Patrick S. Davis
Redacted
Sparks, NV 89431
(775) Redacted
Plaintiff in Proper Person

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

PATRICK STEPHEN DAVIS Plaintiff, vs. STATE OF NEVADA ET AL; Defendants	Case No. 3:13-CV-00559-MMD-WGC **MOTION FOR PERMISSIVE JOINDER AND MOTION TO AMEND**

COMES NOW, the Plaintiff, in proper person and on his own behalf, and respectfully requests the Court to allow additional Plaintiffs and grant his Motion for Permissive Joinder and Motion to Amend in the above entitled action. Plaintiff and the additional Plaintiffs, each individually upon their own motion for joinder, seek redress for their joint claims for relief against Defendants, and each of them, individually and in their official capacities, jointly and severally, based upon knowledge, information, and reasonable belief derived therefrom. This Motion for Permissive Joinder and Motion to Amend is based on Fed. R. Civ. P. 15; Fed. R. Civ. P. 19; Fed. R. Civ. P. 20; Fed. R. Civ. P. 21; the attached Memorandum of Points and Authorities and all other papers and pleadings filed therein.

JURISDICTION AND VENUE

This Court has subject matter jurisdiction over the federal Constitutional violations that have been and will be alleged in an amended Complaint that will be filed by all Plaintiffs if this Motion for Permissive Joinder and Motion to Amend is granted. Jurisdiction is granted to this Court pursuant to 28 U.S.C. § 1331 and 1343. All of the Plaintiff's causes of action arise under 42 U.S.C. § 1981; 42 U.S.C. § 1983; 42 U.S.C. § 1985; 42 U.S.C. § 1986; 42 U.S.C. § 1988; and are due to the deprivation by Defendants of all Plaintiff's rights, privileges and immunities secured to them under the First; Fourth; Fifth; Sixth and Fourteenth Amendments to the United States Constitution.

This Court has supplemental jurisdiction over all Plaintiff's causes of action arising under Nevada state law pursuant to 28 U.S.C. § 1367. This court has jurisdiction to issue injunctive and declaratory relief pursuant to 28 U.S.C. § 2201 and 42 U.S.C. § 1983.

Venue lies in the Northern Division of the United States District Court for the District of Nevada pursuant to 28 U.S.C. § 1391(a)(1) and 28 U.S.C. § 1391(b)(2). The causes of action alleged herein arise from factual allegations occurring in this judicial district. One or more of the Defendants is a political subdivision of the State of Nevada, and the underlying acts, omissions, events, injuries and related facts upon which the present action is based occurred in Washoe County, Nevada.

On information and belief, it is alleged that all causes of action were committed in this judicial district; it is alleged that each of the named Defendants reside and work in this judicial district; and individually, each of the Plaintiff's seeking joinder resides in this judicial district, or in the State of Nevada.

NATURE OF THE ACTION

Plaintiff has brought this action against Defendants based on various statutes, directives, Policy and Procedure, custom and usage, and occurrences as imposes and applied to him and others in regards to his or their status or non-status as an offender serving the **civil** sentence of Lifetime Supervision. The instant action is for monetary damages; declaratory and injunctive relief brought pursuant to 42 U.S.C. § 1981, 1983, 1985, 1986 and 1988; violations of the First, Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution; violations of the Constitution of the State of Nevada; and violations of the laws of the State of Nevada, against the named Defendants. These Defendants include the Chairman of the Board of Parole Commissioners; the Director and Officers of the Nevada Department of Public Safety; the Chief and Officers of the Nevada Division of Parole and Probation; in their individual and official capacities, and is also a complaint against the State of Nevada; the Nevada Attorney General; the Nevada Department of Public Safety; and the Nevada Division of Parole and Probation.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff respectfully requests the Court to allow permissive joinder in the instant action to all additional Plaintiffs based on various causes of action that are similar to or are based on the same or similar arguments and sets of circumstances as the original Plaintiff in the above entitled

action and original complaint. In the Defendants' Motion to Dismiss, on page 13, lines 16-28, the Defendants argue that Plaintiff does not have standing to bring this suit against them as the actions being contested were actually performed against other parties, who now wish to join this action as additional Plaintiffs. In order to protect all of the constitutional rights, privileges and immunities granted to all of the Plaintiffs by the United States and Nevada Constitutions; and in the interests of judicial economy, Plaintiff seeks to allow permissive joinder and amendment to all additional Plaintiffs in the above entitled action against Defendants. This is requested so that a representative collection of Plaintiffs may be heard and a complete disposition made on the merits of the instant case concerning the serious allegations of constitutional violations by the Defendants.

II. BACKGROUND

Defendants have moved to dismiss the original complaint filed by Plaintiff on various grounds including statute of limitations issues, sovereign and qualified immunity; failure to state a justiciable claim, and for failure to properly join a party to the action. The Motion to Dismiss and Opposition is pending before this Court.

III. ARGUMENT

The United States Supreme Court has championed the cause of litigants who file their own lawsuits. It is well settled law that the allegations of such a [pro se] complaint, "however inartfully pleaded" are held "to less stringent standards than formal pleadings drafted by lawyers, Haines v. Kerner, 404 U.S. 519,520 (1972). See also Maclin v. Paulson, 627 F.2d 83, 86 (CA7 1980); French v. Heyne, 547 F.2d 994,996 (CA7 1976).

Such a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. *Haines*, supra, at 520, 521. quoting Conley v. Gibson, 355 U.S. 41, 45, 46, (1957). And, of course, the allegations of a complaint are generally taken as true for purposes of a motion to dismiss. Cruz v. Beto, 405 U.S. 319,322 (1972).

Rule 8(f) provides that 'pleadings shall be so construed as to do substantial justice.' We frequently have stated that *pro se* pleadings are to be given a liberal construction. Baldwin County Welcome Center v. Brown, 466 U.S. 147,104 S. Ct. 1723, (1984).

In Rabin v. Dep't of State, 980 F. Supp. 116, No. 95-4310, (U.S. Dist. Ct. E.D. NY, 1997), the court noted that *pro se* plaintiffs should be afforded "special solicitude."

In the instant case, Plaintiff contends that if all allegations of constitutional violations are to be taken as true, it is readily apparent to the Court that there are multiple and continuing violations of many constitutional rights, privileges and immunities guaranteed to the Plaintiff and all additional Plaintiffs who are seeking to join the action before this Court.

1. Plaintiff and all additional Plaintiffs have standing and Plaintiffs and Defendants are subject to jurisdiction by this Court.

Plaintiff and all additional Plaintiffs are seeking declaratory and injunctive relief pursuant to 28 U.S. C. § 2201, and 42 U.S.C. § 1983. Jurisdiction is granted to this Court pursuant to 28 U.S.C. § 1331 and 1343. Plaintiff's causes of action and all additional Plaintiffs causes of action arise under 42 U.S.C. § 1981; 42 U.S.C. § 1983; 42 U.S.C. § 1985; 42 U.S.C. § 1986; 42 U.S.C. § 1988; and are due to the deprivation by Defendants of all Plaintiff's rights, privileges and immunities secured to them under the First; Fourth; Fifth; Sixth and Fourteenth Amendments to the United States Constitution.

This Court has supplemental jurisdiction over all Plaintiff's causes of action arising under Nevada state law pursuant to 28 U.S.C. § 1367. Plaintiff is allowed to seek Declaratory Judgment under Nevada law in regards to the Nevada Administrative Procedure Act as outlined in NRS 233 (inclusive) and specifically in NRS 233B.110, as stated below, which is pursuant to chapter 30 (inclusive) of the Nevada Revised Statutes, which is partially stated below.

> **NRS 233B.110 Declaratory judgment to determine validity or applicability of regulation.**
>
> 1. The validity or applicability of any regulation may be determined in a proceeding for a declaratory judgment in the district court in and for Carson City, or in and for the county where the plaintiff resides, when it is alleged that the regulation, or its proposed application, interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the plaintiff. A declaratory judgment may be rendered after the plaintiff has first requested the agency to pass upon the validity of the regulation in question. The court shall declare the regulation invalid if it finds that it violates constitutional or statutory provisions or exceeds the statutory authority of the agency. The agency whose regulation is made the subject of the declaratory action shall be made a party to the action.

2. An agency may institute an action for declaratory judgment to establish the validity of any one or more of its own regulations.

3. Actions for declaratory judgment provided for in subsections 1 and 2 shall be in accordance with the Uniform Declaratory Judgments Act (chapter 30 of NRS), and the Nevada Rules of Civil Procedure. In all actions under subsections 1 and 2, the plaintiff shall serve a copy of the complaint upon the Attorney General, who is also entitled to be heard.

(Added to NRS by 1965, 965; A 1969, 317; 1977, 1388).

AND

NRS 30.030 Scope. Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

[1:22:1929; NCL § 9440].

NRS 30.040 Questions of construction or validity of instruments, contracts and statutes.

1. Any person interested under a deed, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

2. A maker or legal representative of a maker of a will, trust or other writings constituting a testamentary instrument may have determined any question of construction or validity arising under the instrument and obtain a declaration of rights, status or other legal relations thereunder. Any action for declaratory relief under this subsection may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

[2:22:1929; NCL § 9441]—(NRS A 2009, 1636).

NRS 30.050 Contract may be construed before or after breach.

A contract may be construed either before or after there has been a breach thereof. [3:22:1929; NCL § 9442].

NRS 30.060 Declaration of rights in certain cases.

1. Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic or insolvent, may have a declaration of rights or legal relations in respect thereto:

(a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others;

(b) To direct the executors, administrators or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills, trusts and other writings.

Any action for declaratory relief under this section may only be made in a proceeding commenced pursuant to the provisions of title 12 or 13 of NRS, as appropriate.

[4:22:1929; NCL § 9443]—(NRS A 2009, 1636).

NRS 30.100 Supplemental relief. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

[8:22:1929; NCL § 9447].

2. Under Federal Rule of Civil Procedure 20; Permissive Joinder is applicable to all additional Plaintiffs in the instant case.

Plaintiff asserts that permissive joinder is applicable as the Courts have ruled that persons "may be joined in one action if any right to relief is asserted . . .with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences." Fed. R. Civ. P. 20(a)(2). "The first prong, the 'same transaction' requirement, refers to similarity in the factual background of a claim." Coughlin v. Rogers, 130 F.3d 1348, 1350 (9th Cir. 1997). The "same transaction" requirement is generally evaluated on a case-by case basis. Mosley v. Gen. Motors Corp., 497 F.2d 1330, 1333 (8th Cir. 1974).

As a preliminary matter, the purpose of Rule 20(a)(2) is to promote judicial efficiency by allowing a plaintiff to sue multiple defendants in one case regarding a single transaction or occurrence. See 7 Charles A. Wright et al., *Fed. Prac. & Proc. § 1651* (3d ed. 2001) (discussing history of Rule 20 and noting that it codified common-law rule that defendants "could be sued jointly or severally, at plaintiff's option" (emphasis added)).

Whenever feasible, the persons materially interested in the subject of an action should be joined as parties so that they may be heard and a complete disposition made.

3. Permissive Joinder promotes judicial economy and trial convenience.

Plaintiff's motion seeks permissive joinder of parties and is governed by Federal Rule of Civil Procedure 20(a), which provides in pertinent part that:

> "[a]ll persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all these persons will arise in the action."

"The purpose of [Rule 20(a)] is to promote trial convenience and expedite the final determination of disputes, thereby preventing multiple lawsuits." Mosley v. Gen. Motors Corp., 497 F.2d 1330, 1332 (8th Cir. 1974); see also Bridgeport Music, Inc. v. 11C Music, 202 F.R.D. 229, 231(M.D. Tenn. 2001). This purpose is in accord with the underlying principle of the Federal Rules of Civil Procedure to permit "the broadest possible scope of action consistent with fairness to the parties." United Mine Workers of Am. v. Gibbs, 383 U.S. 715, 724, 86 S. Ct. 1130, 1138, 16 L. Ed. 2d 218 (1966).

The rule imposes two specific requisites to the joinder of parties:

(1) a right to relief must be asserted by, or against, each plaintiff or defendant relating to or arising out of the same transaction or occurrence, or series of transactions or occurrences; and

(2) some question of law or fact common to all the parties must arise in the action.

Mosley, 497 F.2d at 1333.

The common question test "does not require that all questions of law and fact raised by the dispute be common. Yet, neither does it establish any qualitative or quantitative test of commonality." *Id*. at 1334. This test is usually easy to satisfy. *Bridgeport Music*, 202 F.R.D. at 231 (citing 4 James Wm. Moore et al., *Moore's Federal Practice* ¶ 20.04 (3d ed. 1999)).

The transactional test "requires that, to be joined, parties must assert rights, or have rights asserted against them, that arise from related activities – a transaction or an occurrence or a series thereof." *Bridgeport Music*, 202 F.R.D. at 231 (citations omitted). "The words 'transaction or occurrence' are given a broad and liberal interpretation in order to avoid a multiplicity of suits." Lasa Per L'Industria Del Marmo Societa Per Azioni v.Alexander, 414 F.2d 143, 147 (6th Cir. 1969). The test is not easily applied and "generally requires a case by case analysis." *Bridgeport Music*, 202 F.R.D. at 232.

4. Permissive Joinder is construed liberally and is strongly encouraged.

That the claims of the Plaintiff and all additional Plaintiffs arise from the same or similar sets of facts, namely, the Defendants failure to comply with the provisions of the United States and Nevada Constitutions—does not make them "identical" claims. The mere fact that Defendants argue that their Policy and Procedure overrides the conditions as set by the Board of Parole Commissioners on Plaintiff, and overrides the United States and Nevada Constitutions on additional Plaintiffs to be joined certainly bears strict scrutiny by this Court. The claims do, however, provide sufficient grounds for the joinder of these claims in a single lawsuit. See Fed. R. Civ. P. 20(a) ("All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all these persons will arise in the action" (emphasis added)); see also Inman v. Commissioner, 871 F. Supp. 1275, 1276 (E.D. CA. 1994) (citing text).

Indeed, "joinder of claims, parties, and remedies is strongly encouraged" in order to entertain "the broadest possible scope of action consistent with fairness to the parties." United Mine Workers v. Gibbs, 383 U.S. 715, 724 (1966); see also League to Save Lake Tahoe v. Tahoe Regional Planning Agency; 558 F2d 914, 917 (9th Cir. 1977) ("permissive joinder is to be construed liberally in order to promote trial convenience and to expedite the final determination of disputes, thereby preventing multiple lawsuits").

More fundamentally, Plaintiff argues that even if the several claims are identical, and even if the additional Plaintiffs claims were jurisdictionally barred that would still not be grounds to dismiss their viable federal claims. As Rule 20 expressly provides, "Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more Defendants according to their respective liabilities." *Id*.

5. Permissive Joinder does not cause prejudice or delay for the Defendants.

Whether to allow permissive joinder is within the sound discretion of the district court. Even if a plaintiff meets the requirements for permissive joinder under Rule 20(a), courts have broad discretion to refuse joinder or to sever a case in order "to protect a party against embarrassment, delay, expense, or other prejudice . . . ." Fed. R. Civ. P. 20(b). Coleman v. Quaker Oats, 232 F.3d 1271, 1296 (9th Cir. 2000) (explaining that permissive joinder must "comport with the principles of fundamental fairness").

Under Federal Rule of Civil Procedure 20, joinder is proper if (1) the plaintiffs asserted a right to relief arising out of the same transaction and occurrence and (2) some question of law or fact common to all the plaintiffs will arise in the action. See Fed.R.Civ.P. 20(a); Desert Empire Bank v. Insurance Co. of N. Am., 623 F.2d 1371, 1375 (9th Cir.1980). Even once these requirements are met, a district court must examine whether permissive joinder would "comport with the principles of fundamental fairness" or would result in prejudice to either side. *Desert Bank*, 623 F.2d at 1375. Under Rule 20(b), the district court may sever the trial in order to avoid prejudice.

In the instant case, the original Plaintiff and Defendants are awaiting a decision on the Defendants Motion to Dismiss and Opposition, and no discovery has been granted due to a Motion to Stay Discovery, which has not been opposed by the Plaintiff, therefore no embarrassment, delay, expense, or other prejudice is possible or applicable at this early stage in the proceedings. If permissive joinder and amendment of the original complaint is granted by this Court to additional Plaintiffs at this time, and at this early stage in the proceedings, no harm to Defendants is caused by the joinder.

6. Plaintiff and all additional Plaintiffs are timely with respect to Permissive Joinder.

Plaintiff and all additional Plaintiffs are well within the timelines delineated to add parties as set by the Rule 26(f) conference and discovery meeting. This meeting was held by the parties in February, and the Plaintiff is concurrently filing a Motion for Discovery Plan and Scheduling Order with Special Scheduling Review Requested. Permissive joinder of the parties is well before the cutoff dates as notated in the concurrent Motion, which is stated as follows:

3. Amending the Pleadings and Adding Parties. The parties will have until at least Wednesday, April 16, 2014, 90 days before the discovery cut-off date, to file any motions

to amend the pleadings or to add parties. This date exceeds the outside limit presumptively set by LR 26-1(e)(2) by sixty days.

7. Plaintiff and all additional Plaintiffs have standing with respect to Permissive Joinder.

Plaintiff and all additional Plaintiffs allege violations of their constitutional rights under the Fourth Amendment pursuant to the United States Constitution; and Article 1, Section 18 of the Nevada Constitution. Plaintiff and all additional Plaintiffs allege violations of their constitutional rights under the First Amendment pursuant to the United States Constitution, and Article 1, Section 9 of the Nevada Constitution in regards to government mandated speech.

Plaintiff and all additional Plaintiffs allegations and causes of actions fall within the statutory timelines for tort actions in Nevada. In a continuing violation, such as the violations of constitutional rights the Defendants are arguing are allowable under Policy and Procedure, the two-year limitation period runs from the last act committed. Kosikowski v. Bourne, 659 F.2d 105, 106 (9th Cir. 1981).

Plaintiff and the additional Plaintiffs have met all elements of standing. To satisfy Article III's standing requirements, a plaintiff must show "injury in fact, causation, and redressability." Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992). Continuous and pervasive acts resulting in reasonable fear is enough for injury in fact. Friends of the Earth, Inc. v. Laidlaw Env't Servs., 528 U.S. 167, 184-185 (2000).

In regards to violations of their constitutional rights under the Fourth Amendment pursuant to the United States Constitution; and Article 1, Section 18 of the Nevada Constitution. Plaintiff and all additional Plaintiffs allege that Directive 6.2.109 as applied, places them in imminent invasion of their legally protected Fourth Amendment right, which is concrete and particularized, the right to be free from unreasonable and suspicionless searches. The action can be fairly traced to the Defendants as it is the Policy and Procedure that they operate under to supervise offenders placed under their authority, which they also apply to any other person or any other item not owned or in control of the offender that happens to be in a common area of the residence, and which illegally supersedes the authority of the Nevada Board of Parole Commissioners.

In challenges to statutes that threaten fundamental rights, the standing requirement does not require a litigant to be prosecuted or actually threatened with prosecution before he may

challenge the statute. Virginia v. American Booksellers Ass'n, 484 U.S. at 389-90, (1988); Doe v. Bolton, 410 U.S. 179, 188 (1973). Rather, a litigant need only show a "reasonable threat of prosecution for conduct allegedly protected by the Constitution." Ohio Civil Rights Comm'n v. Dayton Christian Schools, Inc., 477 U.S. 619, 625 (1986).

The State has correctly and succinctly argued that the United States Supreme Court has established that there are certain minimal requirements that must be met before a party has standing to bring an action before the court.

First, the plaintiff must have suffered an “injury in fact”—an invasion of a legally protected interest which is:

(a) concrete and particularized, see Allen v. Wright, 468 U.S. 737,765, 104 S. Ct. 3315, 3327 (1984); Warth v. Seldin, 422 U.S. 490, 508, 95 S. Ct. 2197, 2210, 45 L.Ed.2d 343 (1975); Sierra Club v. Morton, 405 U.S. 727, 740–741, n. 16, 92 S. Ct. 1361, 1368–1369, n. 16, 31 L.Ed.2d 636 (1972); and

(b) “actual or imminent, not ‘conjectural’ or ‘hypothetical,’ ” *Whitmore, supra,* 495 U.S., at 155, 110 S. Ct., at 1723 (quoting Los Angeles v. Lyons, 461 U.S. 95, 102, 103 S. Ct. 1660, 1665, 75 L.Ed.2d 675 (1983)).

Second, there must be a causal connection between the injury and the conduct complained of—the injury has to be “fairly ... trace[able] to the challenged action of the defendant, and not ... th[e] result [of] the independent action of some third party not before the court.” Simon v. Eastern Ky. Welfare Rights Organization, 426 U.S. 26, 41–42, 96 S. Ct. 1917, 1926, 48 L.Ed.2d 450 (1976).

Third, it must be “likely,” as opposed to merely “speculative,” that the injury will be “redressed by a favorable decision.” *Id.*, at 38, 43, 96 S. Ct., at 1924, 1926. Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61, 112 S. Ct. 2130, 2136 (1992).

An injury in fact has occurred against all parties in regards to the Fourth Amendment as described above and in the original complaint in Plaintiff’s Seventh Cause of Action as it relates to an illegal search by having in place a Policy and Procedure that allows this type of illegal and suspicionless search as applied to Plaintiff and all other Plaintiffs who are seeking to join.

An injury in fact has occurred against all parties in regards to the First Amendment as described in the original complaint in the Fifth Cause of Action that allows government mandated speech and denial of all Plaintiffs First Amendment Rights as described on page 74-

77, paragraphs 400-422; and Sixth Cause of Action as described on page 78-81, paragraphs 423-444.

An additional Plaintiff, who is filing her motion for permissive joinder regarding the search of her cell phone, "for the express purpose of checking to see if a password was present on the phone," as the Defendants contend. Complaint (ECF No.1), p. 82, lines 8-10 and 14-15, and some. The State argues that the original Plaintiff has not and cannot assert that his own rights have been violated where the cell phone allegedly searched without permission belongs to another.

Plaintiff and the additional Plaintiff have and will allege that the Defendants claimed that he was in constructive possession of this cell phone when it was searched without his or his wife's permission. The State now disputes the assertion of constructive possession, and claims that he has no legal standing in this instance, and is asking the Court to dismiss this claim. However, as the aggrieved party, the additional Plaintiff does have uncontested standing in the issue of the illegal search, and did not grant permission to the Officers for the illegal search, nor was she asked to grant consent as Policy and Procedure of the Nevada Division of Parole and Probation dictates.

Plaintiff has acknowledged that his conditions of Lifetime Supervision require that he submit to a "search of his person, property under [his] control, or place of residence, by a Parole Officer, at any time, of the day or night without a warrant, upon reasonable cause as ascertained by the Parole Officer." Complaint (ECF No.1), p. 84, lines 8-11. Plaintiff 1 argues that these conditions as imposed and applied are constitutionally illegal, and imposed without due process, which is one part of his actionable causes

The State argues that Plaintiff's assertions on behalf of his wife and daughter, *see e.g. id.* at 84-85, are not proper where he has expressly disavowed their desire to participate as parties in these proceedings. *Id.* at 25, paragraph 134. Plaintiff argues that the context of the wording was misapplied by the State, as it was always his wife's intention to file a lawsuit in this matter. After researching the federal rules of civil procedure, and understanding how the case would probably be joined in actual fact by the Court, Plaintiff requests permissive joinder to be granted to his wife, his family, and all additional Plaintiffs in the interests of judicial economy and fundamental fairness. This would include all stated arguments by them, and to include arguments related to the Federal Rules of Civil Procedure.

Defendants argue that the Seventh Cause of Action should be dismissed on this basis as they argue that Plaintiff lacks standing to complain about injuries suffered only by others, Singleton v. Wulff, 428 U.S. 106, 113, 96 S. Ct. 2868, 2874 (1976) (federal courts must hesitate before resolving a controversy, even one within their constitutional power to resolve, on the basis of the rights of third persons not parties to the litigation) Barrows v. Jackson, 346 U.S. 249, 255, 73 S. Ct. 1031, 1034 (1953); see also Flast v. Cohen, 392 U.S. 83, 99 n. 20, 88 S. Ct. 1942, 1952 (1968); McGowan v. Maryland, 366 U.S. 420, 429, 81 S. Ct. 1101, 1106, 6 L.Ed.2d 393 (1961).

Plaintiff and all additional parties who will be filing Motions for Permissive Joinder argue that The Federal Rules of Civil Procedure, Rule 21: Misjoinder and Nonjoinder of Parties states:

"Misjoinder of parties is not a ground for dismissing an action. On motion or on its own, the court may at any time, on just terms, add or drop a party. The court may also sever any claim against a party".

Plaintiff and all additional Plaintiffs, on their own motion in each and every request for permissive joinder and amendment, are requesting to be added at this time, and on just terms and further request this Court to add additional parties and to amend the original complaint to the instant action as identified above.

8. Plaintiff and all additional Plaintiff's Claims are within the Statute of Limitations

The State has correctly argued that the statute of limitations in a § 1983 suit is that provided by the State for personal injury torts. Owens v. Okure, 488 U.S. 235, 249-250, 109 S. Ct. 573 (1989); see also Wallace v. Kato, 549 U.S. 384, 387, 197 S. Ct 1091 (2006); Douglas v. Noell, 567 F.3d 1103, 1109 (Ninth Cir. 2011). The statute of limitations for bringing a personal injury tort action in Nevada is two years. Perez v. Seevers, 869 F.2d 425, 426 (9th Cir. 1989) (per curiam_ (citing NRS 11.190(4)(c), (e)).

In most instances, the two year date is set from the time of the event, however, in certain circumstances, the 2 year date can actually start much later that the actual instance in question. The timeline for a person who has been falsely arrested "begins to run at the time the claimant becomes detained pursuant to legal process." Wallace v. Kato 549 U.S. 384, 397 (2007). "A false imprisonment ends once the victim becomes held pursuant to [legal process] – when . . . he is …arraigned on charges." Id.

"[O]n the subject of the statute of limitations, [w]hat a complaint must plead is enough to show that the claim for relief is plausible. Complaints need not anticipate defenses and attempt to defeat them. The period of limitations is an affirmative defense. The Courts have held many times that, because complaints need not anticipate defenses, Rule 12(b)(6) is not designed for motions under Rule 8(c)(1)." Richards v. Mitcheff, 696 F.3d 635, 637-38 (7th Cir. 2012) (internal citations omitted); see also United States Gypsum Co. v. Indiana Gas Co.,350 F.3d 623 (7th Cir. 2003).

The issues presented in the instant case relate to actions performed by the Defendants on October 31, 2011, October 31, 2012, October 31, 2013, and one of the illegal searches performed on August 14, 2013, amongst other dates to be identified for the Court in the amended complaint in regards to each additional Plaintiff. The present action was filed on October 4, 2013, and all causes of actions relating to Plaintiff fall well within the statutes of limitations for tort actions in Nevada, and therefore permissive joinder in the instant case is applicable.

9. Qualified Immunity is not applicable for Defendants at this stage of Proceedings.

The State argues that the Defendants retain qualified immunity in regards to this illegal search and other Causes of Action and the original complaint should be dismissed. The existence of an affirmative defense will not support a rule 12(b)(6) motion to dismiss for failure to state a claim. Quiller v. Barclays, 727 F. 2d 1067, 1069, (11th Circuit 1984).

Even if the State is correct that qualified immunity exists in the instant case, and the Court agrees, the qualified immunity would only apply to the § 1983 action for monetary damages, not the declaratory and injunctive relief that Plaintiff and the additional Plaintiffs are also seeking from the Court.

The Defendants have already admitted that they searched the cell phone of Plaintiff's spouse, who is seeking to join the instant action, a fact that is now not contested. In order to make a claim for qualified immunity, the Defendants have to admit that the situation actually happened; and then the Court must make a determination of whether the action was constitutionally legal, and then whether or not qualified immunity would apply to that action.

In considering a defendant's motion to dismiss based on qualified immunity, the district court must examine the complaint to determine "whether under the most favorable version of the facts alleged, defendants' actions violate established law. Bennett v. Parker, 898 F 2d. 1530, (11th Circuit 1990). Public officials performing their duties are shielded from liability so long as

their conduct does not breach "clearly established statutory or constitutional rights of which a reasonable person would have known." Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982).

In other words, police officers are entitled to qualified immunity unless "(1) the officers' conduct violates a federal statutory or constitutional right, and (2) the right was clearly established at the time of the conduct, such that (3) an objectively reasonable officer would have understood that the conduct violated that right." Knussman v. Maryland, 272 F.3d 625, 633 (4th Cir. 2001).

The State argues that in assessing whether an official is entitled to immunity is a two prong inquiry and Plaintiffs agree with this argument. Under the first prong, the Court asks whether "[t]aken in the light most favorable to the party asserting the injury, do the facts alleged show the officer's conduct violated a constitutional right?" Saucier v. Katz, 533 U.S. 194, 201, 121 S. Ct. 2151 (2001).

Under the second prong we examine whether the right was clearly established. Id. To be "clearly established, the contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates the right. Anderson v. Creighton, 483 U.S. at 639, 107 S. Ct. 3034, (1987), (internal quotation marks omitted).

In other words, "existing precedent must have placed the statutory or constitutional question beyond debate." *Ashcroft v. al-Kidd*, 563 U.S. ____, 131 S. Ct. 2074, 2083 (2011), quoting Malley v. Briggs, 475 U.S. 335, 341, (1986). The court may examine either prong first, considering the circumstances. Pearson v. Callahan, 555 U.S. at 236, 129 S. Ct. 808

A Government official's conduct violates clearly established law when, at the time of the challenged conduct, "[t]he contours of [a] right [are] sufficiently clear" that every "reasonable official would have understood that what he is doing violates that right." *Creighton*, 483 U.S. at 640, 107 S. Ct. 3034; see also Malley v. Briggs, 475 U.S. 335, 344-45, 106 S. Ct. 1092, 1098 (1986).

The Constitution of the United States is the pre-eminent law of the land. The Fourth Amendment to the Constitution states:

> "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The Nevada Constitution in Article 1, Section 18 is similar in respect to the Fourth Amendment of the United States Constitution and is stated as follows:

> "ARTICLE. 1. - Declaration of Rights…Sec. 18. Unreasonable seizure and search; issuance of warrants. The right of the people to be secure in their persons, houses, papers and effects against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by Oath or Affirmation, particularly describing the place or places to be searched, and the person or persons, and thing or things to be seized.

The Fourth Amendment grew out of American colonial opposition to British search and seizure practices, most notably the use of writs of assistance, which gave customs officials broad latitude to search houses, shops, cellars, warehouses, and other places for smuggled goods. The Honorable M. Blane Michael, Reading the Fourth Amendment: Guidance from the Mischief that Gave it Birth, 85 N.Y.U.-5-L. Rev. 905, 907-09 (2010); see generally William J. Cuddihy, The Fourth Amendment: Origins and Original Meaning 602-1791 (2009).

James Otis, a lawyer who challenged the use of writs of assistance in a 1761 case, famously described the practice as "plac[ing] the liberty of every man in the hands of every petty officer" and sounded two main themes: (1) "the need to protect the privacy of the home (what he called the "fundamental . . Privilege of House)," Michael, supra, at 908, and (2) "the inevitability of abuse when government officials have the sort of unlimited discretion sanctioned by the writ," Id. at 909. The Supreme Court has described Otis's argument as "perhaps the most prominent event which inaugurated the resistance of the colonies to the oppressions of the mother country." Boyd v. United States, 116 U.S. 616, 625 (1886).

Today, a warrantless search is per se unreasonable under the Fourth Amendment, unless one of "a few specifically established and well-delineated exceptions" applies. Arizona v. Gant, 556 U.S. 332, 338 (2009) (quoting Katz v. United States, 389 U.S. 347, 357 (1967)) (internal quotation marks omitted). One of those exceptions allows the police, when they make a lawful arrest, to search "the arrestee's person and the area within his immediate control." Id. at 339 (quoting Chimel v. California, 395 U.S. 752, 763 (1969)) (internal quotation marks omitted).

Plaintiff argues that the special sentence of Lifetime Supervision, a civil sentence placed upon him by the State does not grant the authority to the Nevada Division of Parole and Probation and its Officers to supersede the United States and Nevada Constitutions, and the

condition as set by the Nevada Board of Parole Commissioners as they apply to him or others. Even if a person is in a common area of the residence, their person, papers, and effects shall not be violated, without a warrant and without consent.

In United States v. Musgrove, 2011 WL 4356521 (E.D.Wis. 2011) (Joseph, M.J.) the *legal question the Court had to decide was:* "When a computer is in screensaver mode, does a police officer's touching a key or moving the mousepad in order to reveal the contents of the screen constitute a Fourth Amendment "search"?" The defendant in that case argued, among other things, that taking his computer out of screensaver mode to see the Facebook Wall was a "search" that required some sort of justification under the Fourth Amendment.

Musgrove was based on the fact that an Officer could search anything on a person that had been arrested. In the instant case, Plaintiff 2 was not arrested, ruling out that argument completely, and the Policy and Procedure of the Nevada Division of Parole and Probation does not authorize third party searches, or consentless searches of a third party's property.

The ruling by the Court decided that a search in *Musgrove* was a close call because the officer did not actively open any files. A truly cursory inspection—one that involves merely looking at what is already exposed to view, without disturbing it—is not a "search" for Fourth Amendment purposes. Arizona v. Hicks, 480 U.S. 321, 328 (1987). However, the Court further decided in *Musgrove* that this was not such a case. By touching a key or moving the mouse, the officer put into view the Facebook wall, which was not previously in view. Though a close call, the Court concludes that this was a search, however minimal, which required further authority, a warrant or consent. The government submits that the officer's manipulation of the computer was for the purpose of seizing the computer, not to conduct a preliminary search. However, intent is not generally relevant in assessing whether a search ensued. See, e.g., United States v. Mann, 592 F.3d 779, 784 (7th Cir.2010),(citing Platteville Area Apt. Ass'n v. City of Platteville, 179 F.3d 574, 580 (7th Cir.1999)). The Court ruled that the defendant's Facebook wall was to be suppressed due to an illegal search by the Officer.

In State v. Smith, 920 N.E.2d 949 (Ohio 2009), the Ohio Supreme Court distinguished cell phones from other "closed containers" that have been found searchable incident to an arrest and concluded that, because an individual has a high expectation of privacy in the contents of her cell phone, any search thereof must be conducted pursuant to a warrant, id. at 955. And most recently, in Smallwood v. State, __ So. 3d __, 2013 WL 1830961 (Fla. May 2, 2013), the

Florida Supreme Court held that the police cannot routinely search the data within an arrestee's cell phone without a warrant, id. at *10. The court read Gant as prohibiting a search once an arrestee's cell phone has been removed from his person, which forecloses the ability to use the phone as a weapon or to destroy evidence contained therein. Id.

10. Federal Rule of Civil Procedure 15 applies in the instant case to all Plaintiffs.

Generally, Federal Rule of Civil Procedure 15(a) liberally allows for amendments to pleadings. As no amendment has yet been filed in the instant case, due to Defendants Motion to Dismiss, the Court should allow permissive joinder to any party who has (1) a right to relief arising out of the same transaction and occurrence and (2) some question of law or fact common to the plaintiffs will arise in the action.

If Defendants are not granted their Motion to Dismiss, Plaintiff has already requested of this Court the right to amend the original complaint in his Opposition to the Motion to Dismiss, and permissive joinder of parties at this time would be appropriate and applicable under this rule.

Under Rule 15(a), "[a] party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served . . . . Otherwise a party may amend the party's pleading only by leave of court . . . ; and leave shall be freely given when justice so requires."

Plaintiff contends that he is filing the present motion before the Defendants have served their responsive pleadings. The Defendants have not yet filed answers to the original complaint as Defendants have filed a Motion to Dismiss, which is not considered a responsive pleading within the meaning of Rule 15(a). Young v. Track, Inc., 324 F.3d 409, 415 n.6 (6th Cir. 2003).

Rule 15(a) allows amendment of the original complaint without the leave of the Court. With respect to Rule 15(a), the courts are divided on the issue of whether, prior to service of a responsive pleading, a party may amend its pleading under Rule 15(a) to add or drop parties without first obtaining leave of court.

Some courts take the position that joining parties is governed by Rule 21, and that an amended pleading that changes the parties requires leave of court even though it is filed before a responsive pleading is served. See, e.g., Williams v. United States Postal Serv., 873 F.2d 1069, 1072 n.2 (7th Cir. 1989); United States ex rel. Tucker v. Thomas Howell Kiewit (USA) Inc., 149 F.R.D. 125, 126 (E.D. Va. 1993); International Bhd. of Teamsters v. AFL-CIO, 32 F.R.D. 441 (E.D. Mich. 1963).

Other courts and commentators, however, take the position that prior to service of a responsive pleading, parties may amend pleadings under Rule 15(a) to add or drop parties without leave of court. See, e.g., United States ex rel Precision Co. v. Koch Indus., Inc., 31 F.3d 1015, 1018-19 (10th Cir. 1994); Washington v. New York City Bd. of Estimate, 709 F.2d 792, 795 (2d Cir. 1983); McClellan v. Mississippi Power & Light Co., 526 F.2d 870, 872-73 (5th Cir. 1976), mod. in part on other grounds, 545 F.2d 919 (5th Cir. 1977); Matthews Metals Products, Inc. v. RBM Precision Metal Products, Inc., 186 F.R.D. 581, 583 (N.D. Cal. 1999); 3 James Wm. Moore et al., Moore's Federal Practice § 15.16[1] at 15-54 (3d ed. 2000).

Plaintiff and all others known Plaintiffs who are also in the process of filing their Motions for Permissive Joinder and Motions to Amend at this time are not attempting to amend the original complaint without leave of the Court. Plaintiff and all additional Plaintiffs in the instant action before this court are respectfully requesting this Court to grant them leave to join and amend the original complaint upon their Motions to the Court at the same time to promote judicial economy.

Federal Rule of Civil Procedure 15(a)(2) provides that "[t]he court should freely give leave [to amend a complaint] when justice so requires". Fed. R. Civ. P. 15(a)(2). The district court has the discretion to decide whether to grant Plaintiff leave to amend. Swanson v. U.S. Forest Serv., 87 F.3d 339, 343 (9th Cir. 1996); Jordan v. County of Los Angeles, 669 F.2d 1311, 1324 (9th Cir.1982), vacated on other grounds, 459 U.S. 810 (1982). In its exercise of this discretion, the court applies Rule 15 to "facilitate [a] decision on the merits, rather than on the pleadings or technicalities." U.S. v. Webb, 655 F.2d 977, 979 (9th Cir. 1981). Furthermore, the court interprets the language for granting amendments under Rule 15 with "extreme liberality." Id.

When deciding whether to grant leave to amend, a court must consider: (1) whether the amendment was filed with undue delay; (2) whether the movant has requested the amendment in bad faith or as a dilatory tactic; (3) whether movant was allowed to make previous amendments which failed to correct deficiencies of the complaint; (4) whether the amendment will unduly prejudice the opposing party and; (5) whether the amendment is futile. See Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003) (citing Foman v. Davis, 371 US 178, 182 (1962)).

The five factors are not considered equally. Prejudice is the most important factor and is given the most weight. *Eminence*, 316 F.3d at 1052. Therefore, "[a]bsent prejudice, or a strong showing of any of the remaining *Foman* factors, there exists a presumption under Rule 15(a) in favor of granting leave to amend." Id. See also Talwar v. Creative Labs, Inc., No. CV 05-3375, 2007 WL 1723609 (C.D. Cal. June 14, 2006) (finding the plaintiffs should be granted leave to amend because additional discovery would not unduly prejudice the defendant and the defendant did not make a strong enough showing of bad faith on the part of the plaintiffs or that the plaintiffs requested leave to amend as a dilatory tactic, despite the suspect timing of the filing).

The Ninth Circuit has also held that one of the five *Foman* factors alone is not sufficient to justify the denial of a request for leave to amend. The Ninth Circuit has found that undue delay alone "is insufficient to justify denying a motion to amend" and has "reversed the denial of a motion for leave to amend where the district court did not provide a contemporaneous specific finding of prejudice to the opposing party, bad faith by the moving party, or futility of the amendment." Bowles v. Reade, 198 F.3d 752, 758 (9th Cir. 1999).

Courts give special consideration to pro se litigants requesting leave to amend a complaint. "Courts are particularly reluctant to deny leave to amend to pro se litigants." Flowers v. First Hawaiian Bank, 295 F.3d 966, 976 (9th Cir. 2002). In particular, "[u]nless it is absolutely clear that no amendment can cure the defect … a pro se litigant is entitled to notice of the complaint's deficiencies and an opportunity to amend prior to dismissal of the action." Lucas v. Dept. of Corrections, 66 F.3d 245, 248 (9th Cir. 1995).

8. Federal Rule of Civil Procedure 19 applies to all Plaintiffs in the instant case.

Plaintiff argues that in the instant action, the Court should consider the effect of Rule 19 on the additional Plaintiffs as he argues that it applies to them. Plaintiff argues that Rule 19 should require them to be joined as additional parties in the above entitled action before this Court.

The Federal Rules of Civil Procedure, Rule 19: Required Joinder of Parties states:

(a) PERSONS REQUIRED TO BE JOINED IF FEASIBLE.

(1) *Required Party.* A person who is subject to service of process and whose joinder will not deprive the court of subject-matter jurisdiction must be joined as a party if:

(A) in that person's absence, the court cannot accord complete relief among existing parties; or

(B) that person claims an interest relating to the subject of the action and is so situated that disposing of the action in the person's absence may:

(i) as a practical matter impair or impede the person's ability to protect the interest; or

(ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.

(2) *Joinder by Court Order.* If a person has not been joined as required, the court must order that the person be made a party. A person who refuses to join as a plaintiff may be made either a defendant or, in a proper case, an involuntary plaintiff.

(3) *Venue.* If a joined party objects to venue and the joinder would make venue improper, the court must dismiss that party.

(b) WHEN JOINDER IS NOT FEASIBLE.

If a person who is required to be joined if feasible cannot be joined, the court must determine whether, in equity and good conscience, the action should proceed among the existing parties or should be dismissed. The factors for the court to consider include:

(1) the extent to which a judgment rendered in the person's absence might prejudice that person or the existing parties;

(2) the extent to which any prejudice could be lessened or avoided by:

(A) protective provisions in the judgment;

(B) shaping the relief; or

(C) other measures;

(3) whether a judgment rendered in the person's absence would be adequate; and

(4) whether the plaintiff would have an adequate remedy if the action were dismissed for nonjoinder.

(c) PLEADING THE REASONS FOR NONJOINDER.

When asserting a claim for relief, a party must state:

(1) the name, if known, of any person who is required to be joined if feasible but is not joined; and

(2) the reasons for not joining that person.

(d) EXCEPTION FOR CLASS ACTIONS.

This rule is subject to Rule 23.

Plaintiff argues that Clause (1) of Rule 19 stresses the desirability of joining those persons in whose absence the court would be obliged to grant partial or "hollow" rather than complete relief to the parties before the court. The interests that are being furthered here are not only those of the parties, but also that of the public in avoiding repeated lawsuits on the same essential subject matter.

Clause (2)(i) recognizes the importance of protecting the person whose joinder is in question against the practical prejudice to him which may arise through a disposition of the action in his absence. Clause (2)(ii) recognizes the need for considering whether a party may be left, after the adjudication, in a position where a person not joined can subject him to a double or otherwise inconsistent liability. See Reed, supra, 55 Mich.L.Rev. at 330, 338; Note, supra, 65 Harv.L.Rev. at 1052–57; Developments in the Law, supra, 71 Harv.L.Rev. at 881–85.

Plaintiff further argues that if a person as described in subdivision (a)(1)(2) is amenable to service of process and his or her joinder would not deprive the court of jurisdiction in the sense of competence over the action, then they should be joined as a party; and if he or she has not been joined, the court should order either of them to be brought into the action. If a party joined has a valid objection to the venue and chooses to assert it, he or she will be dismissed from the action. Plaintiff and all additional Plaintiffs do not raise an objection to venue and they are not asserting one, and they do not wish to be dismissed from the instant action before this Court.

11. Federal Rule of Civil Procedure 21 applies to all Plaintiffs in the instant case.

Plaintiff argues that in the instant action, the Court should not grant the Motion to Dismiss on the grounds raised by the Defendants of failure to properly join a party to the action.

The Federal Rules of Civil Procedure, Rule 21: Misjoinder and Nonjoinder of Parties states:

"Misjoinder of parties is not a ground for dismissing an action. On motion or on its own, the court may at any time, on just terms, add or drop a party. The court may also sever any claim against a party".

A person may be added as a party at any stage of the action on motion or on the court's initiative (see Rule 21); and a motion to dismiss, on the ground that a person has not been joined and justice requires that the action should not proceed in his or her absence, may be made as late as the trial on the merits (see Rule 12(h)(2), as amended; cf. Rule 12(b)(7), as amended).

However, when the moving party is seeking dismissal in order to protect himself against a later suit by the absent person (subdivision (a)(2)(ii)), and is not seeking vicariously to protect the absent person against a prejudicial judgment (subdivision (a)(2)(i)), making the motion itself can properly be counted against them as a reason for denying the motion.

A joinder question should be decided with reasonable promptness, but decision may properly be deferred if adequate information is not available at the time. Thus the relationship of an absent person to the action, and the practical effects of an adjudication upon him and others, may not be sufficiently revealed at the pleading stage; in such a case it would be appropriate to defer decision until the action was further advanced. Cf. Rule 12(d).

IV. CONCLUSION

For the reasons as set forth above, Plaintiff respectfully requests that this Court grant the Motion for Permissive Joinder and Motion to Amend to him and all additional Plaintiffs upon individual motion in the above entitled action. This is pursuant to Federal Rule of Civil Procedure 15; Federal Rule of Civil Procedure 19; Federal Rule of Civil Procedure 20; and Federal Rule of Civil Procedure 21; and the attached Memorandum of Points and Authorities. Plaintiff further requests that the Motion to Dismiss filed by the Defendants be denied in its entirety as the allegations and facts are of constitutional dimension and a ruling on the merits of the case should be allowed by the Court in relation to Plaintiff and all additional Plaintiffs who are seeking to join the instant case.

AFFIRMATION PURSUANT TO FED.R.CIV.P. 5.2(a)

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Respectfully dated this 10th day of March, 2014.

_____

Patrick S. Davis
Plaintiff in Proper Person

CERTIFICATE OF MAILING

I hereby certify as the Plaintiff in Proper Person, that on March 10, 2014, I deposited for mailing at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, Motion for Permissive Joinder and Motion to Amend addressed to:

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