medical Advisory Team to provide medical guidance and scientifically based recommendations on measures Nevada could implement to better contain and mitigate the spread of COVID-19; and

WHEREAS, in late December 2020, Nevada began distributing COVID-19 vaccines, but the supply of vaccines remains limited; and

WHEREAS, Nevada's hospitalization rate for suspected and confirmed COVID-19 cases has trended downward since mid-January 2021; and

WHEREAS, since mid-January 2021, the 14-day moving average test positivity rate has generally declined, but COVID-19 still poses a substantial threat to the public health; and

**Additional material
from this filing is
available in the
Clerk's Office.**