

District Court PROWERS County, Colorado Court Address: 301 South Main Street, Suite 300 Lamar, CO 81052	DATE FILED: December 1, 2021 10:04 AM
WANDA J. ROHLMAN, Plaintiff, vs. CITY OF LAMAR, COLORADO, a Home Rule Municipality, and LINDA WILLIAMS, as designated election official for the City of Lamar, Colorado, Defendants.	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): SCRANTON SPECHT & ASSOCIATES, P.C. Darla Scranton Specht, #16193 P.O. Box 1500 Lamar, CO 81052 Phone Number: (719) 336-6887 E-mail: darlaspecht@cminet.net FAX Number: (719) 336-9887	Case Number: 2021CV30024 Division D
AMENDED COMPLAINT FOR DECLARATORY JUDGMENT AND FOR PERMANENT INJUNCTION AND NOTICE OF INTENT TO CONTEST THE NOVEMBER 2, 2021 ELECTION RESULTS FOR CITY OF LAMAR BALLOT QUESTIONS 2A and 2B	

Plaintiff Wanda J. Rohlman ("Plaintiff"), by and through her attorney, Darla Scranton Specht of Scranton Specht & Associates, P.C., submits the following **amended** complaint for Declaratory judgment pursuant to C.R.S. §13-51-101, *et seq.* and C.R.C.P. 57, and for permanent injunction, and as notice pursuant to C.R.S. §31-10-1308 of contest of the November 2, 2021 election results for City of Lamar Ballot Questions 2A and 2B:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a qualified elector of the City of Lamar, Colorado and a resident of the City of Lamar and State of Colorado.
2. Defendant City of Lamar, Colorado ("Lamar") is a home rule municipality and political subdivision of the State of Colorado organized and existing under a home rule charter pursuant to Article XX of the Constitution of the State of Colorado.
3. Defendant Linda Williams ("Williams") is the Clerk for Lamar and the designated election official for Lamar for the November 2, 2021 coordinated election.

4. Jurisdiction is granted to the Court by C.R.S. §31-10-1302, Colorado statutes and Colo. Const. Art. VI, Section 9.

5. Venue is proper pursuant to C.R.C.P. 98(b)(2).

FACTUAL ALLEGATIONS

6. Article V, Sec. 1(9) of the Colorado Constitution reserves unto the people and the registered electors of every city, town and municipality, inclusive of home rule cities, the right to present questions for the ballot by initiated petition.

7. The Home Rule Charter of the City of Lamar (“Charter”) was adopted by a majority of the citizens of Lamar at an election and enacted with an effective date of June 26, 1962.

8. Article II, Sec. 2-1 of the Charter provides, “City elections shall be governed by the Colorado Municipal Election Law, as now existing or hereafter amended or modified, except as otherwise provided in this Charter or by ordinance.”

9. Article VI, Sec. 6-1 of the Charter provides, “Any proposed ordinance may be submitted to the Council by petition signed by qualified electors of the City equal in number to the percentage hereinafter required.”

10. Article VI, Sec. 6-2 of the Charter provides,

If the petition accompanying the proposed ordinance is signed by qualified electors of the City equal in number to fifteen percent of the total ballots cast in the last general election and is filed with the City Clerk at least sixty days prior to any general or special election, and contains a request that said proposed ordinances be submitted to a vote of the people if not passed by the Council, the Council shall, within thirty days after the attachment of the Clerk's certificate of sufficiency to the accompanying petition, either (a) pass said ordinance without alteration or (b) call a special election unless a general election is fixed within ninety days thereafter; and at such special or general election, said proposed ordinance shall be submitted without alteration to the vote of the qualified electors of the City but not more than one special election under this article shall be held in any twelve-month period.

11. Article VI, Sec. 6-5 of the Charter provides,

Within ten days from the filing of any initiative or referendum petition, the City Clerk shall ascertain whether the petition is signed by the requisite number of qualified electors and if sufficient, shall attach thereto his certificate of sufficiency showing the result of such examination. If the petition is insufficient, he shall forthwith, in writing, notify one or more of the persons designated on the petition as filing the same. The petition

may then be amended within ten days from the filing of the certificate. The City Clerk, within five days after such amendment, shall make like examination of the amended petition and attach thereto his certificate of the result. If still insufficient, he shall return the petition to one of the persons designated thereon as filing it without prejudice to the filing of a new petition for the same purpose, but such petition shall not be refiled within one year after return by the Clerk.

12. Article VI, Sec. 6-6 of the Charter provides,

A proposed ordinance adopted or rejected by electoral vote under either the initiative or referendum cannot be revived, repealed, amended, or passed except by electoral vote; provided, however, that the Council shall have the power to adopt ordinances making technical amendments thereto which do not change the intent of the people's ordinance. The Council shall have power to resubmit to electoral vote any proposed ordinance reviving, repealing or amending an ordinance which has been adopted or rejected by electoral vote upon its own initiative and without any petition therefor. Any question submitted at a special election shall not again be submitted at a special election within two years thereafter.

13. Section 31-11-106, C.R.S. adopted by Lamar pursuant to Article II, Sec. 2-1 of the Charter sets forth the required form for initiated and referred petitions to be submitted to Lamar.

14. Section 31-11-104, C.R.S. adopted by Lamar pursuant to Article II, Sec. 2-1 of the Charter and Article VI, Sec. 6-2 of the Charter requires that a proposed ordinance be submitted to the legislative body of Lamar by those seeking to circulate a petition, and §31-10-104, C.R.S. requires the filing of written notice of the proposed ordinance with the city clerk and, within 180 days after approval of the petition pursuant to §31-11-106(1), C.R.S., the filing of the petition signed by at least 5% [modified to 15% by the Charter] of the registered electors of Lamar on the date of such notice.

15. The proposed ordinance required by Article VI, Sec. 6-2 of the Charter and §31-11-104, C.R.S. must be adopted by the city within 20 days [modified to 30 days by the Charter] following the final determination of petition sufficiency, §31-11-104(1), C.R.S.

16. Defendants did not comply with Article VI, Sec. 6-2 of the Charter and §31-11-104, C.R.S.

17. On April 1, 2021, Williams approved a petition initiated by SoCo Rocks ("Petition") and notified SoCo Rocks that all circulated Petitions were required to be returned to her by May 27, 2021. *See* Exhibit 1, incorporated herein by reference as if plead herein.

18. Between May 18, 2021 and May 27, 2021, SoCo Rocks submitted signed Petitions to Williams for an initiated ballot question. Exhibit 1.

19. The ballot question in the Petition approved on April 1, 2021 by Williams was,

Shall the City of Lamar sales tax be increased annually in the first fiscal year (2022), and by such amounts as are raised annually thereafter by imposing an additional sales tax on the sale of retail marijuana and retail marijuana products, if the registered electors of the city determine to allow the sale of retail marijuana and retail marijuana products, with the tax revenues being used to fund general government expenses as determined by the City Council, with the rate of the tax being allowed to be increased or decreased without further voter approval, with the resulting tax revenue being allowed to be collected and spent as a voter approved revenue change without regard to any expenditure, revenue raising, or other limitation contained in Article X, Section 20 of the Colorado Constitution or any other law? *See Exhibit 2, incorporated herein by reference as if plead herein.*

20. Williams certified the sufficiency of the Petition on April 1, 2021 based upon signatures she determined to be those of qualified electors of Lamar equal in number to five percent (5%) of the total ballots cast in Lamar's last general election preceding submission of the Petition. *See Exhibit 1.*

21. At the regular meeting of the Lamar City Council ("Council"), on June 14, 2021, William stated regarding the Petition,

"Mayor Crespin asked that I do an election update. ... So, um, onto our next issue would be potentially the ballot question. I don't know if everybody was aware, but SoCo Rocks out of Pueblo, Colorado, they came and wanted to potentially get something on the ballot regarding dispensaries in Lamar. So, they were required to submit petition question and go out and gather signatures. They were required to get 5% of the registered voters from the, um, 2020, the last election, 2020 election. Five percent of the registered voters which was approximately 221, 225. Um, they did manage to do that. I have verified all of those petitions and confirmed that they were good. The next step is to create an ordinance with ballot question or questions and present to the council for first reading no later than July 12th. Um, second reading has to be no later than July 26th, and this will keep us within the timeframe of the election calendar and enough time to turn in the City ballot content to the County Clerk."

22. On June 14, 2021, Mayor Kirk Crespin stated,

"I think it is important to state this that, of course, over the last 12 years I think it was when it was last put on the ballot, uh, the City Council has stayed out of it, they have stayed neutral. If somebody wanted to put the initiative to open dispensaries on the ballot, we have left it up to the private citizen to bring it in, and at their own expense and to do their own work. Um, the City Council has decided not to do it themselves. So we have never brought it in. We have never supported or declined it and have stayed neutral with this initiative, and there is no difference with this. This was an initiative that SoCo Rocks brought to us, um, asked what they needed to do.

We told them, and for the first time, I mean, I've had people approach me many, many times over the last five years interested in doing this and getting it on the ballot, but nobody has actually done the work. Um, so, I mean, SoCo Rocks did do the work. They put the investment in. They will be paying to put in on the ballot, themselves. Uh, City Council has nothing to do with that, um, so I wanted to make sure to let everybody know that that is kinda the stance that we have been taking, and if I am looking at it wrong, please let me know, but that is what we have been trying to do. Also with that, I think, I ... I believe there is so much entangled in this, and in talking with the other mayors and cities that actually do have dispensaries in their community, there's a lot of different moving components to these, uh, this ordinance, and if we can miss a few things or do a couple of things wrong, it can cause us a lot of grief. So, I was going to propose was that we set up a committee of 2 or 3 or more people that would meet with Linda, work with Linda, and try to work with Lance and create an ordinance that is going to be appropriate for our community. I know that Steve had worked with you on an ordinance, Lance, is that right? An initial ballot question, is that right? ... So as we are getting a little bit more in depth, with this, it may not pass, but if it does, we really need to have our ducks in a row so to speak. I've asked Brenda VanCampen, the administrative assistant, to pull up our old information from 2012, 2010, sorry, and I do have all that information. It does have the ordinance that they created back in 2010 and all the information that they had from their investigation and working with their attorney back in 2010, our attorney, so we do have some information that we can utilize, but there has been a lot of changes since... in the past 11 years, so I am sure it would be great to meet with the other communities, Las Animas, uh, Rocky Ford, Trinidad, and see where they, you know, had struggles at and maybe they can help guide us in that. There is also CML who has a lot of resources and CIRSA who has a lot of resources. Uh, but we just, I don't have time to work on this directly, so I was going to ask if there was anybody on the Council who would be interested in doing that. Anybody? Not really. But I do think this is going to be one of those situations where, um, it's really going to affect our community if it does pass, so getting the right verbiage in there is going to be very important to us. ..."

23. On June 14, 2021, City Attorney Lance Clark stated,

"... I agree. I mean I think we have enough time span now where this has been passed at the State and different municipalities have passed it at different points that there's probably some good examples that we can use and take from and build something we really like, and it is just going to be a process of going through it and finding what we think fits with the community if it ends up passing, and I think the City wants to control the language, uh, as much as they can because we don't want to be in some situations where something passes and then, there's no element of tax or

who knows what other issues can come about if they don't language right the first time. ... The ballot question is really important."

24. At the regular meeting of the Council, on June 28, 2021, Mayor Kirk Crespino stated,

"Of course you, uh, may remember at the last meeting we were made aware that the petitioners for marijuana had collected all the petition signatures that they needed. Uh, this was something that the Council was not involved in it whatsoever, but this petitioning body will be putting it onto the ballot in November. They have approved, they have gotten all the signatures they needed. They have jumped on all the requirements. So, with that in mind I had asked to create a committee to start doing the research on this. If it does pass, I want to make sure we had all the information we needed as a city, uh, so that we don't, uh, put ourselves in any litigation, any potential for litigation, any potential for problems, and we try to minimize and mitigate as much risk as we could.

25. At the June 28, 2021 regular meeting of the Council, the following dialog occurred:

Chief Kyle Miller: I think one of the biggest things we need to look at right now is the ballot language. What does Council want to see in that, because I believe by July 12 we have to have that ballot language needs to be set. That is your next council meeting. Council needs to look at what percentage that sales tax needs to be, uh, and I've had some discussion about this. I think that is something we have to have done soon so we can get that ballot language nailed down tight. Uh, the regulations, zoning and all that we can do after it passes, or if it doesn't pass we don't have to worry about it.

...

...

Councilman Riley: So, is this going to be, uh, a separate thing on the ballot, that we will put on?

Mayor Crespino: We aren't putting it on.

Councilman Riley: Well, how are you going to add the taxes to –

Williams: The ballot question has to – we are going to create the ballot question. The, the entity –

Mayor Crespino: The entity approved the ballot – for it to be put it on the ballot, now we are going to determine the specific language for the ballot.

Williams: We are going to write the language because there are stipulations that we want in our ballot question.

Councilman Riley: Okay. ...

26. At the June 28, 2021 Council meeting, City Attorney Lance Clark stated,

“... You know, I can, uh, I can send out something to the Council kinda what, outlining at least some of the stuff what we have come up with up to this point – what we propose for a question to this point, and maybe that will give us a starting point. And, I also think we – considering what was already circulated – uh, that’s what at least 5% of the population in the City has been in favor of, so just food for thought, I suppose.”

27. At the regular meeting of the Council on July 12, 2021, the following dialog occurred:

Mayor Crespin: Okay now the fun stuff. We have two ordinances that are on first reading, so those of you who are watching get to, uh, watch us read a couple ordinances. But, these are very important ordinances because these are, uh, related to the two ballot questions that will be coming up in the November election, uh, for the coordinated election. These are related to marijuana in the City of Lamar. Just as a, uh, refresher, I wanted to make sure that everybody was aware that there was an organization. The City of Lamar voted down or voting against having marijuana sales in Lamar back in, I believe it was in 2010 or 2012. ‘10. 2010. So since then we have not had no marijuana sales distribution in Lamar at all. Now, this past year what we have done is the City Council has not put it on the agenda. We have not put it on the ballot. We have not discussed it. We are not paying for it. But, we did have an individual come to the City who had their employees and their group actually went out and acquired, uh, all of the application information. They acquired all of the signatures for the petition. They are paying to have it put on the ballot, and by law we are required to, uh, support that by putting it on the ballot since they are doing all the work and effort. Is that correct, Linda?

Williams: That’s correct.

Mayor Crespin: So, with that said, I want to remind everybody that it is not the City Council that is making this decision. This decision is made by the people of the City of Lamar, and we have separated it out this ordinance into two sections. One

section being the ordinance question of whether or not you want to be able to, uh, authorize and sale medical and retail, and all the different types of marijuana in the City of Lamar. That's one question. The other question is to ask about the tax question. So, two separate items. We will have two separate ordinances to read tonight, and this will be the first reading. There will be a second reading before we actually put it onto the ballot. Did I miss anybody, anybody? Do you want – anything you want to talk about before I read the ordinance? Okay. So I will read the first one. Who wants to read – I guess I will ask about the second one after.

28. On July 12, 2021, the City Council for Lamar by unanimous vote adopted on first reading Ordinance no. 1248 “AN ORDINANCE PROVIDING FOR THE SUBMISSION OF A BALLOT QUESTION TO THE REGISTERED ELECTORS IN THE NOVEMBER 2, 2021 COORDINATED ELECTION AT WHICH A QUESTION SHALL BE PLACED ON THE BALLOT CONCERNING THE AUTHORIZATION TO ESTABLISH AND OPERATE MEDICAL AND RETAIL MARIJUANA CULTIVATION, MANUFACTURING, AND TESTING FACILITIES, AND SALE OF MEDICAL AND RETAIL MARIJUANA AND MARIJUANA PRODUCTS WITHIN THE CITY OF LAMAR, COLORADO”. *See* Exhibit 3, incorporated herein by reference as if plead herein.

29. Ordinance No. 1248 contained as the ballot question which was presented on the ballot at the November 2, 2021 coordinated election as Ballot Issue 2B:

“Shall the establishment and operation of medical and retail marijuana, cultivation, manufacture, and testing facilities as well as sales of medical and retail marijuana and marijuana products be permitted in the City of Lamar, Colorado, subject to the requirements of the State of Colorado medical and retail marijuana codes and regulations and the ordinances and codes to be adopted by the Council of the City of Lamar, with this Measure ___ being expressly contingent upon Voter Approval of Measure ___ on the November 2, 2021 City of Lamar ballot authorizing the taxation of marijuana businesses in the City of Lamar?” *See* Exhibit 3.

30. On July 12, 2021, , the City Council for Lamar by unanimous vote adopted on first reading Ordinance no. 1249 “AN ORDINANCE PROVIDING FOR THE SUBMISSION OF A BALLOT INITIATIVE TO THE REGISTERED ELECTORS IN THE NOVEMBER 2, 2021 COORDINATED ELECTION AT WHICH A QUESTION SHALL BE PLACED ON THE BALLOT CONCERNING A NEW SPECIAL SALES TAX ON RETAIL MARIJUANA, RETAIL MARIJUANA PRODUCTS AND RETAIL MARIJUANA ACCESSORIES AND A NEW EXCISE TAX”. *See* Exhibit 3

31. Ordinance No. 1248 contained as the ballot question which was presented on the ballot at the November 2, 2021 coordinated election as Ballot Issue 2A:

“Shall City of Lamar taxes be increased by four hundred fifty thousand dollars (\$450,000) annually in the first full fiscal year (2022), and by whatever additional amounts are raised annually thereafter (1) by imposing an additional sales tax of 5% on the sale of retail marijuana and medical marijuana, and retail marijuana and medical marijuana products, which shall be in addition to the city sales tax on tangible personal property, and (2) by imposing an excise tax of 5% of the average market rate of unprocessed retail marijuana on the date it is first sold or transferred from a retail marijuana cultivation facility to a retail marijuana product manufacturing facility, a retail marijuana store, or another retail marijuana cultivation facility, with the rate of the sales tax and excise tax being allowed to be increased or decreased without further voter approval so long as the rate of taxation does not exceed 15%, in accordance with any ordinances hereafter approved by the council of the City of Lamar only in the event that such marijuana establishments are permitted in the City of Lamar based upon an affirmative vote of the qualified electors in the City of Lamar, with the tax revenues being used to fund general government expenses as determined by the City Council, and with the resulting tax revenue being allowed to be collected and spent as a voter approved revenue change without limitation or condition, and without limiting the collection, retention, or spending of any other revenues or funds by the City of Lamar under Article X Section 20 of the Colorado Constitution or any other law?”
See Exhibit 3.

FIRST CLAIM FOR RELIEF

(§§13-51-101, *et seq.*, C.R.S. and C.R.C.P. 57 – Declaratory Judgment)

32. Plaintiff incorporates herein by reference as if plead herein the allegations set forth in paragraphs 1-31 of Plaintiff’s COMPLAINT FOR DECLARATORY JUDGMENT AND FOR PERMANENT INJUNCTION AND NOTICE OF INTENT TO CONTEST THE NOVEMBER 2, 2021 ELECTION RESULTS FOR CITY OF LAMAR BALLOT QUESTIONS 2A and 2B (“Complaint”) as if set forth fully herein.

33. Lamar and Williams failed to comply with Article II, Sec. 2-1 of the Charter by certifying as sufficient the initiated Petition at a time when the Petition failed to comply with §31-11-106, C.R.S.

34. The Petition failed to comply with the requirements of §31-11-106, C.R.S. and §31-11-104(1), C.R.S. incorporated into the Charter by, including but not limited to:

- a. Williams failing to require the submission of a proposed ordinance as required by §31-11-104, C.R.S., or in the alternative, rejecting the petition for failure to comply with §31-11-104, C.R.S.;
- b. Williams failing to assure that the petition sections contained those elements required by Article 11 of the Colorado Municipal Election Code [C.R.S. §31-11-106(1)];

- c. The Petition failing to designate by name and mailing address two persons who shall represent the proponents thereof in all matters affecting the Petition and to whom all notices or information concerning the Petition shall be mailed [C.R.S. §31-11-106(2)];
- d. The Petition failing to include in the WARNING that “YOU MUST BE A CITIZEN OF COLORADO” [C.R.S. §31-11-106(3)(a)];
- e. The Petition failing to contain the summary required to be drafted by the clerk [C.R.S. §31-11-106(3)(b)];
- f. The Petition failing to contain the full text of the proposed initiated measure or ordinance that was the subject of the Petition and which was later added by Defendants without being circulated for signature [C.R.S. §31-11-106(c)];
- g. The affidavit of circulation failing to include that “the affiant has read and understands the laws governing the circulation of petition” [C.R.S. §31-11-106(e)(I)(B)];
- h. That the affidavit of circulation failing to include that “to the best of the affiant’s knowledge and belief, each of the persons signing the petition section was, at the time of signing, a registered elector” [C.R.S. §31-11-106(e)(I)(G)]; and
- i. That the affidavit of circulation failing to include that “the affiant has not paid or will not in the future pay and the affiant believes no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer’s signature to the petition” [C.R.S. . §31-11-106(e)(I)(H)];

35. The Petition failed to comply with the requirements of Article VI, Secs. 6-1 and 6-2 of the Charter in that it was certified by Williams without being signed by qualified electors of the City equal in number to fifteen percent of the total ballots cast in the last general election.

36. The Petition failed to comply with the requirements of Article VI, Secs. 6-1 and 6-2 of the Charter in that it was certified by Williams without the required notice and required accompanying proposed ordinance.

37. The City through one or more of its elected officials and Williams on more than one occasion, asserted that it was not making the decision to place the petition question on the ballot and was not putting it on the ballot, had not discussed putting it on the ballot and was not paying to put it on the ballot, and was only considering a ballot question or questions because sufficient signatures had been obtained by the circulators

to place a question or questions on the ballot.

38. The Petition failed to request authorization of sale of marijuana and marijuana products, and only requested that a tax be imposed on the sale of marijuana and marijuana products.

39. The City and Williams abused the powers granted to them by the Colorado Constitution, the Charter and the Colorado Municipal Election laws by placing on the ballot the question posed in Ordinance no. 1248 which was not contained in the Petition, when the Petition failed to meet the requirements of the Charter and Colorado Municipal Election laws for circulation, and when the Petition failed to contain signed by qualified electors of the City equal in number to 15% of the total ballots cast in the last general election.

40. The City and Williams abused the powers granted to them by the Colorado Constitution, the Charter and the Colorado Municipal Election laws by placing on the ballot the question posed in Ordinance no. 1249 which was not contained in the Petition, when the Petition failed to meet the requirements of the Charter and Colorado Municipal Election laws for circulation, and when the Petition failed to contain signatures of qualified electors of the City equal in number to 15% of the total ballots cast in the last general election.

41. Plaintiff is a qualified elector and citizen of the City and is injured and aggrieved by the actions and acts of Defendants.

WHEREFORE, Plaintiff requests that the Court declare Ordinance nos. 1248 and 1249 void *ab initio*, declare City of Lamar Ballot Issues 2A and 2B void *ab initio*; that the Court declare that the election held as a result of adoption of Ordinance nos. 1248 and 1249 on City of Lamar Ballot Issues 2A and 2B be voided and annulled; that the Court permanently enjoin any party or person from asserting the validity of the November 2, 2021 coordinated election as to City of Lamar Ballot Issues 2A and 2B; that the Court award Plaintiff her attorney's fees and costs as allowed by law; and that the Court enter such other and further relief as the Court deems just and proper.

SECOND CLAIM FOR RELIEF

(§§31-10-1301, *et seq.*, – Notice of Intention to Contest Election)

42. Plaintiff incorporates herein by reference as if plead herein the allegations set forth in paragraphs 1-41 of Plaintiff's Complaint as if set forth fully herein.

43. Plaintiff is the contestor and a registered elector of Lamar.

44. Defendants are the contestees.

45. City of Lamar Ballot Issues 2A and 2B of the November 2, 2021 coordinated election are based upon Lamar Ordinances nos. 1248 and 1249.

46. The election occurred on November 2, 2021 as a coordinated election.

47. The causes of City of Lamar Ballot Issues 2A and 2B pursuant to C.R.S. §31-10-1308 and C.R.S. §1-11-201 have been asserted by Plaintiff in ¶¶1-41 of this Complaint, and in addition, Defendants violated C.R.S. §1-7-908 and Article X, Sec. 20(3) of the Colorado Constitution by insufficient notice required by the Tabor Amendment when the election is to increase taxes on a citizen petition or referred measure.

48. Plaintiff's statement of contest is verified by affidavit asserting that the facts and causes of action set forth in this Complaint and statements of contest are true to the best of Plaintiff's knowledge and belief as a contestor. *See* Exhibit 4, incorporated herein by reference as if plead herein.

WHEREFORE, Plaintiff requests that the Court declare Ordinance nos. 1248 and 1249 void *ab initio*, declare City of Lamar Ballot Issues 2A and 2B void *ab initio*; that the Court declare that the election held as a result of adoption of Ordinance nos. 1248 and 1249 on City of Lamar Ballot Issues 2A and 2B be voided and annulled; that the Court permanently enjoin any party or person from asserting the validity of the November 2, 2021 coordinated election as to City of Lamar Ballot Issues 2A and 2B; that the Court award Plaintiff her attorney's fees and costs as allowed by law; and that the Court enter such other and further relief as the Court deems just and proper.

THIRD CLAIM FOR RELIEF
(C.R.C.P. 65 – Permanent Injunction)

49. Plaintiff incorporates herein by reference as if plead herein the allegations set forth in paragraphs 1-48 of Plaintiff's Complaint as if set forth fully herein.

50. A proper basis has been alleged by Plaintiff for the Court to issue a permanent injunction enjoining Defendants from certifying the election resulting from the Petition and/or Ordinance Nos. 1248 and 1249 as valid and from implementing ordinances, rules and regulations related to the subjects of the Petition and/or Ordinance Nos. 1248 and 1249.

WHEREFORE, Plaintiff requests that the Court declare Ordinance nos. 1248 and 1249 void *ab initio*, declare City of Lamar Ballot Issues 2A and 2B void *ab initio*; that the Court declare that the election held as a result of adoption of Ordinance nos. 1248 and 1249 on City of Lamar Ballot Issues 2A and 2B be voided and annulled; that the Court permanently enjoin any party or person from asserting the validity of the November 2, 2021 coordinated election as to City of Lamar Ballot Issues 2A and 2B; that the Court award Plaintiff her attorney's fees and costs as allowed by law; and that the Court enter such other and further relief as the Court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court issue orders:

- (a) declaring the results of the City of Lamar Ballot Issues 2A and 2B submitted as a result of initiated petition and/or Ordinance nos. 1248 and 1249 void and annulled *ab initio*;
- (b) permanently enjoining any party or person from asserting the validity of the election held regarding City of Lamar Ballot Issues 2A and 2B;
- (c) fixing a date for trial on the Plaintiff's notice of election contest not more than 20 and not less than 10 days after this case is at issue;
- (d) awarding Plaintiff her attorney's fees and costs as allowed by law; and
- (e) entering such other and further relief as the Court deems just and proper.

Respectfully submitted this 29th day of November, 2021.

SCRANTON SPECHT & ASSOCIATES, P.C.



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