

DISTRICT COURT CIVIL COVER SHEET

A-15-728810-C

CLARK

County, Nevada

I

Case No. \_\_\_\_\_  
(Assigned by Clerk's Office)

**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): RYAN FINK c/o HAFTERLAW, LLC 6851 W. Charleston Blvd, Las Vegas, NV 89117 702-405-6700	Defendant(s) (name/address/phone): ERVEN T. NELSON 2809 High Sail Court Las Vegas, NV89117 702-579-700
Attorney (name/address/phone): JACOB HAFTER, ESQ. c/o HAFTERLAW, LLC 6851 W. Charleston Blvd, Las Vegas, NV 89117 702-405-6700	Attorney (name/address/phone):

**II. Nature of Controversy** (please select the one most applicable filing type below)

**Civil Case Filing Types**

<p><b>Real Property</b></p> <p><b>Landlord/Tenant</b></p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p><b>Title to Property</b></p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <p><b>Other Real Property</b></p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<p><b>Negligence</b></p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p><b>Malpractice</b></p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<p><b>Torts</b></p> <p><b>Other Torts</b></p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<p><b>Probate</b></p> <p><b>Probate</b> (select case type and estate value)</p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p><b>Estate Value</b></p> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<p><b>Construction Defect &amp; Contract</b></p> <p><b>Construction Defect</b></p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p><b>Contract Case</b></p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<p><b>Judicial Review/Appeal</b></p> <p><b>Judicial Review</b></p> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p><b>Nevada State Agency Appeal</b></p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p><b>Appeal Other</b></p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<p><b>Civil Writ</b></p> <p><b>Civil Writ</b></p> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant	<p><b>Other Civil Filing</b></p> <p><b>Other Civil Filing</b></p> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters	

Business Court filings should be filed using the Business Court civil coversheet.

Dec 10, 2015

Date



Signature of initiating party or representative

See other side for family-related case filings.

CLERK OF THE COURT

**COMP**

JACOB L. HAFTER, ESQ.

Nevada State Bar No. 9303

**HAFTERLAW**

6851 West Charleston Boulevard

Las Vegas, Nevada 89117

Tel: (702) 405-6700

Fax: (702) 685-4184

*Counsel for Plaintiff*

**EIGHTH JUDICIAL DISTRICT COURT**

**STATE OF NEVADA**

**RYAN FINK**, an individual;

Plaintiff,

vs.

**ERVEN T. NELSON**, an individual,

Defendant.

Case No.: A-15-728810-C

Dept. No. I

**COMPLAINT**

**FOR DECLARATORY RELIEF**

COMES NOW, Plaintiff **RYAN FINK**, an individual, by and through his attorney of record, JACOB HAFTER, Esq., of **HAFTERLAW**, and hereby files this Complaint, against **ERVEN T. NELSON**, an individual and State Assemblyman, seeking declaratory relief that, pursuant to the Supreme Court's decision in Williams v. Clark, 50 P.3d 536 (2002), Mr. Nelson's declaration for Senate District 6 destroyed his "*legal domicile*," as required under NRS §281.050, in Assembly District 5, thus making him ineligible to continue to serve as the Assemblyman in Assembly District 5.

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///

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1 **INTRODUCTION**

2 “The Legislative authority of this State shall be vested in a Senate and Assembly which  
3 shall be designated ‘The Legislature of the State of Nevada’ and the sessions of such Legislature  
4 shall be held at the seat of government of the State.” Nev. Const. Art.4, Sec. 1. Members of the  
5 Legislature are public officers who are elected by the residents of the district for which the  
6 member serves. See NRS §281.005, NRS §281.010(1)(i). As such, “[n]o person who is not a  
7 **qualified** elector shall be eligible to any office of honor, profit or trust in and under the  
8 government and laws of this State.” NRS §281.040 (**emphasis added**).

9 In order to be eligible to serve as an Assemblyman, that person must reside in the  
10 Assembly district which he represents. NRS §281.050(1) explains that the “residence of a person  
11 with reference to his eligibility to office is his actual residence within the state or county or  
12 district, as the case may be, during all the period for which residence is claimed by him.” In  
13 Williams v. Clark, 50 P.3d 536, 541 (2002), the Nevada Supreme Court stated in clear and  
14 unambiguous terms that NRS §281.050(4) defines “actual residence” in conjunction with “legal  
15 domicile.” “Under this definition, a candidate must meet both actual residency requirements **as**  
16 **well as legal domicile requirements.**” Id. (**emphasis added**). “Legal domicile, also known as  
17 legal residence, requires **both** the fact of living at a place **and the intention to remain there.**” Id.

18 Defendant Nelson is an Assemblyman who was elected to represent the constituents of  
19 Assembly District 5 in 2014. In the Fall of 2015, Mr. Nelson declared his candidacy for Senate  
20 District 6. After he declared his candidacy, Mr. Nelson’s candidacy for Senate District 6 was  
21 endorsed by various politicians, individuals and organizations, including the Honorable Brian  
22 Sandoval and the Senate Republican Caucus. See, e.g., PRESS RELEASE: Nevada Senate  
23 Republican Caucus Endorses Assemblyman Erv Nelson,  
24 [http://nvgopsenate.com/2015/10/21/nevada-senate-republican-caucus-endorses-assemblyman-](http://nvgopsenate.com/2015/10/21/nevada-senate-republican-caucus-endorses-assemblyman-erv-nelson/)  
25 [erv-nelson/](http://nvgopsenate.com/2015/10/21/nevada-senate-republican-caucus-endorses-assemblyman-erv-nelson/) (October 21, 2015). Mr. Nelson has begun fundraising for Senate District 6, holding  
26 various formal and informal fundraisers throughout the State.

27 No portion of Assembly District 5 falls within Senate District 6. Accordingly, in order  
28 to run for Senate District 6, Mr. Nelson will have to move into that district. This is something

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1 which is not theoretical or academic; rather, Mr. Nelson must commit, and, through his  
2 declaration of his candidacy, he has committed to moving into Senate District 6 to pursue his  
3 bid for that district senate seat. The deadline for his relocation is February 17, 2016, or 30  
4 days prior to the March 18, 2016 filing deadline.

5 Mr. Nelson's plans to move out of Assembly District 5 mean that he no longer has an  
6 intention to remain in that district. Without an intention to remain there, Mr. Nelson no longer  
7 maintains a legal domicile in Assembly District 5, and, thus, ineligible to represent the people of  
8 that district.

9 Generally, this type of forum jumping by elected officials does not create any practical  
10 implications on the person's ability to serve one district while campaigning for a new district, as  
11 our Legislature is one that only meets for 120 days every other year. However, as will be  
12 announced today, the Governor will be calling a special session of the Legislature pursuant to  
13 his powers granted to him under Article 5, Section 9 of the Nevada Constitution. The Special  
14 Session is anticipated to begin December 16, 2015. This will force all members of the  
15 Legislature to go back to Carson City as advocates for their particular district.

16 Plaintiff is an average citizen of this State who resides in Assembly District 5. Plaintiff  
17 is a student at UNLV who moved into Assembly District 5 a little over a year ago. Until recently,  
18 Plaintiff was not politically active; however, as a result of our State's recent labeling as one of  
19 the most politically corrupt states in the country, and the attention that the presidential race is  
20 receiving, Plaintiff has become more interested in politics. Plaintiff watched how the last special  
21 session of the Legislature cost this State approximately \$1.3 billion. Plaintiff watched the State  
22 then adopt a \$1.4 billion tax increase in the next Legislative session. Now, with the new special  
23 session called for December 16, 2015, Plaintiff is extremely concerned about how the actions of  
24 our Legislature will affect him. As such, Plaintiff has decided to become more engaged in the  
25 political process.

26 When looking up his legislators, Plaintiff became aware of Mr. Nelson. Plaintiff then  
27 discovered that Mr. Nelson has abandoned his current District to pursue election in Senate  
28 District 6. Plaintiff is tired of politicians playing the system for their own personal gain, at the

1 expense of their constitutions. That is exactly what Mr. Nelson has done to Plaintiff and the  
2 residents of Assembly District 5. By worrying more about his next step in his political career,  
3 Mr. Nelson has made himself ineligible to serve his district.

4 Plaintiff turns to this Court, solely for the purposes of declaratory relief, and asks this  
5 Court to declare that Mr. Nelson's declaration of candidacy for Senate District 6, and the implicit  
6 requirement that he move to that district, destroys his legal domicile in Assembly District 5, and  
7 thus makes him ineligible to serve as the Assemblyman for that district in the upcoming special  
8 session of the Legislature.

9  
10 **PARTIES, JURISDICTION AND VENUE**

11 1. At all times material hereto, Plaintiff **RYAN FINK** is a resident of Clark County,  
12 Nevada, and, more specifically, a resident of Assembly District 5.

13 2. Defendant, **ERVEN T. NELSON**, is an individual who is a resident of Clark  
14 County, Nevada.

15 3. All of the acts complained of herein occurred in the State of Nevada.

16 4. Jurisdiction is proper in this Court pursuant to the Article 6 of the Nevada  
17 Constitution, and NRS Chapter 3.

18 5. This action is brought pursuant to NRS Chapter 30.

19 6. Venue is proper in this Court pursuant to Nev. Rev. Stat. § 13.040.

20  
21 **GENERAL ALLEGATIONS**

22 7. Defendant is an Assemblyman who was elected in 2014 to represent the  
23 constituents of Assembly District 5.

24 8. Prior to being elected in 2014, Mr. Nelson never held political office.

25 9. In the Fall of 2015, Mr. Nelson declared his candidacy for Senate District 6.

26 10. Upon information and belief, Mr. Nelson's candidacy for Senate District 6 has  
27 already been endorsed by various politicians, individuals and organizations, including the  
28 Honorable Brian Sandoval and the Senate Republican Caucus. See, e.g., PRESS RELEASE:

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1 Nevada Senate Republican Caucus Endorses Assemblyman Erv Nelson,”  
2 [http://nvgopsenate.com/2015/10/21/nevada-senate-republican-caucus-endorses-assemblyman-  
3 erv-nelson/](http://nvgopsenate.com/2015/10/21/nevada-senate-republican-caucus-endorses-assemblyman-erv-nelson/) (October 21, 2015).

4 11. Upon information and belief, Mr. Nelson has begun fundraising for Senate  
5 District 6, holding various formal and informal fundraisers throughout the State.

6 12. Upon information and belief, his most recent fundraiser for Senate District 6 was  
7 held on December 8, 2015.

8 13. No portion of Assembly District 5 falls within Senate District 6.

9 14. In order to run for Senate District 6, Mr. Nelson will have to move into that  
10 district.

11 15. The deadline to formally file for candidacy with the Clark County Department of  
12 Elections is March 18, 2015.

13 16. Accordingly, Mr. Nelson must move into Senate District 6 by February 17, 2016.

14  
15 **FIRST CLAIM FOR RELIEF**

16 **Request for Declaratory Relief**

17 17. Plaintiff realleges the aforementioned paragraphs as though fully set forth.

18 18. “The Legislative authority of this State shall be vested in a Senate and Assembly  
19 which shall be designated ‘The Legislature of the State of Nevada’ and the sessions of such  
20 Legislature shall be held at the seat of government of the State.” Nev. Const. Art.4, Sec. 1.

21 19. Members of the Legislature are public officers who are elected by the residents  
22 of the district for which the member serves. See NRS §281.005, NRS §281.010(1)(i).

23 20. As such, “[n]o person who is not a ***qualified*** elector shall be eligible to any office  
24 of honor, profit or trust in and under the government and laws of this State.” NRS §281.040  
25 (***emphasis added***).

26 21. In order to be eligible to serve as an Assemblyman, that person must reside in the  
27 Assembly district which he represents.

28 22. NRS §281.050(1) explains that the “residence of a person with reference to his

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1 eligibility to office is his actual residence within the state or county or district, as the case may  
2 be, during all the period for which residence is claimed by him.”

3 23. NRS §281.050(4) defines “actual residence” in conjunction with “legal  
4 domicile.”

5 24. To that end, in Williams v. Clark, 50 P.3d 536, 541 (2002), the Nevada Supreme  
6 Court stated in clear and unambiguous terms that “[u]nder this definition, a candidate must meet  
7 both actual residency requirements as well as legal domicile requirements.” Id. (emphasis  
8 added).

9 25. The Supreme Court further stated that “[l]egal domicile, also known as legal  
10 residence, requires both the fact of living at a place and the intention to remain there.” Id.

11 26. By declaring his candidacy for Senate District 6, Mr. Nelson has told the people  
12 of Assembly District 5 that he no longer intends to remain a resident of that district.

13 27. Without an intention to remain a resident of Assembly District 5, Mr. Nelson no  
14 longer has a legal residence in Assembly District 5.

15 28. Without a legal residence in Assembly District 5, Mr. Nelson is no longer eligible  
16 to serve as the Assemblyman for that district.

17 29. Plaintiff is a resident of Assembly District 5.

18 30. Upon information and belief, on December 10, 2015, the Governor will issue a  
19 proclamation calling a Special Session of the Legislature to start on or about December 16, 2015.

20 31. As Mr. Nelson is no longer eligible to serve as an Assemblyman for Assembly  
21 District 5, Plaintiff is concerned that he, and the other residents of Assembly District 5, will not  
22 have valid and lawful representation of his rights and interests at the Special Session.

23 32. Plaintiff hereby requests that this Court declare that Mr. Nelson’s declaration of  
24 candidacy for Senate District 6 destroyed his legal domicile in Assembly District 5.

25 33. Plaintiff hereby requests that this Court declare that because Mr. Nelson no longer  
26 has a legal domicile in Assembly District 5, he is not eligible to represent the people of that  
27 Assembly District in the Special Session of the Legislature anticipated to begin on or about  
28 December 16, 2015.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, the Plaintiff prays for judgment against the Defendant as follows:

3 34. For a declaration that Mr. Nelson's declaration of candidacy for Senate District 6  
4 destroyed his legal domicile in Assembly District 5.

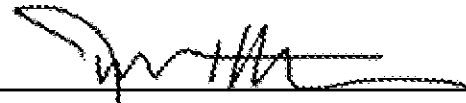
5 35. For a declaration that because Mr. Nelson no longer has a legal domicile in  
6 Assembly District 5, he is not eligible to represent the people of that Assembly District in the  
7 Special Session of the Legislature anticipated to begin on or about December 16, 2015.

8 36. For an award of attorney's fees and costs pursuant to NRS §18.010; and,

9 37. For such other and further relief as the Court deems just and equitable.

10 Dated this 10<sup>th</sup> day of December, 2015.

11 **HAFTERLAW**

12  
13 By:   
14 JACOB L. HAFTER, ESQ.  
15 Nevada Bar Number 9303  
16 6851 W. Charleston Boulevard  
17 Las Vegas, Nevada 89117  
18 *Counsel for Plaintiff*

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**IAFD**

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*Attorney for Plaintiff*

**EIGHTH JUDICIAL DISTRICT COURT**

**STATE OF NEVADA**

**RYAN FINK**, an individual,

Plaintiff,

vs.

**ERVEN T. NELSON**, an individual,

Defendant.

Case Number: \_\_\_\_\_

Department Number: \_\_\_\_\_

**INITIAL APPEARANCE FEE**  
**DISCLOSURE**

COMES NOW, Plaintiff, **RYAN FINK**, by and through his counsel of **HAFTERLAW**.

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for parties appearing in the above entitled action as indicated below:

RYAN FINK \$270.00

TOTAL \$270.00

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(702) 685-4184 Facsimile

1 Dated this 10<sup>th</sup> day of December, 2015.

2 **HAFTERLAW**

3  
4 By:



---

5 JACOB L. HAFTER, ESQ.  
6 Nevada State Bar No. 9303  
7 6851 West Charleston Blvd.  
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10 [jhafter@hafterlaw.com](mailto:jhafter@hafterlaw.com)  
11 *Attorney for Plaintiff*

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