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12  
13 UNITED STATES DISTRICT COURT  
14 DISTRICT OF NEVADA

15 \* \* \*

16 DOES 1-35; and UNKNOWN NAMED )  
DOES 1-1000, )  
17 Plaintiffs, )  
18 vs. )  
The State of Nevada ex rel. Aaron Ford, )  
19 Attorney General of the State of Nevada; )  
George Togliatti, Director of the Nevada )  
20 Department of Public Safety; Natalie Wood, )  
Chief Parole and Probation Division of the )  
21 Nevada Department of Public Safety; )  
Christopher Derico Chair of the Nevada Board )  
22 of Parole Commissioners ; Susan Jackson; )

CASE NO.: 2:15-CV-01638-RFB-CWH  
  
**42 U.S.C. § 1983 SECOND AMENDED  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF AND  
DAMAGES**

\_\_\_\_\_  
**JURY TRIAL DEMANDED**

1 Adam Endel; Tony Corda; Board Members of )  
The Nevada Board of Parole Commissioners; )  
2 Patrick J. Conmay, Chief Records and )  
Technology Division of the Nevada )  
3 Department of Public Safety; Joseph )  
Lombardo, Sheriff of the Las Vegas )  
4 Metropolitan Police Department; Pamala )  
Ojeda, Chief of the North Las Vegas Police )  
5 Department; Steven Wolfson, District )  
Attorney of Clark County; LaTasha Watson, )  
6 Chief of Henderson Police Department; )  
 )  
7 Defendants. )

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1. Come now Plaintiff, Does 1-35, by and through their attorneys, Robert M. Draskovich, Esq., Gary A. Modafferi, Esq., and Allen Lichtenstein, Esq., and file this Amended Complaint for injunctive and declaratory relief, and for damages.
2. Plaintiffs are all convicted sex offenders who have completed their sentences and are all lifetime supervision status.
3. Pursuant to the Nevada Supreme Court ruling in *Palmer v. State*, 118 Nev. 823, 59 P.3d 1192 (2002), parole is separate and distinct from lifetime supervision, in that while, parole is considered part of the sentence, lifetime supervision only occurs after the sentence is completed.
4. In *Corzine v. Laxalt*, No. 3:17-cv-00052-MMD-WGC, 2017 U.S. Dist. LEXIS 115678, at \*4 (D. Nev. July 25, 2017) the Nevada Supreme Court stated that, “Lifetime supervision begins after an offender is released from probation, imprisonment, or parole. It is governed by NRS 213.1243.”



1 12. Defendants attempt to justify these practices by invoking N.R.S.  
2 176A.410(1)(b), N.R.S. 176A.410(1)(m), N.R.S. 213.1245(1)(a), and N.R.S.  
3 213.1245(1)(l).

4 13. None of these statutes apply to those on lifetime supervision, as they all  
5 involve persons on probation or parole.

6 14. This conflation of those who are serving their sentences on either parole or  
7 probation, with those who are on lifetime supervision after completing their sentences,  
8 directly contradicts, *Masto, supra, McNeill, supra, Palmer, supra, and Corzine, supra.*, as  
9 well as Plaintiffs' constitutionally protected rights.

10 15. This action is brought pursuant to 42 U.S.C. § 1983, and the United States  
11 and Nevada Constitution, as set forth below.

12 Plaintiffs challenge the Nevada Board of Parole Commissioners' (hereinafter "the  
13 Board") authority to create and impose conditions of lifetime supervision pursuant to N.R.S.  
14 213.1243, any other statute, or otherwise, or to impose any residency and/or movement  
15 conditions retroactively, on Plaintiffs and others under lifetime supervision who are  
16 similarly situated.

17 **NATURE OF THE ACTION**

18 16. Plaintiffs, Does 1-35, allege that Defendants' retroactive application of  
19 residency and movement restrictions on Plaintiffs who are on lifetime supervision for crimes  
20 committed prior to the residency and movement restrictions were added to N.R.S. 213.1243  
21 by S.B. 471 in 2007, is violation of the United States and Nevada Constitutions. Moreover,  
22 Plaintiffs also allege that the Defendants Wood, Derico and members of the Board are  
23 individually liable for retroactively and improperly imposing punitive conditions,

1 specifically movement and residency restrictions upon Plaintiffs and other similarly situated  
2 offenders that did not exist in law at the time of the date of their criminal offense(s) and  
3 prior to the 2007 amendments to N.R.S. 213.1243.

4 17. In addition, Defendants attempt to justify their imposition of improper  
5 retroactive movement and residency restriction upon Plaintiffs and other similarly situated  
6 offenders by ostensibly utilizing statutes -- N.R.S. 176(A).410(1)(b), N.R.S. N.R.S.  
7 176(A).410(1)(m), N.R.S. 213.1243(3)(a), N.R.S. 213.1245(1)(a), and N.R.S.  
8 213.1245(1)(1) -- that, by their plain language, and pursuant to Nevada Supreme Court  
9 decisions, do not, and cannot be applied to those under lifetime supervision status, pursuant  
10 to *McNeill v. State*, 375 P.3d 1022, 1025 (Nev. 2016), where the Nevada Supreme Court  
11 ruled that only the restrictions statutorily set forth in NRS N.R.S. 213.1243 can be imposed  
12 on persons under lifetime supervision status.

13 18. The creation and imposition of these residency and movement requirements  
14 and other punitive conditions of the special sentence of lifetime supervision are in violation  
15 of the *Ex Post Facto* Clauses and Vagueness Doctrines of the United States and The  
16 Constitution of the State of Nevada. Further, Plaintiffs allege that the Board's ostensible  
17 adoption of the challenged conditions, not specifically enumerated in N.R.S. 213.1243,  
18 violates procedural due process, substantive due process, the equal protection clauses, the  
19 free exercise clause, the right to assemble, the *Ex Post Facto* Clause, the Contract Clause,  
20 the Bill of Attainder Clause, and the Separation of Powers Doctrine of the United States and  
21 the Constitution of the State of Nevada.

### 22 **JURISDICTION**

23 19. This Court has original subject matter jurisdiction over the federal  
24 constitutional violations alleged in this Complaint pursuant to 42 U.S.C. § 1983, 28 U.S.C.

1 §§ 1331 and 1334. This Court has jurisdiction to issue injunctive and declaratory relief  
2 pursuant to 28 U.S.C. § 2201 and 42 U.S.C. § 1983.

3 20. Under 28 U.S.C. § 1391, the District of Nevada provides a proper venue  
4 because all parties were convicted and sentenced to lifetime supervision in Nevada. Their  
5 supervision under the special sentence of lifetime supervision emanates from judgments of  
6 convictions issued from Nevada state district courts. Additionally, all or a substantial portion  
7 of the action occurred within the State of Nevada, Clark County.

8 **PARTIES**

9  
10 21. Plaintiff Doe 1, a resident of Washoe County, Nevada, committed a sexual  
11 offense on November 3, 2003. He is currently on lifetime supervision with over 21  
12 conditions imposed by the Board pursuant to N.R.S. 213.1243.<sup>1</sup>

13 22. Plaintiff Doe 2, a resident of Clark County, Nevada, committed a sexual  
14 offense on November 1, 2007. He is currently on lifetime supervision with over 21  
15 conditions imposed by the Board pursuant to N.R.S. 213.1243.<sup>2</sup>

16 23. Plaintiff Doe 3, a resident of Riverside, California, committed a sexual  
17 offense on or between 1997. He is currently on lifetime supervision with over 21 conditions  
18 imposed by the Board pursuant to N.R.S. 213.1243.<sup>3</sup>

19 24. Plaintiff Doe 4, a resident of Millard, Utah, committed a sexual offense in  
20 Nevada on or about November 2008 through December 2008. He is currently on lifetime

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22 <sup>1</sup> A redacted version of Plaintiff Doe's 1's, Lifetime Supervision Agreement is attached as Exhibit 1.

23 <sup>2</sup> A redacted version of Plaintiff Doe's 2's, Lifetime Supervision Agreement is attached as Exhibit 2.

24 <sup>3</sup> A redacted version of Plaintiff Doe's 3's, Lifetime Supervision Agreement is attached as Exhibit 3.

1 supervision with over 21 conditions imposed by the Board pursuant to N.R.S. 213.1243.<sup>4</sup>

2 25. Plaintiff Doe 5, a resident of Clark County, Nevada, committed a sexual  
3 offense on April 23, 2006. He is currently on lifetime supervision with over 21 conditions  
4 imposed by the Board pursuant to N.R.S. 213.1243.<sup>5</sup>

5 26. Plaintiff Doe 6, a resident of Ramsey, Minnesota, committed a sexual offense  
6 in Nevada on or about November 27, 2009. He is currently on lifetime supervision with over  
7 21 conditions imposed by the Board pursuant to N.R.S. 213.1243.<sup>6</sup>

8 27. Plaintiff Doe 7, a resident of Clark County, Nevada, committed a sexual  
9 offense on June 10, 1996. He is currently on lifetime supervision with over 21 conditions  
10 imposed by the Board pursuant to N.R.S. 213.1243.<sup>7</sup>

11 28. Plaintiff Doe 8, a resident of Clark County, Nevada, committed a sexual  
12 offense between January 1, 2001 and December 3, 2003. He was sentenced to a term of  
13 lifetime supervision to be imposed upon release from any term of imprisonment,  
14 probation or parole. He is currently under the demands of a parole agreement executed on  
15 January 7, 2015. His term of lifetime supervision will soon commence after the termination  
16 of his parole agreement.<sup>8</sup>

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20 <sup>4</sup> A redacted version of Plaintiff Doe's 4's, Lifetime Supervision Agreement is attached as Exhibit 4.

21 <sup>5</sup> A redacted version of Plaintiff Doe's 5's, Lifetime Supervision Agreement is attached as Exhibit 5.

22 <sup>6</sup> A redacted version of Plaintiff Doe's 6's, Lifetime Supervision Agreement is to be supplemented at a later  
23 time as Exhibit 6.

24 <sup>7</sup> A redacted version of Plaintiff Doe's 7's, Lifetime Supervision Agreement is attached as Exhibit 7.

<sup>8</sup> Redacted versions of Plaintiff Doe 8's Judgment of Conviction (Plea of Guilty – Alford) and his Parole Agreement are attached collectively as Exhibit 8.

1           29. Plaintiff Doe 9, a resident of Clark County, Nevada, committed a sexual  
2 offense on November 26, 2012. He is currently on lifetime supervision with over 21  
3 conditions imposed by the Board pursuant to N.R.S. 213.1243<sup>9</sup>

4           30. Plaintiff Doe 10, a resident of Clark County, Nevada, committed a sexual  
5 offense between November 1, 2003 and October, 2005. He was sentenced to a term of a  
6 sentence of lifetime supervision to begin after release from any term of imprisonment or  
7 parole. On August 24, 2011, Plaintiff Doe 10 was made to sign a lifetime supervision  
8 agreement. None of the conditions contained in the agreement were contained either in the  
9 Defendant's plea agreement or in any statutory codification under Nevada law. On or  
10 between April 19, 2012 and March 18, 2013 the Plaintiff was alleged to have violated his  
11 lifetime supervision agreement and on July 9, 2015 an Information charging him with a class  
12 Felony for violating his special sentence of lifetime supervision was filed in the District  
13 Court, Clark County, Nevada.<sup>10</sup>

14           31. Plaintiff Doe 11, a resident of Clark County, Nevada committed a sexual  
15 offense on or between December 1, 2003 and April 30, 2004. He was sentenced on August  
16 11, 2010 to a special sentence of lifetime supervision to commence upon release from any  
17 term of imprisonment, probation or parole. Plaintiff Doe 11 was honorably discharged from  
18 parole on October 8, 2012. On October 8, 2012, Plaintiff Doe 11 was made to sign a lifetime  
19 supervision agreement with multiple residency and movement restrictions. He is currently  
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21 <sup>9</sup> A redacted version of Plaintiff Doe's 9's, Lifetime Supervision Agreement is attached as Exhibit 9.

22 <sup>10</sup> Redacted versions of Plaintiff Doe 10's Guilty Plea Agreement containing the Information, Judgment of  
23 Conviction, Lifetime Supervision Agreement, and his recent Information charging him with Violation of  
24 Lifetime Supervision by Convicted Sex Offender are attached collectively as Exhibit 10.



1 on lifetime supervision with punitive conditions created and imposed by the Board pursuant  
2 to NRS 213.1243.<sup>11</sup>

3 32. Plaintiff Doe 12, a resident of Clark County, Nevada entered an Alford plea  
4 to a sexual offense allegedly committed on or between June 30, 2002 and October 11, 2008.  
5 He was sentenced to probation and a special sentence of lifetime supervision on July 23,  
6 2008. As with all of the other Plaintiff Does, neither the Plaintiff's Guilty Plea Agreement  
7 nor his Judgment of Conviction contained any of the punitive conditions that would  
8 eventually comprise the special sentence of lifetime supervision. The Plaintiffs' conditions  
9 of probation were specific and found within the law at NRS 176A.410. The conditions of  
10 lifetime supervision were not codified under Nevada law. The Plaintiff was honorably  
11 discharged from probation on September 28, 2012. He is currently serving his special  
12 sentence of lifetime supervision.<sup>12</sup>

13 33. Plaintiff Doe 13, a resident of Glendale, Arizona, committed a sexual offense  
14 on or about June 26, 2006 and June 28, 2006. On January 9, 2008, the Plaintiff was  
15 sentenced to probation and a special sentence of lifetime supervision pursuant to NRS  
16 213.1243. He is currently under the control and enforcement powers of Adult Probation  
17 Department, Pinal County, Arizona "for a period of lifetime" as a result of the special  
18 sentence of lifetime supervision handed down by a Nevada state district court.<sup>13</sup>

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20 <sup>11</sup> Redacted versions of Plaintiff Doe 11's Guilty Plea Agreement, Information, Judgment of Conviction, and  
Honorable Discharge from Parole are attached collectively as Exhibit 11.

21 <sup>12</sup> Redacted versions of Plaintiff Doe 12's Guilty Plea Agreement, Information, Judgment of Conviction,  
Lifetime Supervision Agreement, and Order Honorably Discharging Probationer are attached collectively as  
Exhibit 12.

22 <sup>13</sup> Redacted versions of Plaintiff Doe's Guilty Plea Agreement, Judgment of Conviction, Amended Judgment  
of Conviction, Amended Information and the implementation of the special sentence of lifetime supervision as  
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1           34. Plaintiff Doe 14, a resident of Clark County, Nevada committed a sexual  
2 offense on August 31, 2012. He was placed on probation and honorably discharged from  
3 probation in 2007. The Defendant was sentenced to lifetime supervision in 2003. He is  
4 currently serving his special sentence of lifetime supervision.<sup>14</sup>

5           35. Plaintiff Doe 15, a resident of Clark County, Nevada committed a sexual  
6 offense on or between December 9, 2012 and December 10, 2012. He is currently on  
7 lifetime supervision with over 20 conditions and several pending conditions yet to be  
8 decided by the Board.<sup>15</sup>

9           36. Plaintiff Doe 16, a resident of Clark County, Nevada committed a sexual  
10 offense on or between September 28, 2003 and October 15, 2004. He was sentenced on June  
11 30, 2005 to probation and a term of lifetime supervision to begin after his completion of  
12 probation.<sup>16</sup> He is currently serving his special sentence of lifetime supervision imposed  
13 pursuant to N.R.S. 213.1243.

14           37. Plaintiff Doe 17, a resident of Clark County, Nevada committed a sexual  
15 offense on or between February 1, 2003 and March 31, 2003. He was sentenced on July 10,  
16 2003 to a maximum term of ninety-six (96) months with a minimum term of twenty-four  
17 (24) months in the Department of Corrections and a term of a special sentence of lifetime

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18 interpreted and imposed by the Adult Probation Department, Pinal County, Arizona County Superior Court are  
19 attached as Exhibit 13.

20 <sup>14</sup> A redacted version of Doe 14's Lifetime Supervision Agreement, Guilty Plea Agreement, Judgment of  
Conviction filed March 18, 2003, Amended Judgment of Conviction filed February 18, 2004, 2<sup>nd</sup> Amended  
Judgment of Conviction filed March 11, 2004, and Order Discharging Probationer filed March 21, 2007 are  
attached as Exhibit 14.

21 <sup>15</sup> A redacted version of Plaintiff Doe 15's Lifetime Supervision Agreement, Guilty Plea Agreement, and  
Judgment of Conviction are attached collectively as Exhibit 15.

22 <sup>16</sup> A redacted version of Plaintiff Doe 16's Lifetime Supervision Agreement is attached, along with his Petition  
and Order Honorably Discharging Probationer filed November 29, 2007, his Guilty Plea Agreement filed on  
23 April 21, 2005 and his Judgment of Conviction filed on June 30, 2005 are attached collectively as Exhibit 16.

1 supervision after his term of his imprisonment. On September 13, 2012 he was made to sign  
2 a lifetime supervision agreement containing approximately 25 punitive conditions that did  
3 not exist in law at the time he committed his offense. He is currently serving his special  
4 sentence of lifetime supervision.<sup>17</sup>

5 38. Plaintiff Doe 18, a resident of Clark County, Nevada committed a sexual  
6 offense on or about the 2<sup>nd</sup> day of June, 2005. He was sentenced on April 30, 2008 to a term  
7 of probation which included a special sentence of lifetime supervision to commence upon  
8 the completion of his term of probation. On July 26, 2012 Plaintiff Doe 18 was made to sign  
9 a lifetime supervision agreement that contained punitive conditions that did not exist in law  
10 at the time he committed his offense. He is currently serving his special sentence of lifetime  
11 supervision imposed pursuant to NRS 213.1243.<sup>18</sup>

12 39. Plaintiff Doe 19, a resident of Clark County, Nevada committed a sexual  
13 offense on or between July 1, 1997 and August 31, 1997. He was sentenced on March 30,  
14 1999 to a maximum term of two hundred forty (240) months with a minimum parole  
15 eligibility of ninety-six (96) months in the Nevada Department of Prisons. He was also  
16 sentenced to lifetime supervision. On October 16, 2012 he was made to sign a lifetime  
17 supervision agreement with 25 conditions that did not exist at law when he committed his  
18 offense. On May 20, 2014, Plaintiff Doe 19 was made to sign a second superseding lifetime  
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21 <sup>17</sup> A redacted version of Plaintiff Doe 17's Lifetime Supervision Agreement, Guilty Plea Agreement, and  
22 Judgment of Conviction are attached collectively as Exhibit 20.

23 <sup>18</sup> A redacted version of Plaintiff Doe 18's Lifetime Supervision Agreement, Guilty Plea Agreement, and  
24 Judgment of Conviction are attached collectively as Exhibit 21.

1 supervision agreement. He is currently being prosecuted for violation of lifetime supervision  
2 by a convicted sex offender.<sup>19</sup>

3 40. Plaintiff Doe 20, a resident of Clark County, Nevada committed a sexual  
4 offense on or about the 14<sup>th</sup> day of March, 2012. He was sentenced to probation on the 26<sup>th</sup>  
5 day of November, 2012 to a term of probation and to a term of lifetime supervision. On May  
6 5, 2015, he was made to sign a lifetime supervision agreement and on May 19, 2015 he was  
7 made to sign an addendum to that agreement. He is currently serving his special sentence of  
8 lifetime supervision.<sup>20</sup>

9 41. Plaintiff Doe 21, a resident of Clark County, Nevada committed a sexual  
10 offense on or about January, 2001 and March 20, 2001. He was sentenced to a term of  
11 twenty-four (24) months to sixty (60) months in the aggregate in the Nevada Department of  
12 Corrections and to a special sentence of lifetime supervision on April 29, 2002. After his  
13 release from prison he was made to sign a lifetime supervision agreement. He is currently  
14 serving his term of lifetime supervision.<sup>21</sup>

15 42. Plaintiff Doe 22, a resident of Clark County, Nevada committed a sexual  
16 offense on January 2, 2000. He was sentenced to the Nevada Department of Prisons on June  
17 13, 2000 to a maximum term of twenty (20) years and a minimum term of five (5) years and  
18 also to a special sentence of lifetime supervision. On August 13, 2010 he was made to sign a  
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20 <sup>19</sup> Redacted copies of Plaintiff Doe 19's two Lifetime Supervision Agreements, his Judgment of Conviction,  
and the Information from his ongoing criminal prosecution are collectively attached as Exhibit 22.  
21 <sup>20</sup> Redacted copies of the original Lifetime Supervision Agreement, the Addendum to that agreement,  
Plaintiff's Guilty Plea Agreement, and his Judgment of Conviction are attached collectively as Exhibit 23.  
22 <sup>21</sup> Redacted copies of Plaintiff Doe 21's Guilty Plea Agreement and Judgment of Conviction are attached  
collectively as Exhibit 24. His lifetime supervision agreement will be filed with this court at a later date though  
it is similar to the other Plaintiffs.

1 lifetime supervision agreement containing punitive conditions that did not exist at law when  
2 the offense was committed. He is currently serving his special sentence of lifetime  
3 supervision imposed pursuant to NRS 213.1243.<sup>22</sup>

4 43. Plaintiff Doe 23, a resident of Clark County, Nevada committed a sexual  
5 offense on March 30, 2009. On March 30, 2010 he was sentenced to a term of probation and  
6 a special sentence of lifetime supervision. On May 16, 2013, the court filed an Amended  
7 Judgment of Conviction. On September 18, 2014, Plaintiff Doe 23 was made to sign a  
8 lifetime supervision agreement. He is currently serving his special sentence of lifetime  
9 supervision imposed pursuant to NRS 213.1243.<sup>23</sup>

10 44. Plaintiff Doe 24, a resident of Sparks, Nevada committed a sexual offense on  
11 or between June 8, 2008 and July 9, 2008. He was sentenced to a term of probation and a  
12 special sentence of lifetime supervision on March 20, 2009. He is currently serving his  
13 special sentence of lifetime supervision<sup>24</sup>

14 45. Plaintiff Doe 25, a resident of Clark County, Nevada committed a sexual  
15 offense on or about November 24, 2006 and December 24, 2006. He was sentenced on  
16 February 5, 2008 to a term of probation and a special sentence of lifetime supervision. He is  
17 currently serving his special sentence of lifetime supervision pursuant to NRS 213.1243.<sup>25</sup>

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20 <sup>22</sup> Redacted copies of Plaintiff Doe 22's Lifetime Supervision Agreement, Guilty Plea Agreement, and  
Judgment of Conviction are attached collectively as Exhibit 25.

21 <sup>23</sup> Redacted copies of Plaintiff Doe 23's Lifetime Supervision Agreement, Guilty Plea Agreement, and  
Judgment of Conviction are attached collectively as Exhibit 26.

22 <sup>24</sup> .Redacted versions of Plaintiff Doe's Judgment of Conviction and Notice of Defendant containing sentence  
of lifetime supervision are attached collectively as Exhibit 27.

23 <sup>25</sup> A redacted version of Plaintiff Doe 25's Lifetime Supervision Agreement, Guilty Plea Agreement, and  
Judgment of Conviction are attached collectively as Exhibit 28.

1           46. Plaintiff Doe 26, a resident of Clark County, Nevada committed a sexual  
2 offense on or about March 1, 2004 and December 4, 2006. She entered a guilty plea on  
3 March 2, 2007 and on June 8, 2007 she was sentenced to a term of probation and a special  
4 sentence of lifetime supervision pursuant to NRS 213.1243.<sup>26</sup>

5           47. Plaintiff Doe 27, a resident of Clark County, Nevada committed a sexual  
6 offense before 2004. He was sentenced to a term of probation and a special sentence of  
7 lifetime supervision on March 17, 2004. He is currently serving his special sentence of  
8 lifetime supervision which contains the standard conditions created by the Board and which  
9 did not exist in law at the time he committed his offense.<sup>27</sup>

10           48. Plaintiff Doe 28, a resident of Clark County, Nevada committed a sexual  
11 offense between September 1, 2004 and July 31, 2007. He was sentenced to a term of  
12 probation and a special sentence of lifetime supervision on February 17, 2010. He is  
13 currently serving his special sentence of lifetime supervision. His lifetime supervision  
14 agreement contains the standard conditions presented in the other attached exhibits, again  
15 none of these punitive conditions existed in law on the date of offense.<sup>28</sup>

16           49. Plaintiff Doe 29, a resident of Clark County, Nevada entered an Alford plea  
17 to a sexual offense that he was alleged to have committed on April 10, 2010. He was  
18 sentenced to a term of imprisonment of a maximum of forty-eight (48) months with a  
19 minimum parole eligibility of twelve (12) months in the Nevada Department of Corrections.

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20 <sup>26</sup> A redacted version of Plaintiff Doe 26's Lifetime Supervision Agreement, Guilty Plea Agreement, and  
21 Judgment of Conviction are attached collectively as Exhibit 29.

22 <sup>27</sup> A redacted version of Plaintiff Doe 27's Guilty Plea Agreement and Judgment of Conviction are attached  
collectively as Exhibit 30.

23 <sup>28</sup> A redacted version of Plaintiff Doe 28's Guilty Plea agreement and Judgment of Conviction are attached  
collectively as Exhibit 31.

1 He was also sentenced to a special sentence of lifetime supervision. He is currently serving  
2 his special sentence of lifetime supervision which contains the standard punitive conditions  
3 created by the Board and which did not exist when he committed his offense.<sup>29</sup>

4 50. Plaintiff Doe 30, a resident of Clark County, Nevada entered a plea of guilty  
5 to the crimes of Attempt Lewdness with a Child Under the Age of 14 on September 21,  
6 2011. The date of offense for these matters was on or between February, 2004 and June,  
7 2010. He was sentenced on September 21, 2011 to concurrent terms of a maximum of one  
8 hundred (120) months with a minimum parole eligibility of forty-eight months in the  
9 Nevada Department of Corrections. He was also sentenced to serve a special sentence of  
10 lifetime supervision. Plaintiff Doe 30 is currently on parole and was told by the Board he  
11 will be ending his parole in several months and he will be required to sign the standard  
12 lifetime supervision agreement which will contain residency, movement, and travel  
13 restrictions that did not exist at law at the time these offenses were committed beginning in  
14 2004.<sup>30</sup>

15 51. Plaintiff Doe 31, a resident of Clark County, Nevada entered an Alford plea  
16 to the crime of Attempt Lewdness with a Child under the Age of 14 in April, 2014. The date  
17 of offense was on or between January 1, 2005 and December 31, 2010 within the County of  
18 Clark, State of Nevada. He was sentenced on September 2, 2014 to a suspended term of 48  
19 months to 120 months in the Nevada Department of Corrections, place on probation, for an  
20 indeterminate term of five years with a special sentence of lifetime supervision to begin

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21 <sup>29</sup> A redacted version of Plaintiff Doe 29's Lifetime Supervision Agreement, Guilty Plea Agreement, and  
Judgment of Conviction are attached collectively as Exhibit 32.

22 <sup>30</sup> A redacted version of Plaintiff Doe 30's, Guilty Plea Agreement and Judgment of Conviction are  
collectively attached as Exhibit 33.

1 upon release from probation. A newly created form provided by the State of Nevada  
2 indicates that this special sentence pursuant to NRS 213.1243 will include movement and  
3 residency restrictions.<sup>31</sup>

4 52. Plaintiff Doe 32, a resident of Clark County, Nevada entered a guilty plea to  
5 the offense of use of technology to lure children in March, 2006. The date of offense was on  
6 or between November 3<sup>rd</sup>, 2005 and the 21<sup>st</sup> day of February, 2006. The Plaintiff was  
7 sentenced on April 16, 2007 to a suspended term of 24 to 48 months in the Nevada  
8 Department of Corrections. He was placed on a fixed term of five years probation and  
9 sentenced to a special sentence of lifetime supervision pursuant to NRS 213.1243. He is  
10 currently serving that sentence of lifetime supervision pursuant to the standard conditions  
11 created by the Board including movement and residency requirements.<sup>32</sup>

12 53. Plaintiff Doe 33, a resident of Clark County, Nevada entered a plea on July 7,  
13 2011 to the offense of luring children or mentally ill persons with use of technology with  
14 intent to engage in sexual conduct. On October 6, 2011, the Defendant was sentenced to 16  
15 to 72 months in the Nevada Department of Corrections. He was also sentenced to a special  
16 term of lifetime supervision which included residency and movement restrictions which  
17 began upon his release from prison. Plaintiff Doe 33 is currently serving his special sentence  
18 of lifetime supervision. Plaintiff Doe 33 was initially monitored by California authorities  
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21 <sup>31</sup> A redacted version of Plaintiff Doe 31's, Guilty Plea Agreement, Judgment of Conviction, and Lifetime  
Supervision understanding are collectively attached Exhibit 34.

22 <sup>32</sup> A redacted version of Plaintiff Doe 32's Guilty Plea Agreement and Judgment of Conviction are collectively  
attached as Exhibit 35.



1 with permission of Nevada authorities however he returned to Nevada and had the standard  
2 lifetime supervision agreement imposed.<sup>33</sup>

3 54. Plaintiff Doe 34 is a resident of Austin, Texas. He entered a plea in the  
4 District Court of Clark County, Nevada to the charge of Luring Children or Mentally Ill  
5 Persons with the Intent to Engage in Sexual Conduct. On June 21, 2013, he was sentenced to  
6 a suspended prison sentence of a maximum of thirty-two months and a minimum of twelve  
7 months in the Nevada Department of Corrections. Plaintiff Doe 34 was also sentenced to a  
8 term of lifetime supervision and given an indeterminate term of probation not to exceed  
9 three years. He has completed his probation and is currently serving his special sentence of  
10 lifetime supervision. That sentence is currently being supervised by probation authorities in  
11 Travis County, Texas.<sup>34</sup>

12 55. Plaintiff Doe 35, a resident of Clark County, Nevada entered a guilty plea to  
13 two counts of Attempt Sexual Assault in the District Court, Clark County, Nevada on March  
14 7, 2012. He was sentenced to a maximum of one hundred twenty months with a minimum of  
15 parole eligibility of twenty-four months in the Nevada Department of Corrections. He was  
16 also sentenced to a term of lifetime supervision after he completed both his prison term and  
17 parole. Plaintiff Doe 35's parole is set to expire in November, 2016 at which time he will be  
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21 <sup>33</sup> Redacted versions of Plaintiff Doe 33's Guilty Plea Agreement, Judgment of Conviction, and California  
Lifetime Supervision Agreement are collectively attached as Exhibit 36.

22 <sup>34</sup> A redacted version of Plaintiff Doe 34's Guilty Plea Agreement, Judgment of Conviction, and Lifetime  
Supervision Agreement are collectively attached as Exhibit 37.

1 made to sign a lifetime supervision agreement that will contain the standard conditions of  
2 lifetime supervision including residency, movement, and association restrictions.<sup>35</sup>

3 56. “Does” herein refers to Does 1-35.

4 57. Defendant Aaron Ford, Esq., is the presently the Attorney General of the  
5 State of Nevada and is sued in his official capacity, for declaratory and injunctive relief  
6 only.

7 58. Defendant George Togliotti is the Director of Public Safety of the Nevada  
8 Department of Public Safety and is sued in his official capacity, for declaratory and  
9 injunctive relief only.

10 59. Defendant Natalie Wood is the Chief of the Parole and Probation Division of  
11 the Nevada Department of Public Safety. The Parole and Probation Division is vested with  
12 the authority to enforce N.R.S. 213.1243. The Parole and Probation Division has made up its  
13 own non-statutorily authorized residency and movement retroactive restrictions on Plaintiffs  
14 and others so situated. Defendant Wood is sued in her official capacity for declaratory and  
15 injunctive relief and in her individual capacity for damages.

16 60. Defendant Christopher Derico is Chair of the Nevada Board of Parole  
17 Commissioners ; Susan Jackson; Adam Endel; Tony Corda; are Board Members of The  
18 Nevada Board of Parole Commissioners. The Board has made up their own non-statutorily  
19 authorized residency and movement retroactive restrictions on Plaintiffs and others so  
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<sup>35</sup> Redacted versions of Plaintiff Doe 35’s Guilty Plea Agreement and Judgment of Conviction are collectively  
23 attached as Exhibit 38.

1 situated. Defendants Derico, Jackson, Endel, and Corda are sued in their official capacities  
2 for declaratory and injunctive relief and in their individual capacities for damages.

3 61. Defendant Patrick J. Conmay is Chief of the Records and Technology  
4 Division of the Nevada Department of Public Safety. The Records and Technology Division  
5 is vested with authority to enforce N.R.S. 213.1243, and Parole and Probation Division  
6 created non-statutorily authorized residency and movement restrictions. Defendant Conmay  
7 is sued in his official capacity for declaratory and injunctive relief only.

8 62. Defendant Joseph Lombardo is Sheriff of the Las Vegas Metropolitan Police  
9 Department ("L.V.M.P.D."). L.V.M.P.D. is vested with the authority to enforce N.R.S.  
10 213.1243 and Parole and Probation Division created non-statutorily authorized residency  
11 and movement restrictions. Defendant Lombardo is sued in his official capacity for  
12 declaratory and injunctive relief only.

13 63. Defendant Pamala Ojeda is Chief of the North Las Vegas Police Department.  
14 The North Las Vegas Police Department is vested with the authority to enforce N.R.S.  
15 213.1243 and Parole and Probation Division created non-statutorily authorized residency  
16 and movement restrictions. Defendant Ojeda is sued in her official capacity for declaratory  
17 and injunctive relief only.

18 64. Defendant Steven Wolfson is the District Attorney for Clark County, Nevada,  
19 is vested with the authority to enforce N.R.S. 213.1243 and Parole and Probation Division  
20 created non-statutorily authorized residency and movement restrictions. Defendant Steven  
21 Wolfson is sued in his official capacity for declaratory and injunctive relief only.



1 (emphasis added)

2 71. The Nevada Supreme Court’s decision in *Palmer v. State*, 118 Nev. 823, 59  
3 P.3d 1192 (2002), states that parole is separate and distinct from lifetime supervision.

4 72. Statutes specifically addressed to restrictions on parolees and those on  
5 probation, such as : NRS 176A.410(1)(b), NRS 176A.410(1)(m), NRS 213.1245(1)(a), and  
6 NRS 213.1245(1)(l) have absolutely no applicability to individuals who are not on parole,  
7 but instead are on lifetime supervision status.

8 73. At the time of Plaintiffs’ sentencing, the courts did not notify the offenders of  
9 the conditions of lifetime supervision on the premise that no Nevada state statute expressly  
10 prescribes or defines the actual conditions of lifetime supervision. Instead, the conditions of  
11 the sentence were imposed in an *ad hoc* fashion at the sole discretion of the State Board of  
12 Parole Commissioners.

13 74. In *McNeill v. State*, 375 P.3d 1022, 1025 (Nev. 2016), The Nevada Supreme  
14 Court ruled that “NRS 213.1243 does not delegate authority to the Board to impose  
15 additional conditions not enumerated [therein]”

16 75. In conjunction with N.R.S. 176.0931, the State of Nevada passed N.R.S.  
17 213.1243, which grants “The Board” the authority to establish a program of lifetime  
18 supervision.

19 76. N.R.S. 213.005 defines “Board” as the State Board of Parole Commissioners.

20 77. As part of the program, the Board created and imposed the conditions of  
21 lifetime supervision even though at the time of sentencing, the specific conditions did not  
22 exist under the Nevada Revised Statutes.



1           85.     In 2007, the Nevada Legislature passed two bills regarding individuals who  
2 had been convicted of sex offenses, A.B. 579 (provisions regarding sex offender  
3 registration; specifically, reclassification, registration, and notification) and SB. 471  
4 (provisions regarding lifetime supervision; specifically imposing residence and movement  
5 restrictions and other punitive conditions). S.B. 471, dealt strictly with the special sentence  
6 of lifetime supervision and was being applied retroactively.

7           86.     Plaintiffs challenged it on a variety of constitutional grounds. *American Civil*  
8 *Liberties Union of Nevada v. Cortez-Masto*, 719 F.Supp. 1258, 1259 (D.Nev. 2008).

9           87.     Plaintiffs submitted declarations to the District Court attesting to the fact that  
10 the Nevada Department of Parole and Probation was applying residence and movement  
11 restrictions retroactively. *Id.* at 1260.

12           88.     The U.S. District Court ruled both the challenged retroactive provisions of  
13 A.B. 579 and S.B. 471 unconstitutional:

14           Because of the changed standards, numerous people: (1) whose crimes were  
15 committed in the distant past; (2) who have been determined by the state of  
16 Nevada to be unlikely to re-offend; and (3) who have complied with the law,  
17 attended counseling, and who have not committed additional crimes would be  
18 thrown back into the system or be subject to more onerous monitoring and  
19 residency requirements. . . .

20           The application of these laws retroactively is the equivalent of a new  
21 punishment tacked on to the original sentence-sometimes years after the fact-  
22 in violation of the Ex Post Facto and Double Jeopardy Clauses of the U.S.  
23 Constitution, as well as the Contracts clauses of the U.S. and Nevada  
24 Constitutions. Moreover, because they do not provide any procedural  
25 protections from their retroactive application, A.B. 579 and S.B. 471 violate  
26 the Due Process Clause of the U.S. Constitution.

27 1258 F.Supp.2d at 1260.

1           89.       The State then appealed the District Court ruling to the United States Court of  
2 Appeals for the Ninth Circuit, which issued its ruling on February 10, 2012. *American Civil*  
3 *Liberties Union of Nevada v. Cortez-Masto*, 670 F.3d 1046 (9th Cir. 2012). The Court of  
4 Appeals reversed the District Court's decision regarding A.B. 579 and ruled that  
5 Defendants/Appellants appeal of the District Court's decision regarding S.B. 471 was moot  
6 based on the State's representation that it would not apply S.B. 471 retroactively.

7  
8           With respect to Assembly Bill 579, we hold that its retroactive application is  
9 constitutionally sound, and we reverse. With respect to Senate Bill 471, we  
10 conclude that our consideration of its disputed provisions was mooted by **the**  
11 **State of Nevada's authoritative judicial admission that—regardless of**  
12 **the existence of the injunction—the State will not retroactively impose**  
13 **residency and movement restrictions.** Because the State's concession moots  
14 its own appeal, we remand to the district court to consider vacating its Order  
15 as to Senate Bill 471 in favor of a binding consent decree. But if no consent  
16 decree can be negotiated, our dismissal of the State's appeal will leave the  
17 district court's injunction in vigor.

18 *Cortez- Masto*, 670 F.3d at 1050 (emphasis added).

19           90.       A.B. 579 was also considered by the Ninth Circuit. The Court of Appeals  
20 relied primarily on the United States Supreme Court decision in *Smith v. Doe*, 538 U.S. 84  
21 (2003), for its determination that registration of sex offenders was not punishment.  
22 Therefore A.B. 579's retroactive registration requirement did not violate constitutional  
23 rights.

24           Because Nevada's version of SORNA does not contain any registration  
provision that materially distinguishes it from *Smith*, we join them [other  
circuits] in concluding that the requirements of AB 579 do not constitute  
retroactive punishment in violation of the Ex Post Facto Clause or Double  
Jeopardy Clause.

*Cortez-Masto*, 670 F.3d at 1053 (citing *Smith*, 538 U.S. at 105-106).



1           91.     The Ninth Circuit reached a different conclusion regarding S.B.471. As noted  
2 above, the Court ruled that the Defendants' appeal of the District Court's invalidation of the  
3 retroactive residence and movement restrictions of S.B.471 was mooted by representations  
4 made to the appellate court by the State's counsel at oral argument.

5           92.     On July 16, 2014 in *The American Civil Liberties Union of Nevada, et al. v.*  
6 *Catherine Cortez Masto et. al.*, in the United States District Court District of Nevada, 2:08-  
7 cr-822-JCM (PAL), the Honorable District Court, District of Nevada, United States District  
8 Court Judge Mahan presiding, granted the parties joint motion for a more definitive  
9 statement regarding the clarification of the scope of the injunction of S.B. 471. (doc. 155)  
10 The Court ordered follow up briefing and had a hearing on June 25, 2014.

11           93.     On pp. 2-3 of the State's April 24, 2014 Opening Brief (doc. 151), the State  
12 acknowledges that the retroactive residence and movement restrictions, previously declared  
13 unconstitutional by Judge Mahan, and that were also previously represented to the Ninth  
14 Circuit panel as not being in effect, were, in fact, formerly, presently and prospectively in  
15 the future, being utilized, not under statute (S.B. 471 – which had been declared  
16 unconstitutional), but as a policy and practice of the Department of Parole and Probation  
17 (P&P) under their general authority.

18           At the time this order was entered, neither party discussed the movement and  
19 residency restrictions that were in place statutorily and enforced prior to the  
20 enactment of S.B. 471. The dispute between the parties is whether these  
21 statutory restrictions may be enforced. For convictions prior to February 8,  
22 2013, the date of the amended order (Doc. 143), Parole and Probation (P&P)  
23 continues to enforce the movement and residency restrictions that were in  
24 place prior to the enactment of S.B. 471:



1 well as the enforcement of the Court's prior order that resulted from the binding judicial  
2 admission.

3 97. Defendants continue to retroactively impose movement and residency  
4 restrictions on Plaintiffs and others similarly situated, whose crimes were committed prior to  
5 residency and movement restrictions going into effect pursuant to NRS 213.1243, in  
6 violation of *MacNeil*, where the Nevada Supreme Court stated that:

7 We conclude that, although the Legislature could have more narrowly  
8 tailored the language, "a condition imposed . . . pursuant to the program of  
9 lifetime supervision" necessarily encompasses only the conditions  
10 enumerated by the Legislature in N.R.S. 213.1243. Thus, it cannot be  
11 concluded from a plain reading that the Legislature extended authority to the  
12 Board to create additional conditions, rather than for the Board to create a  
13 program including the conditions enumerated in N.R.S. 213.1243 to be  
14 carried out by the Division's officers.

15 Because the Board has no authority to impose conditions not enumerated in  
16 N.R.S. 213.1243, the nonenumerated conditions the Board imposed on  
17 McNeill were unlawful, and McNeill did not violate the law when he failed  
18 to comply.

19 *McNeill v. State*, 375 P.3d at 1026 (emphasis added).

20 98. Defendants have asserted to this Court that the retroactive application of  
21 residency and movement restrictions upon Plaintiffs and others similarly situated is being  
22 doing pursuant to the authority given to the Board under N.R.S. 213.1245, N.R.S.  
23 213.12175, and N.R.S. 213.110.

24 99. N.R.S. 176A.410, cannot be applied to Plaintiffs because by its plain  
language, it applies only to those who are convicted of a sexual offense where the court  
grants probation or suspends the sentence.

1 N.R.S. 176A.410(1). Except as otherwise provided in subsection 6, if a  
2 defendant is convicted of a sexual offense **and the court grants probation**  
3 **or suspends the sentence**, the court shall, in addition to any other condition  
ordered pursuant to N.R.S. 176A.400, order **as a condition of probation or**  
**suspension of sentence** that the defendant: . . .

4 (emphasis added)

5 100. N.R.S. 176A.410(1) only applies to those on probation or who have received  
6 a suspended sentence. It makes no mention of those who are on lifetime supervision. That  
7 statute does not apply to individuals on lifetime supervision.

8 101. N.R.S. 213.1245 is similarly inapplicable to individuals on lifetime  
9 supervision as it addresses only mandatory conditions of parole for prisoners convicted of  
10 sexual offense:

11 N.R.S. 213.1245(1). Except as otherwise provided in subsection 3, **if the**  
12 **Board releases on parole** a prisoner convicted of an offense listed in N.R.S.  
179D.097, the Board shall, **in addition to any other condition of parole,**  
13 **require as a condition of parole** that the parolee: . . .

14 (emphasis added)

15 102. Defendants also cite N.R.S. 213.12175, which also relates only individuals  
16 on parole and not under lifetime supervision status.

17 N.R.S. 213.12175 The Board may, **as a condition of releasing a prisoner**  
18 **on parole**, impose any reasonable conditions on the parolee to protect the  
health, safety and welfare of the community, including, without limitation:

19 (emphasis added)

20 **II. Conditions created and imposed by the Board pursuant to 213.1243**

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104. The authority granted pursuant to N.R.S. 213.1243 to the Division of Parole and Probation of the Department of Public Safety (“Division”) resulted in the Division creating its own operating conditions to impose the special sentence lifetime supervision in the Nevada Administrative Code (“N.A.C.”) in 2000.

105. According to N.A.C. 213.290(1), the Department of Corrections (“Department”) shall give the Division written notification of an offender’s release at least 120 days prior to the first day of the month that the offender commences his sentence of lifetime supervision. The Division communicates this information to the Board at least 90 days prior to the first day of the month that the offender commences his sentence of lifetime supervision. Once the Board receives notification, the Board holds a “hearing” to establish the conditions imposed as part of the offender’s lifetime supervision.

106. During this “hearing,” the offender does not get the opportunity to make any statements. In fact, the Board imposes the conditions without the offender present. The Board entertains testimony from victims pursuant to N.R.S. 213.130(4). The Board also has the discretion to close off part of the “hearing” for confidential information as provided in N.R.S. 213.130(8). Typically, the Board sets the conditions for several offenders at a single hearing as provided in N.A.C. 213.290(3)(b). N.A.C. 213.290(5) mentions the option of the offender being present during a modification of the conditions if requested by the Division, but does not make the offender’s presence mandatory.

107. After the Board sets the conditions, the offender cannot contest the conditions of his lifetime supervision. According to the Parole and Probation Division Directive

1 6.3.131(C)(1)(f), the offender receives a lifetime supervision agreement 10 days before  
2 release of imprisonment, which the offender must sign or else risk another felony conviction  
3 and sentence of one to six years imprisonment.

4 108. Plaintiffs' lifetime supervision agreements contains many of the standard  
5 conditions given to probationers as expressed in N.R.S. 176A.410. An offender on lifetime  
6 supervision must submit to the conditions of reporting/release, residence, intoxicants,  
7 controlled substances, weapons, associates, cooperation, laws and conduct, out-of-state  
8 travel, employment/program, supervision fees, curfew, counseling, polygraph examination,  
9 no contact, alias names, no post office box, and no contact with persons under 18 years of  
10 age, presence, and search restrictions as an offender on probation.

11 109. The Board retains the right to change the conditions at a whim since  
12 Plaintiffs' lifetime supervision agreements include a clause stating "that the Board Parole  
13 Commissioners has the power, at any time, to modify the conditions of supervision."

14 110. The conditions expressed in the actual lifetime supervision agreement vary  
15 from the language of N.R.S. 213.1243. For instance, N.R.S. 213.1243(4) expressly prohibits  
16 Tier III offenders from being within 500 feet of any place designed primarily for the use of  
17 children, including a private or public school, video arcade, playground, park, or motion  
18 theater, etc. Yet, the Board expands the statutory language by imposing as a "presence"  
19 condition that the offender, regardless of Tier, must not be in or near a playground, school,  
20 or school grounds, movie theater, or business that primarily has children or events children  
21 attend.

1 111. Similarly, N.R.S. 213.1243(a)-(c) did not exist until the State of Nevada  
2 expressly added these provisions into the statute. Regardless, the Board imposed broad  
3 residency restrictions prior to the amendment, which requires the offender to obtain  
4 permission to reside at a specific location from his Parole Officer. Moreover, the Board  
5 continues to use the same broad residency restrictions to an offender commencing lifetime  
6 supervision today. Further, N.R.S. 213.1243(9) gives the Board the discretion to disregard  
7 three of the four conditions expressed if the Board finds “extraordinary circumstances”  
8 present, but fails to define what “extraordinary circumstances” must exist.

9 112. Consequently, the offender finds no relief from the conditions until 10 years  
10 after his conviction when he may petition either the Board or the court to seek release from  
11 lifetime supervision.

12 **III. Punishment for a violation of a condition imposed pursuant to N.R.S. 213.1243**

13 113. Pursuant to N.R.S. 213.1243(8), an offender who violates the conditions of  
14 lifetime supervision becomes “guilty of a category B felony and shall be punished by  
15 imprisonment in the state prison for a minimum term of not less than 1 year and a maximum  
16 term of not more than 6 years, and may be further punished by a fine of not more than  
17 \$5,000.” If an offender violates any of the conditions that the Board imposes, the State  
18 charges the offender with a new felony and imprisonment. Once the offender completes the  
19 sentence for the violation, the offender resumes the special sentence of lifetime supervision  
20 as imposed by the Board prior to the violation with the possibility of more special  
21 conditions.

1           114. Counsel for the Plaintiffs have sought relief for similarly situated plaintiffs  
2 in the Supreme Court of Nevada. However, on March 27, 2014 the Supreme Court of  
3 Nevada published *Coleman v. State*, 130 Nev. Advance Opinion 22.<sup>36</sup> In Coleman, the Court  
4 held, “that a person who is subject only to lifetime supervision is not under a sentence of  
5 imprisonment within the meaning of NRS 34.724(1) and therefore cannot file a post-  
6 conviction petition for a writ of habeas corpus to challenge his sentence.”<sup>37</sup> Counsel argued  
7 that without the ability to utilize NRS 34.724, *Coleman* and several dozen other petitioners  
8 who had filed similar claims with the Nevada Supreme Court would be left with an  
9 unconstitutional sentence and no remedy. The Nevada Supreme Court addressed this point  
10 in the decision stating:

11           Coleman contends that he is left without a remedy if he cannot challenge his  
12 sentence and conditions of lifetime supervision in a post-conviction petition  
13 for a writ of habeas corpus. Even assuming this was correct, the post-  
14 conviction petition for a writ of habeas corpus is a creature of statute and we  
15 cannot ignore the plain language of NRS 34.724(1) that restricts its use. The  
16 State acknowledges that while traditional post-conviction relief is not  
17 available, Coleman could still pursue injunctive relief pursuant to NRS  
18 33.010. Although we do not attempt to catalogue the full panoply of remedies  
19 available to challenge the conditions of lifetime supervision including the  
20 extent to which the conditions could be challenged in defense of a charge  
21 under NRS 213.1243(8) for violating a condition of lifetime supervision, we  
22 note that some challenges to those conditions may be pursued in a civil rights  
23 action under 42 U.S.C. § 1983. Nevada law also provides a means for  
24 Coleman to petition to be released from lifetime supervision if he meets  
certain conditions. NRS 176.0931(3). Coleman therefore is not left without a  
remedy.<sup>38</sup>

#### IV. The effects of the special sentence of lifetime supervision on Does 1-35

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<sup>36</sup> A copy of the Court’s decision is attached as Exhibit 17 for this Honorable Court’s convenience.

<sup>37</sup> Id at p.7.

<sup>38</sup> Id at p.7. A summary of Mr. Coleman’s constitutional arguments are presented in Appellant’s Opening Brief, attached as Exhibit 18, and in Appellant’s Reply Brief, attached as Exhibit 19.



**Doe 1**

115. Plaintiff Doe 1 accepted a plea agreement on August 19, 2004, pleading to one count of Using Technology To Lure Children. On October 19, 2004, the court sentenced Doe 1 to a prison term in the Nevada State Prison for the minimum term of twelve (12) months to a maximum term of forty-eight (48) months. The prison sentenced was suspended and Doe 1 was placed on probation for an indeterminate period of time not to exceed sixty (60) months, in addition to a special sentence of lifetime supervision to commence after any period of probation or after any term of imprisonment or after any period of release from parole. On April 24, 2004, Doe 1 commenced his sentence of lifetime supervision with the Board imposing standard and special conditions. Doe 1 is deaf and lives in Reno, Nevada. Doe 1 is a college graduate who was gainfully employed. Due to his sentence of lifetime supervision, Doe 1 has a difficult time finding work because of his disability and the impact of his lifetime supervision conditions. Doe 1 has family out of state and has had difficulties seeing them due to conditions of lifetime supervision. Furthermore, Doe 1 has a difficult time finding and keeping any type of substantive relationship in his life due to the conditions that have been imposed on him.

**Doe 2**

116. Plaintiff Doe 2 accepted a plea agreement on August 8, 2007, pleading to one count of Attempt Lewdness With a Child Under the Age of 14. On November 1, 2007, the court sentenced Doe 2 to a prison term in the Nevada State Prison for the minimum term of forty-eight (48) months to a maximum term of one hundred-twenty (120) months. The prison sentenced was suspended and Doe 2 was placed on probation for an indeterminate period of time not to exceed sixty 5 years, in addition to a special sentence of lifetime supervision to commence after any period of probation or after any term of imprisonment or after any period of release from parole. On December 22, 2010 Doe 2 was honorably discharged from probation. Also on December 22, 2010, Doe 2 commenced his sentence of lifetime supervision with the Board imposing standard and special conditions. Doe 2 lives in Las Vegas, Nevada. Doe 2 was gainfully employed but due to his sentence of lifetime

1 supervision he lost his job and had a hard time finding work. Furthermore, Doe 2 has a  
2 family out of state and has had a difficult time seeing them and keeping a close relationship  
3 with his family due to his conditions of lifetime supervision.

4 **Doe 3**

5 117. Plaintiff Doe 3 accepted a plea agreement on August 13, 1997, pleading to  
6 one count of Lewdness With a Child Under the Age of 14 and one count of Possession of  
7 Visual Presentation Depicting Sexual Conduct of Person. On October 9, 1997, the court  
8 sentenced Doe 3 to a prison term in the Nevada State Prison for Count 1: minimum term of  
9 twenty-four (24) months to a maximum term of one hundred twenty (120) months; Count 2  
10 minimum twelve (12) months to a maximum of thirty-six (36) months. Both prison sentences  
11 were suspended and Doe 3 was placed on probation for an indeterminate period of time not  
12 to exceed sixty 5 years, in addition to a special sentence of lifetime supervision to  
13 commence after any period of probation or after any term of imprisonment or after any  
14 period of release from parole. On August 22, 2002, Doe 3 was honorably discharged from  
15 probation. Also on August 22, 2002, Doe 3 commenced his sentence of lifetime supervision  
16 with the Board imposing standard and special conditions. Doe 3 was gainfully employed  
17 but due to his sentence of lifetime supervision he was fired from his job has a difficult time  
18 finding work because lifetime supervision conditions. Doe 3 is currently married his wife  
19 along with other family currently live out of state. Due to his lifetime supervision conditions  
20 it is nearly impossible for him to see his wife and his family. Furthermore, Doe 3 is under  
21 medical treatment and must travel out of state to obtain specialized medical treatment. Due  
22 to his movement restrictions his medical treatment has been prolonged.

23 **Doe 4**

24 118. Plaintiff Doe 4 accepted a plea agreement on October 20, 2009, pleading to  
one count of Attempt Lewdness With a Minor. On December 14, 2009, the court sentenced  
Doe 4 to a prison term in the Nevada State Prison for the minimum term of twenty-four (24)  
months to a maximum term of ninety-six (96) months. Doe 4 was also sentenced to special  
sentence of lifetime supervision to commence after any period of probation or after any term

1 of imprisonment or after any period of release from parole. On August 1, 2013, Doe 4  
2 commenced his sentence of lifetime supervision with the Board imposing standard and  
3 special conditions. Doe 4 currently lives in Utah. His current job has opportunities that  
4 involve traveling. Due to his sentence of lifetime supervision, Doe 4 has been denied these  
5 work opportunities. Furthermore Doe 4 has family in Idaho and Arizona and has had  
6 difficulty seeing them and maintaining a relationship with his family due to the conditions of  
7 lifetime supervision.

8 **Doe 5**

9 119. Plaintiff Doe 5 accepted a plea agreement on June 8, 2006, pleading to one  
10 count of Attempt Lewdness With a Child Under the Age of 14. On August 22, 2006, the  
11 court sentenced Doe 5 to a prison term in the Nevada State Prison for the minimum term of  
12 forty-eight (48) months to a maximum term of one hundred eighty (180) months. Doe 5 was  
13 also sentenced to a special sentence of lifetime supervision to commence after any period of  
14 probation or after any term of imprisonment or after any period of release from parole. Doe  
15 5 commenced his sentence of lifetime supervision with the Board imposing standard and  
16 special conditions. Doe 5 lives in Las Vegas, Nevada. Doe 5 is currently enrolled in school.  
17 Due to his sentence of lifetime supervision and not being able to have a computer, Doe 5 has  
18 a nearly impossible time performing and finishing his schoolwork. Doe 5's classes also  
19 require trips to certain destinations that he has been unable to go to because of his movement  
20 conditions. Moreover, Doe 5 has had job opportunities but do to his conditions he has been  
21 unable to get hired. Furthermore Doe 5 has family out of state and has been unable to attend  
22 family functions such as wedding, etc. due to his conditions.

23 **Doe 6**

24 110. Plaintiff Doe 6 accepted a plea agreement on October 8, 2010, pleading to  
one count of Attempt Sexual Assault and to one count of Coercion. On February 3, 2011,  
the court sentenced Doe 6 to a prison term in the Nevada State Prison on count 1 for the  
minimum term of twenty-four (24) months to a maximum term of ninety-six (96) months  
and count 2 for a minimum of twelve (12) months to a maximum term of thirty-six (36)

1 months to be served concurrently with sentence imposed in count 1. Doe 6 was also  
2 sentenced to a special sentence of lifetime supervision to commence after any period of  
3 probation or after any term of imprisonment or after any period of release from parole. On  
4 August 28, 2013 Doe 6 was placed on parole and he later commenced his sentence of  
5 lifetime supervision with the Board imposing their standard but legally unspecified special  
6 conditions. Doe 6 currently lives in Minnesota. Doe 6 has had many job opportunities that  
7 he has had to decline due to the restrictions of his conditions of lifetime supervision.

7 **Doe 7**

8 111. Plaintiff Doe 7 accepted a plea agreement on September 26, 1997, pleading  
9 to one count of sexual assault and battery with the intent to commit sexual assault. The court  
10 sentenced Doe 7 to a prison term in the Nevada State Prison for the minimum term of ten  
11 (10) years to a maximum term of (25) years, and in addition to a special sentence of lifetime  
12 supervision to commence after any period of probation or after any term of imprisonment or  
13 after any period of release from parole. On November 30, 2010, Doe 7 was released from  
14 prison. Also upon his release from incarceration, Doe 7 commenced his sentence of lifetime  
15 supervision with the Board imposing standard and special conditions. Doe 7 lives in Las  
16 Vegas, Nevada. Doe 7 had difficulties finding a job due to the conditions that he is subject  
17 to. Doe 7 also has incurred expenses for computer monitoring on his work and personal  
18 computers, which can be faulty and corrupt his work files by no fault of his own. This has  
19 created a financial burden to Doe 7 considering that he also has a family he needs to provide  
20 for. Furthermore, Doe 7 has family out of state and has difficulty seeing them due to  
21 movement conditions imposed on him through his special sentence of lifetime supervision.

18 **Doe 8**

19 112. Plaintiff Doe 8 accepted a plea agreement on October 19, 2009, pleading to  
20 two counts of Attempt Lewdness With a Child Under the Age of 14. On April 26, 2010, the  
21 court sentenced Doe 8 to a prison term for both counts in the Nevada State Prison for the  
22 minimum term of forty-eight (48) months to a maximum term of one hundred twenty (120)  
23 months and for both sentences to run concurrently. Doe 8 was also sentenced to special  
24

1 sentence of lifetime supervision to commence after any period of probation or after any term  
2 of imprisonment or after any period of release from parole. In January 2015, Doe 8 was  
3 released from prison and placed on parole with conditions. Doe 8 will commence his  
4 sentence of lifetime supervision soon with the Board imposing standard and special  
5 conditions. Doe 8 lives in Las Vegas, Nevada. It is anticipated that Doe 8 will be subject to  
6 the same hardships as the other plaintiffs on lifetime supervision. This would include  
7 struggling to find and maintain gainful employment, maintaining relationships with family  
8 members outside of the state of Nevada, as well any other of the foreseeable issues that have  
9 affected the other plaintiffs. Doe 8 must sign his lifetime supervision agreement or he will  
10 be committing a felony under Nevada law.

11 **Doe 9**

12 113. Plaintiff Doe 9 accepted a plea agreement on July 19, 2012, pleading to one  
13 count of Attempt Luring Children or Mentally Ill Persons with the Intent to Engage in  
14 Sexual Conduct. On November 26, 2012, the court sentenced Doe 9 to a prison term of a  
15 minimum of twelve (12) months and maximum of forty-eight (48) months in the Nevada  
16 Department of Corrections; suspended and placed on probation for an indeterminate period  
17 not to exceed four (4) years. Doe 9 was also sentenced to a special sentence of lifetime  
18 supervision to commence after any period of probation or after any term of imprisonment or  
19 after any period of release from parole. In June 2015, Doe 9 was released from probation  
20 and placed on parole with conditions. Doe 9 has commenced his sentence of lifetime  
21 supervision with the Board imposing standard and special conditions. Doe 9 lives in Las  
22 Vegas, Nevada. Doe 9 has been subject to the several hardships due to being on lifetime  
23 supervision. These hardships include struggling financially due to the fact that he has to pay  
24 monthly monitoring fees on his equipment for work, paying to live on his own due to the  
fear that having a roommate may cause issues for him because of his conditions. Doe 9 has  
had to leave his field of work and has turned down several job offers due to the necessity to  
travel for work and his special sentence of lifetime supervision prohibits such travel.

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**Doe 10**

114. Plaintiff Doe 9 is an ex-Navy serviceman who was convicted on February 8, 2006 for the crime of Attempt Sexual Assault. The date of offense was between November 1, 2003 and October, 2005 in C217917. He was sentence to thirty-three to one hundred forty-four months in the Nevada Department of Corrections. He was discharged from custody on September 1, 2011. The Defendant could not find a job after his release from prison because of the exacting and punishing terms of his special sentence of lifetime supervision. The Defendant has become an integral part of his local church and with the help of his fellow church members he has started a business raising hogs for sale to local strip restaurants. The hog farm is located in Arizona and he must obtain permission to travel there as part of his special sentence of lifetime supervision. Since his release, the Plaintiff has been charged with violation of his special sentence of lifetime supervision by failing to enroll in a sexual offender class and for being arrested for simply battery. The battery charge was dismissed and the Plaintiff provided proof that he attended well over a dozen similar classes while incarcerated. However, the State is still attempting to convict Plaintiff Doe of this Class B Felony. Doe 11 is unable to afford the counseling that is now being ordered although he has already successfully completed years of counseling.

**Doe 11**

115. Doe 11 accepted a plea agreement on May 13, 2010 whereby he entered an Alford plea to a sexual offense. The court sentenced the Plaintiff to a two to five year term of imprisonment and a special sentence of lifetime supervision. Plaintiff Doe 11 began serving his special sentence of lifetime supervision on October 13, 2012 after being honorably discharged from parole. None of the conditions in this sentence were codified at law at the time of his offense. Similarly, none of the conditions of his special sentence of lifetime supervision were contained in either his plea agreement or in his judgment of conviction. This is true of all Does 1-16. Plaintiff Doe 11 is twenty-five years old. He is no longer working because six parole and probationer officers recently arrested him at his job site and he was terminated. No charges were brought. No explanations for the alleged violations of his special sentence of lifetime supervision were given by authorities. Since

1 being placed on lifetime supervision, Plaintiff Doe 11 has been invited for job interviews,  
2 business opportunities, and schooling opportunities in Washington, Illinois and California.  
3 He has been denied travel to any of these places by Parole and Probation. Plaintiff Doe 11  
4 had been helping family friends care for a child. Plaintiff Doe 11 had been helping with the  
5 care of this boy since 2012. Because of his special sentence of lifetime supervision he can no  
6 longer be in the boy's presence. Plaintiff Doe 11 had been raised in the foster care system.  
7 He is and wants to be a hard worker. After his recent firing, Parole and Probation have  
8 denied his opportunity to take grave yard work because they have imposed a curfew.

7 **Doe 12**

8 116. Plaintiff Doe 12 accepted an Alford plea pursuant to plea agreement on April  
9 2, 2009. The court sentenced Plaintiff 12 to probation and a special sentence of lifetime  
10 supervision. The conditions of probation were specifically set forth in the judgment of  
11 conviction and they could be found at NRS 176A.410. The conditions that would comprise  
12 Plaintiff Doe 12's special sentence of lifetime supervision were never codified at law and  
13 are more onerous than his conditions of probation. The Plaintiff's conditions of lifetime  
14 supervision were imposed on December 5, 2012. Since that time, the Plaintiff has been  
15 denied the opportunity to travel to the Philippines to fulfill the mandate of his K-1 visa. This  
16 prohibition has prevented the Plaintiff from marrying the woman he loves. The Plaintiff is a  
17 disabled and decorated combat veteran. He served in the Army from December of 1983 to  
18 January of 1996. His DD214 lists the following decorations, medals etc. "NDSM // VSM  
19 W/1BSS // RVCN, AFM900-3" indicating he was present in these operations during  
20 conflict. The Department of Veterans Affairs has officially diagnosed this Plaintiff with  
21 Combat Related Post Traumatic Stress Disorder (CR PTSD). Plaintiff Doe 12 underwent a  
22 psychosexual evaluation before sentencing and received the lowest possible score. The  
23 Plaintiff has a Master's Degree in Public Administration and a Bachelor's Degree in  
24 Computer Management. The conditions of lifetime supervision have prevented his use of a  
computer without a disruptive monitoring system. This Plaintiff has been prevented from  
family affairs and visits because of the possibility of a minor being present.

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**Doe 13**

117. Plaintiff Doe 13 accepted a plea agreement on September 19, 2007. On January 9, 2008, Plaintiff Doe 13 was sentenced to probation not to exceed the years. The conditions of his probation were detailed in his Judgment of Conviction. They were derived from existing law, found and referenced at NRS 176A.410. Plaintiff Doe 13 was also sentenced to a special sentence of lifetime supervision. Those conditions were not detailed in either the plea agreement or in the Judgment of Conviction. The reason for this failure is because these conditions were not codified under Nevada law. The conditions of the special sentence of lifetime supervision would later be developed, and imposed upon Plaintiff Doe 13 through the Adult Probation Department of the Pinal County Superior Court. Those conditions include prohibitions on travel outside the county unless previous permission is obtained. Plaintiff Doe 13 cannot operate a car alone without prior permission. The location of the Defendant's residence must receive prior approval from the Adult Probation Department. These onerous conditions are being imposed through the conduit of Plaintiff Doe's Nevada Lifetime Supervision sentence. The conditions have had a disabling impact on Doe 13's life. He was forced to switch occupation as phone line splicer because of the travel restrictions. He has not been able to engage in any relationships with the women he has met because they have children and he cannot be near children. He cannot go to a movie without getting prior permission. Recently, his best friend died but he was unable to attend the funeral because of the travel restrictions.

**Doe 14**

118. Plaintiff Doe 14 is a fifty-five year old male who entered in a plea agreement with the State of Nevada on January 6, 2003, pleading guilty to one count of Attempt Lewdness with a Minor (Category B Felony) and one count of False Imprisonment (Gross Misdemeanor). The date of offense was August 31, 2002. On March 10, 2003 Plaintiff Doe 14 was sentenced to a term of probation and a special sentence of lifetime supervision. The Defendant has been continuously gainfully employed for the entire time he has been on both probation and lifetime supervision. Plaintiff Doe 14 was given an Order Honorably Discharging Probationer on March 21, 2007. Soon thereafter, he was forced to file a lifetime



1 supervision agreement in accordance with his special sentence of lifetime supervision.  
2 Plaintiff Doe 14 has recently been assessed in a psychosexual evaluation and has been  
3 determined to present the lowest statistical risk of reoffending. Over the past several weeks,  
4 as a direct consequence of his special sentence of lifetime supervision Plaintiff Doe 14 was  
5 denied a supervisory position at the mortgage company he works at because of travel  
6 restrictions imposed by the “Board” through his agreement. This lost opportunity will cost  
7 the Plaintiff thousands of dollars in increased pay. In 2007, this Plaintiff was forced to  
8 relocate his mother from Phoenix, Arizona to Henderson, Nevada. His mother was suffering  
9 from Alzheimer’s disease and because of his travel restrictions Plaintiff Doe 14 could not  
10 visit her. Each time this Plaintiff wants to travel to see his family or his girlfriend’s family  
11 he must apply for a travel pass. This Plaintiff has been forced to place monitoring devices on  
12 all of his phones and computers, endangering his employability at his current company.

13 **Doe 15**

14 119. Plaintiff Doe 15 accepted a plea agreement on January 25, 2013, pleading to  
15 one count of Luring Children or Mentally Ill Persons with Use of Technology with Intent to  
16 Engage In Sexual Conduct, on April 17, 2013. Doe 15 was sentenced to a term of probation  
17 and a special sentence of lifetime supervision. On December 30, 2013, Doe 15’s probation  
18 was revoked and he was resentenced to a term of imprisonment in the Nevada Department  
19 of Corrections. Doe 15’s Lifetime Supervision Agreement was activated on June 24, 2015.  
20 The restrictions have had a harsh and punitive effect on his ability to find a job. He is not  
21 allowed internet access all prospective jobs have required on line application. Doe 15’s  
22 family lives in Arizona. His travel restrictions prevent him from visiting them and attending  
23 family functions. Doe 15 has a bartender’s license but his curfew provision prevents him  
24 from working at night. The Doe 15 wants to return to Arizona where his friends, family and  
support system is but he is unable to move because of his current restrictions. Doe 15 cannot  
attend a movie, he cannot drink alcohol, and he cannot be in the same room with someone  
under the age of eighteen unless an adult is present and with prior approval of his probation  
officer. Doe 15 is prohibited from possessing any device that has internet capability. He is  
subject to random searches and random polygraphs.

1 **Doe 16**

2 120. Plaintiff Doe 16 accepted a plea agreement on October 6, 2006. On June 30,  
3 2005, Plaintiff Doe 16 was sentenced to probation and a special sentence of lifetime  
4 supervision. The residency and movement restrictions caused by his lifetime supervision  
5 have prevented him from relocating to live with his girlfriend and child in Colorado. He has  
6 also had occupational opportunities denied because of the restrictions imposed by the special  
7 sentence of lifetime supervision. He has been honorably discharged from counseling. He has  
8 been independently assessed as a low risk to reoffend. He has attended university and  
9 maintained a 3.9 grade average. Plaintiff Doe's home was searched and his computers taken  
10 as a result of his supervision. These actions have caused him to be unable to complete work  
11 and school work.

9 **Doe 17**

10 121. Plaintiff Doe 17 lost his employment in 2010 after the department  
11 supervising his lifetime supervision contacted his employer. Doe 17 has sated "I have  
12 followed every rule and restriction and am doing what I am told to do ... (these) restrictions  
13 make it virtually impossible to lead even a life that consists only of work and sleep." His  
14 travel has been restricted and his residency has been restricted. Some of the restrictions  
15 imposed on Plaintiff Doe 17 through lifetime supervision were codified at law when he  
16 committed the offenses between February 1, 2003 and March 31, 2003.

15 **Doe 18**

16 122. Doe 18 entered an Alford plea to an offense that occurred on June 2, 2005.  
17 He was placed on probation. His lifetime supervision sentence has impacted his  
18 employment, residency and travel.

18 **Doe 19**

19 123. Doe 19 has already been violated once for taking his daughter to a school  
20 event without Board permission. He served seventeen months although that condition did  
21 not exist at law when he committed the offense that caused his sentence of lifetime  
22 supervision to be imposed. He has lost several jobs, he has been prevented from taking part  
23 in his daughter's life, and his residency and travel have been curtailed because of his special

1 sentence of lifetime supervision. He has had curfew imposed for no articulable reason. He  
2 has been denied travel to see his sister who is very ill.

3 **Doe 20**

4 124. Plaintiff Doe 20 was born in Maryland and wants to return to live there with  
5 his family but cannot because of lifetime supervision. This Plaintiff served in the military as  
6 a security enforcement specialist. He has several college degrees. Restrictions on travel and  
7 residency have been imposed because of his special sentence of lifetime supervision.

8 **Doe 21**

9 125. Plaintiff Doe 21's offenses occurred between January 2001 and March 2001.  
10 His special sentence of lifetime supervision has restricted his residency, travel, and  
11 associations with other people. None of the conditions currently imposed upon this Plaintiff  
12 existed at law at the time he committed the offense that yielded the special sentence of  
13 lifetime supervision.

14 **Doe 22**

15 126. Plaintiff Doe 22 committed his offenses on January 2, 2000. He was then  
16 sentenced to lifetime supervision the special sentence of lifetime supervision has impacted  
17 his residency, employment, curfew, associations with other person, and his ability to travel.  
18 None of the conditions currently imposed upon Plaintiff Doe 22 existed in law when the  
19 offenses were committed.

20 **Doe 23**

21 127. Plaintiff Doe 23 is 83 years old and a recent cancer survivor. This was his  
22 first criminal incident. He was placed on probation but given a special sentence of lifetime  
23 supervision with conditions that did not exist at law when he committed this offense. His  
24 lifetime supervision has prevented him from traveling and from contact with is eight  
children and 29 grandchildren. There have been strict movement requirements imposed as a  
result of his special sentence of lifetime supervision. He has been in compliance with all  
conditions of both probation and supervision.

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1 **Doe 24**

2 128. Plaintiff Doe 24 has had his residency, movement, and travel restricted  
3 because of his special sentence of lifetime supervision.

4 **Doe 25**

5 129. Plaintiff Doe 25 has had his residency, movement, and travel restricted  
6 because of his special sentence of lifetime supervision.

7 **Doe 26**

8 130. Plaintiff Doe 26 committed her offenses in March through June 2004. None  
9 of the travel, residency or movement restrictions imposed upon her now through her  
10 sentence of lifetime supervision existed at law at the time she committed her offenses.

11 **Doe 27**

12 131. Plaintiff Doe 27 has had his residency, movement, and travel restricted  
13 because of his special sentence of lifetime supervision.

14 **Doe 28**

15 132. Plaintiff Doe 28 has had his residency, movement and travel restricted  
16 because of his special sentence of lifetime supervision.

17 **Doe 29**

18 133. Plaintiff Doe 29 accepted a plea agreement filed with the district court, Clark  
19 County, Nevada on September 12, 2011 entering an Alford plea to Attempt Sexual Assault.  
20 On January 19, 2012, the Court sentenced the Defendant to twelve (12) to forty-eight (48)  
21 months in the Nevada Department of Corrections. Doe 29 was also sentenced to serve a  
22 special sentence of lifetime supervision. He is currently serving his sentence of lifetime  
23 supervision. This sentence has restricted his movement, travel, and residency. Plaintiff Doe  
24 is a small business owner employing upwards of forty to sixty people. His sentence of  
lifetime supervision has prevented Doe 29 from internet access, necessary to run his  
company. Doe 29 has been denied housing because of his special sentence of lifetime  
supervision. He was honorably discharged from parole and he has successfully completed  
multiple stages of counseling.

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1 **Doe 30**

2 134. Plaintiff Doe 30 will be required by the Board to execute a standard lifetime  
3 supervision agreement within the next several months as a requirement for his termination of  
4 parole. The lifetime supervision agreement, it is expected, will restrict Doe 30's residency,  
5 travel, employment, and movement, as the other lifetime supervision agreements do to the  
6 other Plaintiff Does. None of the punitive conditions that will be placed upon Plaintiff Doe  
7 30 existed at law in 2004 when he committed the offenses which permitted the special  
8 sentence of lifetime supervision to be imposed.

7 **Doe 31**

8 135. Plaintiff Doe 31 will be required by the Board to execute a standard lifetime  
9 supervision agreement as soon as his probation ends. The lifetime supervision agreement, as  
10 with all others, will restrict his residency, movement, employment, association, and travel  
11 rights.

11 **Doe 32**

12 136. Plaintiff Doe 32 is currently serving a special sentence of lifetime supervision  
13 which restricts his residency, movement, travel, association and employment rights. These  
14 restrictions did not exist at law when the offense for which he was sentenced was  
15 committed.

15 **Doe 33**

16 137. Plaintiff Doe 33 is currently serving his special sentence of lifetime  
17 supervision. His travel, residency, employment and association rights have been severely  
18 impacted by his special sentence of lifetime supervision.

18 **Doe 34**

19 138. Plaintiff Doe 34 is currently serving his special sentence of lifetime  
20 supervision through the probation authorities of Travis County, Texas. Texas has no lifetime  
21 supervision so the special conditions that comprise Plaintiff's sentence of lifetime  
22 supervision are determined in an *ad hoc* manner by the authorities in Texas based upon the  
23 lifetime supervision agreement imposed in Nevada. This Plaintiff has been subjected to  
24 unwritten terms of lifetime supervision outside of the lifetime supervision agreement.

1 Plaintiff Doe 34 has strict residency requirements. Plaintiff Doe 34 is not allowed to travel  
2 outside of Travis County, Texas. Plaintiff Doe 34 cannot have a child and live with that  
3 child without the prior express consent of parole and probation authorities in Texas and  
4 Nevada, even though he is on neither parole nor probation. This Plaintiff cannot seek or hold  
5 employment outside of Travis County, Texas. This Plaintiff, should he get divorced, must  
6 get approval from probation authorities to date another woman. Texas authorities have  
7 determined that based upon the unfettered authority granted by Nevada's lifetime  
8 supervision agreement that they can improvise and implement any condition necessary to  
9 supervise Plaintiff Doe 34.

8 **Doe 35**

9 139. Plaintiff Doe 35 has been court ordered to sign a lifetime supervision  
10 agreement upon the expiration of his parole in November, 2016. His standard lifetime  
11 supervision agreement will restrict his residency, movement, travel, association, and  
12 employment rights. These restrictions did not exist at law when the offense for which he was  
13 sentenced was committed.

13 **FIRST CLAIM FOR RELIEF**

14 **Violation of the Fourteenth Amendment to the United States Constitution under**  
15 **42 U.S.C. § 1983; Nevada Constitution, Article 1, § 8(5)**  
16 **(Procedural Due Process)**

17 140. Plaintiffs incorporate by reference all preceding paragraphs of this Complaint  
18 as though fully set forth herein.

19 141. This claim is brought by all Plaintiffs against all Defendants.

20 142. The Due Process Clause of the Fourteenth Amendment to the United States  
21 Constitution provides that the State shall not "deprive any person of life liberty, or property,  
22 without due process of law." U.S. Const. amend. XIV, § 1.

1 143. Nevada Constitution, Article 1, § 8(5), states that, “[n]o person shall be  
2 deprived of life, liberty or property without due process of law.”

3 144. Retroactive imposition, by the Board, of residency and movement restrictions  
4 on Plaintiffs and others similarly situated, violates the Due Process Clause of the Fourteenth  
5 Amendment.

6 145. Accordingly, each of these constitutional violations has injured, or will  
7 imminently injure Plaintiffs, which entitles Plaintiffs to declaratory and injunctive relief, and  
8 damages.

9 **SECOND CAUSE OF ACTION**

10 **Violation of the Fourteenth Amendment to the United States Constitution under**  
11 **42 U.S.C. § 1983; Nevada Constitution, Article 1, § 8(5)**  
**(Substantive Due Process)**

12 146. Plaintiffs incorporate by reference all preceding paragraphs of this  
13 Complaint as though fully set forth herein.

14 147. This claim is brought by all Plaintiffs against all Defendants.

15 148. The residency and movement restrictions imposed retroactively by the  
16 Board infringe on Plaintiffs’ fundamental rights to marry, travel, raise their children, and  
17 reside with their families in violates the Due Process Clause of the Fourteenth Amendment  
18 to the United States Constitution, and Nevada Constitution, Article 1, § 8(5).

19 149. Each of these constitutional violations has injured, or will imminently  
20 injure Plaintiffs, which entitles Plaintiffs to declaratory and injunctive relief, and  
21 damages.

**THIRD CAUSE OF ACTION**

**Violation of the Fourteenth Amendment to the United States Constitution under  
42 U.S.C. § 1983; Nevada Constitution, Article 1, § 4  
(First Amendment)**

150. Plaintiffs incorporate by reference all preceding paragraphs of this Complaint as though fully set forth herein.

1151. This claim is brought by all Plaintiffs against all Defendants.

152. The First Amendment protects the freedom of religion and right to assemble. U.S. Const. Amend. I.

153. The First Amendment applies to the states through the Due Process Clause of the Fourteenth Amendment. *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940).

154. Nevada Constitution, Article 1, § 4 provides protections for “[t] free exercise and enjoyment of religious profession.”

130. The residency and movement restrictions retroactively imposed by the Board prohibit Plaintiffs from attending religious services in violation of the Free Exercise Clause of the First Amendment as incorporated into the Due Process Clause of the Fourteenth Amendment, and Nevada Constitution, Article 1, § 9 and. Nevada Constitution, Article 1, § 4.

131. Moreover, the residency and movement restrictions retroactively imposed by the Board pursuant to N.R.S. 213.1243 prohibits Plaintiffs from associating with certain people and in certain areas in violation of the freedom of association as guaranteed by the First Amendment as incorporated into the Due Process Clause of the Fourteenth Amendment.



1           132. Each of these constitutional violations has injured, or will imminently injure  
2 Plaintiffs, which entitles Plaintiffs to declaratory and injunctive relief and damages.

3                                   **FOURTH CAUSE OF ACTION**  
4           **Violation of the Fourteenth Amendment to the United States Constitution under**  
5           **42 U.S.C. § 1983; Nevada Constitution, Article 1, § 6.**  
6           **(Cruel & Unusual Punishment)**

7           133. Plaintiffs incorporate by reference all preceding paragraphs of this Complaint  
8 as though fully set forth herein.

9           139. This claim is brought by all Plaintiffs against all Defendants.

10          140. The Fourteenth Amendment to the U.S. Constitution incorporates the Eighth  
11 Amendment prohibition against the government inflicting cruel and unusual punishments.  
12 *Robinson v. California*, 370 U.S. 660, 667 (1962).

13          141. Nevada Constitution, Article 1, § 6 prohibits cruel and unusual punishment.

14          142. A violation of the conditions imposed by the Board pursuant to N.R.S.  
15 213.1243 subjects an offender to another felony and a mandatory sentence of at least one to  
16 six years imprisonment and a discretionary fine not to exceed \$5,000. The sentence received  
17 for a violation of a condition inflicts a sentence disproportionate to the actual condition  
18 violated.

19          143. Each of these constitutional violations has injured, or will imminently injure  
20 Plaintiffs, which entitles Plaintiffs to declaratory and injunctive relief and damages.

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**FIFTH CAUSE OF ACTION**

**Violation of the Fourteenth Amendment to the United States Constitution under  
42 U.S.C. § 1983; Nev. Const., Art. 1, § 18(1)  
( Double Jeopardy)**

144. Plaintiffs incorporate by reference all preceding paragraphs of this Complaint as though fully set forth herein.

145. This claim is brought by all Plaintiffs against all Defendants.

146. The Fifth Amendment to the U.S. Constitution provides that “no...person [shall] be subject for the same offense to be twice put in jeopardy of life or limb....”U.S. Const. amend. V.

147. The Double Jeopardy Clause of the Fifth Amendment applies to the states through the Due Process Clause of the Fourteenth Amendment to the United States Constitution. *Benton v. Maryland*, 395 U.S. 784, 794 (1969). The Double Jeopardy Clause prevents multiple punishments for the same crime.

148. The imposition of retroactive residency and movement restrictions Lifetime Supervision is a multiple punishment.

149. Each of these constitutional violations has injured, or will imminently injure Plaintiffs, which entitles Plaintiffs to declaratory and injunctive relief and damages.

**SIXTH CAUSE OF ACTION**

**Violation of Article 1, Section 9 to the United States Constitution under  
42 U.S.C. § 1983; Nevada Constitution, Article 1, § 15  
(Ex Post Facto)**

150. Plaintiff incorporates by reference all preceding paragraphs of this Complaint as though fully set forth herein.

1 151. This claim is brought by all Plaintiffs against all Defendants.

2 152. The *Ex Post Facto* Clause of the United States Constitution provides that “No  
3 State shall...pass any ex post facto Law.” U.S. Const. art. I, § 9.

4 153. Nevada Constitution, Article 1, § 15 prohibits any ex post facto law.

5 154. Retroactive imposition of residency and movement restrictions on persons on  
6 lifetime supervision, in effect, imposes a new punishment on offenders by the government  
7 intruding and restricting Plaintiffs day to day life, in addition to rendering additional  
8 convictions and sentences for noncompliance.

9 155. These punitive conditions did not exist in law when the Plaintiffs committed  
10 their offenses.

11 156. Each of these constitutional violations has injured, or will imminently injure  
12 Plaintiffs, which entitles Plaintiffs to declaratory and injunctive relief and damages.

13 **SEVENTH CAUSE OF ACTION**  
14 **Violation of Article 1, Section 10, Clause 1 to the United States Constitution under**  
15 **42 U.S.C. § 1983; Nev. Const., Art. 1, § (15)**  
16 **(Contract Clause)**

17 157. Plaintiffs incorporate by reference all preceding paragraphs of this Complaint  
18 as though fully set forth herein.

19 158. This claim is brought by all Plaintiffs against all Defendants.

20 159. The Contract Clause of the United States Constitution provides that “No State  
21 shall...pass any...Law impairing the Obligation of Contracts. U.S. Const. art. I, § 10.

22 160. Retroactively imposed residency and movement restrictions substantially  
23 impairs the terms of Plaintiffs’ plea agreements by imposing conditions that did not and do

1 not exist in any statute. These conditions were never detailed in any of the Plaintiffs plea  
2 agreements because they simply did not exist at law. Nor could those conditions be known  
3 when said agreements were reached with the State of Nevada because they did not exist in  
4 law. Additionally, the conditions retroactively imposed by the Board substantially impairs  
5 Plaintiffs' plea agreements in violation of the Contract Clause to the United States and  
6 Nevada Constitutions.

7 161. Each of these constitutional violations has injured, or will imminently injure  
8 Plaintiffs, which entitles Plaintiffs to declaratory and injunctive relief and damages.

9 **EIGHTH CAUSE OF ACTION**

10 **Violation of the Fourteenth Amendment to the United States Constitution under**  
11 **42 U.S.C. § 1983; Nev. Const., Art. 3, § 1(15)**  
**(Separation of Powers)**

12 162. Plaintiffs incorporate by reference all preceding paragraphs of this Complaint  
13 as though fully set forth herein.

14 163. This claim is brought by all Plaintiffs against all Defendants.

15 164. Retroactive imposition of residency and movement restrictions violates the  
16 Separation of Powers doctrine by permitting an executive agency to legislate conditions  
17 that are not authorized by infringing on both the legislative and judicial branches' powers  
18 granted under the United States and Nevada Constitutions.

19 165. Each of these constitutional violations has injured, or will imminently injure  
20 Plaintiffs, which entitles Plaintiffs to declaratory and injunctive relief and damages.

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**NINTH CAUSE OF ACTION**

**Violation of Article 1, Section 9 to the United States Constitution under  
42 U.S.C. § 1983; Nevada Constitution, Article 1, § 15  
(Bill of Attainder)**

166. Plaintiff incorporates by reference all preceding paragraphs of this Complaint as though fully set forth herein.

167. This claim is brought by all Plaintiffs against all State Defendants.

168. Retroactive imposition of residency and movement restrictions applies to ascertainable members of a group i.e. offenders on lifetime supervision, whose crimes preceded the implementation of the residency and movement restrictions of N.R.S. 213.1243. This allows the Board to inflict further punishment without a judicial trial in violation of the Bill of Attainder Clause of the United States and Nevada Constitutions.

169. Nevada Constitution, Article 1, § 15 prohibits any bill of attainder.

170. Each of these constitutional violations has injured, or will imminently injure Plaintiffs, which entitles Plaintiffs to declaratory and injunctive relief and damages.

**TENTH CAUSE OF ACTION**  
**(Intentional or Fraudulent Misrepresentation)**

171. Plaintiffs incorporate by reference all preceding paragraphs of this Complaint as though fully set forth herein.

172. Plaintiffs reached plea agreements with the State of Nevada.

173. The specific residency and movement requirements were that would be imposed were not explained to Plaintiffs, who only discovered them in an ex post facto manner.

1 174. To induce this agreement Defendants made a false representation, by  
2 omission of the material fact that residency and movement restrictions would be imposed as  
3 a condition of their special sentence of lifetime supervision.

4 175. This representation by omission was done with knowledge or belief that the  
5 representation by omission of the residency and movement restrictions was done to induce  
6 Plaintiffs to enter into a plea agreement.

7 176. Plaintiffs justifiably relied on the representation and were damaged as a result  
8 of this reliance, by having residency and movement restrictions retroactively applied to  
9 them.

10 177. Each of these violations has injured, or will imminently injure Plaintiffs,  
11 which entitles Plaintiffs to declaratory and injunctive relief and damages.

12 **WHEREFORE**, Plaintiff prays for judgment against Defendants, and each of them,  
13 as follows:

14 1. A declaration that Defendants' retroactive imposition of residency and  
15 movement restrictions on persons on lifetime supervision violates the Due Process Clause  
16 of the United States Constitution (U.S. Const., Amend. XIV);

17 2. A declaration that Defendants' retroactive imposition of residency and  
18 movement restrictions on persons on lifetime supervision violates the Due Process Clause  
19 of the Nevada Constitution (Nev. Const., Art. 1, § 8 (5));

20 3. A declaration that Defendants' retroactive imposition of residency and  
21 movement restrictions on persons on lifetime supervision violates, violates the First  
22 Amendment of the United States Constitution (U.S. Const. Amend. I);

1 4. A declaration that Defendants' retroactive imposition of residency and  
2 movement restrictions on persons on lifetime supervision violates the right to practice  
3 religion without governmental interference protected by the Nevada Constitution (Nev.  
4 Const., Art. 1 § 4, cl. 5);

5 5. A declaration that Defendants' retroactive imposition of residency and  
6 movement restrictions on persons on lifetime supervision violates the Equal Protection  
7 Clause of the United States Constitution (U.S. Const., Amend. IV);

8 6. A declaration that Defendants' retroactive imposition of residency and  
9 movement restrictions on persons on lifetime supervision violates the Equal Protection  
10 Clause guaranteed by the Nevada Constitution (Nev. Const., Art. 1, § 1);

11 7. A declaration that Defendants' retroactive imposition of residency and  
12 movement restrictions on persons on lifetime supervision violates the Cruel & Unusual  
13 Punishment Clause of the United States Constitution (U.S. Const. Amend. VIII);

14 8. A declaration that Defendants' retroactive imposition of residency and  
15 movement restrictions on persons on lifetime supervision violates the Cruel & Unusual  
16 Punishment Clause of the Nevada Constitution (Nev. Const., Art. 1, § 8(5));

17 9. A declaration that Defendants' retroactive imposition of residency and  
18 movement restrictions on persons on lifetime supervision violates the Double Jeopardy  
19 Clause of the United States Constitution (U.S. Const., Am. V, Am. XIV);

20 10. A declaration that Defendants' retroactive imposition of residency and  
21 movement restrictions on persons on lifetime supervision violates the Double Jeopardy  
22 Clause of the Nevada Constitution (Nev. Const., Art. 1, § 8, cl. 1);

1 11. A declaration that Defendants’ retroactive imposition of residency and  
2 movement restrictions on persons on lifetime supervision violates the *Ex Post Facto* Clause  
3 of the United States Constitution (U.S. Const., Art. 1, § 9, cl. 10.);

4 12. A declaration that Defendants’ retroactive imposition of residency and  
5 movement restrictions on persons on lifetime supervision violates the *Ex Post Facto* Clause  
6 of the Nevada Constitution (Nev. Const., Art. 1, § 15);

7 13. A declaration that Defendants’ retroactive imposition of residency and  
8 movement restrictions on persons on lifetime supervision violates the Contracts Clause of  
9 the United States Constitution (U.S. Const., Art. 1, § 10);

10 14. A declaration that Defendants’ retroactive imposition of residency and  
11 movement restrictions on persons on lifetime supervision violates the Contracts Clause of  
12 the Nevada Constitution (Nev. Const., Art. 1, § 15);

13 15. A declaration that Defendants’ retroactive imposition of residency and  
14 movement restrictions on persons on lifetime supervision violates the Separation of Powers  
15 Doctrine of the Nevada Constitution (Nev. Const., Art. 3, § 1, cl. 1);

16 16. A declaration that Defendants’ retroactive imposition of residency and  
17 movement restrictions on persons on lifetime supervision violates the Bill of Attainder  
18 Clause of the United States Constitution (U.S. Const., Art. 1 § 9);

19 17. A declaration that Defendants’ retroactive imposition of residency and  
20 movement restrictions on persons on lifetime supervision violates the Bill of Attainder  
21 Clause of the Nevada Constitution (Nev. Const., Art. 1 § 15);



1           18.    A permanent injunction prohibiting each Defendant from enforcing any  
2 retroactive imposition of residency and movement restrictions on persons on lifetime  
3 supervision.

4           19.    A permanent injunction prohibiting each Defendant from retroactively  
5 enforcing any condition of lifetime supervision not specifically set forth in N.R.S. 213.1243,  
6 at the time the offender’s crime was committed.

7           20.    A declaration that Plaintiffs do not need to comply with the conditions  
8 imposed by the Board that are in violation of the United States and Nevada Constitutions;

9           21.    An order directing that Defendants remove the unconstitutional residency and  
10 movement restrictions from Plaintiffs’ lifetime supervision agreements;

11           22.    Damages in favor of Plaintiffs, against Defendants Wood, Dericco, Jackson,  
12 Endel, and Corda, in their individual capacities, in an amount to be determined at trial.

13           23.    An order directing the payment of reasonable attorney fees and costs; and

14           24.    For such other relief as this Court deems proper under these circumstances.

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1 **DEMAND FOR JURY TRIAL**

2 Pursuant to F.R.C.P. Rule 38 and/or N.R.C.P. Rule 38, Plaintiff demands a trial by  
3 jury on all causes of action raised in this Complaint.

4 Respectfully submitted this 28<sup>th</sup> day of January 2018.

5  
6 /s/ Allen Lichtenstein  
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**CERTIFICATE OF SERVICE**

I hereby certify that I served all parties with Plaintiffs' Amended Complaint, and Exhibits via the Court's electronic service and filing system on January 28,2019.

/s/ Allen Lichtenstein