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8 **Attorneys for Plaintiffs**

9
10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12
 13 DWAYNE CHESNUT, an individual; JOHN
 CAHILL, an individual; VICKY BIRKLAND,
 14 an individual; JOHN BIRKLAND, an
 individual; PATRICIA MONTGOMERY, an
 15 individual; LYNN WARNE, an individual;
 NEVADA STATE EDUCATION
 ASSOCIATION, a Nevada nonprofit
 16 cooperative corporation;

Case No. S:08-CV-00046-JCM-PAL

17
18
19 **[PROPOSED]**
TEMPORARY RESTRAINING ORDER

17 Plaintiffs,

18 vs.

19 DEMOCRATIC PARTY OF NEVADA, a
Nevada nonprofit cooperative association.

20 Defendant.

21
 22 The Court, having considered the *Plaintiffs' Application for Temporary*
 23 *Restraining Order and Emergency Motion for Preliminary Injunction*, and being familiar with
 24 the facts and arguments contained therein, and noting that notice of same was provided to and

1 accepted by Counsel for the Defendant Democratic Party of Nevada (Doc. # 7) hereby finds and
2 concludes:

- 3 1. Precinct caucuses of members of the Defendant Democratic Party of Nevada are
4 scheduled to be conducted on January 19, 2008.
- 5 2. Any registered voter declaring for the Democratic Party on January 19, 2008 is
6 permitted to participate in the caucus held at the precinct in which the person
7 resides.
- 8 3. Defendant Democratic Party of Nevada has stated its intention of including within
9 that precinct caucus process nine At-Large Precinct caucuses, each of which are
10 located at large hotels on or near the Las Vegas Strip.
- 11 4. Participation in the At-Large Precinct caucuses is limited to persons who are
12 “shift workers” employed within 2.5 miles of an At-Large Precinct location, who
13 are scheduled to work within 1 hour of the caucus time.
- 14 5. Delegates to the to the Clark County Convention from precincts other than the At-
15 Large Precincts are determined on the basis of 1 delegate for each 50 registered
16 voters residing in the precinct.
- 17 6. Delegates assigned to the Clark County Convention from these nine At-Large
18 Precincts will be allocated on the basis of attendance, and using formulas that
19 vary depending on the number of attendees.
- 20 7. The assignment of delegates from the At-Large Precincts could be based on a
21 ratio as small as 1 delegate for every 5 attendees.
- 22 8. Defendant Democratic Party of Nevada thus intends to assign delegates to the
23 Clark County Convention, chosen by Clark County party voters, using different
24 mathematical formulas, with the voting power of some Clark County party voters

1 being assigned a power as much as ten times that of other Clark County Party
2 voters.

3 9. The U.S. and Nevada Constitutions require that similarly situated persons be
4 treated similarly.

5 10. Defendant Democratic Party of Nevada's assignment of a higher voting power to
6 participants in the At-Large Precinct caucuses than to other, similarly situated
7 Clark County party voters, infringes upon the fundamental federal right to vote as
8 it violates both the U.S. and Nevada constitutional equal protection requirements.
9 U.S. Const., amend. XIV; Nev. Const., Art. 4 § 21

10 11. Defendant Democratic Party of Nevada's assignment of a higher voting power to
11 participants in the At-Large Precinct caucuses than to other, similarly situated
12 Clark County party voters also violates the Nevada constitutional requirement
13 that representation be assigned proportionally according to population. Nev.
14 Const., Art. 1 § 13.

15 12. The nine At-Large Precincts were created in violation of the requirements of
16 Nevada Rev. Stat. §§ 293.205- 293-210

17 13. Plaintiffs have demonstrated that their constitutional rights as party voters will be
18 violated if the At-Large Precincts are conducted, as their voting power, along
19 with that of all participants in the Nevada Democratic caucuses, will be unfairly
20 diluted by this disproportionate allocation of delegates

21 14. A Temporary Restraining Order is necessary to prevent irreparable harm to the
22 constitutional rights of the Plaintiffs.

23 **IT IS HEREBY ORDERED ADJUDGED AND DECREED** that Defendant
24 Democratic Party of Nevada, along with its officers agents, servants, employees, and attorneys,

1 and all parties acting in concert with Defendant Democratic Party of Nevada, are enjoined from
2 conducting any At-Large Precinct Caucuses.

3 **IT IS FURTHER ORDERED** that this Order does not preclude the Democratic Party of
4 Nevada from conducting precinct caucus meetings for the precincts properly created and noticed
5 in accordance with Nevada Law.

6 **IT IS FURTHER ORDERED** that the Plaintiffs shall post a nominal bond in
7 accordance with Fed. R. Civ. 65(c) in the amount of one hundred dollars and no cents (\$100.00)
8 with the Clerk of the Court.

9 **IT IS FURTHER ORDERED** This Temporary restraining Order is effective through
10 _____.

11 **IT IS FURTHER ORDERED** The Court further orders that a hearing of Plaintiffs'
12 *Emergency Motion for Preliminary Injunction* is scheduled to be heard January 17, 2008 at 9 am
13 in Courtroom 6A.

14 Dated this _____ day of January, 2008.

16 _____
UNITED STATE DISTRICT JUDGE

17 Submitted by:

18 KUMMER KAEMPFER BONNER RENSCHAW & FERRARIO

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