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1 **ORDR**

2 Judge Ronald J. Israel
3 Eighth Judicial District Court
4 Department XXVIII
5 Regional Justice Center
6 200 Lewis Avenue
7 Las Vegas, Nevada 89155
8 (702)671-3631
9 (702)366-1407 Facsimile

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 **CONSTABLE JOHN BONAVENTURA,**)
10 **an individual,**)

11 **Plaintiff(s),**)

12 **vs.**)

13 **LAUGHLIN TOWNSHIP CONSTABLE**)
14 **JORDAN ROSS, an individual, HENDERSON**)
15 **TOWNSHIP CONSTABLE EARL MITCHELL,**)
16 **an individual, DOES I - X; and ROE**)
17 **BUSINESS ENTITIES I - X.**)

18 **Defendant(s).**)

Case No.: A-12-663876-C
Dept. No.: XXVIII

19 **DECISION AND ORDER**

20
21 Plaintiff's Motion for a Preliminary Injunction against Defendants Laughlin
22 Township Constable Jordan Ross and Henderson Township Constable Earl Mitchell came
23 before the Court on July 9, 2012, with Spencer M. Judd, Esq., appearing on behalf of Las
24 Vegas Township Constable John Bonaventura and Ross Goodman, Esq., appearing on behalf
of Defendants and other interested parties. The Court having considered the papers
submitted by counsel and having heard oral argument, and for GOOD CAUSE
APPEARING finds, concludes and orders the following:

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1 Constables have limited authority as set out by the legislature for the specific
2 purposes clearly stated in NRS 258.070. Defendants argued that because Deputy Constables
3 undergo P.O.S.T. training that extends their powers to serve process throughout the County.
4 NRS 258.060 (1) states, Deputies only have powers "to the same extent as their
5 principals." No authority has been cited that would allow Constables to act outside their
6 Townships.

7 The Supreme Court decided in *Hansen v. Bell*, 118 Nev. 570 (2002), that an elected
8 Constable could not be refused their right to be a peace officer in their Township no matter
9 what their qualifications because they were duly elected officials under NRS 258 not peace
10 officers pursuant to NRS 259. Constables are elected by the members of their Townships
11 and not by a County-wide election further emphasizing the limited jurisdiction that the
12 Legislature intended. Sheriffs are elected County-wide and given authority to serve process
13 throughout the County.

14 The second issue to be determined is whether there exists current or future irreparable
15 harm if the Constables are allowed to continue to violate the law. The Plaintiff in their brief
16 sought to establish one particular incident where a Defendant acted outside their jurisdiction
17 causing harm. The Court should not be limited to a specific incident when the public good is
18 at issue. Once it is determined that a statute is being violated by a public official there
19 should be a higher standard used similar to "Strict Scrutiny" in evaluating and preventing
20 public harm. Defendants argued that these acts have been taking place for many years and
21 therefore custom and practice should outweigh the statute as employees may have to be
22 terminated if the statute is enforced. As Judges we have one basic tenant and that is to
23 uphold the rule of law. This Court cannot and should not overlook what the parties agree has
24 been taking place, when Nevada law clearly prohibits the action that is occurring by Elected
25 Officials and their subordinates.

26 Officials acting under the color of authority are conducting business outside their
27 jurisdiction which clearly could lead to a citizen's confusion as to who actually is a police
28 officer properly conducting business in their community and lead to grave consequences.

1 The Court sua-sponte inquires whether violating the statute regulating peace officers
2 jurisdiction, by definition must be an irreparable harm on the public and comes to the
3 conclusion that the conscious disregard of the law does constitute irreparable harm requiring
4 injunctive relief.

5 **ORDER**

6 IT IS HEREBY ORDERED that Plaintiff's Motion for Preliminary Injunction is
7 hereby GRANTED.

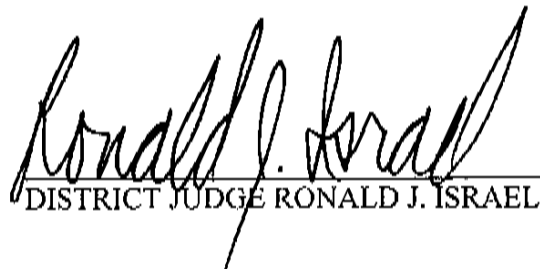
8 IT IS FURTHER ORDERED that Constables, including Defendants and Plaintiff, and
9 each of them, their deputies, agents, servants, employees and all other persons acting under,
10 in concert with, or for them are hereby enjoined, compelled and restrained from the
11 following and ordered to cease executing or serving any and all legal papers including legal
12 process, writs, warrants, summons, mesne or final process, evictions or any other civil
13 process outside the Township that they represent.

14 IT IS FURTHER ORDERED that Constables and each of them, their deputies,
15 agents, servants, employees and all other persons acting under, in concert with, are
16 prohibited from acting as peace officers outside their Township from which they were
17 elected.

18 IT IS FURTHER ORDERED that Plaintiff shall post a bond pursuant to NRCP 65(c)
19 with this Court in the amount of \$100,000.00.

20 IT IS SO ORDERED.

21 DATED AND DONE this 26 day of July, 2012. *15:38 hour*

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25 DISTRICT JUDGE RONALD J. ISRAEL
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